

April 15, 2020

May 25, 2020

Case Summaries

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Case Summaries

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

Amanuel Tesfai Chirom,

Real Estate Associate registered with Sterling Realty (Alberta) Ltd. o/a Sterling Real Estate

- industry members must provide competent service [s.41(b) of the *Real Estate Act* Rules]
- Mr. Chirom's buyer clients agreed to a purchase contract with a possession date of July 24, 2019
- Mr. Chirom's buyer client wanted to change the possession date to September 16, 2019
- Mr. Chirom negotiated the new possession date with the seller agent
- on July 9, 2019 Mr. Chirom drafted an amendment to the purchase contract with the change to the possession date; however, the date was listed as August 16, 2019
- Mr. Chirom sent the new amendment to his clients with the wrong date
- neither Mr. Chirom nor his clients noticed the error; his clients signed the amendment
- Mr. Chirom realized the error and took steps to work with the seller's agent to amend the possession date

Simon David Hunt,

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

- industry members must provide competent service [s.41(b) of the *Real Estate Act* Rules]
- Mr. Hunt's buyer clients' possession date was set for July 29, 2019
- Mr. Hunt was advised that possession time would be delayed when he arrived early to do a walkthrough
- work was scheduled for when the buyer clients took possession
- Mr. Hunt advised the workers they could not enter the property until the possession time was confirmed
- Mr. Hunt sat in his car to await possession
- before the possession had been granted, a locksmith hired by the buyers came and changed the locks
- Mr. Hunt failed to notice the locksmith had arrived and completed their work

Learning Opportunity

Industry professionals must provide competent service. In these cases, the industry professionals failed to exercise reasonable care and skill while a property was in their care and control.

Information Bulletin: Competent Service

Letters of Reprimand

Walid Fakhreddine,

Real Estate Associate registered at the time with Thorndale Holdings Ltd. o/a Re/Max Select. Currently registered to Sterling Real Estate

- 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 (name change, discipline, criminal proceedings, bankruptcy, etc.). In this case, the industry professional had a situation requiring notification occur weeks 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

Geoffrey Eric Spero,

Real estate broker registered with Servis Realty Inc.

- 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 September 1, 2019, Servis Realty Inc. changed their registered brokerage address
- RECA was notified on May 13, 2020

Greg Lawrence Kwong,

Real Estate Broker registered with CBRE Limited

Currently under appeal

- 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 made a change to an officer for “the brokerage”
- RECA was notified on December 6, 2019

Learning Opportunity

Brokerages must immediately notify the executive director, in writing, when certain events occur (change of brokerage address, change of directors, stakeholders, shareholders, etc.). 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

Administrative Penalties

[Debbie Lynn Benson](#),

Real estate broker registered with Centurion Realty Ltd.

- persons who are required to answer the questions of a person conducting an investigation shall co-operate with the investigator and promptly respond to the question [s.38(4)(a) of the *Real Estate Act*]
- a person shall not withhold, destroy, conceal or refuse to produce any books, documents, records or other things required for the purpose of an investigation [s.38(4.1) of the *Real Estate Act*]
- around March 2020, RECA appointed an investigator to investigate Ms. Benson's conduct as an industry member
- on March 2, 2020, Ms. Benson was notified the RECA investigator had additional questions
- on March 5, 2020, the investigator attempted to reach Ms. Benson by phone to request additional information; the investigator left a voicemail
- on March 6, 2020, the investigator sent an email to request information with a deadline of March 10, 2020
- on March 12, 2020, the investigator notified Ms. Benson in writing that she had failed to cooperate with the request for information, and requested that the information and documentation be provided by April 1, 2020
- on March 12, 2020, the investigator notified Ms. Benson by email stating that if she could not meet the deadline due to illness, a doctor's note would be required
- Ms. Benson replied that she had a scheduled doctor's appointment for April 6, 2020
- RECA never received the doctor's note
- Ms. Benson failed to meet the deadline after multiple attempts by RECA
- \$5,000

Learning Opportunity

The *Real Estate Act* requires industry professionals to cooperate with professional conduct reviews, including responding to questions and providing documentation. The obligation to cooperate extends to any person who is asked to produce documentation or answer questions relevant to the investigation. In this case, the industry professional failed to cooperate with the investigation or provide documentation when requested on multiple occasions.

