

THE REAL ESTATE COUNCIL OF ALBERTA

Case: 009619
Process: Section 83 of the *Real Estate Act*
Persons: Seann Spence
Authorization: Not licensed
Document: ADMINISTRATIVE PENALTY
Penalty: \$10,000 (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*.

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: Seann Spence

The Executive Director of the Real Estate Council of Alberta (RECA) is of the opinion you have contravened **section 17(b) of the *Real Estate Act***.

Section 17 - Authorization Required

17 No person shall

(a) trade in real estate as a real estate broker,

(b) deal as a mortgage broker,

(c) act as a real estate appraiser, or

(d) advertise himself or herself as, or in any way hold himself or herself out as, a mortgage broker, real estate broker or real estate appraiser

unless that person holds the appropriate authorization for that purpose issued by the Council.

Interpretation:

1(1)(r) "mortgage broker" means

- (i) a person who on behalf of another person for consideration or other compensation*

(C) collects mortgage payments and otherwise administers mortgages

Particulars of the contravention(s):

1. From approximately 2009 to 2019, you administered mortgages on behalf of borrowers and lenders without a licence contrary to section 17(b) of the *Real Estate Act*:
 - a) From 2009 to 2019, you were the sole director and shareholder of 1414695 Alberta Ltd.
 - b) 1414695 Alberta Ltd. was a company used to facilitate financial transactions, such as lending and transferring money.
 - c) From 2009 to 2019, 1414695 Alberta Ltd., on behalf of borrowers and lenders, collected and disbursed mortgage interest payments for a fee. These mortgages were connected to Alberta properties. This activity required a licence. During this time neither you nor 1414695 Alberta Ltd. were licensed to deal in mortgages in Alberta.
 - d) Upon becoming aware that your activities required a licence, you took steps to cease administering mortgages.

The Executive Director considered the following aggravating and mitigating factors:

Aggravating Factors

- Unlicensed persons who provide services that require a licence put consumers at risk. Often times they do not have the required education or errors and omissions insurance.
- The unauthorized activity involved collecting and holding funds in trust for consumers. This presented an additional risk to consumers, since consumers working with unlicensed persons do not get protection under the Real Estate Assurance Fund.
- The unauthorized activity occurred over a long period of time.
- The unauthorized activity involved several borrowers and lenders.

Mitigating Factors

- You took steps to cooperate with the investigation and promptly responded by ceasing the unauthorized activity.

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: JP, Professional Conduct Review Manager
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 10, 2020.

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