

THE REAL ESTATE COUNCIL OF ALBERTA

Case: 009388, 009988 and 009989  
Process: A Hearing under Part 3 of the *Real Estate Act*  
Licensee: Sameer Kalia  
Class of License: Real Estate Associate  
Registration: Currently unregistered, formerly registered with Lampas Holdings Ltd. O/A Re/Max River City

Document: AMENDED NOTICE OF HEARING

TO: Sameer Kalia

A hearing is set to review allegations about your conduct. Read this entire document to see what you must do.

**Hearing Information**

Date: September 16, 2022  
Time: 9:30 a.m.  
Location: Virtual Hearing via Microsoft TEAMS Platform

Hearing Panel:	[C.W]	Chair, Panel Member (Public Member)
	[M.C]	Panel member (Licensee Member)
	[M.K]	Panel member (Licensee Member)

Alternates:		
	[K.K]	Chair, Panel member (Public Member)
	[R.J]	Panel member (Licensee Member)
	[W.M]	Panel member (Licensee Member)

Counsel for the Panel:  
Carol Zukiwski

**It is alleged that your conduct is deserving of sanction for breaching sections of the Act or Rules. Here are the details:**

1. In or around 2017 and 2018:
  - you made representations or carried on business that was reckless or intentional and that misleads or deceives persons or was likely to do so, contrary to section 42(a) of the *Real Estate Act Rules*
  - further, you provided services to a client in a trade in which you had a conflict of interest without receiving the written and informed consent of that client, contrary to section 54(3) of the *Real Estate Act Rules*.
  - finally, you failed to fulfill your fiduciary obligation to your clients, contrary to section 41(d) of the *Real Estate Act Rules*
2. The property involved in all of the allegations is [ADDRESS] (the "Property"). At the material time it was undeveloped.
3. In or around February 07, 2017, a purchase and sale agreement for the Property was entered into between [BUYER 1] as the buyer and [SELLER] as the seller. The closing date was subject to rezoning approval.
4. At some point, before the transaction closed, the buyer changed to [BUYER 2] a wholly owned subsidiary of [BUYER 1].
5. You represented the buyer in this transaction.
6. On or about September 17, 2017, you entered into a separate agreement to lease the Property for [BUYER 2]. The agreement showed that [BUYER 2] agreed to pay Re/Max Real Estate, and you as the associate representing the brokerage, remuneration of 6% on first five years of base rent and 3% on the balance.

7. You marketed the Property while it was still owned by [SELLER]. This included creating a brochure. You did not have permission from the owner to do this.
8. You were aware the Property was owned by [SELLER] and not [BUYER 2] during the signing of all the below lease agreements.
9. The sale eventually completed and on or about March 6, 2018, the Property transferred from [SELLER] to [BUYER 2].
10. At no material time was any of the proper zoning in place for the Property.
11. At no material time did construction begin on the Property.

**RECA File #009989 [A.L. CORP]**

12. In or around September 2017 you approached [A.L. CORP] about leasing a unit at the Property. [A.L. CORP] decided they would be interested in pursuing it.
13. On or about October 3, 2017, [A.L. CORP] entered into a commercial agreement ("Agreement #1") to lease the Property from [BUYER 2].
14. You represented [A.L. CORP] and [BUYER 2]. You did not get written and informed consent from your clients regarding the inherent conflict of interest.
15. At the time Agreement #1 was signed the Property was owned by [SELLER], not [BUYER 2]. you did not inform [A.L. CORP] of this.
16. You did not inform [A.L. CORP] how you would be compensated.

