

THE REAL ESTATE COUNCIL OF ALBERTA

Case: 007672, 008149 and 008155
Process: A Hearing under Part 3 of the *Real Estate Act*
Name on Licence: Thomas Cowley
Licence Sector and Class: Real Estate Broker
Brokerage Name on Licence: Currently unlicensed, formerly registered with Impact Real Estate Group Ltd. o/a Residential One Real Estate; Castlewealth Real Estate Corp o/a Residential One Real Estate.

Document: NOTICE OF HEARING

TO: Thomas Cowley

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

Hearing Information

Date: Thursday, February 4th and Friday, February 5th, 2021
Time: 9:30 a.m.
Location: Virtual Hearing
Hearing Panel: [R.A]
[M.B]
[S.D]
(Alternates: [A.B], [B.R], [G.R])
Counsel to the Panel [[M.M] from Gowling WLG]

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

1. As the Broker of Impact Real Estate Group Ltd. ("Impact") you failed to establish adequate policies and procedures for the maintenance and

protection of personal and confidential information; contrary to section 44(2)(a) of the *Real Estate Act* Rules the ("Rules"):

- a) Policies and procedures surrounding privacy were provided by you to associates under your supervision; however they were silent on any action taken should a breach occur.
 - b) On or about August 30, 2017 you advised RECA that the documentation requested for a specific transaction had been stolen from an associate's vehicle, including a laptop, tablet and Impact files.
 - c) You failed to take any action with respect to the potentially serious privacy breach.
2. As the Broker of Impact you failed to ensure an adequate level of supervision for your associates by failing to properly review all real estate agreements; contrary to Section 51(1)(e) of the Rules.

[ADDRESS 1], Alberta

- a) On or about January 4, 2016 the property was purchased by a client of Impact represented by an associate in the amount of \$55,000.
- b) A sale of the same property involving the same associate occurred 25 days later for \$127,500.
- c) You failed to note the significantly inflated value of the property and discuss with the associate the potential concern about mortgage fraud.
- d) The purchase and subsequent sale was part of a mortgage fraud scheme.
- e) You did not review this agreement adequately

[ADDRESS 2], Alberta

- a) An agreement for sale was signed by a client of Impact.

- b) The sale stipulated a \$10,000.00 deposit was due on or before December 23, 2016.
 - c) The deposit was not received by the brokerage on or before December 23, 2016 rendering this agreement defunct.
 - d) The defunct agreement was improperly amended by the associate on or about January 6, 2017.
 - e) In the amendment the associate inserted himself as the new buyer and changed the deposit date to on or about January 13, 2017.
 - f) The seller was unaware she had signed an amendment making her representative the buyer.
 - g) You did not discuss the amendments with the associate or note the sale had collapsed in December 2016 when you reviewed the file in January 2017.
 - h) The sale completed for approximately \$100,000 less than market value.
 - i) You did not review this agreement adequately.
3. From approximately January 2018 to May 2018 as the Broker of Castlewealth Real Estate Corp ("Castlewealth") you failed to be actively engaged in the management of the brokerage; contrary to Section 51(1)(a) of the Rules:
- a) You failed to answer or return phone calls from associates or other parties at the brokerage.
 - b) You failed to respond to texts from associates or other parties at the brokerage.
 - c) Your attendance at the brokerage was minimal;
 - d) You on occasion forwarded your business phone to Brian Conrad, an unlicensed owner of the brokerage or to other individuals.
 - e) You failed provide guidance to associates.

4. In or around May 2018 you failed to ensure the business of the Castlewealth was carried out competently and in accordance with the *Real Estate Act*; contrary to Section 51(1)(d) of the Rules:
 - a) You withdrew funds for personal uses from an account set up solely for the payment of commissions to Castlewealth associates.

5. You failed to co-operate with an investigation contrary to s. 38(4) of the Act:
 - a) In or around May 2018 you lied about your personal withdrawals from the Castlewealth commissions' account when you were initially questioned about it.

Virtual Hearings

Hearings at RECA are conducted virtually. The Hearing Administrator will provide you with the Guide to Virtual Hearings and you will receive help in participating in the virtual process.

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 <https://www.reca.ca/complaints-discipline/hearings-information-procedures/>

- *Hearing and Appeal Practice and Procedures Guidelines and*
- *How to Represent Yourself at a Real Estate Council of Alberta Hearing or Appeal*
- *RECA Self-Represented Program*

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 Registrar 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 Evidence

You can ask the Panel to allow you to provide written arguments at the end of presentation of evidence. The Panel will give directions on how this may be done.

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 Licensees here:

<https://www.reca.ca/complaints-discipline/hearings-information-procedures/>

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 Registrar and the Hearings Administrator as soon as possible if you need a new date.

Dated at Calgary, Alberta, on January 2, 2021.

“Signature”

Charles Stevenson, Registrar
of the Real Estate Council of Alberta

Contact Information

Hearings Administrator: Email: [EMAIL] Fax: 403 228 3065 Direct: 403 685 7913 Toll Free: 1 888 425 2754 Address: Real Estate Council Suite 202, 1506 11 Avenue SW Calgary, Alberta T3C 0M9	Lawyer for the Registrar: Email: [EMAIL] Fax: 403 228 3065 Direct: 403 685 7944 Toll Free: 1 888 425 2754 Address: Real Estate Council Suite 202, 1506 11 Avenue SW Calgary, Alberta T3C 0M9
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