

THE REAL ESTATE COUNCIL OF ALBERTA

Case Number: 010564
Name on Licence: Tammy Lynne Hemmaway
Licence Type & Class: Real Estate Associate
Brokerage Name on Licence: 4th Street Holdings Ltd o/a Re/Max Real Estate
(Central). Currently registered with Real Estate
Professionals Inc.
Process: Section 39 & 83 of the *Real Estate Act*
Document: ADMINISTRATIVE PENALTY
Penalty: \$1,500.00

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: Tammy Lynne Hemmaway

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

Rule at time of conduct

Rule 41 – Industry members must:

(d) fulfill their fiduciary obligations to their clients

Particulars of the contravention(s):

1. In or around June 2020, you failed to fulfill your fiduciary obligations to your client contrary to section 41(d) of the *Real Estate Act* Rules:
 - a) You were representing a seller.
 - b) On June 16, 2020, you entered an Exclusive Seller Representation Agreement (Agreement). This Agreement had terms on what price the seller authorized you to sell the property for and the term of the agreement.
 - c) On June 23, 2020, you prepared a Feature Sheet and advertised the property. The listing price and the expiry date advertised were not the agreed terms reflected in the Agreement. You lowered the listing price of the property, and extended the term. The Seller had not agreed to these changes.
 - d) You had a fiduciary obligation to act in a manner consistent with the Agreement and not exceed your authority. Advertising the property at a price that was contrary to what your client had agreed to was a failure to act in accordance with the authority and permissions granted by your client. This was failure to fulfill your fiduciary obligations to your client.

Real estate licensees must ensure they are always acting in accordance with the mandate in the service agreement and following their client's lawful instructions.

The Registrar considered the following aggravating and mitigating factors:

Aggravating Factors

- Your conduct directly impacted a consumer who lost trust in your ability to represent their interests.

Mitigating Factors

- You took responsibility for your errors and understand the importance of the client signing off on any changes to the service agreement.

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: [C.S], 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 22, 2021.

"Signature"

Charles Stevenson, Registrar
Real Estate Council of Alberta

Cc [K.L], broker
Real Estate Professionals Inc.

[I.C], Broker
Re/Max Real Estate (Central)