

Case Summaries

November 21, 2022 - February 13, 2023

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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 on the left side, which contains the title text. The background is slightly blurred, showing the laptop and some papers on a desk.

Hearing Panel Decisions

Sameer Kalia,

Real estate associate, currently not registered. Previously registered with Lampas Holdings Ltd. o/a Re/Max River City. Registered at the time of conduct with Re/Max Real Estate (Edmonton) Ltd. o/a Re/Max Real Estate

Issues

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

1. s.41(d) of the Rules, which requires licensees to fulfil their fiduciary obligations to their clients
2. s.42(a) of the Rules, which requires licensees to act in a manner that is not reckless, or intentional to mislead or deceive others
3. s.54(3) of the Rules, which requires licensees to disclose all conflicts of interest and obtain written and informed consent from their clients

Facts

- on September 16, 2022, at the hearing, the parties submitted to a Hearing Panel an Admission of Conduct Deserving of Sanction pursuant to s.46 of the *Real Estate Act*, as well as a Joint Submission on Sanction
- from February 2017 to March 2018, Kalia represented a buyer interested in purchasing an undeveloped property
- in February 2017, the buyer entered into a property purchase and sale agreement with the closing date subject to rezoning approval
- the conditions were fulfilled and the sale closed on March 6, 2018
- in February 2017, Kalia began marketing the property for lease on behalf of the buyer
- in September 2017, Kalia entered into an agreement to lease the property for the buyer
- Kalia did not have the seller's permission to market, or secure leases for the property on behalf of the buyer, before the closing date
- the property did not have proper zoning for the proposed leases
- Kalia approached three potential lessees for the purpose of securing leases for the property on behalf of the buyer
- Kalia represented both the buyer and the lessees without disclosing the conflict of interest to the lessees
- the lessees did not know the property was still owned by the seller
- the lessees delivered rental deposit cheques to Re/Max Real Estate
- at the time the deposits were delivered, Kalia provided a letter to the brokerage that stated, "regarding the property closing will be "TBA" as it is not started its construction yet. All the deposits will stay in trust until we get possession of the bays and at that time the transaction will be completed."

- in September 2018, Kalia provided an amendment to the letter, which read "Landlord instructs Re/Max Real Estate Southeast to release initial deposit to Sam Kalia, agent as commission"
- the amendment was signed by the lessor but not the lessees
- in September 2018, Kalia received approximately \$90,000 from the lessees' deposits
- Kalia did not have the authority to remove the deposits from trust, as the leases were still conditional
- Kalia did not inform the lessees that he had taken their deposits as commission
- at no material time was any of the proper zoning in place for the property
- at no material time did construction begin on the property

Outcome

On December 21, 2022, the Hearing Panel gave an oral decision and imposed the following sanctions:

- Kalia's licence was suspended for 19.5 months, commencing May 7, 2021, the date he was first suspended for these matters under s.53 of the *Real Estate Act*.
- \$10,000 for the breach of s.42(a) of the Rules
- \$6,000 for the breach of s.41(d) of the Rules
- \$5,000 for the breach of s.54(3) of the Rules
- \$1,000 in costs

Angeline Vandhana Lal,

Real estate associate and mortgage associate; registered at the time of conduct with 4 Million.ca Inc. o/a Estateview and 1170245 Alberta Ltd. o/a Dominion Lending Centres Global

Issues

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

1. s.41(d) of the Rules, which requires licensees to fulfil their fiduciary obligation to their clients
2. s.42(a) of the Rules, which requires licensees not make representation or carry on conduct that is reckless or intentional and that misleads or deceives any person or is likely to do so
3. s.42(b) of the Rules, which requires licensees not participate in fraudulent and unlawful activities in connection with the provision of service or in any dealings
4. s.46(2) of the Rules, which requires licensees not delegate, assign, request, direct or in any way allow an unlicensed or unregistered assistant to perform tasks that must only be performed by a licensee
5. s.46(3) of the Rules, which requires licensees ensure that all clients, customers, and the public have full knowledge that any unlicensed assistant is unlicensed

