

December 9, 2019  
January 13, 2020

# Case Summaries

Letters of Reprimand

Administrative Penalties

Suspension

# Case Summaries

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Welcome to the Case Summaries monthly magazine.

Inside you will find the summaries for all disciplinary decisions occurring at the Real Estate Council of Alberta (RECA) since the previous newsletter, including any suspensions and approved lifetime withdrawals from the industry.

RECA is authorized to carry out conduct proceedings under [Part 3](#) of the *Real Estate Act*.

Questions about disciplinary information RECA publishes and why? Review [RECA's Publication Guidelines](#) online.

For more information about the cases summarized in this publication, please click on the underlined blue heading at the start of each summary.

# Letters of Reprimand

**Click on names to view the full decision**

[Melenda Arlene Simmons,](#)

Real estate associate registered with Elite Ownership Group Ltd. o/a Re/Max Elite

- failure to immediately notify, in writing, the executive director [s.40 of the *Real Estate Act Rules*]

[Tausha J Milner,](#)

Real estate associate registered with Threefour Management Ltd.  
o/a Re/Max Landan Real Estate

- failure to immediately notify, in writing, the executive director [s.40 of the *Real Estate Act Rules*]

[Carmen Zaharia,](#)

Real estate associate registered with Charles Real Estate Inc. o/a Charles

- failure to immediately notify, in writing, the executive director [s.40 of the *Real Estate Act Rules*]

[Rita Ann Baxter,](#)

Real estate associate broker registered with Real Estate Centre Inc.  
o/a Real Estate Centre

- failure to immediately notify, in writing, the executive director [s.40 of the *Real Estate Act Rules*]

[Chad Riley Smith,](#)

Real estate associate registered with Sather Real Estate Pro Brokers Ltd.

- failure to immediately notify, in writing, the executive director [s.40 of the *Real Estate Act Rules*]

[Amy Annice Berg,](#)

Real estate associate registered with Premier Real Estate Services Inc.  
o/a Royal LePage Premier Real Estate

- failure to immediately notify, in writing, the executive director [s.40 of the *Real Estate Act Rules*]

# Letters of Reprimand

[Thomas Evans Charlton](#),

Real estate associate registered with Cushman & Wakefield ULC./Cushman & Wakefield  
SRI o/a Cushman & Wakefield

- failure to immediately notify, in writing, the executive director [s.40 of the *Real Estate Act Rules*]

Industry members must immediately notify, in writing, the executive director when certain events occur. In these cases, the industry professionals had situations requiring notification occur several months before they notified the executive director. Immediately is defined as “without delay,” and in the absence of extraordinary circumstances, written notification to the executive director should occur not more than five days after the event in question. Events that require professionals to notify the executive director include, discipline from an industry association or other regulatory body, court judgments, bankruptcies, and criminal convictions.

[Information Bulletin: Notice to Executive Director – Real Estate and Mortgage Broker Professionals](#)

# Letters of Reprimand

Trevor Carl Hansen,

Mortgage broker registered with Verico Xeva Mortgage Inc.

- a brokerage must immediately notify the executive director in writing of a change in the directors, officers or shareholders of a corporation if the brokerage is a corporation [s.32(g) of the *Real Estate Act Rules*]
- Mr. Hansen was the broker of Verico Xeva Mortgage Inc. at the time
- on May 1, 2019, Verico Xeva Mortgage Inc. had a change to their corporate structure
- RECA was notified on August 23, 2019

Section 32 of the *Real Estate Act Rules* requires brokerages to immediately notify the executive director, in writing, when certain events occur. RECA defines immediately as “without delay,” and in the absence of extraordinary circumstances, written notification to the executive director should occur not more than five days after the event in question. Events that require professionals to notify the executive director include, the opening, closing or changing of a trust account, a change in brokerage contact info or business address, and a change in the brokerage corporate structure.



