

Case Summaries

October 22 - November 23, 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.



Hearing Panel Decisions

David George Eger,

Real estate broker registered at the time of conduct with 4th Street Holdings Ltd. o/a Re/Max Real Estate (Central). Currently real estate associate broker registered with Re/Max Real Estate Calgary South Ltd. o/a Re/Max First

Issues:

breach of *Real Estate Act* Rules s.51(1)(l)(i) and (ii):

A real estate broker must:

(l) ensure that all parties to an agreement giving effect to a trade in real estate are immediately notified if:

(i) a deposit contemplated by the agreement that, if received, would be held by the related brokerage under the Act has not been received; or

(ii) a deposit cheque or other negotiable instrument that the brokerage received in respect of a deposit referred to in (i) above has not been honoured;

Facts:

- In May 2019, Eger failed to ensure sellers were immediately notified when a deposit was delivered late and delayed again for a day when a deposit was returned by the bank as counterfeit.
- A fraudster tried to pass multiple bad cheques and bank drafts while posing as a buyer.
- Eger contacted police and RECA for advice however delayed telling the seller about the deadline passing without the deposit being received for several days and then after a draft was identified as counterfeit for a day.
- As broker of a brokerage which was appointed trustee of the deposit in the purchase contract, Eger was responsible to the sellers to inform them immediately when the deposit failed to be delivered by the contract deadline or subsequently failed to be honoured.
- As a result of the fraudster's activities the brokerage also became a victim of crime

Outcome:

On November 9, 2021, a Hearing Panel ordered Eger:

- receive a Letter of Reprimand for the breaches of *Real Estate Act* Rules s.51(1)(l)(i) and (ii)
- pay costs in the amount of \$250, associated with the investigation and hearing

Vincent David Pellettier,

Real estate associate registered with 4th Street Holdings Ltd., o/a Re/Max Real Estate (Central)

Issues:

breach of Real Estate Act Rule s.42(a):

Licensees must not:

(a) make representations or carry on conduct that is reckless or intentional and that misleads or deceives any person or is likely to do so;

breach of Real Estate Act Rule s.53(f):

A real estate associate broker and associate must:

(f) notify the broker if a deposit referred to in Rule 51(1)(l) has not been received;

Facts:

- in May 2019 Pellettier made a representation to a seller's representative that he subsequently learned was inaccurate but failed to correct the information with the seller's representative, in a timely fashion
- on the deposit delivery deadline, May 1, 2019, the client told Pellettier he delivered the deposit to the brokerage, texting a picture to Pellettier
- Pellettier told the seller's representative "the deposit was delivered to our office late yesterday, I will have a copy for you a little later this morning"
- the brokerage office later confirmed to Pellettier that no deposit had been delivered
- Pellettier failed to notify his broker when the deposit from a client was not provided by the contract deadline
- Pellettier failed to correct his advice to the seller's representative who remained under the understanding that the deposit had been delivered
- Pellettier continued to pursue payment of the deposit from the client, securing on May 6, but failed to notify the sellers representative of this delay
- representations made by licensees must be accurate and informed as much as possible and where a representation is discovered to be wrong and is material to a transaction

Outcome:

On November 9, 2019, a Hearing Panel ordered Pellettier:

- pay a fine of \$1,500 for the breach of *Real Estate Act Rule s.42(a)*
- pay costs in the amount of \$250, associated with the investigation and hearing
- receive a Letter of Reprimand for breach of *Real Estate Act Rule s.53(f)*

Learning Opportunity

Representations made by industry professionals must be accurate and informed as much as possible and where a representation is discovered to be wrong and is material to a transaction, especially the interests of the other party, it must be corrected as soon as the mistake is discovered.

A close-up photograph of a person's hand typing on a silver laptop keyboard. The hand is wearing a blue sleeve and a watch. The laptop is on a wooden desk. In the foreground, a pair of black-rimmed glasses and a smartphone are visible. The background is blurred, showing a green plant and a yellow cup. A semi-transparent blue rectangle is overlaid on the image, containing the text.

