

Case Summaries

September 21 - November 21, 2022

- » Hearing Panel Decisions
- » Administrative Penalties
- » Letters of Reprimand

Case Summaries

Welcome to the Case Summaries monthly magazine.

Inside you will find the summaries for all disciplinary and regulatory decisions occurring at the Real Estate Council of Alberta (RECA) since the previous newsletter, including any suspensions and approved lifetime withdrawals from the industry.

The Case Summaries are drafted with a focus on learning opportunities, including issues that may be relevant but not directly related to the case at hand.

RECA is authorized to carry out conduct proceedings under [Part 3](#) of the *Real Estate Act*.

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 hands typing on a laptop keyboard. The image is partially obscured by a semi-transparent blue rectangular overlay that covers the upper half. The text 'Hearing Panel Decisions' is written in white, bold, sans-serif font across the blue area. The background shows the laptop keyboard and the person's arms and hands in motion.

Hearing Panel Decisions

Issues

The Notice of Hearing submitted by the Registrar outlined five breaches of the *Real Estate Act* and the corresponding Rules:

1. s.41(e) of the Rules – requiring licensees ensure that their role is clearly understood by their clients and third parties
2. s.42(a) of the Rules – requiring licensees not make representations or carry on conduct that is reckless or intentional and that misleads or deceives any person or is likely to do so
3. s.54(2) of the Rules, requiring licensees not directly or indirectly provide an inducement unless the inducement is provided by and on behalf of the brokerage
4. s.61(a) of the Rules, requiring licensees provide in a timely manner, true copies of any written offer or written acceptances

Facts

Investor in Bedi's Corporation's Development

- in July 2009, Bedi informed a consumer interested in investing in commercial real estate that there was a retail strip condominium project in development
- Bedi was the President and Director of the seller corporation of the condominium project
- Bedi told the consumer that with a down payment of \$45,000, the seller could help facilitate the purchase for them to open a convenience store in the development by arranging financing and carrying the deposit shortfall as a vendor take back (VTB) based on future profits generated through the business
- the consumer did not have a real estate associate representing them during this purchase transaction

Purchase Contract Signed

- in September 2009, Bedi provided the consumer with a pre-filled purchase contract for signature, naming the consumer as the buyer and the seller corporation as the vendor. Bedi signed as the seller corporation.
- the total purchase price (\$1,200,000), deposit (\$5,000 and \$115,000), and balance (\$1,080,000) amounts stated in purchase contract did not include GST
- in September 2009, the consumer provided the initial \$5,000 deposit to the brokerage
- in October 2009, Bedi arranged for and attended financing meetings with two lenders on behalf of the consumer. The consumer signed financing paperwork provided by Bedi and provided each institution with non-refundable commitment cheques of \$1,900 and \$2,000, respectively

Conditions Waived After Condition Date in Contract

- the date to waive conditions was set as October 15, 2009
- on October 27, 2009, on Bedi's advice, the consumer signed a document on brokerage letterhead regarding removal of conditions
- this document was addressed to Bedi and drafted by Bedi's colleague on instructions from Bedi
- at this point, the purchase contract was unenforceable, as the commitment date had already passed

Second Deposit Provided by Seller Corporation, not Buyer

- on January 26, 2010, the seller corporation provided a second deposit cheque (\$115,000) to the brokerage on behalf of the consumer
- on February 22, 2010, the second deposit was returned by the brokerage to the seller corporation as the deposit had to come from the consumer
- the consumer then provided a cheque for the amount of the second deposit (Bedi provided \$85,000 of this amount to the consumer)

Vendor-Take-Back Mortgage Falls Through

- in or around August 2010, Bedi contacted the consumer to advise them that the seller corporation did not have the VTB amount available and would have to terminate the deal.
- Bedi indicated they would personally refund all fees and deposits paid by the consumer
- on July 15, 2010, the consumer signed a letter presented by Bedi, acknowledging the consumer's default under the purchase contract and agreeing that the \$120,000 held by the brokerage would be divided equally between the seller corporation and the brokerage. This document was addressed to Bedi and was drafted by Bedi's colleague.
- based on the commission statement, Bedi being President and Director of the seller corporation, received \$60,000 of the deposit money. As an owner of the brokerage, Bedi would also have received a share of the remaining \$60,000
- the consumer did not receive any refund related to the failed transaction

