

Case Summaries

February 18 - March 29, 2022

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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.

A close-up photograph of a person's hand holding a pencil with a green eraser, writing on a white notepad. The background is blurred, showing a desk and other papers. A semi-transparent blue rectangle is overlaid on the left side of the image, containing the text "Lifetime Withdrawal" in white.

Lifetime Withdrawal

Stefanie Rae Davidson - Lifetime Withdrawal from Industry

On March 17, 2022, the Mortgage Broker Industry Council of the Real Estate Council of Alberta (RECA) approved an application by Stefanie Rae Davidson under section 54 of the *Real Estate Act* to permanently withdraw their licence, effective immediately.

At the time of their application, Davidson was the subject of an investigation under the *Real Estate Act* Rules. The issues under investigation regarding Davidson were with respect to:

- multiple breaches of failure to enter into a written service agreement, contrary to s.73(1) of the *Real Estate Act* Rules
- providing incompetent service, contrary to s.41(b) of the *Real Estate Act* Rules
- failure to fulfil their fiduciary obligations, contrary to s.41(d) of the *Real Estate Act* Rules
- multiple breaches of accepting remuneration outside of her brokerage, contrary to s.70(1)(c) of the *Real Estate Act* Rules

The review into these matters is complete. No finding of conduct deserving of sanction or a referral to a hearing has been made by RECA's Registrar on any of the issues under investigation.

"The investigation found no evidence of fraud or criminal activity, therefore there were no barriers to approving the application under the *Real Estate Act* s.54(4).

Under the *Real Estate Act*, the approved withdrawal application results in Davidson's lifetime prohibition as a licensee, effective immediately. It also results in the discontinuance of the aforementioned conduct proceedings.

For more information, please see the [approval letter](#) issued by the Chair of the Mortgage Broker Industry Council.

A close-up, shallow depth-of-field photograph of a hand holding a silver pen, poised to write on a document. The background is a warm, out-of-focus yellow. A semi-transparent blue rectangle is overlaid on the left side of the image, containing the text 'Licence Cancellation' in white, bold, sans-serif font. The hand and pen are visible through the blue overlay.

Licence Cancellation

Shelley Bonwick - Real Estate Licence Cancelled

On February 24, 2022, a Hearing Panel for the Real Estate Council of Alberta (RECA) cancelled the licence of Shelley Bonwick and barred Bonwick from becoming eligible for licensing for seven years. Bonwick is not licensed to trade in real estate in Alberta and has been deemed ungovernable.

The Hearing Panel also ordered total fines of \$48,000 for breaching the *Real Estate Act* and Rules, and ordered costs of \$42,585.

Bonwick's licence had been suspended since November 14, 2018, when it was determined it was in the public interest to temporarily suspend Bonwick's licence pending the conclusion of disciplinary proceedings.

The Panel determined that Bonwick breached the following:

Real Estate Act s.17

Licensee must not:

(a) trade in real estate as a real estate broker

(b) deal as a mortgage broker

(d) advertise himself or herself as, or in any way hold himself or herself out as, a mortgage broker, real estate broker or property manager

unless that person holds the appropriate license for that purpose issued by the Industry Council relating to that industry

Real Estate Act Rules s.38(4)

A person who is required under subsection (2) to answer questions of a person conducting an investigations

(a) shall cooperate with the investigator and promptly respond to the questions

(b) shall not be excused from answering any question on the ground that the answer might tend to

(i) incriminate the person

Real Estate Act Rules s.41

Licensee must:

(b) provide competent service

(d) any business the licensee owns or has participated in as a partner, director or officer in the past three years, has any judgment(s) rendered against the business

(f) disclose to their clients, at the earliest practical opportunity, any conflict of interest they may have in the course of providing services to, or in their dealings with, a client

Real Estate Act Rules s.42

Licensee 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*
- (b) participate in fraudulent or unlawful activities in connection with the provision of services or in any dealings*
- (g) engage in conduct that undermines public confidence in the industry, harms the integrity of the industry, or brings the industry into disrepute*

Real Estate Act Rules s.53

A real estate associate broker and associate must:

- (a) trade in real estate only in the name that appears on that individual's licence and in the name of the brokerage with which that individual is registered*

Real Estate Act Rules s.54(1)

A real estate broker, associate broker or associate, as the case may be, must not:

- (a) trade in real estate on behalf of a brokerage other than the brokerage with which he is registered*

Real Estate Act Rules s.58

The basic obligations of a licensee who is in a sole agency relationship with a buyer are to:

- (j) disclose, in a timely manner, to the buyer all relevant facts known to the licensee affecting a property or transaction*

Bonwick was previously registered as a real estate associate registered with 1853147 Alberta Ltd. o/a Engel & Volkers Calgary; 2008863 Alberta Ltd. o/a The Alberta Collection; The Alberta Collection Inc.; Grand Realty & Management Ltd. o/a Grand Realty; Discover Real Estate Ltd.

