


November 20, 2020

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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.

The decisions included in this issue occurred prior to December 1, 2020. The sanctions as noted, reflect the Real Estate Act as it was then applied. Learning opportunities reflect advice for licensees under the Real Estate Act, including the amendments that came into force on December 1, 2020.

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

[Mark Joseph Calvelo](#),

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

- an industry member must immediately notify, in writing, the executive director [s.40 of the *Real Estate Act Rules*]

Learning Opportunity

Licensees must immediately notify, in writing, the registrar when certain events occur (name change, discipline, criminal proceedings, bankruptcy, etc.). In this case, the licensee had a situation requiring notification occur months before they notified RECA. Immediately is defined as “without delay,” and in the absence of extraordinary circumstances, written notification to the registrar should occur not more than five (5) days after the event in question.

[Notice to Executive Director – Real Estate and Mortgage Broker Professionals](#)

Letters of Reprimand

Rajanikant Sharma

Real estate associate registered with 814355 Alberta Ltd. o/a Royal LePage Summit Realty

- industry members must provide competent service [s.41(b) of the *Real Estate Act* Rules]
- on June 23, 2020, Mr. Sharma represented their seller client in a negotiation for the sale of a property
- before completing negotiations and before actually accepting a buyer's offer, Mr. Sharma's client signed the "acceptance" portion of the Residential Purchase Contract, even though they had already accepted a different offer from another buyer
- Mr. Sharma's client should not have signed the acceptance portion of the contract until they actually accepted the offer
- Mr. Sharma proposed the contract term, "Buyer acknowledges this offer is a backup offer..." on behalf of his client during negotiations
- Mr. Sharma failed to provide competent representation for his client by allowing his client to sign the acceptance portion of the contract and by drafting an improper contract term

Learning Opportunity

Licensees must be competent in all areas in which they provide services including advising clients on how to negotiate and accept offers. Licensees must also competently assist their clients to ensure they do not sell their property to two parties at the same time.

Licensees must have the knowledge and skills required for the proper and legal drafting of contracts on behalf of their clients. In this case, the licensee should have discussed adding a condition to the purchase contract that ensured the second offer would not be valid unless the initial offer fell through. The sellers should not have had two accepted offers for their property at the same time.

Competent Service

Letters of Reprimand

Cheryl Ann Vanderwater

Real estate associate registered at the time with Canadian Independent Realty Ltd. o/a CIR Realty. Currently registered with 1800086 ALBERTA LTD. o/a FIRST PLACE REALTY.

- industry members must provide competent service [s.41(b) of the *Real Estate Act* Rules]
- in January 2019, Ms. Vanderwater represented a buyer in a transaction
- on January 18, 2019, Ms. Vanderwater prepared an offer to purchase on behalf of her buyer client, which was accepted by the seller
- the buyer asked for some damages to be corrected and repairs in the property after a property inspection was completed
- Ms. Vanderwater prepared a list of items on a document to be addressed by the seller
- the buyer and the seller initialed the document
- the document was not a part of the purchase contract and there was no remedy or consequence for failing to address the issues
- the items on the document were not addressed by the seller
- Ms. Vanderwater failed to exercise reasonable care and skill

Learning Opportunity

Licensees must take reasonable steps when negotiating on their clients' behalf in addressing property issues, and licensees must discuss all options available to clients. In this case, the licensee prepared a document which was initialed by both parties, however the document was separate from the purchase contract, and did not include any consequences for the seller if not completed. As a result, the buyer's concerns were not addressed by the seller. The licensee should have discussed the various options available to the buyer, and if agreed to by the buyer as the option for moving forward, should have included the buyer's list of items to be addressed as a term in the purchase contract with a holdback in the event the items were not addressed.

