

## THE REAL ESTATE COUNCIL OF ALBERTA

Case: 006025, 007825, 008395, 008556  
Process: A Hearing under Part 3 of the *Real Estate Act*  
Industry Member: Shelley Bonwick  
Class of License: Real Estate Associate  
Registration: Currently not registered, previously registered with  
1853147 Alberta Ltd. o/a Engel & Volkers Calgary;  
2008863 Alberta Ltd. o/a The Alberta Collection; The  
Alberta Collection Inc.; Grand Realty & Management  
Ltd. o/a Grand Realty; Discover Real Estate Ltd.

Document: NOTICE OF HEARING

TO: Shelley Bonwick

A hearing is set to review allegations about your conduct. Read this entire document to see what you must do.

### Hearing Information

Date: March 2nd - March 13th, 2020  
Time: 9:30 a.m.  
Location: The Nakiska Room, 2<sup>nd</sup> Floor  
1506 – 11 Avenue SW, Calgary, Alberta

Hearing Panel: Kevin Kelly – Chair and Decision Writer, Panel Member (Public Member)  
Sanjeet (Sunny) Parmar – Panel Member (Industry Member)  
Bill Ramsay – Panel Member (Industry Member)  
(Alternates: Kathryn Oviatt, Gordon Reekie, Susan Rabitte)

Counsel for the Hearing Panel: Anthony Dekens

It is alleged that your conduct is deserving of sanction for breaching sections of the *Real Estate Act* or Rules. Here are the details:

File 006025:

- a) You participated in fraudulent or unlawful activities in connection with the provision of services or in any dealings, contrary to section 42(b) of the *Real Estate Act Rules*:
  - i. You created a scheme that you represented as "seller financing", in which buyers believed they were buying a home, but they were only tenants, did not acquire equity in the property, and the property remained at risk of foreclosure if the owner defaulted on the original mortgage;
  - ii. You advertised your services and specialization in seller financing to the to your buyer clients, HR and his wife, RB and to your seller clients, AE and CE ["the E.'s");
  - iii. In or around February 2015, you agreed to assist HR and RB with finding a "seller financing" arrangement for them on a property with a \$10,000 down payment;
  - iv. You then approached your existing clients, ["the E.'s"), with the option to participate in "seller financing" for the sale of their property at ["Address 1"), Airdrie, Alberta;

- v. [{"the E.'s"}] had an outstanding high ratio mortgage and were required to reside in the property. You did not advise your seller clients, [{"the E.'s"}], to contact their mortgage lender to ensure that they could enter into a "seller financing" arrangement with a high ratio mortgage on the property;
- vi. You failed to advise your seller clients, [{"the E.'s"}], about the confidential information that you knew about the buyers;
- vii. You lied to your seller clients, [{"the E.'s"}], about the buyer's financial information, the status of the sale of their current residence, and whether the buyers smoked, which would affect the seller's home insurance;
- viii. You advised your seller clients, [{"the E.'s"}], that they should inflate the purchase price of the property at [{"Address 1"}] because of the "seller financing" option available to potential buyers;
- ix. You told the buyers that they had to pay an inflated purchase price for the property because they were entering into a "seller financing" arrangement;
- x. You led your seller clients, [{"the E.'s"}], and buyer clients, RB and HR, to believe that they were entering into a real estate purchase and not a tenancy;

- xi. You told your buyer clients that they would “own” the property if they entered into a seller financing arrangement and an Agreement for Sale (“AFS”);
- xii. You drafted a purchase contract for [(“Address 1”)], with an addendum that included terms to be replicated in an Agreement for Sale (“AFS”) to be drafted by the parties’ lawyer at a later date;
- xiii. You included a term in the purchase contract for the property located at [(“Address 1”)] that “title will not transfer but will be held in Trust” for the buyer, which is not possible;
- xiv. You listed yourself as buyer’s representative on the purchase contract, but forged the signature of the buyer, HR, on a Customer Acknowledgement form;
- xv. You directed both parties to use the same lawyer, whom you had worked with previously, that you knew would accept the arrangement and the AFS terms that you drafted and inserted into the purchase contract;
- xvi. You provided legal advice to your seller clients, [(“the E.’s”)], about enforcing the terms of the AFS against the buyer, without directing them to their legal counsel;
- xvii. You used your position as representative for the seller to prejudice the buyer’s interest in the property at [(“Address 1”)], without the buyer’s knowledge, by attending at the real estate lawyer’s office to witness a withdrawal of caveat after the real estate transaction closed and when the “seller financing” arrangement between the buyers and sellers had broken down. You engaged in this conduct despite the following:

- You had inserted a term into the purchase contract that a withdrawal of caveat was to be signed at the same time as the AFS, which was to be held in “trust” in case of default of payment by the buyer;
  - You did not discuss with your buyer client, HR, whether he was still represented by the lawyer, if he agreed to the withdrawal and discharge of the caveat, or if he was aware of the withdrawal being signed or subsequently filed with Land Titles on his behalf;
  - You knew that the lawyer had been suspended by the Law Society of Alberta.
- b) You did not disclose to your client, at the earliest practical opportunity, any conflict of interest you may have in the course of providing services to, or in your dealings with a client, contrary to section 41(f) of the *Real Estate Act Rules*:
- i. You did not disclose to your buyer clients, RB and HR, that you had established a client relationship with the sellers, [(“the E.’s”)];
  - ii. You did not disclose to your seller clients, [(“the E.’s”)], that you had established a client relationship with the buyers, RB and HR;
- c) You did not provide competent service, contrary to section 41(b) of the *Real Estate Act Rules*:

- i. You drafted a purchase contract for the property at [{"Address 1"}] and did not explain the terms of the contract to your buyer client, HR;
  - ii. You entered the wrong date that your buyer client, HR, signed the purchase contract.
  
- d) You accepted a commission or other remuneration, directly or indirectly, outside the brokerage with which you were registered, contrary to section 54(1) of the *Real Estate Act Rules*:
  - i. You directed your buyer client, HR, to pay one of the balloon payments directly to the sellers instead of through the lawyer, as per the terms of the purchase contract. You further directed your client, HR, to offset your remuneration from the balloon payment in exchange for money owed by you to HR's wife, RB. This remuneration was accepted outside your brokerage.
  
- e) Between February 2014 and February 2016, you did not hold the appropriate authorization to deal as a mortgage broker, contrary to section 17(b) of the *Real Estate Act*:
  - i. You negotiated the terms of a mortgage on the property at [{"Address 1"}] on behalf of the sellers, [{"the E.'s"}], and buyer, HR, by calculating the following:
    - a) interest rate;
    - b) monthly payments;
    - c) down payment;

- d) amortization period;
  - e) financing term.
- ii. You received compensation in the form of commission for the negotiation of the mortgage terms of the seller financing arrangement for [{"Address 1"}].

File 007825

- a) You participated in fraudulent or unlawful activities in connection with the provision of services or in any dealings, contrary to section 42(b) of the *Real Estate Act Rules*:
- i. You created a scheme that you represented as "seller financing", in which buyers believed they were buying a home, but they were only tenants, did not acquire equity in the property, and the property remained at risk of foreclosure if the owner defaulted on the original mortgage;
  - ii. You were contacted by SF because of your advertising for services and specialization in "seller financing";
  - iii. In or around July 2017, you proposed a "seller financing" arrangement to your buyer client, SF, for the property located at [{"Address 2"}], Calgary, AB;

- iv. The owners of the property at [{"Address 2"}] were JN and NN [{"the N.'s"}], who entered into a "seller financing" arrangement and signed an Agreement for Sale ("AFS") with your previous client, MB;
- v. You represented MB in the "purchase" of the property from [{"the N.'s"}] at [{"Address 2"}];
- vi. You purposely did not advise your client, SF, that you represented MB in the purchase of [{"Address 2"}];
- vii. You led your client to believe that she would "own" the property at [{"Address 2"}] if she entered into a "seller financing" arrangement and an AFS;
- viii. You led your client, SF, to believe that she was entering into a legitimate real estate purchase , rather than a tenancy;
- ix. You drafted a purchase contract for [{"Address 2"}], with an addendum that included terms to be replicated in an AFS to be drafted by the parties' lawyer at a later date;
- x. You crossed out the term in the purchase contract that ensures that title to the property is free of encumbrances, liens, and interests. This was done in an effort to avoid your obligation to show the land title to SF and to conceal the true owner of the property;



- xi. You included a term in the purchase contract for the property located at [{"Address 2"}] that "title will not transfer but will be held in Trust", which is not possible;
- xii. You directed your client, SF, to contact lawyers that you had previously worked with in "seller financing" agreements and that you knew would accept the terms that you inserted into the purchase contract;
- xiii. You inserted a term in the exclusive buyer representation agreement that your buyer client, SF, must hire a lawyer with previous experience with your "seller financing" contracts;
- xiv. You inserted a term in the exclusive buyer representation agreement that if your buyer client, SF, did not hire a lawyer with previous experience with your seller financing contracts, she must arrange for a telephone consultation between you and the lawyer;
- xv. After your client, SF, was unable to hire one of your recommended lawyers, you drafted an amendment to the purchase contract to redirect her \$15,000 deposit from her lawyer to your brokerage;
- xvi. You proceeded with the sale transaction, despite the fact that your buyer client, SF, did not hire a lawyer and an AFS was not drafted or signed between the parties, as per the terms of the purchase contract;
- xvii. You proceeded with the sale transaction, despite knowing that the owners of the property at [{"Address 2"}] had initiated litigation against your seller client, MB;