A close-up photograph of a person's hand typing on a laptop keyboard. The image is partially covered by a semi-transparent blue rectangular overlay. The word "Suspension" is written in white, bold, sans-serif font across the middle of the blue overlay.

Suspension

The David Bauer Group Ltd. - Real Estate Brokerage Licence has been Suspended

On March 7, 2022, the Registrar of the Real Estate Council of Alberta (RECA) suspended the real estate brokerage licence of the David Bauer Real Estate Group Ltd. o/a MaxWell Direct Realty. The brokerage is not licensed to trade in real estate or provide property management services.

The brokerage failed to immediately fund a trust shortage as directed by the Registrar. As a result, the Registrar has suspended the brokerage licence under section 35(1)(b) of the *Real Estate Act* Rules, which states:

35(1) In addition to the circumstances under which a licence may be suspended or cancelled under the Act, the registrar may suspend or cancel a brokerage for any of the following reasons:

- *when the brokerage fails to immediately fund a trust shortage as directed by the registrar*

Consumers currently engaged in a property management agreement with The David Bauer Group Ltd. should contact them to discuss how their licence suspension impacts their ability to meet the obligations under their individual agreement. The brokerage can no longer provide any services that require a licence.

Consumers with money currently held in trust by the David Bauer Real Estate Group Ltd. o/a MaxWell Direct Realty should contact RECA by emailing info@reca.ca.



Hearing Panel Decision

Austin Spencer Fleming,

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

Issues:

- Fleming appealed an administrative penalty under the *Real Estate Act* s.83.1
- a Hearing Panel was required to determine whether Fleming's conduct contravened the *Real Estate Act* Rules s.41(b)

Facts:

- in March 2021, members of the public submitted a complaint to the Registrar in accordance with s.37 of the *Real Estate Act* concerning conduct carried out by Fleming during a property showing
- the complaint disclosed a possible breach of *Real Estate Act* Rules and as a result an investigation was opened under s.38 of the *Real Estate Act*
- during the incident in question:
 - Fleming attended a property for sale with their buyer clients
 - signs were posted at the front entrance and in the kitchen with instructions for showings
 - after the showing concluded, Fleming allowed a member of the buyers' family to use a bathroom
 - the sellers filed a complaint, determined to be credible by the Hearing Panel, stating that they did not want anyone to use the bathroom
- on May 31, 2021, Fleming was issued an administrative penalty for failing to provide competent service contrary to *Real Estate Act* Rules s.41(b)
- Fleming filed an Appeal of the administrative penalty

Outcome

During the appeal hearing on November 24, 2021, the Hearing Panel found:

- the seller complainants were "credible witnesses" and accepted their evidence "that they did not want anyone to use the bathroom,"
- Fleming "could have been more forthcoming in some of his evidence and should have admitted to making a mistake"

On February 23, 2022, the Hearing Panel found:

- Fleming made a "spur of the moment" mistake
- a single act of negligence unaccompanied by circumstances tending to show incompetence will not of itself amount to incompetence
- Fleming did not contravene the *Real Estate Act* Rules s.41(b)
- quashed the Administrative Penalty issued against Fleming on May 31, 2021

A close-up photograph of a person's hand typing on a silver laptop keyboard. The hand is wearing a blue long-sleeved shirt and a blue wristband. A semi-transparent blue rectangular box is overlaid on the image, containing the text 'Administrative Penalties' in white. In the foreground, a pair of black-rimmed glasses and a smartphone are visible on a wooden desk. A small potted plant is in the background.

Administrative Penalties

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

A person who is required to answer the questions of an investigator shall cooperate with the investigator and promptly respond.