Competent Service

Letters of Reprimand

[Austin Dang Nguyen](#)

Real estate broker registered with Linc Realty Advisors Inc. o/a AG Property Services

- in the case of an unlicensed or unregistered assistant, the industry member must ensure clients, customers and the public have full knowledge that the assistant is unlicensed or unregistered [s.46(3) of the *Real Estate Act* Rules]
- in September 2020, Mr. Nguyen advertised unlicensed individuals as property managers on his website
- Mr. Nguyen failed to clearly identify that these individuals are not authorized to trade in real estate in his advertisements

Learning Opportunity

Advertising must avoid misrepresentations which may mislead or deceive any individual. Consumers must be confident that brokerages are advertising licensees who are authorized to provide real estate services and are registered with a brokerage. When individuals are identified in advertising, it is assumed that the individuals are licensed. Licensees should also use caution when using certain terms in their advertising that may give the impression of someone being licensed or otherwise qualified to offer a service (e.g. property manager). And in the case of unlicensed assistants, licensees should ensure those individuals are identified as unlicensed. In this case, the brokerage's website displayed unlicensed individuals as property managers which may mislead a reasonable consumer.

[Advertising Guidelines](#)

Letters of Reprimand

[Monique Natalie Balie](#)

Real estate associate registered at the time with 1916585 Alberta Ltd. o/a Century 21 Urban Realty. Currently registered with Sable Realty Corp. o/a Sable Realty.

- a real estate broker and associate must trade in real estate only in the name that appears on that individual's licence and in the name of the brokerage with which that individual is registered [s.53(a) of the *Real Estate Act* Rules]
- in August 2020, Ms. Balie's Facebook and Instagram pages failed to clearly identify her brokerage name
- Ms. Balie's Facebook page clearly displayed her name and branding
- Ms. Balie's website indicated her brokerage name

[Kate Amanda Pieper](#)

Real estate associate registered with Exp Realty of Canada Inc o/a Exp Realty

- a real estate broker and associate must trade in real estate only in the name that appears on that individual's licence and in the name of the brokerage with which that individual is registered [s.53(a) of the *Real Estate Act* Rules]
- in August 2020, Ms. Pieper's Instagram account failed to clearly indicate her brokerage name
- Ms. Pieper's Instagram account clearly displayed her name and branding

Learning Opportunity

Licensees must trade in the name that appears on that individual's licence and in the name of the brokerage with which that individual is registered.

Licensees must indicate their brokerage name in all advertising. The brokerage name must also be *clearly* indicated. A reasonable consumer should be able to identify the licensee and brokerage based on the advertisement alone. In these cases, the licensees failed to indicate their brokerage name in all of their advertisements.

[Advertising Guidelines](#)

Administrative Penalties

[Glenn William Evans](#),

Real estate associate registered with 2 Percent Realty Inc. o/a 2% Realty

- industry members must provide competent service [s.41(b) of the *Real Estate Act* Rules]
- in November 2017, Mr. Evans represented a property with an above ground size of 1,022 sq. ft.
- Mr. Evans failed to measure the property using the Residential Measurement Standard (RMS) guidelines
- Mr. Evans used the Condominium Additional Plan Sheet to measure the above grade size
- the above grade size of the property was approximately 973 sq. ft.
- \$1,500

Learning Opportunity

Licensees are expected to be competent in their services, including ensuring they measure properties using RMS or engage third parties to measure properties using RMS. The RMS guidelines offer a consistent way to represent the above ground size of a property for interested parties to accurately compare properties.

It is not appropriate for licensees to use condominium plans to indicate RMS size, since the purpose of a condominium plan is to describe all aspects of a condominium unit, some of which may not be a part of the RMS size, including patios and storage areas.

[Guide to Residential Measurement Standard in Alberta](#)

Administrative Penalties

[Andrew Whitney McGinnis](#)

Real estate broker registered with Concept Realty Group Inc. o/a Concept Realty Group

- industry members must provide competent service [s.41(b) of the *Real Estate Act* Rules]
- on May 8, 2020, Mr. McGinnis received permission to access a property to conduct a home inspection
- Mr. McGinnis attended the property inspection with the buyers, their father, and their children
- Mr. McGinnis failed to receive permission from the seller for all these individuals to be present at the property inspection
- Mr. McGinnis left the property unattended with one of the property buyers
- Mr. McGinnis failed to receive permission from the sellers to leave the buyers unattended in the property
- \$1,500

[Learning Opportunity](#)

Licensees must exercise reasonable care and skill when in the care and control of a property. In this case, the licensee should not have attended the property inspection with the buyers, their father and children to conduct a property inspection without confirmation from the seller. The licensee should not have any individuals on the property beyond those the seller had authorized.