Outcome

On October 4, 2022, the Hearing Panel found that the Joint Submission on Sanction presented was both reasonable and appropriate, and ordered Bedi to pay:

- \$14,500 for breaches of s. 42(a), 41(e), 54(2), and 61(a) of the Rules
- \$1,000 in costs

James Kenneth Knutson,

currently not registered; registered at time of conduct with Devonshire (The Park) Inc. O/A Maxwell Devonshire

Issues

The Notice of Hearing submitted by the Registrar outlined three breaches of the *Real Estate Act* and the corresponding Rules:

1. s.38(4)(a) of the *Real Estate Act*, which requires cooperation with RECA investigators during an investigation
2. s.41(1)(a) of the Rules, requiring licensees to act honestly
3. s.42(g) of the Rules, requiring licensees to act in a manner that does not undermine the public confidence, or integrity of the industry

Facts

- Knutson did not attend the hearing
- the Hearing Panel was satisfied with service of the Notice of Hearing upon Knutson and proceeded in his absence on November 25, 2021
- over February–March 2019, Knutson failed to cooperate with a RECA investigation concerning default court judgements, using typical Organized Pseudolegal Commercial Arguments (OPCA), which have been recognized by the Courts in Alberta and elsewhere to include concepts and strategies that seek to evade or disrupt due legal process
- in February 2019, Knutson failed to respond to questions emailed during a RECA investigation concerning default court judgments
- on February 15, 2019, during a call with RECA investigators, Knutson evaded questions related to the investigation by asking for details about the complainant and criticizing the investigator's grammar in an prior email request
- on March 4, 2019, RECA received correspondence via registered mail from Knutson. The package contained 162 pages of documentation that did not supply any of the information requested by RECA
- in 2019, in the course of re-registering their licence, Knutson declared they intended to abide by the *Real Estate Act*, *Real Estate Act* Rules, and laws that apply to a professional authorized to trade in real estate or deal in mortgages
- Knutson is a party to multiple court matters as are outlined below:
 - Bank of Nova Scotia v James Knutson, Alberta Court of Queen's Bench Docket 1603 21486
 - MCAP Service Corporation v James Knutson, Alberta Court of Queen's Bench Docket 1603 18699
 - Capital One Bank (Canada Branch) v James Knutson, Alberta Court of Queen's Bench Docket 1803 08102
 - Knutson (Re) 2018 ABQB 1050

- Knutson (Re) 2021 ABQB 367
- Knutson (Re) 2018 ABQB 858

Outcome

On November 25, 2021, the Hearing Panel found that based on the facts, Knutson engaged in the following conduct deserving of sanction:

- a breach of s.38(4)(a) of the *Real Estate Act*, which requires cooperation with RECA investigators during an investigation
- a breach of s.41(1)(a) of the Rules, requiring licensees to act honestly
- a breach of s.42(g) of the Rules, requiring licensees to act in a manner that does not undermine the public confidence, or integrity of the industry

The Hearing Panel ordered written submissions on sanction and costs.

Each of the parties were provided with deadlines for their submissions, Knutson did not provide a submission but did supply correspondence.

The submissions on sanction submitted by the Registrar sought a sanction of a lifetime cancellation of Knutson's license based on the Hearing Panel's finding of ungovernability.

No further submissions were made regarding the other breaches found by the Hearing Panel.

On September 6, 2022, the Hearing Panel under s.43 of the *Real Estate Act* ordered:

- all authorizations issued by RECA to Knutson to be cancelled immediately
- Knutson will not be eligible to apply to RECA for new authorizations for a period of 5 years from the date of the decision
- Knutson must complete all education as though he had never received previous authorization

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 Rules s.91(4)

A brokerages accounting shall be filed with the Council not later than three months after the end of the brokerage's fiscal year.

William Stewart Carstairs,

Real Estate Broker registered with Best Step Real Estate Services Ltd.

