

THE REAL ESTATE COUNCIL OF ALBERTA

Case: 005053.001
Process: A Hearing under Part 3 of the *Real Estate Act*
Industry Member: Gordon Wesley Pethick
Class of License: Real Estate Associate
Registration: BGB REALTY INC. O/A RE/MAX REALTY
PROFESSIONALS
Document: NOTICE OF HEARING

TO: Mr. Gordon Pethick

A hearing is set to review allegations about your conduct. Read this entire document to see what you must do.

Hearing Information

Date: Wednesday April 29 and Thursday April 30, 2020

Time: 9:30 a.m.

Location: The Nakiska Room, 2nd Floor
1506 11 Avenue SW, Calgary, Alberta

Hearing Panel: Kathryn Oviatt – Hearing Panel Chair
George Pelechaty – Industry Member
Gordon Reekie – Industry Member

(Alternates: Arlene Blake, Michael Brodrick, Matthew Wiebe)

It is alleged that your conduct is deserving of sanction for breaching sections of the Act or Rules. Here are the details:

1. In or around October 2014:

- you failed to fulfill your fiduciary obligation to your client, Daeyoo Enterprises Co. Ltd., contrary to section 41(d) of the *Real Estate Act* Rules

AND / OR

- you failed to provide competent service to Daeyoo Enterprises Co. Ltd., contrary to section 41(b) of the *Real Estate Act* Rules:
 - a) On or about February 5, 2014 a Letter of Understanding was signed between you and Daeyoo Enterprises Co. Ltd. (the "Vendor") providing you the authorization to market the property located at 3601 17th Avenue SE, Calgary Alberta (the "Property").
 - b) On or about October 16, 2014 an agreement to represent both the Vendor and Peter Matevsky (the "Purchaser") was signed by both parties.
 - c) On or about October 20, 2014 a commercial real estate purchase contract for the Property was entered into between the Vendor and the Purchaser (the "Contract"). The deposit to be held in trust was \$100,000 (the "Deposit").
 - d) On or about October 22, 2014 you received a personal cheque from the Purchaser in the amount of \$100,000 drawn on an account at

CIBC (the "CIBC Cheque"). You failed to put a copy of the CIBC Cheque in the brokerage file.

- e) On or about October 22, 2014 you attended the bank to have the CIBC Cheque certified. You were informed that there was not enough money in the account.
- f) On or about October 22, 2014 you met with the Purchaser. He took back the CIBC Cheque and provided you with an undated cheque for \$100,000 drawn on the Royal Bank of Canada (the "RBC Cheque"). The Purchaser stated he would contact you when the requisite funds were in the account and the RBC Cheque could be dated and certified.
- g) On or about October 22, 2014 you failed to notify the Vendor in writing that you were not in receipt of the Deposit.
- h) On or about October 29, 2014 a Waiver of Conditions was completed. The Waiver states that this was now a firm sale. You were not in receipt of the Deposit at this time.
- i) Between October 22, 2014 and November 21, 2014 you did not inform the Vendor in writing that you were not in receipt of the Deposit. You have alleged that you did inform the Vendor verbally, however, the Vendor denies any knowledge of this.
- j) On or about November 21, 2014, you received direction from the Purchaser that the RBC Cheque could be dated for November 24, 2014 and could be certified on that date.

- k) On or about November 24, 2014 you attended the Royal Bank of Canada. At that time you were informed that the bank did not have record of the account associated with the RBC Cheque or the Purchaser himself.
- l) On November 25, 2014 the Vendor requested the now forfeit Deposit be transferred to him pursuant to the purchase Contract.
- m) On December 3, 2014, in an email, you informed the Vendor that you did not have the Deposit. This email was the first time the Vendor was informed in writing that the Deposit had not been received.

Why You Should Attend the Hearing

The hearing is your opportunity to respond to the allegations and state your side of the case in front of the Panel.

Learn About the Hearing Process

Please read these guides on the RECA website

- *Hearing and Appeal Practice and Procedures Guidelines and*
- *Information for Unrepresented Industry Members*

They are under the *Publications and Resources* tab under the heading *Guides to Disciplinary Proceedings*.

What You Should Bring to the Hearing

Bring any witnesses and evidence you want the Panel to consider, with you to the hearing.

What Will Happen If You Don't Attend

If you do not attend the Panel may proceed to make a decision without you.

What Will Happen At the Hearing

After hearing all evidence and argument the Panel will decide whether the Executive Director has proven any of the breaches. If no breach is proven you will face no sanction.

If the Panel finds a breach is proven the Panel may do one or more of the things listed in **section 43** of the *Real Estate Act*:

- Cancel or suspend your authorization
- Order you to pay a fine for each breach
- Order you to pay the cost of the investigation and the hearing
- Order you to complete an education course

Submitting Written Arguments After the Hearing

You can provide written arguments at the end of the hearing or after the end of the hearing

You must provide these to the **Hearings Administrator** and **Counsel for the Executive Director** (contact information below) **no later than 15 days after the end of the Hearing**.

Contact the Hearing Administrator if you need more time.

You Can Get Legal Advice

You may get legal advice and may be represented by legal counsel at the hearing.

If you do not have a representative please read *Information for Unrepresented Industry Members*:

<http://www.reca.ca/industry/content/publications-resources/guides.htm>.

If You Object to a Panel Member

Please review who is on the Panel. If you object to any of the people being on the Panel, you must advise the Hearings Administrator **who you object to and why within 14 days** of receiving this Notice.

If you do not object to the Panel within 14 days, this Panel will conduct the hearing.

Postponing the Hearing

If you are not available on the date set for the hearing you can apply to the Panel for a new date. Contact the lawyer for the Executive Director and the Hearings Administrator as soon as possible if you need a new date.

Dated at Calgary, Alberta, on 4 March 2020
(date)


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

Contact Information

Hearings Administrator:	Lawyer for the Executive Director:
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