Administrative Penalties

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

A real estate licensee must not directly, or indirectly, advertise any non-brokerage incentive.

Sardul Singh Banipal,

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

- on July 21, 2021, Banipal advertised an incentive on their Facebook page, giving away 4 tickets for Chestermere's first Bulls on the Beach Rodeo. "For your chance to win:
 - like this post
 - follow SunnyBanipalandAssociates
 - tag your friends and family and get them to follow our page
- Banipal's brokerage did not offer the incentive advertised
- \$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 incentive 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

Real Estate Act Rules s.41(b)

A real estate licensee must provide competent service.

Tracy Lyn Little-Beaulieu,

Real estate associate registered with Royal LePage Network Realty Corp.

- on June 11, 2021, Little-Beaulieu requested access to two properties, owned by the same individual, to conduct showings with potential buyer clients later the same day
- the seller's representative was unavailable to grant permission to access the property
- Little-Beaulieu called their brokerage, and was told that the properties may not be available all weekend
- Little-Beaulieu confirmed on MLS that one of the properties was occupied and one was vacant
- Little-Beaulieu decided to enter and view the vacant property with their clients
- Little-Beaulieu did not have permission to access the property
- Little-Beaulieu left their business card on the counter to inform the owners that they had been there
- when the card was discovered by the sellers it made them uncomfortable as they were not aware anyone would have been in their home
- \$1,500

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 never entered the property without permission from the sellers, vacant or not.

Access to Property

Real Estate Act Rules s.17(c)

No person shall act as a property manager unless that person holds the appropriate licence for that purpose issued by the Industry Council relating to that industry.

Justin Morgan Edgington,

Real estate associate registered with Devonshire Realty Inc. o/a Maxwell Devonshire Realty

- Edgington advertised a property for rent on behalf of the owner
- from August 2020 to July 2021, Edgington collected the security deposit and monthly rent from the tenant renting the property
- Edgington received this money in their personal bank account and forwarded the deposit and rent amounts to the owner
- during the investigation, Edgington stated they were not providing property management services except for the one property
- the investigation determined this was false
- Edgington was managing several properties on behalf of three owners
- Edgington admitted to advertising on their personal Facebook page, showing the properties, and collecting rents and security deposits for a fee
- Edgington ceased all property management activity after speaking to their broker on July 7, 2021
- \$10,000

Learning Opportunity

Licensees must only provide services they are licensed to provide. Consumers should have confidence that licensees who engage in real estate activities have received the proper training and are competent to practice in that industry. In this case, the licensee was not licensed to practice in property management.

[Trading in Real Estate – Property Management](#)

Real Estate Act Rules s.53(c)(i)

A real estate associate broker and associate must: provide to the broker in a timely manner all original documentation and copies of original documents provided to the parties or maintained by other brokerages: related to a trade in real estate.

Mazen Jasen (Jason) Kamal,

Real estate associate registered with EXP Realty of Canada Inc o/a EXP Realty

- on May 5, 2021, Kamal listed a property for sale
- Kamal did not submit the service agreement to their brokerage in a timely manner
- on June 9, 2021, the seller received and accepted an offer to purchase the property
- Kamal did not submit the purchase contract to their brokerage in a timely manner
- the brokerage received the buyer's deposit shortly after but had no transaction documentation related to the deposit
- Kamal's brokerage requested they turn in the transaction documentation
- on June 16, 2021, conditions could not be satisfied, and the transaction was terminated, the \$5,000 deposit was to be returned to the buyer
- transaction documents were not submitted to the brokerage until June 22, 2021
- Kamal incorrectly uploaded the documents, including the deposit return request
- on June 30, 2021, Kamal uploaded the documents correctly
- the buyer did not receive their deposit return until July 6, 2021
- \$1,500

Learning Opportunity

All licensees must comply with legislation, including all legislation that enables a broker to carry out the activities specific to the broker or the broker delegate, such as the administration of trust funds. Real estate licensees must respond promptly to their brokerage and deliver all documentation regarding trades and potential trades. In this case, the licensee failed to provide documentation related to a property transaction.