# Letters of Reprimand

## Gordon James McArthur

Real estate associate registered with Mountain View Real Estate Inc.

o/a Re/Max Real Estate (Mountain View)

- industry members must trade in real estate only in the name that appears on that individual's licence and in the name of the brokerage with which that individual is registered [s.53(a) of the *Real Estate Act* Rules]
- Mr. McArthur had an advertisement where his name, website, and branding were clear, however the brokerage name was very small and difficult to read and was not clearly indicated

## Tara Lynn Molina

Real estate associate registered with 4th Street Holdings Ltd.

o/a Re/Max Real Estate (Central)

- industry members must trade in real estate only in the name that appears on that individual's licence and in the name of the brokerage with which that individual is registered [s.53(a) of the *Real Estate Act* Rules]
- Ms. Molina had a newsletter advertisement where her name, website, and branding were clear, however the brokerage name did not appear clearly on all of the individual advertisements within the newsletter

## Jostein Havre (aka Justin)

Real estate associate registered with Re/Max Real Estate Calgary South Ltd.

o/a Re/Max First

- industry members must trade in real estate only in the name that appears on that individual's licence and in the name of the brokerage with which that individual is registered [s.53(a) of the *Real Estate Act* Rules]
- in September 2019, Mr. Havre had multiple billboards across Calgary where his name appeared within a website address and not separate and distinct in the advertisement
- in September 2019, Mr. Havre's website JustinHavre.com advertised his team branding at the top of the website, the brokerage name does not appear on the screen when you initially visit the website
- the brokerage name was found at the bottom of the website after scrolling through the content

Industry professionals must clearly indicate their brokerage name in all advertising. A brokerage name is "clearly indicated" when a reasonable consumer, under normal circumstances, can clearly distinguish the name of a brokerage in an advertisement. In these cases, the industry professionals failed to clearly indicate their brokerage and name in their advertisements. A reasonable consumer should be able to identify the brokerage based on the advertisement alone.

## Advertising Guidelines

# Letters of Reprimand

[Kenneth Alfred Poffenroth](#),

Real estate associate registered with 377245 Alberta Ltd.

o/a Re/Max Real Estate Central Alberta

- industry members must provide competent service [s.41(b) of the *Real Estate Act* Rules]
- Mr. Poffenroth was approached by a seller to have him list their property for sale
- around December 2014, the seller signed a Seller Brokerage Agreement with Mr. Poffenroth
- the seller advised Mr. Poffenroth that he wanted the term 'As Is' included in the potential sale
- on December 10, 2014, the seller's spouse signed a Seller Brokerage Agreement as well as a Dower Consent form, waiving their dower rights to the property
- the client requested that despite waiving their dower rights, that Mr. Poffenroth continue to include the spouse in the negotiations
- Mr. Poffenroth did not take any action to ensure treating the spouse as a client was in compliance with the requirements of the Dower Consent, which it was not
- a purchase contract was received on December 11, 2014, followed by negotiations
- after all parties agreed to the Purchase Contract, the term 'As Is' was no longer included in the contract

Industry professionals have a duty to ensure they are acting in the best interest of their clients. In this case, the associate should have ensured he was following the direction given to him by his client to include 'As Is' in the negotiations and Purchase Contract. The associate should also have ensured their actions were in compliance with the Dower Act and consent.

[Information Bulletin: Competent Service](#)

# Administrative Penalties

## Dione Jeane Irwin,

Real estate associate registered with Twin Oaks Real Estate 1993 Inc.  
o/a Re/Max House Of Real Estate

- industry members must trade in real estate only in the name that appears on that individual's licence and in the name of the brokerage with which that individual is registered [s.53(a) of the *Real Estate Act* Rules]
- on May 31, 2019, Ms. Irwin transferred to a new brokerage
- Ms. Irwin failed to update her advertising to accurately reflect the name of her registered brokerage
- from May to September, Ms. Irwin has several advertisements that did not display the name of her registered brokerage
- in July and August of 2019, RECA brought these advertisements to Ms. Irwin's attention
- in September, Ms. Irwin updated her advertisements
- \$2,500

## Jessica Hang Chan,

Real estate associate broker registered with Mountain View Real Estate Inc.  
o/a Re/Max Real Estate (Mountain View)

- industry members must trade in real estate only in the name that appears on that individual's licence and in the name of the brokerage with which that individual is registered [s.53(a) of the *Real Estate Act* Rules]
- Ms. Chan advertised her real estate services on a website, Ms. Chan did not indicate her brokerage name on any of the pages in the website
- RECA brought this matter to Ms. Chan's attention and she then made changes to the pages of her website
- Ms. Chan added the brokerage name but abbreviated a portion of the brokerage name, which fails to meet the standard of trading in the brokerage you were registered with
- Ms. Chan added her brokerage name at the bottom of each webpage, while her team branding of Jessica Chan & Associates is prominent, the brokerage name is not clearly indicated
- \$1,500



# Administrative Penalties

## Barry Ross Campbell,

Real estate associate registered with Elite Ownership Group Ltd. o/a Re/Max Elite

