

Case Summaries

May 18 - June 15, 2021

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Case Summaries

Welcome to the Case Summaries monthly magazine.

Inside you will find the summaries for all disciplinary decisions occurring at the Real Estate Council of Alberta (RECA) since the previous newsletter, including any suspensions and approved lifetime withdrawals from the industry.

RECA has reformatted case summaries to be more succinct and reduce duplication when cases deal with the same issues. This includes a new approach to the licensee's name. RECA has also increased focus on the learning opportunities, including issues that may be relevant but not directly related to a case.

RECA is authorized to carry out conduct proceedings under [Part 3](#) of the *Real Estate Act*.

Some of the events mentioned in the decisions included in this issue occurred prior to December 1, 2020. The sanctions as noted, reflect the *Real Estate Act* as it was then applied. Learning opportunities reflect advice for licensees under the *Real Estate Act*, including the amendments that came into force on December 1, 2020.

Questions about disciplinary information RECA publishes and why? Review [RECA's Publication Guidelines](#) online.

For more information about the cases summarized in this publication, please click on the underlined blue heading at the start of each summary.



Letters of Reprimand

Real Estate Act Rules s.32(g)

Brokerages must immediately notify the Registrar, in writing, of a change of shareholders, directors, or officers if the brokerage is a corporation.

Real Estate Broker

- on December 6, 2020, a change to the corporate structure the broker's brokerage occurred
- RECA was notified on January 18, 2021
- the broker was responsible for ensuring the brokerage met its notification obligations

Learning Opportunity

Brokerages must immediately notify the Registrar—prior to Dec 1, 2020, the Executive Director—in writing, when certain events occur (change of brokerage address, change of directors, stakeholders, shareholders, etc.). RECA defines immediately as “without delay,” and in the absence of extraordinary circumstances, written notification to the Registrar should occur not more than five (5) days after the event in question. Brokerages can notify RECA of business address changes electronically.

Responsibilities and Prohibitions — Real Estate Brokerage

Real Estate Act Rules s.41(b)

Real estate licensees must provide competent service.

Real Estate Associate

- on February 18, 2021, the associate contacted the listing associate to discuss bringing their buyer clients for a showing
- the associate didn't confirm a time or get permission to enter the property
- on February 18, 2021, the associate accessed the property with their buyer clients for a showing
- the sellers did not give permission for the showing

Learning Opportunity

Licensees must ensure they exercise reasonable care and skill at all times when showing properties. Consumers must trust that licensees have taken the proper steps to gain access and permission to view properties. In this case, the licensee should have ensured they had a confirmed time and the sellers permission before entering the property.

Access to Property

Real Estate Act Rules s.42(g)

Real estate licensees must not engage in any activity that undermines public confidence in the industry, or harms the integrity of the industry.

Real Estate Associate

- in March 2021, during a phone call about a property listed by the associate, the associate made rude and inappropriate comments to another licensee
- the other licensee informed the associate that the comments were inappropriate, but the associate continued to show a lack of professionalism

Learning Opportunity

Licensees must treat members of the public, RECA, licensees, and third parties with civility, respect, and professional courtesy at all times. In this case, the licensee failed to show respect and professionalism to a fellow licensee.

Good Character – Professional Conduct Review

Real Estate Act Rules s.53(a)

A real estate licensee must trade in real estate only in the name that appears on that individual's licence, and in the name of the brokerage to which they are registered.

Real Estate Associate

- the associate sent out a flyer that included their team branding but failed to clearly indicate their brokerage name

Learning Opportunity

Licenses must clearly indicate their brokerage name in all advertising, and if they use their name in advertising, it must be the name that appears on their licence. A brokerage name is "clearly indicated" when a reasonable consumer, under normal circumstances, can clearly distinguish the name of a brokerage based on the advertisement alone. In this case, the licensee failed to include the brokerage name they are registered with in their advertisements.

It is important to note that email addresses or hashtags that contain the brokerage name do not meet the brokerage name requirements in advertisements.

Brokerages must have policies and procedures in place for reviewing and approving its associates' advertisements and websites. The brokerage policies and procedures should outline the steps through which licenses can ensure their advertising complies with the advertising guidelines.

