

THE REAL ESTATE COUNCIL OF ALBERTA

Case Number: 006769-CM
Name on Licence: Kaukab Saher
Licence Sector and Class: Real Estate Associate
Conduct Brokerage: Currently registered with Vision Realty Inc. o/a
Century 21 Bravo Realty
Process: A Hearing under Part 3 of the *Real Estate Act*

Document: NOTICE OF HEARING

TO: Kaukab Saher

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

Hearing Information

Date: November 4, 2022
Time: 9:30 a.m.
Venue: Virtual Hearing
Hearing Panel: [K.S], Chair (Public Member)
[S.D], Panel Member (Licensee)
[J.L], Panel Member (Licensee)

(Alternates: [J.A], [L.M] and [W.R])

Counsel to the Panel: N/A

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

1. It is agreed that the above conduct is deserving of sanction for the following breaches:
 - a. Ms. Saher while carrying on business as a licensee dealt as a mortgage broker without having the appropriate authorization for that purpose issued by the Council contrary to Section 17(b) of the *Real Estate Act*:
 - i. During the transaction, Ms. Saher obtained financial documentation including [M.Y] tax assessments and T1 General to provide to [M.A].
 - ii. Ms. Saher did not have any written agreement with [M.Y] explaining as to why she needed these financial documents in her position as a real estate associate.
 - iii. [M.Y] was first informed by Ms. Saher that his mortgage had been preapproved for the property transaction.
 - iv. [M.A] emailed Ms. Saher the First National mortgage commitment documentation.
 - v. Ms. Saher informed [M.Y] that she would explain to him his monthly mortgage amount.
 - vi. Ms. Saher advised [M.Y] to sign the commitment letter from First National without any explanation of the document.
 - vii. Ms. Saher further completed the gift letter on [M.A]'s instructions that was required as part of the mortgage approval.
 - viii. [M.Y] was first informed by Ms. Saher that his mortgage was no longer approved.
 - ix. Ms. Saher was involved in the whole mortgage transaction from beginning to end.
 - b. Ms. Saher received money while carrying on business as a licensee without having entered into a service agreement with the person who provided the money or on whose behalf the money was to be held contrary to Section 18(2) of the *Real Estate Act*:

- i. During their initial meeting, Ms. Saher informed [M.Y] that she knew a mortgage broker who could assist him with obtaining mortgage approval but [M.Y] would have to pay him a fee.
 - ii. Ms. Saher provided [M.Y] with the name of [M.A] who was a mortgage broker in Vancouver, British Columbia.
 - iii. Ms. Saher informed [M.Y] that [M.A] would require payment of \$3000.00 to assist with the mortgage. [M.Y] negotiated this payment down to \$2000.00.
 - iv. On September 24, 2016, Ms. Saher asks [M.Y] for the \$2000.00 payment for [M.S]'s fee.
 - v. On September 25, 2016, [M.A] asked [M.Y] to give Ms. Saher the \$2000.00 fee owed to him.
 - vi. On September 26, 2016, [M.Y] informed [M.A] that he had given Ms. Saher the \$2000.00 as he requested.
 - vii. [M.A] directed Ms. Saher to pay \$1500.00 to him and give \$500.00 cash to an individual in Tim Hortons in Westwinds.
 - viii. There was never any service agreement signed between [M.Y] and Mr. Saher or between Ms. Saher and [M.A] regarding this payment.
- c. Ms. Saher failed to take reasonable steps to ensure that the licensee who she referred to her client was in fact authorized to carry out the activities for which the referral was made contrary to Rule 45(3) of the *Real Estate Act Rules*.
- i. During their initial meeting, Ms. Saher informed [M.Y] that she knew a mortgage broker who could assist him with obtaining mortgage approval but [M.Y] would have to pay him a fee.
 - ii. Ms. Saher provided [M.Y] with the name of [M.A] who was a mortgage broker in Vancouver, British Columbia.
 - iii. [M.A] did not have a license issued by the Real Estate Council of Alberta to practice as a mortgage broker in the Province of Alberta.
 - iv. Ms. Saher did not take any steps to ensure that [M.A] was authorized to deal with mortgages in Alberta.
 - v. Further, Ms. Saher did not take any steps to ensure that [M.A] was still employed at Scotiabank in British Columbia as a mortgage broker.

- vi. [M.A] was on long term disability at the time and was not authorized to process mortgages even in British Columbia.
- d. Ms. Saher failed to fulfil her fiduciary obligations to her client contrary to Rule 41(d) of the *Real Estate Act* Rules:
- i. On May 14, 2016, [M.Y] entered into an Exclusive Buyer Representation Agreement with Century 21 Bravo Realty where Ms. Saher was the designated agent acting on behalf of the brokerage.
 - ii. The Exclusive Buyer Representation Agreement began on May 14, 2016 and ended on November 30, 2016.
 - iii. This established a client relationship between Ms. Saher and [M.Y].
 - iv. On May 14, 2016, Ms. Saher also signed a Consumer Relationships Guide with [M.Y] which stated the responsibilities she owed to her client.
 - v. Ms. Saher showed multiple properties to [M.Y] who then decided to put an offer on [ADDRESS].
 - vi. Ms. Saher referred a mortgage associate by the name of [M.A] to [M.Y] who was not authorized to deal in mortgages in Alberta.
 - vii. Ms. Saher informed [M.Y] that he would have to pay [M.A] a fee so that he could assist him in obtaining a mortgage approval.
 - viii. Ms. Saher failed to inquire from [M.A] as to why he was charging a fee, and instead requested that her client [M.Y] pay the fee.
 - ix. Ms. Saher failed to inform [M.Y] that [M.A] was not doing the mortgage approval, but [F.S] was instead.
 - x. On September 26, 2016, [M.Y] waived the financing and home inspection condition.
 - xi. Ms. Saher failed to explain to [M.Y] about the risks of signing the waiver regarding financing and home inspection.

- xii. On October 14, 2016 Ms. Saher informed [M.Y] about the mortgage being denied by First National and how this could impact him losing his deposit.
- xiii. [M.Y] informed Ms. Saher that he wanted his documents back and his deposit. Ms. Saher informed him that could not happen.
- xiv. [M.Y] informed Ms. Saher that he would go to the Police to complain if he didn't receive his money back.
- xv. On October 15, 2016, Ms. Saher threatened her own client, [M.Y] of being arrested if he went to the Police to complain.

Virtual Hearings

Hearings at RECA are conducted virtually. The Hearing Administrator will provide you with the Guide to Virtual Hearings and you will receive help in participating in the virtual process.

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 <https://www.reca.ca/complaints-discipline/hearings-information-procedures/>

- *Hearing and Appeal Practice and Procedures Guidelines and*
- *How to Represent Yourself at a Real Estate Council of Alberta Hearing or Appeal*
- *RECA Self-Represented Program*

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 Registrar 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 authorization
- 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 Evidence

You can ask the Panel to allow you to provide written arguments at the end of presentation of evidence. The Panel will give directions on how this may be done.

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 Licensees here:

<https://www.reca.ca/complaints-discipline/hearings-information-procedures/>

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 October 6, 2022.
(date)

“SIGNATURE”

Warren Martinson
Registrar of the Real Estate Council of Alberta

Contact Information:

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