[Information Bulletin: Cooperate with RECA](#)

Administrative Penalties

Dennis Berend Van Beek

Real estate broker registered with Black Gold Real Properties

- a brokerage must prepare a monthly bank reconciliation, within 30 days of the prior month's bank statement, for all accounts in which money is held in trust [s.86(1) of the *Real Estate Act Rules*]
- on August 14, 2017, RECA informed Mr. Van Beek in writing that his brokerage reconciliation process was incorrect, as their ledger was being updated annually
- Mr. Van Beek's brokerage failed to increase their trust account reconciliation to monthly
- on September 11, 2017, Mr. Van Beek communicated to RECA the steps his brokerage was taking to comply with the *Real Estate Act Rules*
- on March 4, 2019, Mr. Van Beek's brokerage submitted their fiscal year-end report which stated the brokerage conducted monthly reconciliations by matching bank statements to the ledger, which does not meet the requirements for proper trust reconciliations
- based on this report, RECA opened an investigation into Mr. Van Beek's conduct
- Mr. Van Beek responded that his brokerage would like to continue with his current method, however, this kind of reconciliation continues to not meet the requirements of proper trust reconciliation
- \$1,000

Learning Opportunity

Brokerages must complete bank reconciliations on a monthly basis, which includes reconciling the trust liability for pooled trust accounts. This process ensures the brokerage is meeting its trust obligations and helps identify potential trust shortages or other irregularities that require further investigation by the broker to ensure client funds are protected.

RECA's Trust Assurance and Practice Review Unit prefers to use an educational approach for most issues they encounter in a Practice Review. A Practice Review Officer will help the broker understand the brokerage's legislative obligations. Repeated failure to meet a legislative responsibility afterward will result in a Professional Conduct Review to determine whether there has been conduct deserving of sanction.

[Guide to Trust Assurance and Practice Review for Real Estate Industry Members](#)

[Trust Assurance and Practice Review Forms](#)

Administrative Penalties

Mark Christopher Herman

Mortgage Associate registered with 9191712 Canada Inc. o/a Mortgage Alliance "Mortgages Are Marvellous"

- industry members must keep confidential any information regarding a client, property or transaction to another person unless authorized by the client or required by law [s.44(1) of the *Real Estate Act* Rules]
- on July 24, 2019, Mr. Herman posted a photo of documents related to a refinancing application that he received from a mortgage client to a Facebook group
- the photo contained the client's tax assessments, income information, social insurance number, photocopy of their driver's licence, and a copy of their signature
- Mr. Herman was informed by members of the group that confidential client information could be seen in the photo and posting it publicly was inappropriate
- Mr. Herman removed the photo
- Mr. Herman failed to report this breach to his brokerage and the client
- \$3,000

Dylan Thomas Kisilowski

Real estate associate registered with Re/Max Real Estate (Edmonton) Ltd. o/a Re/Max Real Estate

- industry members must keep confidential any information regarding a client, property or transaction to another person unless authorized by the client [s.44(1)(a) of the *Real Estate Act* Rules]
- on September 23, 2019, Mr. Kisilowski's buyer client sent an email stating that Mr. Kisilowski could share certain information about the inspection report with the seller
- the seller specifically asked that the entire contents of the inspection report not be shared
- Mr. Kisilowski provided the entire inspection report to the seller's lawyer
- Mr. Kisilowski believed sharing the report would help assist the buyer in getting a requested price reduction
- \$1,500

Learning Opportunity

Industry professionals have an obligation to take all reasonable steps to ensure they are protecting the clients' information. Client information may only be used for the purposes it was collected for and can never be provided to a third party without written consent from the client.

[Information Bulletin: Protection of Client Information](#)

Administrative Penalties

[Dylan Thomas Kisilowski](#),

Real estate associate registered with Re/Max Real Estate (Edmonton) Ltd. o/a Re/Max Real Estate

- 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 [s.43(1) of the *Real Estate Act* Rules]
- on September 5, 2019, Mr. Kisilowski showed a property to a potential client
- on September 9, 2019, Mr. Kisilowski submitted an offer on their behalf
- Mr. Kisilowski established a client relationship, but did not have a written service agreement in place
- on September 14, 2019, Mr. Kisilowski emailed the client, stating he sent them the service agreement on September 13, 2019, and noticed they did not open the email to sign the documents
- the client refused to sign the service agreement
- \$1,000

Learning Opportunity

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. The service agreement must be discussed and presented to a prospective client prior to acting on their behalf in a real estate transaction.

