

THE REAL ESTATE COUNCIL OF ALBERTA

Case Number: 011227
Name on Licence: Michael Thomas Kinsella
Licence Type & Class: Real Estate Associate
Brokerage Name on Licence: Elite Ownership Group Ltd. o/a Re/Max Elite
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: Michael Thomas Kinsella

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

Rule 41 – *Licensees must:*

(b) provide competent service

Particulars of the contravention(s):

1. In or around February 2021, you failed to exercise reasonable care and skill, contrary to section 41(b) of the *Real Estate Act* Rules:
 - a) You were representing buyers interested in viewing the property located at [ADDRESS]. This was during the COVID-19 pandemic. The seller was concerned about showing the property. The seller's agent made associates aware of this by noting the requirements for showings on the Showing Time system. The requirements were: buyers must be accompanied by showing agent at all times, masks are mandatory.
 - b) February 8, 2021, you had permission to bring your buyers to view the property.
 - c) Your clients entered the property while wearing masks, but you did not wear a mask. This was a failure to follow the seller's requirements when viewing the property. This was a failure to exercise reasonable care and skill when a property was under your care and control.

The Registrar considered the following aggravating and mitigating factors:

Aggravating Factors

- RECA has received multiple complaints from sellers about buyer agents failing to follow permissions or guidelines around showings. We must deter this 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: [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 March 31, 2021.

"Signature"

Charles Stevenson, Registrar
Real Estate Council of Alberta

cc [B.K], Real Estate Broker
Re/Max Elite