

Case Summaries

June 13 - July 18, 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. 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.



Hearing Panel Decision

Hearing Panel Decision

Sukhwinder Randhawa,

Real Estate Associate registered at the time of conduct with Lampas Holdings Ltd.
o/a Re/Max River City

Issues:

The Notice of Hearing submitted by the Registrar outlined four breaches of the *Real Estate Act* and the corresponding Rules. They are as follows:

1. s. 54(3) of the Rules, requiring licensees to disclose in writing the nature of their services, and any conflicts of interest or other facts that could influence their clients' decisions
2. s. 41(d) of the Rules, requiring licensees to fulfill their fiduciary obligations to their clients
3. s. 59(2) of the Rules, requiring licensees to provide brokerage agreements to their clients
4. s. 53(c) of the Rules, requiring licensees to provide to their broker in a timely manner all original documentation related to a trade in real estate

Facts:

- pursuant to section 46(1) of the Act, the parties submitted an Admission of Conduct Deserving of Sanction to a Hearing Panel; this Admission was accepted by the Board of Directors of RECA
- in June 2014, Randhawa represented both sides in a transaction
- Randhawa had an existing relationship with the purchaser and that was not disclosed in writing to the seller
- the client required financing to complete the transaction
- Randhawa failed to include a buyer's financing condition in the offer to purchase and the deal collapsed
- in November 2014, Randhawa represented the same two clients in a second transaction
- this deal also collapsed
- Randhawa did not provide copies of the agreements from the failed transactions to their brokerage
- Randhawa did not sign transaction agreements with the buyer or seller for either transaction

Outcome

The Panel accepted the Licensee's Admission of Conduct Deserving of Sanction. Further, the Panel found that the Joint Submission on Sanction presented to them was both reasonable and appropriate, and accepted it. On June 16, 2022, the Hearing Panel ordered Randhawa to pay:

- \$5,000.00 for the breach of s. 41(d) of the Rules
- \$3,000.00 for the breach of s. 53(c) of the Rules
- \$3,000.00 for the breach of s. 54(3) of the Rules
- \$1,500.00 for the breach of s. 59(2) of the Rules
- \$1,000 for costs

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.41(b)

A real estate licensee must provide competent service.

Fatima Mian,

Real estate associate broker registered with Walsh Real Estate 2010 LTD.
o/a Re/Max Fort McMurray

- on November 15, 2021, Mian arranged an inspection for their buyer client
- Mian asked the seller's agent if it was okay to have the buyer and inspector alone in the property
- the listing associate sent a text message to Mian stating that was not okay
- on November 17, 2021, Mian attended the property for the inspection
- Mian asked a colleague to attend the property for them as they had an obligation that conflicted with the inspection
- the colleague was unable to attend
- Mian made no attempts to contact the seller's agent to notify them of their situation and discuss options
- Mian decided to disregard the seller's restriction and left the property, leaving the clients and inspector alone in the property
- \$1,500

Learning Opportunity

Licensees must ensure they exercise reasonable care and skill at all times when showing properties. Licensees must provide access for home inspections as stipulated in the contract, including who can access the property and perform the property inspection.

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

Access to Property - Home Inspections

Competent Service

Real Estate Act Rules s.91(4)

A brokerage's accounting must be filed with the Council no later than three months following that brokerages' fiscal year end.

[Tsz Kan Ng,](#)

Real estate broker registered with ARIVL Ltd. o/a ARIVL

- Ng's brokerage fiscal year end was December 31, 2021
- numerous reminder emails were sent to Ng's brokerage email address and their personal email address reminding them that the required accounting forms must be filed by March 31, 2022
- each email reminder gave clear instructions on what forms were required, a link to RECA's website, explained how to access the forms, and included a warning that failure to complete the required forms by March 31, 2022, could result in an administrative penalty
- on March 21, 2022, Ng requested to RECA to waive the fiscal year end reporting requirement
- the request was declined
- to date, RECA has not received Ng's brokerage accounting fiscal year end reports
- \$1,500

Learning Opportunity

Brokerages provide accounting reports to RECA to ensure trust funds are being properly administered to protect the public and the integrity of the industry. A brokerage must file its accounting with RECA no later than three months after the end of the brokerage's fiscal year. In this case, the broker has failed to file the forms by their deadline despite RECA sending numerous reminders.

[Real Estate Fiscal Year End](#)

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.42(a)

A licensee must not make representations or carry on conduct that is reckless or intentional to mislead or deceive a person.

Condominium Management Broker

- on June 27, 2019, a Statement of Claim was filed against Catalyst Condo Management Ltd. for which the broker was the condominium manager
- the broker was aware of the Statement of Claim
- on January 28, 2022, the broker issued a disclosure statement which included "we are also not aware of any action commenced against the corporation served on the corporation"
- at the time of this disclosure, the Statement of Claim was still an active court process

Learning Opportunity

A licensee must not make representations or carry on conduct that is reckless or intentional to mislead or deceive a person. In this case, the licensee made a statement of disclosure that was misleading. The licensee should have ensured they were not disclosing inaccurate information to the public.

Real Estate Act Rules s.41(b)

A real estate licensee must provide competent service.

Real Estate Associate

- on December 7, 2021, the associate had permission for an inspector to complete an inspection for their buyer clients
- the associate attended the property with the inspector
- during the inspection, the associate left the property, leaving the inspector alone
- the associate did not receive permission from the seller or their agent to leave the property, or if it was acceptable to leave the inspector unattended
- the associate returned to the property before the inspection finished

Real Estate Associate

- the associate represented the sellers and buyers for a listing and sale of a property
- on November 10, 2021, the associate had permission from the seller to have a property inspection completed
- the associate also had permission from the seller to access the property at another time, after the inspection, to check the garage door
- on November 14, 2021, the associate accessed the property with the buyers without the seller's permission to get quotes on items that required fixing
- the seller found out about this when the associate called them from inside the property

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 these cases, the licensees failed to gain permission from the seller to enter the property, or to leave the property while a home inspection was being completed.

Access to Property

Access to Property - Home Inspections

Real Estate Act Rules s.43(1)

A licensee who establishes a client relationship when trading in real estate must enter into a written service agreement with that prospective client.

Real Estate Associate

- the associate had a verbal agreement with a prospective client for the potential rental or sale of their property
- the associate advertised the property on social media, collected keys from the owner, and was evaluating and advising on tenant applications
- these acts represent a client relationship and required a written service agreement

Learning Opportunity

A written service agreement outlines the roles and responsibilities of the parties, clarifies the expectations of each party, and helps to ensure the client understands their relationship with the licensee. Clarity of roles, responsibilities, and expectations is essential to consumer trust and confidence. The service agreement must be discussed and presented to a prospective client prior to acting on their behalf in a real estate transaction. In this case, the licensee failed to have a signed written service agreement in place.

Written Service Agreements



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