17. Pursuant to agreement #1 on or around October 17, 2017 [A.L. CORP] delivered a deposit of \$21,000.00 in trust to Re/Max Real Estate. The deposit was supposed to be for first and last month's rent.
18. On or about April 25, 2018, you provided a letter to Re/Max Real Estate. The letter states, "regarding the property the closing will be "TBA" as it is not started its construction yet. All the deposits will stay in trust until we get the possession of the bays and at that time the transaction will be completed".
19. On or about September 24, 2018, you created an amendment that inserted "Landlord instructs Re/Max Real Estate Southeast to release initial deposit to Sam Kalia, agent as commission". This amendment was signed by the lessor but not the leasee.
20. Based on your instructions, on or about September 26, 2018, Re/Max Real Estate issued a \$19,750.00 commission cheque to you.
21. You did not have authorization to remove the deposit as it was not an unconditional offer. It was conditional for the following reasons:
  - a) Multiple terms in Agreement #1 were TBA, or to be discussed. These terms were never settled between the parties;
  - b) The [REDACTED] approval and zoning for the [A.L. CORP] was not in place;
  - c) The building was not constructed at the material time; and
  - d) The offer to lease itself wasn't valid as [BUYER 2] did not own the Property at the material time. Further, the leasee wasn't aware the Property was under contract and Agreement #1 was not subject to that purchase and sale completing.
22. At no time did you inform [A.L. CORP] that you had taken their deposit as commission.

**RECA File #009388 [K.L]**

23. In or around August of 2017 you approached [K.L] with an opportunity involving a gas station lease at the Property. [K.L] decided he would be interested in pursuing the lease.
24. On or about August 29, 2017,[K.L] entered into a commercial agreement ("Agreement #2") to lease the Property from [BUYER 2].
25. You led [K.L.] to believe the initial agreement was a mere option to lease with a formal lease to be prepared later.
26. At the time Agreement #2 was signed the Property was owned by [SELLER],. not [BUYER 2]. You did not inform [K.L] of this.
27. You did not inform [K.L] how you would be compensated.
28. Pursuant to Agreement #2 on or around September 6, 2017, [K.L] delivered a deposit of \$50,000.00 in trust to Re/Max Real Estate. The deposit was supposed to be for first and last month's rent.
29. As of approximately September 17, 2017, you represented both [K.L] and [BUYER 2]. You did not get written and informed consent from your clients regarding the inherent conflict of interest.
30. On or about April 25, 2018, you provided a letter to Re/Max Real Estate. The letter states, "regarding the property the closing will be "TBA" as it is not started its construction yet. All the deposits will stay in trust until we get the possession of the bays and at that time the transaction will be completed".
31. On or about September 24, 2018, you created an amendment that inserted "Landlord instructs Re/Max Real Estate South East to release initial deposit to Sam

Kalia, agent as commission". This amendment was signed by the lessor but not the leasee.

32. Based on your instructions, on or about September 26, 2018, Re/Max Real Estate issued a \$47,092.84 commission cheque to you.

33. You did not have authorization to remove the deposit as it was not an unconditional offer despite no specific conditions in Agreement #2. It was conditional for the following reasons:

- a) Multiple terms in Agreement #2 were TBA, or to be discussed. These terms were never settled between the parties, including even the rent schedule. Agreement #2 was understood as an option to lease with a formal lease to be prepared at a later date;
- b) The zoning for the gas station was not in place;
- c) The building was not constructed at the material time; and
- d) The offer to lease itself wasn't valid as [BUYER 2] did not own the Property at the material time. Further, the leasee wasn't aware the Property was under contract and Agreement #2 was not subject to that purchase and sale completing.

34. [K.L.] continued to request his deposit back from you as the zoning and other issues with the property were taking too long. At no time did you inform [K.L.] that you had taken his deposit as commission.

**RECA File #009988 [B.B LTD]**

35. In or around August of 2017 you approached [B.B LTD] about leasing a unit at the Property. [B.B LTD] decided they would be interested in leasing the Property to expand their daycare business.

36. On or about August 13, 2017, [B.B LTD] entered into a commercial agreement ("Agreement #3") to lease the Property from [BUYER 2].

37. You led [B.B LTD] to believe the initial agreement was a mere option to lease with a formal lease to be prepared later.