- Carstairs' brokerage fiscal year end was March 31, 2022
- RECA sent numerous reminder emails to Carstairs' brokerage email address and personal email address reminding them that the required accounting forms must be filed by June 30, 2022
- each email reminder gave clear instructions on what forms were required, a link to RECA's website that explained how to access the forms, and a warning that failure to complete the required forms by June 30, 2022, could result in an administrative penalty
- Carstairs' financial year end reports have not been received to date
- \$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 failed to file the forms by their fiscal year end deadlines despite RECA sending them numerous reminders.

Real Estate Fiscal Year End

Real Estate Act Rules s.53(c)

A licensee must provide to their broker in a timely manner originals or copies of all documentation related to a trade in real estate.

Gurinderjit Singh Gill,

Real Estate Associate registered with Polaris Realty (1995) Ltd. o/a Maxwell Polaris

- on February 4, 2022, Gill completed an Offer to Purchase for their buyer clients
- the property was owned by Gill
- Gill's brokerage had a policy that personal trades must run through the brokerage, and licensees must report personal trade transactions to their broker prior to an Offer to Purchase being presented
- Gill failed to report the personal trade to their broker and failed to turn in any documentation to the brokerage related to the personal trade
- \$1,500

Learning Opportunity

A licensee must provide to their broker in a timely manner originals or copies of all documentation related to a trade in real estate. In this case, the licensee's brokerage had a policy that all personal trade transactions must run through the brokerage prior to an offer to purchase being presented. The licensee failed to run the trade through the brokerage and failed to provide any documentation to the brokerage.

Personal Trades in Real Estate

Real Estate Act Rules s.43(1)

A licensee must enter into a written service agreement with their clients.

Christopher Michael Jochem,

Real estate associate registered with Braemore Management Ltd.

- in April 2021, Jochem provided property management services to a client
- Jochem discussed providing services via text message with the client but did not enter into a written service agreement with them
- \$1,000

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

Real Estate Act Rules s.80.7(3)

A licensee shall not provide any services to their clients in which the licensee has or will have a conflict of interest without receiving written and informed consent of the client.

Christopher Michael Jochem,

Real estate associate registered with Braemore Management Ltd.

- Jochem was managing a property on behalf of their client
- in September 2021, Jochem entered into a Residential Lease Agreement for the property to rent the property themselves
- this was a conflict of interest, and Jochem did not disclose this conflict of interest to the client
- Jochem leased the property at \$1,325/month for two months
- the previous rent for this property had been \$1,400/month
- Jochem performed the move-in inspection of the property
- at the time of inspection, the client found out Jochem was renting the property
- \$1,500

Learning Opportunity

Licensees must inform their clients of any potential conflicts of interest. In this case, the licensee should've provided written notification to the client that they were interested in entering into a residential lease agreement to rent the property, and provided the client with options for mitigating the potential conflict of interest such as having another licensee with the brokerage represent the client in the deal.

Disclose Conflicts of Interest

Real Estate Act Rules s.41(e)

A licensee must ensure that their role is clearly understood by their clients and third parties.

David Wesley Thompson,

Real estate broker registered with David Thompson Real Estate Ltd.

- in July 2020, an existing client contacted Thompson to search for a commercial property
- Thompson showed the client and their business associate several commercial properties that were available for lease
- Thompson also made inquiries about an additional property on the direction of the client
- the client believed Thompson was acting as their agent in the search for a new property
- Thompson did not inform the client either verbally or in writing that they were not acting on their behalf for this commercial property search
- \$3,000

Learning Opportunity

Licensees must explain their role to everyone involved in a real estate transaction before they ask or receive information about a potential client's real estate needs. In this case, the licensee failed to take any steps to ensure their role was clear. This led to confusion on the expectations of what services the licensee was providing.

Ensure Role is Understood – Real Estate Brokerage

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

A person who is required to participate in an investigation shall cooperate with the investigator and promptly respond to their questions.