Responsibilities – Real Estate Associate Brokers and Associates

Real Estate Act Rules s.67(1)(e)

A mortgage broker must ensure the business of the brokerage is carried out competently and in accordance with the Act, Rules and Bylaws.

Allayne Noel Olson,

Mortgage broker registered with Centum Mortgage Direct Inc.

- on July 1, 2019, Olson's mortgage brokerage errors and omissions insurance expired.
- between July 1, 2019–August 18, 2021, Olson's mortgage brokerage failed to have insurance in place
- Olson was the broker at the time
- on August 18, 2021, Olson mortgage brokerage ceased operations
- during the period of July 2019 to August 2021, Olson's brokerage handled multiple mortgage files
- \$1,500

Learning Opportunity

All mortgage brokerages are required to carry errors and omissions insurance. A mortgage broker must also ensure the business of the brokerage is carried out in accordance with the legislation. In this case, the brokerage did not have errors and omissions insurance for over a year, yet handled multiple mortgage files. The brokerage put their clients at risk as they were not protected by insurance.

Errors and Omissions Guidelines

Real Estate Act Rules s.17(a)

No person shall act as a property manager trade in real estate unless that person holds the appropriate licence for that purpose issued by the Industry Council relating to that industry.

Erald Shkalla,

Real estate associate registered with 2268740 Alberta Inc. o/a Equium Living

- in November 2020, Shkalla agreed to provide property management services to the owner of a property
- the services Shkalla provided for this property included:
 - locating a possible tenant to lease the property, facilitating two showings of the property to potential tenants
 - preparing and presenting a lease agreement to a potential tenant for the property
 - receiving funds from the tenant in relation to their lease of the property
- Shkalla received financial remuneration in the amount of \$2,400 for the property management services rendered for this property
- at the time of these activities Shkalla was authorized to trade in residential real estate, but did not have the class of license to conduct property management services
- \$3,000

Learning Opportunity

Licensees must only provide services they are licensed to provide. Consumers should have confidence that licensees who engage in real estate activities have received the proper training and are competent to practice in that industry. In this case, the licensee was not licensed to practice in property management.

Trading in Real Estate – Property Management

Real Estate Act Rules s.38(4)(a)

A person conducting an investigation may demand that any persons produce relevant documentation or answer relevant questions to that investigation. A person who is required to answer the investigator must cooperate.

Rody Moldenhauer

Member of the public

- on June 24, 2021, a request for an in-person interview was sent to Moldenhauer via email, for which Moldenhauer provided a read receipt confirming they received the request
- on July 5, 2021, upon Moldenhauer's request, additional dates for the in-person interview were provided via email, for which Moldenhauer provided a read receipt confirming they received the information
- Moldenhauer failed to respond to the written request
- on July 14, 2021, a second request for an in-person interview was sent to Moldenhauer via email
- the email containing the request stated that failure to comply could result in an Administrative Penalty of up to \$25,000
- Moldenhauer provided a read receipt confirming they received the email
- between July 15–August 12, 2021, several emails were exchanged between the investigator and Moldenhauer, where the investigator expressed the importance of complying with the request and attempted to schedule an in-person interview
- on August 17, 2021, during an in-person conversation Moldenhauer requested the interview be rescheduled for a later date
- during this conversation plans for the rescheduled interview were discussed
- on August 18, 2021, a third request for an in-person interview was emailed to Moldenhauer, with a deadline of September 27, 2021 for a response
- Moldenhauer confirmed receiving and reading the email containing the request letter
- as of October 5, 2021, Moldenhauer failed to comply with the request letter
- \$5,000

Learning Opportunity can be found on page 14.