Facts

- on August 2, 2022, at the hearing, the parties submitted to a Hearing Panel a Hearing Panel an Admission of Conduct Deserving of Sanction pursuant to s.46 of the Real Estate Act, as well as a Joint Submission on Sanction
- between April and October 2021, Lal allowed Gagandeep Singh, whose licences to trade in real estate and mortgages had been suspended since November 30, 2020, to perform activities requiring a licence, on their behalf
- a number of Lal's clients believed that Singh was their representative
- for multiple transactions, Lal failed to interact with the clients, permitting Singh to act as their only point of contact
- on multiple occasions, Lal used Singh's Docusign account to send consumer relationship guides, mortgage documents, and client representation agreements for signature
- on multiple occasions, Lal failed to sign or directly provide to clients any executed documents related to their trades in real estate

Outcomes

The Hearing Panel accepted the Admission of Conduct Deserving of Sanction as well as the Joint Submission on Sanction. On October 17, 2022 the Hearing Panel ordered Lal to pay:

- \$10,000 for the multiple breaches of s.42(a) of the Rules
- \$1,000 in costs

Issues

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

1. s.17(b) of the Act, which requires licensees have the appropriate licence to deal as a mortgage broker
2. s.18(2) of the Act, which requires licensees to have a signed written service agreement in place before receiving money from a client
3. s.41(d) of the Rules, which requires licensees to fulfil their fiduciary obligations to their clients
4. s.45(3) of the Rules, which requires licensees take reasonable steps to ensure that any licensee they refer their client to is licensed to perform the activities related to the referral

Facts

- on November 4, 2022, at the hearing, the Registrar submitted to a Hearing Panel an Admission of Conduct Deserving of Sanction pursuant to s.46 of the *Real Estate Act*, as well as a Joint Submission on Sanction
- Saher did not attend the hearing
- on May 14, 2016, Saher entered into an exclusive representation agreement with a buyer client who had no knowledge of the purchase process and a fluctuating income
- Saher referred the buyer to a mortgage broker (referred broker) Saher claimed could assist them with getting a mortgage approval for a cost of \$3,000, which the buyer negotiated to \$2,000
- on September 17, 2016, the buyer submitted an offer of \$370,000 on a property
- the seller declined the offer saying they would not accept less than \$378,000
- Saher encouraged the buyer to submit an offer of \$378,000, despite the buyer's discomfort with the amount
- on September 19, 2016, the seller accepted the buyer's offer of \$378,000
- the offer stipulated a possession date of November 28, 2016, with conditions that included the buyer securing financing by September 26, 2016
- the buyer was required to submit a \$5,000 initial deposit as part of the offer, with an additional \$5,000 due upon removal of the conditions
- on September 19, 2016, the referred broker advised the buyer that their downpayment, which they would be paying from a line of credit, would need to be treated as a gift to secure financing

- on September 20, 2016, the buyer provided a \$5,000 bank draft to the seller's licensee
- on September 22, 2016, Saher advised the buyer that the referred broker had communicated that a mortgage had been approved
- at the referred broker's request, Saher forwarded the buyer's confidential documents, which had not been forwarded prior to the initial approval
- the referred broker was not licensed to practice as a mortgage broker at that time, so they used a second, licensed broker (mortgage licensee) to submit the buyer's documents to the lender
- the buyer had no knowledge that the mortgage licensee was involved
- on September 22, 2016, the mortgage licensee sent the conditional mortgage commitment from the lender to the referred broker
- on September 23, 2016, the buyer asked the referred broker questions about the mortgage. The referred broker directed the buyer to ask Saher their questions
- that same day, in response to the buyer's inquiry about the mortgage, Saher made arrangements to meet with them to explain the details and sign documents
- on September 23, 2016, the mortgage licensee asked the referred broker to have the buyer sign a consent form for the mortgage application
- on September 23, 2016, the lender provided a mortgage commitment with conditions including the confirmation of a satisfactory gift letter from immediate family members only, confirmation of a down payment, and income verification
- Saher did not ask the referred broker the reason the mortgage licensee was providing the mortgage documentation and never informed the buyer of the arrangement between Saher, the referred broker, and the mortgage licensee
- the mortgage licensee assumed the referred broker would be explaining the mortgage to the buyer
- the referred broker sent instructions for the gift letter and the mortgage commitment to Saher who had the buyer sign the documents and complete the gift letter
- to satisfy the gift condition, the buyer transferred funds to a friend and then had the friend return the funds as a gift. The signature and name of the friend were incorrect on the gift letter provided to Saher
- on September 24, 2016, Saher requested \$2,000 from the buyer for the referral broker's fee. Saher did not ask the referred broker why a fee was being requested
- on September 25, 2016, Saher requested the contact details for the buyer's friend
- on September 25, 2016, the referred broker advised the buyer to provide his fee to Saher. Saher transferred \$1,500 from the buyer to the referred broker and hand delivered the remaining \$500 to a third-party on direction from the referred broker
- Saher did not have an agreement in place to handle the transfer of the funds
- on September 26, 2016, after Saher told the buyer they would lose the house if they didn't waive conditions, the buyer signed a notice to waive conditions