Advertising Guidelines

Real Estate Act Rules s.69(a)

Mortgage licensees must deal in mortgages only in the name that appears on their licence, and in the name of the brokerage to which they are registered.

Rohet Sharma,

Mortgage associate registered with Elevo Mortgages Inc. O/A The Mortgage Centre-
Elevo Mortgages

- Sharma was using a website that failed to indicate their registered brokerage name

Learning Opportunity

Licensees must clearly indicate their brokerage name in all advertising, and if they use their name in advertising, it must be the name that appears on their licence. A brokerage name is "clearly indicated" when a reasonable consumer, under normal circumstances, can clearly distinguish the name of a brokerage based on the advertisement alone. In this case, the licensee failed to include the brokerage name they are registered with on the website they were using.

It is important to note that email addresses or hashtags that contain the brokerage name do not meet the brokerage name requirements in advertisements.

Brokerages must have policies and procedures in place for reviewing and approving its associates' advertisements and websites. The brokerage policies and procedures should outline the steps through which licensees can ensure their advertising complies with the advertising guidelines.

Advertising Guidelines



Administrative Penalties

Real Estate Act Rules s.41(b)

Real estate licensees must provide competent service.

Bella Afiaten Amangyen,

Real estate associate registered with The Real Estate Company Ltd. o/a The Real Estate Company

- on March 13, 2021, Amangyen had permission to show their buyer clients a property
- instructions outlining the COVID-19 protocols were provided—wear masks, sanitize, and limit touching while in the property
- Amangyen’s brokerage also adopted guidelines that only two people plus the associate were allowed in a property at the same time
- Amangyen entered the property with four other adults
- no masks were worn by any of the clients upon entering the property
- \$1,500

Austin Spencer Fleming,

Real estate associate registered with Mountain View Real Estate Inc. o/a Re/Max Real Estate (Mountain View)

- on March 10, 2021, Fleming had permission to show their buyer clients a property
- a sign was left on a table in the property outlining the COVID-19 protocols to be followed, including “Please do not use bathrooms.”
- Fleming allowed a person to use the bathroom while in the property
- \$1,500

Vincent Hong,

Real estate associate registered with Panda Realty Inc. o/a Coldwell Banker Venture Realty

- Hong represented buyers interested in viewing a property
- the seller’s agent made Hong aware that face masks were required during the showing
- on March 4, 2021, Hong allowed the buyers to enter the property while not wearing masks
- \$1,500

Learning Opportunity can be found on page 12.

Real Estate Act Rules s.41(b)

Real estate licensees must provide competent service.

Gurpreet Singh Mann,

Real estate associate registered with Irealty Calgary Inc. O/A Re/Max Irealty Innovations

- Mann represented buyers interested in viewing a property
- Mann's brokerage adopted guidelines during the COVID-19 pandemic that only two people plus the associate were allowed in a property at the same time
- on February 20, 2021, Mann brought four buyer clients into the property
- Mann unlocked the door allowing the buyers to enter the property unaccompanied
- Mann locked the door when the clients were finished viewing the property
- \$1,500

Debbie Arlene Smith,

Real estate associate registered with Elite Ownership Group Ltd. o/a Re/Max Elite

- on February 27, 2021, Smith had permission to show their buyer clients a property
- instructions were provided outlining the COVID protocols to be followed while in the property: wear masks, sanitize hands, gloves to be used, only one associate and two adults per showing
- Smith entered the property along with two adults and two children
- the buyers took their masks off upon entering the property
- there was a security camera in the house, which Smith disconnected upon entering and re-connected upon leaving the property
- Smith's buyer clients had raised privacy concerns but Smith did not have permission from the seller to disconnect their security camera
- \$3,000

Learning Opportunity can be found on page 12.

Real Estate Act Rules s.41(b)

Real estate licensees must provide competent service.

Vadim Yalovitser,

Real estate associate registered with Century 21 Bamber Realty Ltd.

