

March 13, 2020

April 14, 2020

# Case Summaries

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# 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

## [Andrew C Bennett](#)

Mortgage broker registered with Marathon Mortgage Corp.

- 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]
- on April 10, 2019, Marathon Mortgage Corp. changed their corporate structure
- Mr. Bennett was the broker at the time and was responsible for notifying RECA of the changes
- RECA was notified on July 25, 2019

## [Lois Ann Holmes](#)

Mortgage broker registered with QuadReal Finance LP o/a QuadReal Finance

- a brokerage must immediately notify the executive director in writing of a change in the address of the brokerage's registered business office [s.32(d) of the *Real Estate Act* Rules]
- on May 31, 2019, QuadReal Finance changed their registered address of its affiliated Alberta office
- RECA was notified on November 26, 2019

## [Greg Lawrence Kwong](#)

Real estate broker registered with CBRE Limited

- 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]
- on November 1, 2019, CBRE Limited changed their shareholders
- RECA was notified on December 6, 2019

## [Julie Marie Neault](#)

Mortgage broker registered with Timbercreek Mortgage Servicing 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]
- on January 31, 2019 and February 8, 2019, Timbercreek Mortgage Servicing Inc. changed their corporate structure
- Ms. Neault was the broker at the time and was responsible for notifying RECA of changes
- RECA was notified on September 30, 2019

# Letters of Reprimand

[Rodney Frank Thompson](#),

Real estate broker registered with Edmonton Home Group Inc. o/a Sellerinvite.com (Edmonton)

- a brokerage must immediately notify the executive director in writing of a change in the address of the brokerage's registered business office [s.32(d) of the *Real Estate Act* Rules]
- on October 1, 2019, Sellerinvite.com (Edmonton) changed their registered address of its affiliated Alberta office
- RECA was notified on October 29, 2019

## Learning Opportunity

Brokerages must 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 (5) days after the event in question.

[Information Bulletin: Responsibilities and Prohibitions — Mortgage Brokerage](#)

[Information Bulletin: Responsibilities and Prohibitions — Real Estate Brokerage](#)

# Letters of Reprimand

## Carrie Lynn Giffen,

Real estate associate registered with 1819074 Alberta Ltd. o/a Coldwell Banker Ontrack Realty

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

## William Alva Blais,

Real estate broker registered with Midwest Property Management LP o/a Midwest Property Management

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

## Gilbert Birchmore Weekes,

Mortgage associate registered with TMG The Mortgage Group Inc. o/a TMG

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

### Learning Opportunity

Industry members must immediately notify, in writing, the executive director when certain events occur. In some 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.

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



# Letters of Reprimand

## [Thomas Clifford Waller,](#)

Real estate broker registered with Cedarglen Realty Services Inc. o/a Waller Real Estate Group

- industry members must not make representations or carry on conduct that is reckless or intentional and that misleads or deceives any person or is likely to do so [s.42(a) of the *Real Estate Act* Rules]
- in March 2019, Mr. Waller represented the builder for the sale of a property
- Mr. Waller advertised the property as “nicely fenced and landscaped” on the feature sheet
- the builder had not committed to fence or landscape the property
- once the buyer took possession of the property, Mr. Waller stated that the fence and landscaping was an input error
- Mr. Waller informed the buyer that the builder would not be honoring those items

### Learning Opportunity

Industry professionals must avoid misrepresentations or conduct that is reckless or intention and that misleads or deceives any person, including advertising activities. In this case, the broker listed a property that included false and inaccurate characteristics, which lead the buyer to be misled.

[Information Bulletin: Advertising — False and Misleading](#)

[Advertising Guidelines](#)

# Administrative Penalties

## Robert Harry Lennard,

Real estate associate registered with The Real Estate Company Ltd. o/a The Real Estate Company

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

## Leslie Dawn Zilkowsky,

Real estate appraiser (currently unlicensed) and mortgage associate registered with Dominion Lending Centres Mortgage Mentors Broker Inc o/a Dominion Lending Centres Mortgage Mentors

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

### Learning Opportunity

Industry professionals must immediately notify the executive director, in writing, when they are the subject of bankruptcy proceedings. 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 (5) days after the event in question.

# Administrative Penalties

## Muhammed Azeem

Real estate associate registered with 2118996 Alberta Corp. o/a Heritage Elite Realty

- industry members who establish 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 [s.43(1) of the *Real Estate Act* Rules]
- in August 2019, Mr. Azeem established a client relationship with an individual
- Mr. Azeem began showing the individual properties, submitting an offer on their behalf
- Mr. Azeem did not have a written service agreement with the individual
- the individual entered into a written service agreement with another real estate associate and purchased the property, which Mr. Azeem had previously shown him
- Mr. Azeem filed a civil claim against the individual for commissions regarding the transaction
- \$1,000

### Learning Opportunity

Industry professionals also must not take action to charge a person commissions unless the person has agreed to commissions in writing.