- Saher did not discuss with the buyer any risks of signing the notice before financing had been secured
- on October 14, 2016, the referred broker informed Saher that the lender had denied the mortgage, which Saher relayed to the buyer
- the buyer requested return of the funds they had paid
- when Saher advised the buyer they were unable to return the funds, the buyer threatened to go to the police. Saher told the buyer that they would also be arrested if they involved the police.
- on November 3, 2016, at the buyer's request, Saher met with them to return their confidential documents
- on November 7, 2016, the buyer contacted a lawyer to assist them in getting their deposit funds returned
- on November 28, 2016, the closing date for the property, no financing was in place and the deal collapsed, causing the buyer to lose their deposit
- on November 30, 2016, Saher's representation agreement with the buyer lapsed
- with the help of a lawyer, the buyer had a portion of their deposit returned

Outcome

The Hearing Panel accepted the Admission of Conduct Deserving Sanction as well as the Joint Submission on Sanction. On November 30, 2022, the Hearing Panel ordered Saher to pay:

- \$10,000 for the breach of s.17(b) of the Act
- \$1,500 for the breach of s.18(2) of the Act
- \$4,000 for the breach of s.41(d) of the Rules
- \$1000 for the breach of s.45(3) of the Rules
- \$1,000 in costs

A close-up photograph of a person's hand typing on a silver laptop keyboard. The hand is wearing a blue sleeve and a thin blue bracelet. 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. The background is softly blurred, showing a green plant and a yellow cup.

Administrative Penalties

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

A person relevant to an open investigation shall cooperate with investigators, and promptly respond to their questions.

Mohsin Iqbal,

Real estate associate registered at the time of conduct with Five Star Realty Ltd. o/a Five Star Realty. Currently not registered.

- on June 5, 2020, Iqbal was notified of an investigation into their conduct and instructed to answer provided questions by June 26, 2020
- Iqbal failed to meet this deadline
- on July 2, 2020, Iqbal was notified that they had failed to meet the deadline and informed that RECA would issue a Notice of Failure to Cooperate if the provided questions were not answered by July 15, 2020
- on July 17, 2020, RECA received a response but the answers provided did not include any meaningful detail
- this was a failure to cooperate with the request for information
- on August 24, 2020, Iqbal was notified of an investigation into their conduct and instructed to provide answers to questions by September 14, 2020
- Iqbal failed to meet this deadline
- on September 23, 2020, Iqbal was sent a copy of the notification of investigation via registered mail and instructed to provide answers to questions by October 14, 2020
- Iqbal failed to meet this deadline
- on December 3, 2020, Iqbal was notified that they had failed to cooperate with the investigation and information was demanded under section 38 of the *Real Estate Act* with a deadline of January 7, 2021
- the correspondence included a direction to provide dates for the purpose of attending RECA's office for an interview in relation to this case
- the demand made clear that failing to cooperate could result in an Administrative Penalty of up to \$25,000
- Iqbal did not respond to this demand and ceased all further communications
- as of October 29, 2021, a response to these questions had not been received and Iqbal had failed to attend RECA's offices for an interview
- \$25,000

Learning Opportunity

Licensees and individuals are required under the *Real Estate Act* to cooperate with an investigation. Cooperation means providing truthful and complete responses in a timely and constructive manner. In this case, the licensee failed to cooperate with an open investigation. The licensee was contacted numerous times and continually failed to provide the information requested. These actions were failures to cooperate with an investigator.