- industry members must trade in real estate only in the name that appears on that individual's licence and in the name of the brokerage with which that individual is registered [s.53(a) of the *Real Estate Act* Rules]
- on August 15, 2019, Mr. Campbell transferred to a new brokerage
- the new broker informed Mr. Campbell of the necessity in updating his advertising
- Mr. Campbell failed to update his advertising to accurately reflect the name of his registered brokerage
- in October 2019, Mr. Campbell had several advertisements, which did not display the name of the brokerage he was registered with
- in November 2019, RECA brought the advertisements to Mr. Campbell's attention and Mr. Campbell updated them to reflect the name of his registered brokerage
- \$1,500

## Nikzad Bahadur Kassam,

Real estate associate registered with Canadian Independent Realty Ltd.

o/a CIR Realty

- industry members must trade in real estate only in the name that appears on that individual's licence and in the name of the brokerage with which that individual is registered [s.53(a) of the *Real Estate Act* Rules]
- in October 2019, Mr. Kassam placed an advertisement on a website offering services that require a licence, however Mr. Kassam's name and his brokerage name were not on the advertisement
- in October 2019, a social media advertisement offering property management services using Mr. Kassam's branding name, however Mr. Kassam's name and his brokerage name were not on the advertisement
- in October 2019, Mr. Kassam's social media landing page clearly has his branding name included, however Mr. Kassam did not include his full name
- \$1,500

Industry professionals must clearly indicate their brokerage name in all advertising. A brokerage name is "clearly indicated" when a reasonable consumer, under normal circumstances, can clearly distinguish the name of a brokerage in an advertisement. A reasonable consumer should be able to identify the brokerage based on the advertisement alone.

RECA's definition of clearly indicated does not include specifics as to the size of font an industry professional must use for the brokerage name in advertisements. However, the brokerage name, no matter the actual size, must be clear to consumers and not easily confused with other information (branding, team name, etc.) in the advertisement.

[Advertising Guidelines](#)

# Administrative Penalties

## Krishan Goll,

Real estate broker registered with Real Core Realty Ltd.

- industry members must cooperate fully with, and provide any information requested by, any representative of the Council carrying out their duties and responsibilities under the Act [s.41(h) of the *Real Estate Act* Rules]
- RECA commenced an investigation into Mr. Goll's conduct for failing to file his brokerage accounting report on time
- RECA's Professional Conduct Review Unit requested information from Mr. Goll to be submitted by May 22, 2019
- Mr. Goll did not send the requested information by the deadline
- on May 24, 2019, RECA contacted Mr. Goll, where he requested more time to provide the information and an extension was granted until June 19, 2019
- Mr. Goll failed to send the requested information by the deadline
- on July 24, 2019, Mr. Goll provided RECA the information
- Mr. Goll stated he had hired an accountant to complete the report
- on September 26, 2019, RECA followed up for an update on the report
- Mr. Goll committed to having the report submitted by October 25, 2019
- on October 25, 2019, RECA followed up with Mr. Goll by email, which Mr. Goll did not respond to
- on October 29, 2019, RECA followed up with Mr. Goll by phone and left a voicemail with a request for a call back, Mr. Goll did not respond to this voicemail
- on November 6, 2019, RECA sent a formal demand to provide information by November 27, 2019
- Mr. Goll did not provide a response by the deadline
- on December 2, 2019, RECA spoke with Mr. Goll on the phone and explained that we had made multiple attempts to contact him with no response
- Mr. Goll was notified that the situation was urgent and he was facing suspension if immediate action was not taken
- Mr. Goll took immediate action and provided the information requested
- \$3,000

Industry professionals have an obligation to cooperate with an investigator when requesting information for the purposes of an investigation. Cooperating means providing the information requested within the required timelines.

[Information Bulletin: Cooperate with the Real Estate Council of Alberta](#)

# Administrative Penalties

## Krishan Goll,

Real estate broker registered with Real Core Realty Ltd.

- failed to file brokerage accounting within three months of the fiscal year-end [s. 91(4) of the *Real Estate Act* Rules]
- the brokerage fiscal year-end was December 31, 2018
- RECA sent numerous email reminders to file the appropriate forms by April 1, 2019
- Mr. Goll failed to file the fiscal year end by April 1, 2019
- RECA received Mr. Goll's brokerage accounting form on December 4, 2019
- \$1,500

A brokerage must file its accounting with RECA no later than three months after the end of the brokerage's fiscal year. In this case, the broker failed to file the forms by the deadline despite RECA sending numerous email reminders.