Licensees must take steps to ensure they are supervising clients or potential clients in a property. Licensees 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, the licensee failed to exercise reasonable care and skill when in the care and control of a property.

[Access to Property – Home Inspections](#)

[Competent Service](#)

Administrative Penalties

[Tim Talal Halabi](#)

Mortgage broker registered with Velocity Mortgages Corporation o/a Centum Velocity Mortgages

- a mortgage broker must ensure the business of the brokerage is carried out competently and in accordance with the Act, the Bylaws, and the Rules. Every brokerage must have insurance against liability for errors and omissions and additional coverage for loss resulting from fraudulent acts in the carrying on the business of mortgage broker in accordance with the Rules. [s.67(e) of the *Real Estate Act* Rules]
- on July 1, 2019, Mr. Halabi's errors and omissions insurance expired
- on April 17, 2020, Mr. Halabi's insurance was reinstated
- between July 1, 2019, to April 16, 2020, Mr. Halabi's brokerage dealt with clients
- \$1,500

Learning Opportunity

All mortgage brokerages are required to have errors and omissions insurance. In this case, the licensee's brokerage did not have errors and omissions insurance for over nine months, and during that period the brokerage handled a mortgage file. The brokerage put their clients at risk as they were not protected by insurance.

[Errors and Omissions Guidelines](#)

Administrative Penalties

[George Mina Sami Fahmy](#)

Real estate broker registered with Moziac Realty Group Inc. o/a Moziac Realty Group

- a brokerage shall prepare a bank reconciliation monthly, within 30 days of the date 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 October 1, 2020, Mr. Fahmy stated that he failed to prepare the required monthly bank reconciliations for the previous year prior
- failing to prepare the monthly bank reconciliations led to Mr. Fahny's inability to file his brokerage year end accounting documents
- \$1,000

Learning Opportunity

Brokerages must complete monthly bank reconciliations, which includes reconciling the trust liability for pooled trust accounts. Brokers must use this critical tool to effectively manage the brokerage trust accounts. It ensures the brokerage is meeting its trust obligations and helps identify potential trust shortages or other irregularities that require further investigation.

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

[Trust Assurance and Practice Review Forms](#)

Administrative Penalties

[Raymond Shawn Rideout](#)

Real estate broker registered at the time with 1216675 AB Ltd o/a Homeworx Group Real Estate. Currently unlicensed.

- a brokerage's accounting records must be filed within three months of its fiscal year end [s.91(4) of the *Real Estate Act Rules*]
- Mr. Rideout's brokerage fiscal year end was April 30, 2020
- RECA sent numerous email reminders to Mr. Rideout, reminding him to file the appropriate forms by July 31, 2020
- Mr. Rideout failed to file the fiscal year end forms by July 31, 2020
- RECA has yet to receive Mr. Rideout's brokerage year end forms
- \$1,500

Learning Opportunity

A brokerage must file its accounting with RECA no later than three months after the end of the brokerage's fiscal year. In this case, the broker failed to file the forms by the deadline despite RECA sending numerous reminders.

[Real Estate Fiscal Year End](#)

Suspension

[November 30, 2020: Gagandeep Singh – Real Estate and Mortgage Licences Suspended](#)

On November 30, 2020, the Administrator of the Real Estate Council of Alberta (RECA) suspended the real estate licence of Gagandeep Singh. Mr. Singh is not licensed to trade in real estate or deal in mortgages.

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

- acting dishonestly
- making intentional, misleading representations
- participating in fraudulent or unlawful activities
- engaging in conduct that undermined public confidence in the industry, harmed the integrity of the industry, or brought the industry into disrepute

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

Mr. Singh was most recently registered as a real estate associate with Grand Realty and Management o/a Grand Realty and as a mortgage associate with Grand Financial Group Ltd. o/a Dominion Lending Centres Grand Financial.

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The Case Summaries is published by the
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