

THE REAL ESTATE COUNCIL OF ALBERTA

Case Number: 012005
Name on Licence: Joshua Christopher Pearce
Licence Type & Class: Real Estate Associate
Brokerage Name on Licence: CHARLES REAL ESTATE INC. O/A CHARLES
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: Joshua Christopher Pearce

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

Rule 41 – *Licensees must:*

(d) fulfill their fiduciary obligations to their clients

Particulars of the contravention(s):

1. In or around July 2021 you failed to fulfill your fiduciary obligations to your client, [G.M], contrary to section 41(d) of the *Real Estate Act* Rules:
 - a) February 23, 2021, you listed the property located at [ADDRESS].
 - b) May 21, 2021, an offer to purchase was accepted by your Seller client. Possession date was July 6, 2021.
 - c) The Buyer's associate discussed a possession date change to July 2, 2021. Your Seller client agreed to this change and believed the possession date had changed. The Buyers never requested an amendment to the possession date in writing. You did not explain to your client that the possession date remained July 6, 2021.
 - d) The Purchase Contract allowed for a walkthrough 24 hours prior to possession.
 - e) The Buyer's associate requested a walkthrough July 2, 2021, as there had been a hailstorm. They wanted to assess the damage.
 - f) You allowed the Buyers and their associate to access the property. You failed to request permission from your client for an early walkthrough and failed to advise the Seller the reason was to assess potential damage from a hailstorm.

The Registrar considered the following aggravating and mitigating factors:

Aggravating Factors:

- Damage to a property prior to possession can significantly affect a transaction. In these situations, it is critical a licensee looks out for the interest of their client and seeks instructions from their client on how to proceed.
- Your seller made arrangements based on the wrong possession date and found out from their lawyer the possession date had not changed. A licensee must explain to their client when a proposed change has been negotiated, but doesn't happen, that their client understands what occurred.

Mitigating Factors

- You have taken responsibility for what happened.

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], Investigator
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 21, 2022.

“Signature”

Charles Stevenson, Registrar
Real Estate Council of Alberta

cc [A.J], Real Estate Broker