Harvir Singh and/or Palwinder Kaur,

Members of the public

- on September 2, 2021, Singh-Kaur was emailed a letter for them to contact a RECA investigator to arrange a date to be interviewed for an open investigation
- Singh-Kaur failed to contact the investigator
- between September 15–22, 2021, the investigators and Singh-Kaur exchanged emails and had a conversation via telephone about the investigation
- during the phone conversation on September 22, 2019, Singh-Kaur stated they would consult their partner and contact the investigator with available dates for meeting virtually
- to date, no dates have been provided to meet to complete the interview
- on September 30, 2021, a Failure to Cooperate letter was emailed to Singh-Kaur, advising them of their requirement to cooperate with an investigation under the Real Estate Act
- Singh-Kaur was instructed to contact the investigator to arrange an interview
- Singh-Kaur failed to respond
- \$1,500

Learning Opportunity

Individuals are required by the Real Estate Act to cooperate with an investigation. Cooperation means providing truthful and complete responses in a timely and constructive manner. In these cases, the individuals failed to cooperate with an investigator to meet to answer questions regarding an open investigation. Multiple requests to meet were sent to the individuals. The individuals continually failed to respond to these requests. This was a failure to cooperate with the investigator.

[Guide to Investigations for Licensees](#)

Real Estate Act Rules s.43(3)

A real estate licensee must deliver to the client a true copy of a service agreement, and any amendments, immediately upon its signature.

Wendy-lou Unrau,

Real estate broker registered with Northern Lights Realty (2000) Ltd.

- on August 27, 2020, Unrau became the representative in an existing Exclusive Seller Representation Agreement between a client and Northern Lights Realty (2000) Ltd.
- on November 5, 2020, Unrau executed an amendment to the Representation Agreement, with a handwritten note, to lower the listing price for the property
- Unrau did not provide the client with a copy at the time of signing
- on March 4, 2021, Unrau executed an Agreement to Represent Both Buyer and Seller
- Unrau did not provide a copy of the Agreement to the seller at the time of signing
- on May 14, 2021, the sellers were unable to reconcile the amount they received in relation to this sale, and requested from Unrau, copies of all paperwork related to the transaction
- Unrau then, approximately a week after closing, provided the sellers with a copy of the service agreement
- \$1,000

Learning Opportunity

All service agreements, amendments, and additions must be documented in writing and signed by all relevant parties. Upon signing, licensees must immediately provide their clients with true copies of service agreements, and any amendments or additions. In this case, the licensee failed to provide their clients with multiple service agreement amendments. The clients were provided the written service agreements after the transaction had closed.

Service Agreement – Real Estate Brokerage

A person is writing in a blue notebook on a wooden desk. The background is blurred, showing a person's hand and a computer monitor. A blue semi-transparent box is overlaid on the image, containing the text "Letters of Reprimand".

Letters of Reprimand

Real Estate Act Rules s.25(1)(d)

A real estate licensee who is required by the Rules to keep and operate a trust account, shall disburse money received or held in trust in respect of a property management service, dealing or trade in the business of the licensee only in accordance with the terms if of the trust governing the use of that money.

Real Estate Broker

- in May 2021, the broker's brokerage represented both a seller and a buyer in a purchase contract
- the broker's brokerage was appointed by the parties as trustee for a \$10,000 deposit to be received from the buyer
- the terms of the trust included:
 - section 4.8: The deposits will be held in trust for both the seller and buyer. Provided funds are confirmed, the deposits will be disbursed, without prior notice, as follows:
 - (a) to the buyer, if after this contract is accepted:
 - (iv) the seller fails to perform this contract.
- the brokerage received the \$10,000 deposit from the buyer in trust
- the buyer waived their conditions related to the purchase contract
- in June 2021, the seller failed to fulfill their duties under the contract
- the buyer requested their deposit be returned and filed a civil claim against the brokerage
- after seeking legal advice, the brokerage offered to return the deposit to the buyer, if the buyer withdrew their civil claim against the brokerage
- the terms of trust did not permit the brokerage to place that condition on the return of the deposit
- the broker was responsible for ensuring the brokerage met its obligations as trustee
- in September 2021, the brokerage returned the deposit, and the buyer withdrew their civil claim
- the brokerage also covered the buyer's legal fees