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

Administrative Penalties

Donald Vaughan Mealey

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

- industry members must provide competent service [s.41(b) of the *Real Estate Act Rules*]
- on May 27, 2019, Mr. Mealey coordinated a property inspection on behalf of his buyer clients
- Mr. Mealey attended the inspection, letting his clients and an inspector into the property
- Mr. Mealey provided instructions to his clients on the lockup procedure, and left the clients unattended in the property
- \$1,500

Learning Opportunity

Industry professionals must take steps to ensure they are supervising clients or potential clients in a property. Real estate professionals must also ensure that the property is secure when they are leaving. Leaving anyone in a property unattended requires permission from the seller or seller's agent. In this case, Mr. Mealey failed to exercise reasonable care and skill when in the care and control of a property.

[Information Bulletin: Competent Service](#)

Bonnie Lynn Louise Campbell

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

- industry members must provide competent service [s.41(b) of the *Real Estate Act Rules*]
- Ms. Campbell represented a property with an above grade size of 2500 sq. ft.
- Ms. Campbell measured the property and included rooms that were below grade
- the measurement overstated the above grade size
- the above grade size was 2000 sq. ft.
- \$1,500

Learning Opportunity

The Residential Measurement Standards (RMS) guidelines were created to offer a consistent means of representing a property's above grade space, thereby allowing interested parties to accurately evaluate the merits of a property. Industry professionals must not include areas that are below grade in the RMS size.

[Information Bulletin: Residential Measurement Standards](#)

Administrative Penalties

Seamus Francis Logue

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

- industry members must ensure the role of the industry member is clearly understood by their clients and third parties [s.41(e) of the *Real Estate Act* Rules]
- in June 2019, Mr. Logue represented a seller who had signed both a Consumer Relationship Guide and an Exclusive Seller Representation Agreement
- Mr. Logue was also representing a buyer client
- on July 4, 2019, the buyer client made an offer on the seller client's property, creating a conflict of interest, which required a discussion with both the buyer and seller on Mr. Logue's role in the transaction moving forward
- the seller client accepted the offer the same day it was presented
- Mr. Logue did not have transaction brokerage agreements in place with either the buyer or seller to resolve the conflict of interest
- the seller was confused about Mr. Logue's role in representing the buyer
- on July 8, 2019, Mr. Logue provided the seller with an agreement stating that he was representing both the buyer and seller
- the offer had already been accepted
- \$1,500

Learning Opportunity

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, and take steps to resolve that conflict. 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.

Industry professionals must disclose any conflict as soon as it arises. After the professional has made full and timely disclosure to each client, they must seek their 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. The clients must agree that the conflict has been resolved before proceeding.

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

Administrative Penalties

Timothy Patrick Green,

Real estate associate previously registered with 2142595 Alberta Ltd. o/a Royal LePage Integrity. Currently registered with eXp Realty of Canada Inc o/a eXp Realty

- real estate associate brokers and associates must trade in real estate only in the name that appears on that individual's license and in the name of the brokerage with which that individual is registered [s.53(a) of the *Real Estate Act* Rules]
- in December 2019, Mr. Green advertised multiple properties for sale and open houses on Instagram posts
- the advertisements used Mr. Green's team branding "Green Group"
- Mr. Green's brokerage did not appear on the advertisements
- \$1,500

Learning Opportunity

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 this case, the industry professional failed to include the brokerage name in their advertisements. A reasonable consumer should be able to identify the brokerage based on the advertisement alone.

Advertising Guidelines

Administrative Penalties

Anthony Alexander Wilkinson,

Real estate associate registered with Royal LePage Network Realty Corp.

- industry members must provide competent service [s.41(b) of the *Real Estate Act* Rules]
- in April 2020, Mr. Wilkinson represented a buyer client during the COVID-19 pandemic
- the seller expressed concern about showing the property
- the seller's agent informed Mr. Wilkinson of this concern
- on April 1, 2020, Mr. Wilkinson received permission to bring two potential buyers to view the property
- the seller observed Mr. Wilkinson bringing four people, including the buyers' two children, into the house
- Mr. Wilkinson failed to get permission from the seller to bring additional people to the viewing
- \$1,500

Learning Opportunity

Industry professionals must exercise reasonable care and skill when a property is under their care and control. Industry professionals must ensure they obey the instructions of the seller when showing a property. It is of utmost importance to ensure industry professionals are not putting their clients' health at risk or risk the health of any parties involved in the transaction. In this case, the associate should have never allowed more people to enter the property than what was approved in advance.