Industry professionals who wish to enter a client relationship, must do so in writing to obtain the exclusive right to represent the client. A written service agreement clearly defines the relationship between the parties, the services the brokerage will deliver, the responsibilities and obligations of the parties, the amount and method used to calculate fees, how the industry professional is paid, as well as consent for collection, use and distribution of client's personal information.

[Information Bulletin: Service Agreements — Real Estate Brokerage](#)



# Administrative Penalties

## Shamon Kureshi

Real estate broker registered with Hope Street Real Estate Corp.

- industry members must not delegate, assign, request, direct or in any way allow an unlicensed or unregistered assistant to perform tasks that must only be performed by an industry member [s.46(2) of the *Real Estate Act* Rules]
- in August 2019, Mr. Kureshi allowed an unlicensed assistant of Hope Street Real Estate Corp. to show properties to prospective tenants
- showing properties to prospective tenants requires a real estate licence
- Mr. Kureshi did not believe this was a task that required authorization
- \$1,500

### Learning Opportunity

Brokers are responsible for the activities of any unlicensed assistants employed in their brokerage, and must ensure they are competent and properly trained. If the individual does not hold a licence with RECA they must not trade in real estate, which includes showing properties to prospective tenants. In this case, the broker should never have assigned tasks that require a licence.

[Information Bulletin: Assistants](#) — [Real Estate Brokerage](#)

# Administrative Penalties

[Sukhdeep Mann.](#)

Unlicensed

- no person shall trade in real estate as a real estate broker unless that person holds the appropriate authorization for that purpose issued by the Council [s.17(a) of the *Real Estate Act*]
- Mr. Mann has been using his company, My Best Rent Inc. (MBR), to manage his properties for thirty years
- in September 2015, MBR entered into an agreement to manage a property on behalf of the owners and agreed to provide the following for a fee:
  - advertising the property for rent
  - negotiating and executing leases
  - collecting rent and the security deposit from a tenant
- in August 2015, Mr. Mann entered a lease on behalf of the owner with a tenant to begin renting the property on September 1, 2015, stating that the rent and security deposit were payable to MBR
- Mr. Mann had received prior warnings from RECA about the requirements to be licensed
- Mr. Mann continued to provide these services until September 2019, including collecting rent from the tenant, deducting their fee, and issuing the balance to the owner
- \$10,000

## Learning Opportunity

Unlicensed persons who provide services that require a licence put consumers at serious risk. Unlicensed persons do not have the required education or errors and omissions insurance, and consumers working with unlicensed persons do not receive protection under the Real Estate Assurance Fund.

[Information Bulletin: Trading in Real Estate as a Real Estate Broker](#)

# Administrative Penalties

## Jonathan Cruse Popowich,

Real estate associate broker registered with Irealty Calgary Inc. o/a Re/Max Irealty Innovations

- real estate professionals must not directly or indirectly, advertise, communicate or offer 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]
- in December 2019, Mr. Popowich advertised a holiday giveaway, which included a prize
- the prize was a personal incentive, and not a brokerage incentive
- Mr. Popowich's brokerage did not approve the incentive
- \$1,500

### Learning Opportunity

Only a brokerage can advertise incentives to the public. Industry professionals must not directly or indirectly, advertise, communicate or offer to any person their own incentives whose sole purpose is to attract business to them personally.

An "incentive" is anything a brokerage advertises, communicates, or offers to the public to attract business. Examples of incentives include travel miles, gifts, contest prizes, gift certificates, games of chance, or anything else of value.

[Information Bulletin: Incentives](#)

# Administrative Penalties

[Seann Spence,](#)

Unlicensed

- no person shall deal as a mortgage broker unless that person holds the appropriate authorization for that purpose issued by the Council [s.17(b) of the *Real Estate Act*]
- from 2009 to 2019, Mr. Spence was the sole director and shareholder of 1414695 Alberta Ltd., a company used to facilitate financial transactions, such as lending and transferring money
- from 2009 to 2019, 1414695 Alberta Ltd. collected and disbursed mortgage interest payments for a fee on behalf of borrowers and lenders for mortgages connected to properties, activity which required a license
- during this time period, neither Mr. Spence nor 1414695 Alberta Ltd. were licensed to deal in mortgages
- \$10,000

## Learning Opportunity

A person who deals in mortgages on behalf of another and for compensation, or holds oneself out as a mortgage broker, must obtain a mortgage broker license from the Real Estate Council of Alberta (RECA). Unlicensed persons who provide services that require a licence put consumers at serious risk. Unlicensed persons do not have the required education or errors and omissions insurance, and consumers working with unlicensed persons do not receive protection under the Real Estate Assurance Fund.