- xviii. You were aware that SF deposit of \$15,000 was released to the seller, MB, prior to the closing of the transaction for [{"Address 2"}], without an amendment to the purchase contract.
- xix. You failed to meet several fiduciary duties owed to your client, SF, throughout the transaction to further the fraudulent scheme.

b) You did not fulfil your fiduciary obligations to your client, contrary to section 41(d) of the *Real Estate Act Rules*:

- i. You established an agency relationship with SF;
- ii. You had a fiduciary duty to represent the true value of the property at [{"Address 2"}] to your client, SF;
- iii. You did not provide your buyer client, SF, with a comparative market analysis for the property at [{"Address 2"}];
- iv. You provided your buyer client, SF, with an outdated feature sheet from a 2015 MLS listing that showed a higher value for the property at [{"Address 2"}], without bringing to your client's attention that it was outdated;
- v. You advised your client, SF, that the purchase price for [{"Address 2"}] was a reasonable price and did not attempt to negotiate a lower purchase price on her behalf;

- vi. You did not pull a certificate of title for the property at [{"Address 2"}] until after your client, SF, had signed the purchase contract;
- vii. You did not show the certificate of title for [{"Address 2"}] to your client, SF;
- viii. You inserted a term in the purchase contract that your commission would be releasable upon removal of the conditions, not upon closing of the transaction, which put SF's money at risk if the transaction did not close;
- ix. You did not fully explain the risks associated with the term added by the buyer to the purchase contract that directed SF's \$5000 initial deposit to be released upon removal of conditions, putting SF's money at risk if the transaction did not close;
- x. When your client, SF, discovered that MB did not own the property and that he was subject to litigation by the [{"the N.'s"}], you did not take steps to rectify the situation for your client even though she asked you to return her deposits and to nullify the sale.

c) You did not disclose to your client, at the earliest practical opportunity, any conflict of interest you may have in the course of providing services to, or in your dealings with a client, contrary to section 41(f) of the *Real Estate Act Rules*:

- i. You did not disclose to your client, SF, that you had a client relationship with the seller, MB;
  - ii. You did not disclose to your client, SF, that you had previously represented MB in the purchase of the property at [{"Address 2"}] nor did you disclose all of the details regarding that transaction;
- d) You did not disclose, in a timely manner, to the buyer all relevant facts known to you about affecting a property or transaction, contrary to section 58(j) of the *Real Estate Act Rules*:
- i. You did not disclose to your client, SF, that the seller, MB, had entered into a "seller financing" arrangement and an AFS on the property at [{"Address 2"}];
  - ii. You did not disclose to your client, SF, that the seller, MB, had not made his monthly payments, as per his AFS with the original owners, for the property at [{"Address 2"}];
  - iii. You did not disclose to your client, SF, that the owners of the property at [{"Address 2"}] had initiated litigation against MB in an effort to recoup their missed payments and, further, to prevent the future sale of the property to your client, SF;
  - iv. You did not disclose to your client, SF that the tenants living at the property located at [{"Address 2"}] had not been provided proper notice or vacated the property prior to the date of SF's possession.

e) Between February 2017 and October 2017, you did not hold the appropriate authorization to deal as a mortgage broker, contrary to section 17(b) of the *Real Estate Act*:

i. You negotiated the terms of a mortgage on the property at [{"Address 2"}] on behalf of your seller client, MB, and your buyer client, SF, by calculating the following:

- a) interest rate;
- b) monthly payments;
- c) down payment;
- d) amortization period;
- e) financing term.

ii. You received compensation in the form of commission for the negotiation of the mortgage terms of the seller financing arrangement for [{"Address 2"}].

f) You did not cooperate with the investigator, contrary to section 38(4.1) of the *Real Estate Act Rules*:

i. You did not provide a copy of a comparative market analysis for the property located at [{"Address 2"}], as requested by the investigator;

ii. You did not provide your phone records for the period of May 2017 to November 2017, as requested by the investigator;

- iii. You did not provide a copy of the lease agreement between you and MB for your residence located at [{"Address 3"}] Calgary, AB, as requested by the investigator.