Industry professionals are encouraged to use the COVID-19 property access checklists and agree to the conditions for access, in writing.

[Seller's Condition to Access Premises Checklist](#)

[Buyer's Condition to View the Premises Checklist](#)

[COVID-19 and Real Estate](#)

[COVID-19 Information for Real Estate Consumers](#)

Administrative Penalties

Jagdeep Singh Duggal,

Real estate associate and mortgage associate previously registered with Vision Realty Inc. o/a Century 21 Bravo Realty and The Mortgage Alliance Company of Canada Inc. o/a Mortgage Alliance. Currently registered with 2149342 Alberta Inc. o/a MaxWell Central & 1170245 Alberta Ltd. o/a Dominion Lending Centres Global

- industry members must disclose in writing the nature of the services they will provide and any other facts that may be likely to influence the clients' decision [[s.55\(1\)\(a\) & 55\(1\)\(d\) of the Real Estate Act Rules](#)]
 - \$4,000
- industry members must provide competent service [[s.41\(b\) of the Real Estate Act Rules](#)]
 - \$3,000
- on January 15, 2014, Mr. Duggal was approached by a buyer to seek assistance in the potential purchase of a new build residential property
- the buyer did not have mortgage financing approved
- on January 15, 2014, Mr. Duggal received confidential information about the buyer in order to pull a credit bureau inquiry
- Mr. Duggal advised the buyer that they would qualify for a mortgage based on their credit and income
- Mr. Duggal failed to disclose in writing:
 - the service he would be providing to the buyer to assist them with the transaction
 - what role, specifically as a real estate associate or mortgage associate, he would be filling in assisting the buyer
 - whether he and the buyer had a customer or client relationship and what services they were entitled to
 - how he would be remunerated for his services
- on January 16, 2014, after receiving advice from Mr. Duggal, the buyer submitted an irrevocable purchase offer without having a financing commitment in place
- as a real estate associate, Mr. Duggal and the buyer entered into an agency relationship with the buyer as a client
- Mr. Duggal failed to properly advise the buyer that the purchase contract for the property was irrevocable and did not include a condition on securing mortgage financing
- Mr. Duggal failed to obtain written acknowledgement from the buyer that they understood the serious risk of losing their deposit by signing an irrevocable purchase contract

Administrative Penalties

- on January 20, 2014, Mr. Duggal transferred the mortgage file to another mortgage associate registered with his brokerage
- Mr. Duggal continued as the real estate associate on the transaction
- the buyer was unsuccessful in obtaining mortgage financing
- the buyer had to forfeit the full deposit of \$35,451 to the builder

Learning Opportunity

Failing to disclose in writing the nature of an industry professional's services and pertinent details of a transaction, puts clients in a vulnerable position and undermines the integrity of the industry. Consumers depend on industry professionals to accurately explain the terms and conditions of a contract, and to take proactive steps when those terms and conditions are not being met.

In this case, the industry professional failed to disclose in writing all services that would be provided by the professional in the transaction. The associate also failed to fully explain to the client the repercussions of failing to meet all conditions related to the offer to purchase.

[Information Bulletin: Competent Service](#)

[Information Bulletin: Client - Real Estate Brokerage](#)

Cancellation

Mountain Park Real Estate Ltd. Brokerage Authorization Cancellation

On May 20, 2020, the Real Estate Council of Alberta (RECA) cancelled the licence of Mountain Park Real Estate Ltd. in Calgary.

Under Section 35(1)(c) of the *Real Estate Act* Rules, RECA may cancel the licence of a brokerage if an investigator or auditor of RECA is denied access to the registered business office or to any or all records of the brokerage or, is in any way, prevented from carrying out their duties and responsibilities under the *Real Estate Act*.

As a result of the brokerage licence cancellation, 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 or sales with deposits being held in trust with this brokerage should contact RECA and amend their purchase contract to transfer their trust deposit to a different brokerage or lawyer.

RECA has taken steps to protect consumer funds. If you have questions or concerns regarding the cancellation of this brokerage licence, or if you have funds being held in trust by this brokerage, please contact RECA at: 403-228-2954, or by email at: info@reca.ca.

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Real Estate Council of Alberta.

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