

THE REAL ESTATE COUNCIL OF ALBERTA

Case Number: 010338
Name on Licence: Andrew Whitney McGinnis
Licence Type & Class: Real Estate Broker
Brokerage Name on Licence: Concept Realty Group
Process: Section 39 & 83 of the *Real Estate Act*

Document: ADMINISTRATIVE PENALTY
Penalty: \$1500

Payment

This Penalty must be paid **within 30 days** of the date this Notice was issued.

If you fail to pay the Penalty the Registrar may commence collection under Part 6 of the *Real Estate Act* and may suspend your license under section 38.1 of the Rules.

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: Andrew Whitney McGinnis

The Registrar of the Real Estate Council of Alberta (RECA) has determined there is sufficient evidence you have contravened **section 41(b) of the *Real Estate Act Rules*** and this is conduct deserving of sanction.

Rule at time of conduct

Rule 41 – *Industry members must:*

(b) provide competent service

Particulars of the contravention(s):

1. In or around May 2020 you failed to provide competent service while accessing the property located at [ADDRESS], AB, contrary to section 41(b) of the *Real Estate Act* Rules:
 - a) On May 8, 2020 you had permission to access the property listed above for the purpose of conducting a home inspection.
 - b) On that day you attended the property listed above with the buyers of the property, their father and their children. You did not receive permission from the seller for all of these individuals to be present.
 - c) After providing access to the property, you left the property giving care and control of the property to one of the buyers. You did not get permission from the sellers or their agent to leave these individuals unattended in the property. This was a failure to exercise competent service when in the care and control of a property.

Consumers expect licensees granted access to their property will remain in the care and control of that property at all times. Leaving anyone in a property unattended requires permission from the seller or seller's agent.

The Registrar considered the following aggravating and mitigating factors:

Aggravating Factors

- RECA has received multiple complaints from sellers about buyer agents failing to follow the permission or instructions of the seller when viewing or accessing a property. This conduct must be deterred.

Mitigating Factors

- You have admitted to this conduct and have shown remorse.

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 Registrar **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: [B.T], Professional Conduct Review Officer
Email: [EMAIL]
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 December 10, 2020.

[C.S]

Charles Stevenson, Registrar
Real Estate Council of Alberta