- on March 2, 2021, Yalovitser had permission to show their buyer clients a property
- the seller's instructions were left on the Realtor Showing application outlining COVID protocols, including: "Please have your clients wear masks at all times."
- Yalovitser and the buyers failed to wear masks while in the property
- \$1,500

Learning Opportunity

Licensees must exercise reasonable care and skill when a property is under their care and control. They must obey the instructions of the seller and their brokerage when showing a property.

Property owners must have confidence their instructions will be followed, and brokerages expect licensees to follow their guidelines. This is especially important during the COVID-19 pandemic which presents additional risk when individuals enter a property. Licensees are encouraged to use the COVID-19 property access checklists and agree to the conditions for access, in writing.

[Seller's Condition to Access Premises Checklist](#)

[Buyer's Condition to View the Premises Checklist](#)

[COVID-19 and Real Estate](#)

[COVID-19 Information for Real Estate Consumers](#)

Real Estate Act Rules s.41(b)

Real estate licensees must provide competent service.

[Alysha Melinda Ortiz](#),

Real estate associate registered with Calgary Inc. o/a Re/Max Irealty Innovations

- on March 4, 2021, Ortiz had permission to access a property for the purpose of conducting a home inspection
- after providing access and remaining at the property for approximately 45 minutes, Ortiz left the property leaving the home inspector alone
- Ortiz did not have permission from the sellers to leave the home inspector unattended in the property
- another associate came to the property later in order to be with the inspector
- \$1,500

Learning Opportunity can be found on page 14.

Real Estate Act Rules s.41(b)

Real estate licensees must provide competent service.

[Syamal Kumar Raha](#),

Real estate associate broker registered with Excellence Real Estate Edmonton Ltd.
o/a Re/Max Excellence

Issue 1:

- on April 4, 2021, Raha had permission to show their buyer clients a property
- the listing agent communicated to Raha in writing that only two people plus the associate were allowed in the property at the same time
- Raha and three people entered the property for a viewing

Issue 2:

- Raha assisted the buyers in entering into a purchase contract with the seller(s)
- the purchase contract included the condition: "This contract is subject to the buyer's satisfaction with a property inspection conducted by a licensed home inspector. The seller will cooperate by providing access to the Property on reasonable terms."
- later, the buyers, who were not a licensed home inspector, told Raha they wanted to do the property inspection themselves
- Raha made no effort to negotiate or amend the property inspection condition to allow the property inspection to be done by the buyer
- on April 11, 2021, Raha brought the buyer clients to the property for the purpose of performing a home inspection
- Raha did not request permission from the seller to have their buyer clients access the property for the purposes of the buyers doing a property inspection
- \$3,000

Learning Opportunity

Licensees must provide access for home inspections as stipulated in the contract, including who can access the property and perform the property inspection. Licensees must ensure that conditions outlined in the contract are followed or are updated and signed by all parties.

Sellers expect licensees will access the property only under the basis upon access is granted and will remain in the care and control of that property at all times. Leaving anyone in a property unattended requires permission from the seller or the seller's agent.

Licensees must communicate to their buyer clients that they cannot provide access to properties for a purpose different than is agreed to by the seller.

Licensees have an obligation to advise their buying clients the implications of not following contractual terms when attempting to satisfy conditions.

[Access to Property – Home Inspections](#)

[Competent Service](#)

Real Estate Act Rules s.53(a)

Real estate licensees must trade in real estate only in the name that appears on their licence, and in the name of the brokerage to which they are registered.

Matthew Douglas Samuel Goudie,

Real estate associate registered at the time of conduct with Grand Realty & Management Ltd. o/a Grand Realty. Currently registered with Worry Free Real Estate Inc. o/a WorryFree Real Estate.

- Goudie advertised services using a Facebook page that failed to indicate their registered brokerage name
- \$1,500

Learning Opportunity

Licensees must clearly indicate their brokerage name in all advertising, and if they use their name in advertising, it must be the name that appears on their licence. A brokerage name is "clearly indicated" when a reasonable consumer, under normal circumstances, can clearly distinguish the name of a brokerage in an advertisement. A reasonable consumer should be able to identify the brokerage based on the advertisement alone. In these cases, the licensees failed to include their brokerage name they are registered with in all of their advertisements. It is important to note that email addresses or hashtags that contain the brokerage name do not meet the brokerage name requirements in advertisements.