Nathan James Koenigsberg,

Real estate associate registered with Charles Real Estate Inc. o/a Charles

- in February 2021, Koenigsberg was contacted by a RECA investigator to confirm whether proceedings had commenced against them pursuant to the Criminal Code
- Koenigsberg falsely stated that such proceedings had not occurred
- in February 2021, Koenigsberg responded to questions posed in a notification of RECA's investigation, but refused to provide details of the incident that lead to the proceedings against them under the Criminal Code
- in May 2021, during an interview, Koenigsberg falsely told a RECA investigator that the crown attorney determined that they were acting in self-defense therefore the charges against them were withdrawn
- in June 2021, Koenigsberg was sent a Formal Demand for Information by the RECA investigator, for documentation and answers to questions relevant to the investigation
- Koenigsberg failed to answer the questions posed in this demand for information
- information Koenigsberg provided during the duration of this investigation was not truthful or accurate and Koenigsberg failed to provide answers to questions posed to them by the investigator
- \$5,000

Learning Opportunity

Licensees are required under the *Real Estate Act* to cooperate with an investigation. Cooperation means providing truthful and complete responses in a timely and constructive manner. In this case, the licensee failed to cooperate with an investigator regarding an open investigation. The licensee provided untruthful or inaccurate information and failed to provide answers to questions posed to them by the investigator. This was a failure to cooperate with the investigator.

[Guide to Investigations for Licensees](#)

[Cooperate with the Real Estate Council of Alberta](#)

Real Estate Act Rules s.41(b)

A real estate licensee must provide competent service.

[Arlie Ernest Jespersen](#),

Real estate associate broker registered with 1168980 Alberta Ltd. o/a Century 21 Leading

- Jespersen represented the seller clients in a transaction that was conditionally accepted by both the sellers and buyers, with a deadline of March 16, 2021, to waive conditions
- conversations with the buyers' associate led Jespersen to believe the buyers might not waive conditions
- on March 12, 2021, Jespersen contacted an associate of another buyer who had previously made an offer on the property, stated the deadline to waive conditions in the accepted offer was March 12, 2021, and asked if the other buyer was still interested in making an offer
- the other buyer put in an offer on March 13, 2021, which the sellers accepted
- on March 16, 2021, the original buyer formally waived the conditions on their offer, resulting in there being a firm sale of the property with the original buyer and a conditional purchase contract for the same property with the separate buyer
- the brokerages involved in this transaction resolved the issue and the sale with the original buyer was successful
- \$1,500

Learning Opportunity

In this case the licensee had contacted another buyer before the original offer was complete or formally voided. The licensee's brokerage policy states that all negotiations must be in writing. By stating the condition date was earlier than the actual date the buyer placed an offer on a home they believed was back on the market. The licensee should have never provided false information to a potential buyer regarding a transaction while the original offer was still valid.

Competent Service

Real Estate Act s.17(a)

No person shall trade in real estate without the appropriate licence.

Abdul Hannan Quraishi

Real estate associate registered at the time of conduct with Urban Real Estate Services Ltd. o/a Urban-Realty.ca; Currently Five Star Realty Ltd. o/a Five Star Realty

- on September 29, 2020, Quraishi entered into an agreement to manage a property for an owner
- Quraishi was registered to Urban-Realty.ca at that time, which did not offer property managements services
- Quraishi was not licensed to practice property management at that time
- on April 18, 2021, Quraishi entered into an agreement to manage a property for an owner
- Quraishi was not licensed with any brokerage at that time
- \$1,500

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

A person is writing on a clipboard with a blue pen. The clipboard is on a wooden desk. The background is blurred, showing a person in a blue shirt. A blue semi-transparent rectangle is overlaid on the image, containing the text "Letters of Reprimand".

Letters of Reprimand

Real Estate Act Rules s.41(b)

A real estate licensee must provide competent service.

Rajneesh Aery,

Mortgage associate registered at time of conduct with Home Financing Solutions Inc. o/a The Mortgage Centre; Currently 1170245 Alberta Ltd. o/a Dominion Lending Centres Global

- between
- July 2017 and January 2018 Aery was approached by multiple clients for assistance in obtaining financing for separate properties
- Aery was provided with documents relating to the clients' employment and finances to assist with mortgage applications
- Aery failed to review the documents before presenting to them to lenders, missing inconsistencies relating to employment and income

Learning Opportunity

Licensees must be competent in all areas in which they provide services. In this case, the licensee should have ensured they were reviewing all client documents to ensure accuracy. By failing to review the documents, the licensee missed inconsistencies with them. Failing to note the inconsistencies put both the clients and the lenders interests at risk.