[Tony Dihn](#),

Not licensed

- on June 7, 2022, during a telephone conversation to discuss Dihn's cooperation with an investigation being conducted by RECA, Dihn provided an email address for further communications
- on June 7, 2022, RECA emailed Dihn a demand for information relevant to an investigation under the *Real Estate Act*
- Dihn failed to respond by the June 13, 2022 deadline indicated in the email
- on June 14, 2022, Dihn confirmed via telephone their receipt of the demand letter and discussed the importance of cooperating with the investigation
- on June 14, 2022, a second demand letter was emailed to Dihn and a delivery confirmation was obtained
- Dihn failed to respond by the June 21, 2022 deadline indicated in the second email
- on June 23, 2022, Dihn confirmed via telephone their receipt of the demand letters
- Dihn failed to cooperate with the investigation
- \$5,000

Learning Opportunity

All persons are required to cooperate with an investigation. Cooperation means providing truthful and complete responses in a timely and constructive manner. In this case, the individual failed to cooperate with an investigator and answer questions regarding an open investigation. The individual was sent multiple requests to provide information and failed to respond to each request. This was a failure to cooperate with the investigator.

[Guide to Investigations for Consumers](#)

[Guide to Investigations for Licensees](#)

Real Estate Act s.17(c)

A licence is required to act as a property manager.

[Lisa Xie,](#)

Not licensed

- in June 2022, a consumer contacted Xie about renting a property advertised for rent on Rent Faster
- Xie did not hold a property manager licence with RECA, but engaged in activities that require a licence
- Xie showed the consumer the property
- Xie collected the individual's rental application as well as other documents containing personal information
- Xie was advertising multiple properties for rent on behalf of property owners
- Xie told the RECA investigator that they worked for a property management company and were following the instructions of licensees who also worked for the company
- Xie refused to provide the names of the property management company or licensees they worked with
- \$5,000

Learning Opportunity

No person shall act as a property manager unless that person holds the appropriate licence for that purpose issued by the Industry Council relating to that industry. 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 individual was not licensed to practice in property management but was providing multiple services that required a licence.

Trading in Real Estate – Property Management

Real Estate Act s.41(b)

A real estate licensee must provide competent service.

[Roberta Ann Widdifield](#),

Real estate associate registered with Century 21 – Grande Prairie Realty Inc.

- Widdifield booked a property inspection on behalf of their buyer clients
- Widdifield knew in advance they would not be able to attend the inspection and discussed the situation with their broker
- Widdifield's broker advised them that they needed written permission from the listing associate for the inspector and buyer to attend the property without Widdifield
- the inspector attended the property and was joined by Widdifield's buyer client
- Widdifield did not have permission from the seller or their agent to allow the inspector and buyer to be unattended in the property
- this was a failure to provide competent service
- \$1,500

Learning Opportunity

Licensees must ensure that conditions and stipulations outlined in the contract, including who can access the property and perform the property inspection, are followed or are updated and signed by all parties.

Sellers expect licensees will access the property only when access is granted by the seller, and that the licensee will remain in the care and control of that property at all times. Leaving anyone in a property unattended or bringing anyone in the property requires permission from the seller or the seller's agent. In this case, the licensee failed to gain permission from the seller to allow the inspector and buyer attend the inspection without the licensee.

[Access to Property – Home Inspections](#)

[Competent Service](#)

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 s.41(b)

A real estate licensee must provide competent service.

Real estate broker

- on November 24, 2021, property sellers gave the broker permission to have a property inspector complete an inspection of their property
- the broker arrived at the property for the inspection but left before it was complete, leaving the property inspector alone in the property
- the broker did not ask the seller or their agent for permission to leave the property or if it was acceptable to leave the inspector unattended

Learning Opportunity

Licensees must ensure that conditions and stipulations outlined in the contract— including who can access the property and perform the property inspection— are followed or are updated and signed by all parties.

Sellers expect licensees will access the property only when access is granted by the seller, and that the licensee will remain in the care and control of that property 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.42(f)

A real estate licensee must not physically, sexually, emotionally, or verbally abuse a client or licensee related to any trade in real estate.