## Sarah Jean Loney,

Real estate associate registered with 1269713 Alberta Ltd.

o/a Century 21 Elevate Real Estate

- an industry member must not directly or indirectly, advertise, communicate or offer to any person an incentive except an incentive that is provided by and on behalf of the brokerage with which they are registered [s.54(1)(d) of the *Real Estate Act* Rules]
- Ms. Loney posted an advertisement to a Market Place and Business Share group on Facebook stating "Every fall I run a promotion for our great community offering a 50% decreased listing commission rate"
- this was a personal incentive and was not a brokerage offered incentive
- this advertisement was not compliant with Ms. Loney's brokerage policy
- Ms. Loney's brokerage policy states: "You are required to obtain approval from the brokerage in regard to the form of the advertisement and solicitation materials prior to distributing materials"
- Ms. Loney did not get brokerage approval for this advertising
- \$1,500

Only a brokerage can advertise incentives to the public. An "incentive" is anything a brokerage advertises, communicates or offers to the public to attract business. Examples of incentives include travel miles, gifts, contests, gift certificates, games of chance, or anything else of value. A brokerage incentive must be available to all clients or potential clients of a brokerage.

# Administrative Penalties

[David Ford Brown](#),

Real estate associate registered with 2222023 AB Ltd. o/a Core Real Estate Group

- industry members must provide competent service [s.41(b) of the *Real Estate Act* Rules]
- Mr. Brown was responsible for managing the properties of his clients
- prior written consent was required to assign any of the responsibilities the brokerage had under the management agreement
- in May 2018, Core Real Estate Group sold their portfolio to another property management company
- Mr. Brown failed to obtain prior written consent from his clients to reassign management of the property from Core Real Estate Group to another property management company
- Mr. Brown's clients found out about this after all trust accounts and lease agreements were transferred to the new property management company
- \$1,500

Industry professionals must provide competent service. In this case, the associate failed to notify their clients about the change to property management companies. The associate should have informed the clients and received written consent well before any changes to the management company occurred.

[Information Bulletin: Competent Service](#)

# Administrative Penalties

## [Kevin Frederick Jordet](#)

Real estate associate registered with Twin Oaks Real Estate 1993 Inc.  
o/a Re/Max House Of Real Estate

- failure to immediately notify, in writing, the executive director [s.40 of the *Real Estate Act Rules*]
- \$1,000

## [Darren Dean Pete Ethier](#)

Real Estate Associate registered with Vanovermeire Realty Inc.  
o/a Coldwell Banker Mountain Central

- failure to immediately notify, in writing, the executive director [s.40 of the *Real Estate Act Rules*]
- \$1,000

Industry members must immediately notify, in writing, the executive director when certain events occur. In these cases, the industry professionals had situations requiring notification occur several months before they notified the executive director. Immediately is defined as "without delay," and in the absence of extraordinary circumstances, written notification to the executive director should occur not more than five days after the event in question. Events that require professionals to notify the executive director include, discipline from an industry association or other regulatory body, court judgments, bankruptcies, and criminal convictions.

[Information Bulletin: Notice to Executive Director – Real Estate and Mortgage Broker Professionals](#)



# Administrative Penalties

## Bruce Dalton Lea,

Real estate associate registered with Grande Prairie Associates Realty Ltd.  
o/a Re/Max Grande Prairie

- an industry member shall not provide any services to the client or potential client in a trade or anticipated trade in which the industry member has, or will have, a conflict of interest without receiving the written and informed consent of the party [s.54(3) of the *Real Estate Act* Rules]
- in June 2017, Mr. Lea was representing seller clients in the sale of their property
- in June 2017, a potential buyer engaged Mr. Lea to act as their agent to purchase the property
- the buyer was aware Mr. Lea represented the seller
- on July 30, 2019 Mr. Lea drafted up an offer for the property on behalf of the buyer
- Mr. Lea failed to obtain the required written and informed consent from the buyer regarding the conflict of interest before drafting up the offer
- an Agreement to Represent Both Seller and Buyer was signed by the seller, but not signed by the buyer
- the seller accepted the offer on July 5, 2019
- the buyer did not waive conditions and the transaction collapsed
- \$3,000

When an industry professional represents both a seller and a potential buyer, there is a conflict of interest. The industry professional must disclose to their clients the conflict of interest. The disclosure must be full; which means it needs to state all relevant facts, the nature of the conflict of interest, and include the advantages and disadvantages of the various ways to resolve the conflict.

