

THE REAL ESTATE COUNCIL OF ALBERTA

Case Number: 010586
Name on Licence: Robert Nawrocki
Licence Type & Class: Real Estate Associate
Brokerage Name on Licence: Grand Realty & Management Ltd. o/a Grand Realty
Process: Section 39 & 83 of the *Real Estate Act*

Document: ADMINISTRATIVE PENALTY
Penalty: \$5,000

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 licence 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: Robert Nawrocki

The Registrar of the Real Estate Council of Alberta (RECA) has determined there is sufficient evidence you have contravened **section 38(4)(a) of the *Real Estate Act*** and this is conduct deserving of sanction.

38(4) A person who is required under subsection (2) to answer the questions of a person conducting an investigation

(a) shall co-operate with the investigator and promptly respond to the questions

Particulars of the contravention(s):

1. In or around November 2020 to December 2020 you failed to cooperate with an investigator during an investigation into your conduct, contrary to section 38(4)(a) of the *Real Estate Act* :
 - a) In September 2020, an investigator notified you that your conduct was under review and the investigator asked you questions relevant to the investigation. The investigation concerned an additional \$10,000 in commissions you earned in a transaction.
 - b) In November 2020, you responded to those questions. In your response you stated that you had not requested the additional \$10,000 commission.
 - On May 7, 2020, you had a text conversation with the seller's representative. In that conversation you stated "Would your seller consider a 10k bonus to the buyer's realtor for selling his 4930 Marcombe Wy NE?"
 - On May 7, 2020, during a text conversation the sellers associate told you their client had agreed to the additional commission. You responded by asking the sellers representative to change the MLS listing to include the additional \$10,000 commissions.
 - c) In December 2020, an investigator interviewed you via telephone where you provided further answers to questioning.
 - You stated in this phone interview that you did not request the additional bonus.
 - You stated in this phone interview that the bonus was offered on the MLS listing prior to your client's offer to purchase.Your responses to questions were not truthful or accurate. This was failing to cooperate with the investigator.
 - d) RECA's guide to investigations for Licensee's states "licensees are required to cooperate with the investigation. Cooperation means providing truthful, complete responses in a prompt and constructive manner."

The Registrar considered the following aggravating and mitigating factors:

Aggravating Factors

- There must be specific and general deterrence of this conduct. RECA's ability to effectively investigate complaints depends on the co-operation of licensees.
- You were given a second opportunity to explain what happened given the text messages. You continued to provide false answers. You have failed to take responsibility for your conduct.

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 17, 2020.

[C.S]

Charles Stevenson, Registrar
Real Estate Council of Alberta

