

THE REAL ESTATE COUNCIL OF ALBERTA

Case: 009447
Process: Section 39 & 83 of the *Real Estate Act*
Industry Member: Michael Robert Holmes
Authorization: Real Estate Broker
Registration: Larlyn Property Management Ltd
Document: ADMINISTRATIVE PENALTY
Penalty: \$1500.00 (see Schedule 2 of the Bylaws)

Payment

This Penalty must be paid **within 30 days** of the date this Notice was issued.

If you fail to pay the Penalty the Executive Director may commence collection under Part 6 of the *Real Estate Act* and may suspend your authorization under section 38.1 of the Rules.

If you pay the Penalty

- You will have satisfied the Administrative Penalty and no further proceedings under Part 6 will be taken against you.
- You cannot be charged under the *Real Estate Act* with an offence for the contravention(s) in this Administrative Penalty.

TO: Michael Robert Holmes

The Executive Director of the Real Estate Council of Alberta (RECA) has determined there is sufficient evidence you have contravened **section 51(1)(e) of the Real Estate Act Rules** and this is conduct deserving of sanction.

Rule 51(1) – A real estate broker must;

(e) ensure there is an adequate level of supervision for associate brokers or associates, as the case may be, within the brokerage and employees who perform duties on behalf of the brokerage;

Particulars of the contravention(s):

1. Between November 2001 and September 2014 you failed to provide an adequate level of supervision for an associate, AD, contrary to section 51(1)(e) of the *Real Estate Act Rules*:

- a) AD stated she has been employed with Larlyn Property Management for 19 years. Her initial role was as an assistant property manager and she has progressed to a senior property manager. During her time with Larlyn, AD had become registered as a real estate associate.
- b) AD stated initially her relationship with [{"Company"}] was as an assistant property manager and then she became the property manager. Part of her job description was to collect condo fees and rents.
- c) AD stated when Larlyn takes over a new account they usually receive the unit factor numbers from the developer or the previous property management company. Condos with the same unit factor should be charged the same condo fee.
- d) AD stated when Larlyn took over the [{"Company"}] account the unit factors they received were different and in fractioned numbers. She was unsure why. This caused the condo fees collected to be different even though the unit factors should have been the same.
- e) AD stated she would pull title on each unit every two years with board approval for audit purposes. She failed to notice the difference and correct them, which would have resulted in collecting accurate condo fees for each unit.
- f) You failed to monitor AD's work to ensure accuracy and related to duties affecting condo fees being collected.

The Executive Director considered the following aggravating and mitigating factors:

Aggravating Factors

- Incorrect collecting of condo fees occurred over a 13 year period.

Mitigating Factors

- The incorrect amounts of condo fees being collected were minimal.

Appeal

You have the right to appeal this Administrative Penalty to a Hearing Panel. See **section 83.1 of the *Real Estate Act*** for what you must do to appeal.

In an appeal you will be given a full opportunity consistent with procedural fairness and natural justice to present evidence before the Hearing Panel in relation to the contraventions alleged.

Your written notice of appeal must comply with section 83.1 and must be received by the Executive Director **within 30 days** of you receiving this Administrative Penalty.

If you appeal, payment of the Penalty will not be required until an order to pay a penalty is issued by the Hearing Panel. If you have any questions regarding particulars or the appeal process, please contact:

Name: RB, Professional Conduct Review Officer
Phone: 403.228.2954; Toll Free: 1.888.425.2754
Fax: 403.228.3065
Address: Real Estate Council of Alberta
Suite 202, 1506 11 Avenue SW
Calgary, Alberta, T3C 0M9

Issued at Calgary, Alberta, on January 17, 2020.

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