The industry professional must disclose the conflict as soon it arises. After the professional has made full and timely disclosure to each client, you they must seek their the clients' direction regarding the preferred means to resolve the conflict of interest. In this case, the associate failed to get both parties to sign an agreement that they would be representing all parties in the transaction.

[Information Bulletin: Conflict of Interest - Representing both Seller and Buyer](#)

# Administrative Penalties

[Danelle Lynn Bolinski](#),

Real estate broker registered with 666716 Alberta Ltd. o/a Now Real Estate Group

- an industry member who is required by the rules to keep and operate a trust account shall disburse money received or held in trust in respect of a dealing or trade in the business of the industry member in accordance with the rules and with the terms of the trust governing the use of that money [s.25(1)(d) of the *Real Estate Act*]
- in June 2019, acting as trustee, Ms. Bolinski accepted a \$10,000 deposit used to facilitate a real estate transaction
- the terms of the trust outlined in the purchase contract, the brokerage, the buyer, and seller were the only parties with an interest in the funds
- in July 2019, the transaction collapsed leaving the money in trust
- both parties disputed the terms of the agreement and requested the funds
- Ms. Bolinski contacted the brokerage's insurance provider attempting to mitigate the potential liability of distributing the funds
- on July 12, 2019, Ms. Bolinski notified the parties that on the following Monday the funds would be distributed to a third party and not in accordance with the terms of trust
- Ms. Bolinski failed to take reasonable steps to keep the parties aware and obtain authorization before making the disbursement
- on July 15, 2019, Ms. Bolinski failed to obtain authorization from the parties before transferring the funds to third party outside the agreement and not in accordance with the terms of trust
- \$5,000

A real estate broker's role in handling trust funds is that of a trustee. As a trustee, the broker must hold the trust monies for the parties in the transaction and disburse money only in accordance with the terms of trust. In this case, the broker failed to distribute the funds in line with the terms of the trust.

There will be times where there is no reasonable conclusion on how to disburse trust funds. It is a difficult, and at times controversial, task for brokers to act as trustees. It is important for brokers to follow the guidelines and performs due diligence in making a reasonable decision.

[Information Bulletin: Trust Money Disputes and Disbursements](#)

# Administrative Penalties

## Reena Alise Yost,

Real estate associate registered at the time of sanction with Panda Realty Inc.  
o/a Coldwell Banker Venture Realty, currently registered to Thorndale Holdings Ltd.  
o/a Re/Max Select

- an industry member who is in a sole agency relationship with a buyer is obligated to take reasonable steps to discover relevant facts pertaining to any property for which the buyer is considering making an offer [s.58(i) of the *Real Estate Act* Rules]
- Ms. Yost represented a buyer in the purchase of a home
- Ms. Yost's client inquired about the property tax of \$3,891 which was listed on the property featured sheet
- Ms. Yost looked at multiple feature sheets for similar properties in the area including smaller properties that had higher property taxes listed
- further due diligence was required to confirm the property tax
- Ms. Yost failed to pull the tax search for the property
- the buyer purchased the property
- the tax amount came out to \$5255.85, a difference of \$1,364.85, the buyer decided not to complete the purchase contract and forfeited their deposit
- \$1,500

A real estate professional representing a buyer has an obligation to take reasonable steps to discover relevant facts regarding a property. This is especially important regarding property characteristics important to the buyer. When viewing comparable properties, information that does not add up requires additional due diligence to discover any potential errors. In this case, the associate should have pulled the tax search for the property.

# Suspension

## David Stephen Kennedy: Real Estate Licence Suspended

On December 13, 2019, the Real Estate Council of Alberta (RECA) suspended the real estate licence of David Stephen Kennedy. Mr. Kennedy is not authorized to trade in real estate.

RECA determined it is in the public interest to temporarily suspend Mr. Kennedy. Allegations arising from multiple complaints against Mr. Kennedy include failure to provide competent service, failure to fulfill fiduciary obligations to clients, making misleading representations, and failing to disclose conflicts of interest.

Mr. Kennedy's licence will remain suspended pending the outcome of RECA's conduct proceedings.

Mr. Kennedy was most recently a real estate broker with Manor Management Ltd.

## RECA Management

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JOSEPH FERNANDEZ

Director of Education Programs

CHARLES STEVENSON

Registrar

(Acting Executive Director)

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General Counsel & Corporate Secretary

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### CONTACT RECA

The Case Summaries is published by the  
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Please forward any questions regarding  
the content of the Case Summaries, or any  
questions regarding licensing or mandatory  
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