

THE REAL ESTATE COUNCIL OF ALBERTA

Case Number: 011940
Name on Licence: David Wesley Thompson
Licence Type & Class: Real Estate Broker
Brokerage Name on Licence: David Thompson Real Estate Ltd.
Process: Section 39 & 83 of the *Real Estate Act*

Document: ADMINISTRATIVE PENALTY
Penalty: \$ 3,000

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: David Wesley Thompson

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

Rule 41 – *Licensees must:*

(e) ensure the role of the licensee is clearly understood by their clients and third parties;

Particulars of the contravention(s):

1. In or around July 202 you failed to ensure your role as a licensee in a transaction was clearly understood by your client contrary to section 41(e) of the *Real Estate Act Rules*.
 - a) In July of 2020 [D.M] contacted you in order to retain you as a real estate associate to search for a commercial property
 - b) You then showed [D.M] and his business associate several commercial properties that were available for lease. After these showings, [D.M] and his business associate directed you to inquire about another commercial property
 - c) You made inquiries about this property and communicated what you discovered back to [D.M]
 - d) During this time, you also represented [D.M] in the lease negotiations for a property his business was currently occupying
 - e) Given your history with [D.M] and your activity of making inquiries at [D.M]'s request, [D.M] believed you were acting as his agent. You stated you were not acting as [D.M]'s agent. You did not inform [D.M] either verbally or in writing that you were not acting on his behalf. This led to confusion on the expectations of what services you were providing. You failed to take any steps to ensure your role was clear.

The Registrar considered the following aggravating and mitigating factors:

Aggravating Factors

- You have failed to take accountability for your actions.
- You were a broker as the time of this conduct and should have known your obligations under the legislation
- You have explained that in commercial real estate sometimes you cannot always follow the legislation. This is not an acceptable excuse for your conduct

Mitigating Factors

- You have no previous discipline history

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: [B.T], 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 September 15, 2022.

“Signature”

Warren Martinson, Registrar
Real Estate Council of Alberta