

THE REAL ESTATE COUNCIL OF ALBERTA

Case Number: 010739
Name on Licence: Denise Yvonne Mary Swain
Licence Type & Class: Real Estate Broker at time of conduct, currently not licensed
Brokerage Name on Licence: Ultimate Property Management Inc. at time of conduct
Process: Section 39 & 83 of the *Real Estate Act*

Document: ADMINISTRATIVE PENALTY
Penalty: \$1000.00 (see Schedule 2 of the Bylaws)

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: Denise Yvonne Mary Swain

The Registrar of the Real Estate Council of Alberta (RECA) has determined there is sufficient evidence you have contravened **section 40(1)(e) of the *Real Estate Act* Rules** and this is conduct deserving of sanction.

Rule at time of conduct

Rule 40(1) – *An industry member must immediately notify, in writing the executive director when:*

(e) the industry member is the subject of bankruptcy proceedings.

Particulars of the contravention(s):

1. On or around June 2020 you failed to notify the executive director of bankruptcy proceedings against you, contrary to section 40(1)(e) of the *Real Estate Act* Rules:
 - a) On or around June 26, 2020, 2010, you entered bankruptcy proceedings, you notified the executive director on or around July 29, 2020. This was not immediate notification.

As a broker, entering bankruptcy proceedings made you automatically ineligible to hold a broker licence under the Rules. If a broker enters into bankruptcy proceedings it creates a possible conflict of interest because of their ability to hold trust funds for clients. Brokers considering bankruptcy should contact RECA before beginning bankruptcy proceedings.

The Registrar considered the following aggravating and mitigating factors:

Aggravating Factors

- You were a broker during the time you entered bankruptcy which meant you were ineligible to hold a broker licence under the Rules. We must send a message deterring this conduct.

Mitigating Factors

- There were extreme circumstances that contributed to your delay in notification
- You provided voluntary notification without being prompted

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: [J.G], 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 January 15, 2021.

"Signature"

Charles Stevenson, Registrar
Real Estate Council of Alberta