

THE REAL ESTATE COUNCIL OF ALBERTA

Case Number: 011431
Name on Licence: Syamal Kumar Raha
Licence Type & Class: Real Estate Associate Broker
Brokerage Name on Licence: Excellence Real Estate Edmonton Ltd. o/a Re/Max
Excellence
Process: Section 39 & 83 of the *Real Estate Act*
Document: ADMINISTRATIVE PENALTY
Penalty: \$3,000.00

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: Syamal Kumar Raha

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 April 2021, you failed to provide competent service, contrary to section 41(b) of the *Real Estate Act* Rules:
 - a) On April 4, 2021, you had permission to show your Buyer clients the property located at [ADDRESS]. The listing agent communicated to you in writing that when showing the property, only two people plus yourself were allowed in the property at the same time.
 - b) You allowed three people plus yourself to enter into the property with you. This was a failure to follow the requirements of showing the property.
 - c) These Buyers entered a purchase contract. The purchase contract had a 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."
 - d) When it came time to book an inspection, your Buyer told you they wanted to do the property inspection themselves. The Buyer was not a licensed home inspector. You failed to alert your client that this was not consistent with what was agreed to in the Purchase Contract. You made no effort to negotiate or amend the property inspection condition to allow the property inspection to be done by the Buyer. This was a failure to provide competent service.
 - e) On or about April 11, 2021, you brought your Buyer clients to the property for the purpose of performing a home inspection. You did not request permission from the Seller to have your Buyers access the property for the purposes of the Buyers doing a property inspection. This was a failure to provide competent service.
 - f) When the Seller became aware of what happened, she found it unacceptable as this was a clear violation of the signed contract by all parties.

The Registrar considered the following aggravating and mitigating factors:

Aggravating Factors

- There were multiple instances concerning accessing a property where you failed to provide competent service.
- 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 May 31, 2021.

"Signature"

Charles Stevenson, Registrar
Real Estate Council of Alberta

cc [D.P], Real Estate Broker
Re/Max Excellence