Learning Opportunity

The broker's role in handling trust funds is that of a trustee. As trustee, the broker must hold the trust monies for the parties to the transaction and keep and disburse money only in accordance with the terms of trust. In this case, the brokerage should have never placed a condition on the return of deposit to the buyer. The terms of the trust do not permit a brokerage to place a condition on the return of a deposit.

Trust Money Disputes and Disbursements

Real Estate Act Rules s.53(a)

A real estate licensee must only trade in real estate 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's business Facebook page did not clearly identify the name of the brokerage
- the landing page had the associate's personal branding at the top, but the brokerage name was not present

Real Estate Associate

- on May 30, 2021, an advertisement for a property the associate listed for sale was posted on the Drumheller Buy, Sell & Trade Facebook page
- the brokerage name was not present, nor was the associate's full registered name
- the advertisement was posted by the associate's unlicensed assistant
- the associate has since taken steps to ensure their brokerage name is clearly identified on all advertisements

Real Estate Associate

- in July 2021, the associate's website did not have their brokerage name clearly indicated
- the brokerage name was found at the bottom of the page

Real Estate Associate

- the associate's Facebook page did not clearly identify the name of their brokerage
- the "About" section showed their brokerage name, but it was not clearly indicated
- the associate's website did not clearly indicate their name as it appears on their licence nor their brokerage name
- the associate's name and brokerage name were found at the bottom of the pages

Learning Opportunity can be found on page 20.

[Real estate associate](#)

- the associate's Instagram account was used for their business, but did not include the name of their brokerage
- the page displayed the associate's personal branding at the top

[Real estate associate](#)

- the associate's Facebook account was used for their business, but did not include the name of their brokerage
- the page displayed the associate's personal branding at the top

[Real estate associate](#)

- the associate's Instagram and Facebook advertisements did not clearly indicate the name of their brokerage
- the social media accounts referenced the associate's real estate business and were used to market properties
- the brokerage name was not present on the account profiles

[Real estate associate](#)

- the associate's business Facebook page did not include the name of their brokerage
- the page displayed the associate's personal branding at the top

[Real estate associate](#)

- the associate's business Facebook page did not clearly identify the name of their brokerage, and it did not include the associate's name as it appears on their licence
- the page displayed the associate's personal branding at the top

Learning Opportunity can be found on page 20.

Real estate associate

- the associate's Instagram account was used for business, but did not clearly indicate the name of their brokerage
- the page displayed the associate's personal branding on the landing page
- the associate's brokerage name was found near the bottom of the page in a website address

Real estate associate

- the associate's Instagram account was used for business, but did not include the name of their brokerage
- the page displayed the associate's personal branding at the top
- the associate's business Facebook page did not clearly identify the name of their brokerage
- the page displayed the associate's personal branding at the top
- the brokerage name was present as part of a website address, but was not clearly indicated
- the associate's Facebook page did not include their name as it appears on their licence

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 these cases, the licensees either failed to include the brokerage name they are registered with in their advertisements, or their brokerage name was not clearly indicated.

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.32(g)

- A real estate licensee must immediately notify the Registrar, in writing, of a change in their directors, or shareholders, if the brokerage is a Corporation.

Real Estate Broker

- on May 21, 2021, a change to the broker's brokerage corporate shareholders occurred
- the broker was responsible for ensuring the brokerage met its notification obligations
- RECA was notified on July 21, 2021

Learning Opportunity

Brokerages must immediately notify the Registrar, 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

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