[Guide to Investigations for Licensees](#)

[Cooperate with the Real Estate Council of Alberta](#)

Real Estate Act Rules s.41(d)

A real estate industry member must fulfill their fiduciary duties to their clients.

Christina Marie Giuffre,

Real estate associate registered with Century 21 Bamber Realty Ltd.

- Giuffre represented a seller in negotiations for a property
- the buyer, a licensee, submitted an offer of \$135,700 with an agreement to waive the buyer brokerage commissions
- the seller countered with \$147,000 without buyer commissions
- Giuffre texted the seller "I presented our counter at \$147,000 (without their commissions)"
- the buyer countered that with an offer of \$142,500
- Giuffre texted the seller "We need to adjust price given they are taking off their commissions"
- the seller believed this to mean they had to accept this counteroffer from the buyer
- Giuffre implied the seller and buyer counteroffers were the same, which was incorrect
- both counteroffers were without the buyer commissions, but had a different purchase price
- the net proceeds to the seller were less in the \$142,500 counteroffer
- the seller was not required to adjust the price and had the option to refuse the counteroffer
- Giuffre's text was misleading and failed to describe the seller's options accurately
- \$1,500

Learning Opportunity

Licensees must always fulfil their fiduciary obligations to their clients. In this case, the licensee sent misleading messages to their client, and failed to meet their fiduciary obligation to their client by providing advice that was inconsistent with the client's best interest.

Real Estate Act Rules s.80.84(1)(e)

A condominium manager broker must ensure the business of the brokerage is carried out competently and in accordance with the Act, the Bylaws, and these Rules.

Sandra Lynn Johnston,

Condominium management broker registered with Insight Condo Services Inc.
o/a Insight Condo Services

- on December 1, 2021, Johnston's condominium management brokerage, Insight Condo Services, was licensed with RECA
- Johnston responded "yes" on the licensing application that their brokerage had an active errors and omissions insurance policy
- from December 1, 2021 to August 24, 2022, Johnston's brokerage failed to have errors and omissions insurance
- on August 25, 2022, Johnson obtained errors and omissions insurance for their brokerage
- \$1,500

Austin Huan Dang Nguyen,

Condominium management broker registered with Linc Realty Advisors Inc. o/a AG Property Services

- on January 13, 2022, Nguyen's condominium management brokerage, AG Property Services, was licensed with RECA
- Nguyen responded "yes" on the licensing application that their brokerage had an active errors and omissions insurance policy
- from January 13, 2022 to September 19, 2022, Nguyen's brokerage failed to have errors and omissions insurance
- on September 20, 2022, Nguyen obtained errors and omissions insurance for their brokerage
- \$1,500

Learning Opportunity

All condominium management brokerages are required to carry errors and omissions insurance. A condominium management broker must also ensure the business of the brokerage is carried out in accordance with the legislation. In these cases, the brokerages did not have errors and omissions insurance for over eight months and the brokers had stated that they did have an active insurance policy on their licensing application. The brokerages put their clients at risk as they were not protected by insurance.

Errors and Omissions Guidelines

Real Estate Act Rules s.91(4)

A brokerage's accounting shall be filed with the Council no later than three months after the end of that brokerage's fiscal year end.

Glen Anthony Checkley,

Real estate broker registered with Tristone Commercial Real Estate Ltd.

- Checkley's brokerage fiscal year end was June 30, 2022
- RECA sent numerous email reminders to the brokerage that the required accounting forms were due September 30, 2022
- each email reminder gave instructions on what forms were required, a link to RECA's website explaining how to access the forms, and a warning that failure to file the forms by September 30, 2022, could result in an administrative penalty
- to date, RECA has not received Checkley's brokerage fiscal year end forms
- \$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



RECA Management

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

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