

THE REAL ESTATE COUNCIL OF ALBERTA

Case: 009908
Process: Section 39 & 83 of the *Real Estate Act*
Industry Member: Muhammad Azeem
Authorization: Real estate associate
Registration: 2118996 Alberta Corp. O/A Heritage Elite Realty
Document: ADMINISTRATIVE PENALTY
Penalty: \$1,000.00

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: Muhammad Azeem

The Executive Director of the Real Estate Council of Alberta (RECA) has determined there is sufficient evidence you have contravened **section 43 (1) of the *Real Estate Act Rules*** and this is conduct deserving of sanction.

Rule 43(1) – *Subject to these rules, an industry member who establishes a client relationship when trading in residential real estate, property management, or when dealing in mortgages must enter into a written service agreement with that prospective client.*

Particulars of the contravention(s):

1. In or around August 2019, you failed to enter into a written service agreement with a prospective client, contrary to section 43(1) of the *Real Estate Act* Rules:
 - a) In August 2019, you started showing properties to M.D. You showed him several properties and submitted an offer on his behalf. You established a client relationship with M.D. You did not have a written service agreement with M.D.
 - b) M.D entered into a written service agreement with another real estate associate and purchased a property which you had previously shown to him. You believed you were entitled to commissions for this transaction and filed a civil claim against M.D for commissions.

A written service agreement outlines the roles and responsibilities of the parties, clarifies the expectations of each party, and helps to ensure the client understands their relationship with the industry professional. Clarity of roles, responsibilities, and expectations is essential to consumer trust and confidence.

It is important industry professionals are aware of Section 22 of the *Real Estate Act* which states:

Recovery of commission

(22) No action shall be brought to charge a person by commission or otherwise for services rendered in connection with a transaction in the business of an industry member unless

(a) the service agreement on which recovery is sought in the action or some note or memorandum of it is in writing signed by the party to be charged or by that person's agent lawfully authorized in writing

The Executive Director considered the following aggravating factor:

Aggravating Factors

- You failed to make clear the roles and responsibilities of the parties in writing and then took civil action against a consumer in an attempt to enforce an obligation.

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: CS, 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 March 11, 2020.

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