File 008395

- a) You made representations or carried on conduct that was reckless or intentional and that misled or deceived any person or was likely to do so, contrary to section 42(a) of the *Real Estate Act Rules*:
  - i. You represented yourself as an "expert" in seller financing in your online advertisements;
  - ii. Your online advertisements stated that real estate transactions are monitored by the Real Estate Council of Alberta;
- b) You traded in real estate in the name of the brokerage in which you were not registered, contrary to section 53(a) of the *Real Estate Act Rules*:
  - i. You advertised properties online using either your previous brokerage's name or no brokerage name;

File 008856

- a) From October 1, 2018 to present, you did not hold the appropriate authorization to trade in real estate as a real estate broker or to advertise

yourself, or in any way hold yourself out as, a real estate broker, contrary to section 17(a) and (d) of the *Real Estate Act*:

- i. You failed to renew your registration with RECA as a real estate associate by the annual deadline on September 30, 2018;
- ii. You advertised property listings on Kijiji, while unauthorized, with your name and phone number as a contact;
- iii. You promoted "seller financing" in advertisements while unauthorized;
- iv. You promoted the benefits of not using an authorized real estate associate in real estate transactions in your advertisements;
- v. When you were notified by RECA that you cannot trade in real estate while unauthorized, you altered the Kijiji advertisements to hide your identity.

b) You did not cooperate with the investigator, contrary to section 38(4)(a) of the *Real Estate Act Rules*:

- i. You did not respond to the questions posed by the investigator in a Notification of a Real Estate Investigation dated October 19, 2018;
- ii. You did not provide the contact information for the individual that assumed your Kijiji ads, as requested by the investigator.

- c) You engaged in conduct that undermines public confidence in the industry, harms the integrity of the industry, or brings the industry into disrepute, contrary to section 42(g) of the *Real Estate Act Rules*:
- ii. Throughout the investigation process, you exhibited clear contempt for the governance of your regulator;
  - iii. You have persistently shown that you are not governable as a real estate professional.

### **Why You Should Attend the Hearing**

The hearing is your opportunity to respond to the allegations and state your side of the case in front of the Panel.

### **Learn About the Hearing Process**

Please read these guides on the RECA website:

- *Hearing and Appeal Practice and Procedures Guideline and*
- *Guide for How to Represent Yourself at a Real Estate Council of Alberta Hearing or Appeal Panel*

*Both are found on the RECA Website: RECA>Complaints & Discipline>Hearing Information and Procedures*

### **What You Should Bring to the Hearing**

Bring any witnesses and evidence you want the Panel to consider, with you to the hearing.

### **What Will Happen If You Don't Attend**

If you do not attend the Panel may proceed to make a decision without you.



## What Will Happen At the Hearing

After hearing all evidence and argument the Panel will decide whether the Executive Director has proven any of the breaches. If no breach is proven you will face no sanction.

If the Panel finds a breach is proven the Panel may do one or more of the things listed in **section 43** of the *Real Estate Act*:

- Cancel or suspend your authorization
- Order you to pay a fine for each breach
- Order you to pay the cost of the investigation and the hearing
- Order you to complete an education course

## Submitting Written Arguments After the Hearing

You can provide written arguments at the end of the hearing or after the end of the hearing.

You must provide these to the **Hearings Administrator** and **Counsel for the Executive Director** (contact information below) **no later than 15 days after the end of the Hearing**.

Contact the Hearing Administrator if you need more time.

### You Can Get Legal Advice

You may get legal advice and may be represented by legal counsel at the hearing.

If you do not have a representative please read *Information for Unrepresented Industry Members*:

<http://www.reca.ca/industry/content/publications-resources/guides.htm>.

## If You Object to a Panel Member

Please review who is on the Panel. If you object to any of the people being on the Panel, you must advise the Hearings Administrator **who you object to and why within 14 days** of receiving this Notice.

If you do not object to the Panel within 14 days, this Panel will conduct the hearing.

## Postponing the Hearing

If you are not available on the date set for the hearing you can apply to the Panel for a new date. Contact the lawyer for the Executive Director and the Hearings Administrator as soon as possible if you need a new date.

Dated at Calgary, Alberta, on January 16, 2020.

(date)

Charles Stevenson, Acting Executive Director  
of the Real Estate Council of Alberta

### Contact Information

Hearings Administrator: Email: <a href="mailto:hearingsadmin@reca.ca">hearingsadmin@reca.ca</a> Fax: 403 228 3065 Direct: 403 685 7913 Toll Free: 1 888 425 2754 Address: Real Estate Council Suite 202, 1506 11 Avenue SW Calgary, Alberta T3C 0M9	Lawyer for the Executive Director: Email: <a href="mailto:conductadmin@reca.ca">conductadmin@reca.ca</a> Fax: 403 228 3065 Direct: 403 685 7944 Toll Free: 1 888 425 2754 Address: Real Estate Council Suite 202, 1506 11 Avenue SW Calgary, Alberta T3C 0M9
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