Competent Service

Real Estate Act Rules s.59.1(4)(b)(i)

If the parties authorize the brokerage to enter into a transaction brokerage relationship, the brokerage agreement will indicate how the brokerage will be remunerated and provide that the designated agent

Jessica Hang Chan,

Real estate associate broker – formerly a real estate associate registered with Mountain View Real Estate Inc. o/a Re/max Real Estate (Mountain View)

- on August 28, 2014, Chan entered into an Exclusive Buyer Agreement with the buyers interested in purchasing a property
- on August 30, 2014, Chan entered into an Exclusive Sellers Agreement and a Transaction Brokerage Agreement with the sellers of that property
- the list price provided by the sellers was \$855,000
- on September 1, 2014, Chan assisted the buyers to draft an offer of \$850,000 for the property
- Chan admitted they gave the buyers advice with regards to the offer price
- As a transaction facilitator, Chan was not permitted at that time to provide advice to the buyers regarding an offer price

Learning Opportunity

In a transaction brokerage relationship the designated transaction facilitator must treat the interests of both the buyer and the seller in an even handed, objective and impartial manner, including but not limited to, any advice or information given to one party will be disclosed to the other. When writing an offer as a transaction facilitator, it is the buyer's sole responsibility to determine their offer price. Licensees should not interject their opinion into negotiations between clients. In this case, the licensee should have not assisted or advised the buyer with their offer price.

Facilitation Services – Acting as a Transaction Facilitator Representing Both Buyer and Seller

Real Estate Act Rules s.43(2)(b)(viii)

Every written service agreement shall clearly show all terms and conditions of the agreement and shall include the amount or method of calculating the remuneration or alternate compensation to be paid.

Terry Dean Edwardson,

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

- on March 18, 2021, Edwardson listed a property for sale
- section 10/7 of the Exclusive Seller Representation Agreement with the clients stated: "If you change your mind about selling...you must reimburse us for our reasonable expenses of Marketing fees, RMS measurements, staging fees"
- on March 19, 2021, the seller decided against selling their property and the listing was terminated
- two invoices were sent to the client
 - one for a staging expense from a staging company
 - the other for a \$500 service fee, which listed services of photographs, assessment of home, CMA, and contract preparation
- the client paid the staging expense fee but disputed the service fee as no further fees or rates had been discussed or agreed upon
- the client requested further details on further expenses and learned the invoice for \$500 was not related to expenses Edwardson had incurred but was a charge for their time
- this was not a reasonable expense outlined in the terms of the Exclusive Seller Representation Agreement
- Edwardson failed to clearly show the amount or method of calculating their fees

Learning Opportunity

Written service agreements help ensure the role of a licensee is clear. This is important, as when clients are better informed, there is less confusion and typically, fewer disputes. The Agreement stated that the seller must pay for fees that incurred during the listing if they wished to back out of the sale and not for the time the licensee put into listing the property. In this case, the licensee tried to bill their clients for their time and not for charges that they had incurred during the listing of the property

Service Agreements – Real Estate Brokerage

Real Estate Act Rules s.42(a)

Licensees must not make representations or carry on conduct that is reckless or intentional and misleads or deceives any person.

Shaddy Michel Estephan,

Mortgage broker registered with 2206348 Alberta Ltd. o/a Dominion Lending Centers Mortgage Masters

- on April 15, 2021, borrowers obtained a conditional mortgage approval for financing from a lender
- the borrowers approached Estephan's brokerage to explore other financing options and assistance in communicating with a builder about financing
- on April 17, 2021, Estephan sent a letter from Dominion Lending Centres Mortgage Masters to the builder, on behalf of the borrowers
- the letter stated the clients were approved for financing at a higher rate through a different lender, information easily verifiable by reviewing the approval letter from the initial lender
- indicating that the borrowers were approved for a higher amount than they were put them at substantial risk, should an agreement have been made and then fallen through
- the builder had significant concerns about this letter
- Estephan had confused the details on this deal and failed to compare the details of the approval with the information they presented to the builder
- Estephan did not intentionally provide misleading information
- the borrowers obtained financing from the initial lender

Learning Opportunity

Licensees must not make representations or carry on conduct that is reckless or intentional and misleads or deceives any person. In this case, the licensee failed to review the borrowers mortgage approval and communicated with a builder inaccurate information about the lender and the amount they had been approved for.

Mortgage Brokerage – Agent for Borrower

Real Estate Act Rules s.53(a)

A real estate licensee 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.

Michael Joseph Waddell

Real estate associate registered at time of conduct Thorndale Holdings Ltd. o/a Re/Max Select; Currently Lampas Holdings Ltd. o/a Re/Max River City

- Waddell's Instagram profile had their personal branding at the top but did not clearly identify the name of their brokerage
- Waddell's webpage had their personal branding name at the top of the landing page and only a portion of the brokerage name was identified at the bottom of the landing page
- Waddell's Facebook page did not clearly identify the name of their brokerage on the business page or on any of the individual posts

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 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



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The Case Summaries is published by the Real Estate Council of Alberta.

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