38. At the time Agreement #3 was signed the Property was owned by [SELLER], not [BUYER 2]. You did not inform [B.B LTD] of this.
39. You did not inform [B.B LTD] how you would be compensated.
40. Pursuant to agreement #3 on or around August 30, 2017 [B.B LTD] delivered a deposit of \$34,650.00 in trust to Re/Max Real Estate. The deposit was supposed to be for first and last month's rent.
41. As of approximately September 17, 2017, you represented both [B.B LTD] and [BUYER 2]. You did not get written and informed consent from your clients regarding the inherent conflict of interest.
42. On or about April 25, 2018, you provided a letter to Re/Max Real Estate. The letter states, "regarding the property the closing will be "TBA" as it is not started its construction yet. All the deposits will stay in trust until we get the possession of the bays and at that time the transaction will be completed".
43. On or about September 24, 2018, you created an amendment that inserted "Landlord instructs Re/Max Real Estate Southeast to release initial deposit to Sam Kalia, agent as commission". This amendment was signed by the lessor but not the leasee.
44. Based on your instructions, On or about September 26, 2018, Re/Max Real Estate issued a \$23,915.10 commission cheque to you.
45. You did not have authorization to remove the deposit as it was not an unconditional offer despite no specific conditions in Agreement #3. It was conditional for the following reasons:
- a) Multiple terms in Agreement #3 were TBA, or to be discussed. These terms were never settled between the parties. Agreement #3 was understood by

both parties as an option to lease with a formal lease to be prepared at a later date;

- b) The zoning for the day care was not in place;
- c) The building was not constructed at the material time; and
- d) The offer to lease itself wasn't valid as [BUYER 2] did not own the Property at the material time. Further, the leasee wasn't aware the Property was under contract and Agreement #3 was not subject to that purchase and sale completing.

46. At no time did you inform [B.B LTD] that you had taken their deposit as commission.

### **Why You Should Attend the Hearing**

The hearing is your opportunity to respond to the allegations and state your side of the case in front of the Panel.

### **Learn About the Hearing Process**

Please read these guides on the RECA website:

- *Hearing and Appeal Practice and Procedures Guideline and*
- *Guide for How to Represent Yourself at a Real Estate Council of Alberta Hearing or Appeal Panel*

*Both are found on the RECA Website: RECA>Complaints & Discipline>Hearing Information and Procedures*

### **What You Should Bring to the Hearing**

Bring any witnesses and evidence you want the Panel to consider, with you to the hearing.

### **What Will Happen If You Don't Attend**

If you do not attend the Panel may proceed to make a decision without you.



## **What Will Happen At the Hearing**

After hearing all evidence and argument the Panel will decide whether the Executive Director has proven any of the breaches. If no breach is proven you will face no sanction.

If the Panel finds a breach is proven the Panel may do one or more of the things listed in **section 43** of the *Real Estate Act*:

- Cancel or suspend your license
- Order you to pay a fine for each breach
- Order you to pay the cost of the investigation and the hearing
- Order you to complete an education course

## **Submitting Written Arguments After the Hearing**

You can provide written arguments at the end of the hearing or after the end of the hearing

You must provide these to the **Hearings Administrator** and **Counsel for the Registrar** (contact information below) **no later than 15 days after the end of the Hearing.**

Contact the Hearing Administrator if you need more time.

## **You Can Get Legal Advice**

You may get legal advice and may be represented by legal counsel at the hearing.

If you do not have a representative please read *Information for Unrepresented Industry Members*:

<http://www.reca.ca/industry/content/publications-resources/guides.htm>

### If You Object to a Panel Member

Please review who is on the Panel. If you object to any of the people being on the Panel, you must advise the Hearings Administrator **who you object to and why within 14 days** of receiving this Notice.

If you do not object to the Panel within 14 days, this Panel will conduct the hearing.

### Postponing the Hearing

If you are not available on the date set for the hearing you can apply to the Panel for a new date. Contact the lawyer for the Registrar and the Hearings Administrator as soon as possible if you need a new date.

Dated at Calgary, ALBERTA, on    AUGUST 2, 2022

"signature" \_\_\_\_\_

of the Real Estate Council of Alberta

### Contact Information

Hearings Administrator:	Lawyer for the Registrar:
Email: <a href="mailto:hearingsadmin@reca.ca">hearingsadmin@reca.ca</a>	Email: <a href="mailto:conductadmin@reca.ca">conductadmin@reca.ca</a>
Fax: 403 228 3065	Fax: 403 228 3065
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