[Information Bulletin: Dealing in Mortgages as a Mortgage Broker](#)

# Lifetime Withdrawals

## Bruce Campbell Carr: Lifetime Withdrawal from Industry

On March 26, 2020, Bruce Campbell Carr, previously a mortgage associate registered with INVIS Inc. o/a INVIS in Drayton Valley, applied to permanently withdraw from industry membership.

At the time of his application, Mr. Carr was the subject of an investigation under the *Real Estate Act*. The issues under investigation were whether Mr. Carr:

- made representations that were reckless and misled his clients
- failed to disclose referral fees to his clients
- failed to trade under the name of his brokerage
- accepted a referral fee outside of his brokerage

At the time of Mr. Carr's withdrawal from industry, the investigation was not complete and therefore, there had been no disciplinary hearing, admissions, or findings of fact.

The Real Estate Council of Alberta approved Mr. Carr's application to withdraw, and this results in a voluntary lifetime prohibition from industry membership; conduct proceedings are now discontinued.

# Lifetime Withdrawals

## [Simon Yohanes Kidane Golom: Lifetime Withdrawal from Industry](#)

On March 26, 2020, Simon Yohanes Kidane Golom, previously a real estate associate in Lethbridge, applied to permanently withdraw from industry membership.

At the time of his application, Mr. Golom was the subject of an investigation under the *Real Estate Act*. The issues under investigation were whether Mr. Golom:

- misappropriated a deposit
- induced a client to make an offer on a fictitious listing

At the time of Mr. Golom 's withdrawal from industry, the investigation was complete and ready to proceed to a hearing.

The Real Estate Council of Alberta approved Mr. Golom 's application to withdraw, and this results in a voluntary lifetime prohibition from industry membership; conduct proceedings are now discontinued.



# Suspensions

## Warren Constantine Phipps: Real Estate Licence Suspended

On March 26, 2020, the Real Estate Council of Alberta (RECA) suspended the real estate licence of Warren Constantine Phipps. Mr. Phipps is not authorized to trade in real estate.

RECA determined it is in the public interest to temporarily suspend Mr. Phipps. Allegations against Mr. Phipps include:

- failing to:
  - keep complete and accurate financial records relating to money received and held in trust
  - disburse funds according to the terms of trust
  - cooperate with a person conducting an investigation
  - prepare bank reconciliations
- acting dishonestly
- making intentional, misleading representations
- participating in fraudulent or unlawful activities

Mr. Phipps' licence will remain suspended until current proceedings, under Part 3 of the *Real Estate Act* concerning his conduct, are concluded.

Mr. Phipps was most recently registered as a real estate broker with Mountain Park Real Estate Ltd.

# Suspensions

## [Mountain Park Real Estate Ltd.](#)

On April 8, 2020, the Real Estate Council of Alberta (RECA) suspended the licence of Mountain Park Real Estate Ltd., following the suspension of its broker, Warren Phipps, on March 26, 2020 and the subsequent failure to register a replacement broker with the brokerage.

As a result of the brokerage licence suspension, the registrations of any industry professionals who were registered with this brokerage are cancelled and service agreements with this brokerage end. To read more about what to do if your brokerage shuts down, or if a brokerage you are dealing with shuts down, please see the [Information Bulletin: When your real estate brokerage closes](#).

All active trades in real estate involving this brokerage are affected. Brokerages or consumers who have pending purchases, leases, or sales with deposits being held in trust with this brokerage should consider amending their purchase contract to transfer their trust deposit to a different brokerage or lawyer.

# Suspensions

## [Realstar Management Limited](#)

On April 8, 2020, the Real Estate Council of Alberta (RECA) suspended the licence of Realstar Management Limited.

Under Section 35(2)(b) of the [Real Estate Act Rules](#), the executive director may suspend the licence of a brokerage if the executive director receives information that indicates the individual who is registered as the broker has resigned or ceased to be the broker.

All active trades in real estate involving this brokerage are affected. Brokerages or consumers who have pending purchases, leases, or sales with deposits being held in trust with this brokerage should consider amending their purchase contract to transfer their trust deposit to a different brokerage or lawyer.

## RECA Management

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Please forward any questions regarding  
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