Brokerages must have policies and procedures in place which outline the steps through which licensees can ensure their advertising complies with the advertising guidelines.

Advertising Guidelines

Real Estate Act Rules s.53(c)

Real estate licensees must provide to their broker in a timely manner all original documentation, copies of all documents provided to the parties or maintained by a brokerage that are related to a trade in real estate.

Kerry John Ross,

Real estate associate registered at the time of conduct with 2142595 Alberta Ltd. o/a Royal LePage Integrity. Currently registered with Real Estate Professionals Inc.

- on June 10, 2020, Ross' buyer clients entered a Residential Purchase Contract while Ross was still registered with Royal LePage Integrity
- Ross failed to submit any documentation related to this transaction to their brokerage, Royal LePage Integrity
- on June 25, 2020, Ross transferred to another brokerage
- Ross submitted the transaction documentation to their new brokerage, Real Estate Professionals Inc.
- \$1,500

Learning Opportunity

Licensees must provide all transaction documentation to the brokerage in a timely manner. If a client signs a Residential Purchase Contract with a licensee, the contract is only valid with the brokerage the licensee is registered with at the time of signing.

In this case, the licensee failed to submit the documentation to the brokerage they were registered with when the contract was signed. Instead, the licensee transferred brokerages during the time they were representing the client and submitted the transaction to their new brokerage. Licensees can't transfer their clients without their consent and their previous brokerage's consent to end the client's current contract, after which the clients could enter into a new contract with the licensee at their new brokerage.

[Responsibilities – Real Estate Associate Brokers and Associates](#)

[Service Agreements – Real Estate Brokerage](#)

Real Estate Act Rules s.54(1)(d)

Real estate licensees must not directly, or indirectly, advertise an incentive; except when that incentive is offered on behalf of their brokerage.

Blaire Danielle Borle,

Mortgage associate registered with MA Mortgage Architects Inc. o/a Mortgage Architects

- Borle posted an advertisement on Facebook that stated “Countdown to Christmas Giveaway” and instructed consumers to “Enter to win by commenting the Christmas Carol you can’t stop singing!”
- this incentive was not approved or authorized by Borle’s brokerage
- \$1,500

Learning Opportunity

Only a brokerage can advertise incentives to the public. Licensees must not directly or indirectly, advertise, communicate, or offer to any person their own incentives with the sole purpose is to attract business.

An “incentive” is anything a brokerage advertises, communicates or offers to the public to attract business. Examples of incentives include travel miles, gifts, contests, gift certificates, games of chance or anything else of value. A brokerage incentive must be available to all clients or potential clients of a brokerage.

Incentives

A close-up photograph of a hand holding a green pen, poised to write on a document. The background is blurred, showing other people in a classroom or meeting. A solid blue rectangular overlay is positioned in the center, containing the text 'Licence Cancelled' in white, bold, sans-serif font.

Licence Cancelled

Thomas Darrol Cowley - Real Estate Licence Cancelled

On May 14, 2021, a Hearing Panel of the Real Estate Council of Alberta (RECA) cancelled the real estate broker licence of Thomas Darrol Cowley for one year.

On March 25, 2021 the Hearing Panel found that Cowley had engaged in the following conduct deserving of sanction:

- failing to establish adequate policies and procedures around personal and confidential information [breach of section 44(2)(a) of the *Real Estate Act Rules*]
- failing to adequately supervise an associate in regard to two separate sets of transactions [breach of section 51(1)(e) of the *Real Estate Act Rules*]
- failing to actively engage in the management of the Brokerage over a period of approximately five months [breach of section 51(1)(a) of the *Real Estate Act Rules*]
- lying to a RECA investigator about bank withdrawals [breach of section 38(4) of the *Real Estate Act*]

Cowley may reapply for a real estate licence after May 15, 2022, but only as an Associate. Cowley is banned from holding a real estate broker licence in Alberta. In addition to the cancellation, Cowley is required to pay \$37,500 in fines and \$8,020 in costs.

Cowley was most recently registered as broker for Residential One Real Estate, which is currently unlicensed.

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