

THE REAL ESTATE COUNCIL OF ALBERTA

Case Number: 011092  
Name on Licence: Kelly Kenneth George Baker  
Licence Type & Class: Real Estate Broker  
Brokerage Name on Licence: 1983546 Alberta Ltd. o/a Re/Max Platinum Realty  
Process: Section 39 & 83 of the *Real Estate Act*

Document: ADMINISTRATIVE PENALTY  
Penalty: \$1,500

**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: Kelly Kenneth George Baker**

The Registrar of the Real Estate Council of Alberta (RECA) has determined there is sufficient evidence you have contravened **section 51(1)(d) of the *Real Estate Act* Rules** and this is conduct deserving of sanction.

51 (1) *A real estate broker must:*

*(d) ensure the business of the brokerage is carried out competently and in accordance with the Act, Regulations, Rules and Bylaws;*

### Particulars of the contravention(s):

1. In or around January 2021 to April 2021 you failed to ensure the business of the brokerage was carried out competently and in accordance with the Act, Regulations, Rules and Bylaws contrary to section 51(1)(d) of the *Real Estate Act* Rules:
  - a) In January 2021, RECA brought to your attention that bank reconciliations for the brokerage trust accounts for the month ending September 2020 were not completed as required by the legislation.
  - b) You advised RECA that this was due to an error of your accountant that you had terminated.
  - c) In January 2021, RECA brought to your attention there were \$7,382.59 in a brokerage trust account that was not reconciled. You were questioned as to who these funds belonged to.
  - d) As of April 1, 2021, you still have not reconciled this brokerage trust account. You have not accounted for or provided an answer to where the \$7,382.59 funds are from.
  - e) During an interview by an investigator, you blamed RECA for not following up on the inquiry into the brokerage trust account. This was a failure to ensure the business of the brokerage was carried out competently and according to the Rules. RECA brought to your attention that you had failed to reconcile a trust account and there was a question about funds in the account. You failed to take appropriate action to ensure this brokerage trust account was reconciled.

The Registrar considered the following aggravating and mitigating factors:

### ***Aggravating Factors***

- You have failed to take responsibility for your actions by blaming this oversight on a previous accountant and stating that RECA is at fault for not following up to ensure you complete your obligations under the legislation as a Real Estate Broker.

### **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 April 15, 2021.

"Signature"

Charles Stevenson, Registrar  
Real Estate Council of Alberta