Real estate broker

- in December 2021, the broker and another individual hosted a Christmas party for staff, clients, peers, and family members
- as the evening progressed the relationship between the broker and a licensee in attendance began to deteriorate
- after the evening ended and all parties at left, the broker and the other licensee began emailing one another using vulgar and offensive language while accusing one another of poor behaviour and decisions
- in one of these emails, the broker stated, "You talk to me like that again you will have a bullet in your head"
- the aggressive and abusive emails continued for days after the event

Learning Opportunity

Licensees must treat members of the public, RECA, licensees, and third parties with civility, respect, and professional courtesy at all times. In this case, the licensee repeatedly demonstrated offensive and unprofessional behaviour, including issuing threats of physical harm, towards another individual during multiple communications.

Good Character – Licensing

Real Estate Act Rules s.42(g)

A licensee must not engage in conduct that undermines, harms, or bring the industry into disrepute.

Real estate associate

- on September 12, 2021, during telephone conversation with the partner of one of their clients, the associate suggested that if their client were to complain about their conduct, the associate would contact their place of employment to complain about the client
- these comments were unprofessional in nature and bring the industry into disrepute

Learning Opportunity

Licensees must treat members of the public, RECA, licensees, and third parties with civility, respect, and professional courtesy at all times. In this case, the licensee failed to show respect and professionalism towards a client. Consumers must not be threatened with retaliatory action if they suggest filing a complaint with RECA.

Good Character – Licensing

Real Estate Act s.41(b)

A licensee must provide competent service.

Real estate associate

- on April 26, 2022, the associate listed a half-duplex property
- the associate hired a professional to measure the property who provided a report that included both the exterior and interior measurements
- the Residential Measurement Standards (RMS) requires the measurement of the interior perimeter walls (paint-to-paint) at floor level for properties with common walls, such as half-duplexes, townhouses, and apartments
- the associate used the exterior measurement when advertising the total above grade size for the property

Learning Opportunity

The Residential Measurement Standard (RMS) guidelines were created to offer a consistent means of representing the above grade size of a property, thereby allowing interested parties to accurately compare properties. Licensees must measure any residential property using RMS or engage a third party to measure the property using RMS. In this case, the licensee advertised the property including the exterior measurements. This was a failure to ensure the advertised property size was consistent with RMS.

Residential Measurement Standard Guidelines

Real Estate Act s.41(b)

A licensee must provide competent service.

Real estate associate

- on March 10, 2022, the associate obtained permission to show a property
- on March 11, 2022, the associate accessed the wrong property, not the one that was approved to show
- the occupant of the property accessed was upset by unapproved access

Real estate associate

- in April 2022, the associate had permission to show a property from 3:15-4:00 p.m.
- the associate arrived with their buyer clients at 3:00 p.m.
- the associate knocked and entered the property
- the occupant was in the property at the time

Learning Opportunity

Licensees must ensure they exercise reasonable care and skill at all times when showing properties. In these cases, the licensee failed to confirm the property address and approved time prior to entering the property. This was a failure to exercise reasonable care and skill when accessing a property.

Access to Property

Real Estate Act s.54(1)(b)

A real estate licensee must not promise to pay a commission, referral fee or other remuneration, directly or indirectly, except through the brokerage with which they are registered.

Real estate associate

- on November 2, 2021, the associate promised to pay their buyer clients a \$3000 referral in connection with a property
- on November 3, 2021, the buyer clients entered a purchase contract for the property
- when the transaction closed the associate gave their buyer clients \$3,000
- the funds were not paid through the associate's brokerage

Learning Opportunity

A licensee must not promise to pay a commission, referral fee or other remuneration to any person resulting from or in connection with a trade in real estate except through the brokerage with which they are registered. In this case, the licensee failed to go through their brokerage to pay a client referral fee.

Prohibitions - Licensees

Real Estate Act s.43(1)

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

Real estate associate

- in April 2022, after exchanging text messages with a property owner who expressed interest in selling their property, the associate created a brochure advertising the property
- the associate failed to enter a service agreement with the owner prior to advertising their property for sale

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 their 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 ensure there was a written service agreement in place with the client when they listed the property.

Written Service Agreements



RECA Management

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JANICE HARRINGTON
Chief Operating Officer

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CONTACT RECA

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

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