

THE REAL ESTATE COUNCIL OF ALBERTA

IN THE MATTER OF a hearing under Part 3,
Sections 39(1) (b) (I) and 41(1) of the
REAL ESTATE ACT, R.S.A. 2000, c.R-5

AND IN THE MATTER OF a Hearing regarding the conduct of
SHANE CAMERON VOTH, Real Estate Associate
Current brokerage: EXP Realty of Canada Inc. o/a EXP Realty
Conduct Brokerage: 4th Street Holdings Ltd., o/a Re/Max Real Estate (Central)

Hearing Panel Members: [G.F], Hearing Panel Chair
[A.S]
[W.R]

Hearing Date: May 11, 2023

Decision Date: May 11, 2023 (issued June 12, 2023)

Submissions: Gen Zha, Legal Counsel for the
Registrar, Real Estate Council of Alberta

Mathew Epp, Legal Counsel for
Shane Cameron Voth, Licensee

AMENDED Hearing Panel Decision
Conduct Deserving of Sanction (Phase I) and Sanction and Costs (Phase II)

On April 14, 2023, a Notice of Hearing (Exhibit 1) was issued to Real Estate Associate, Shane Cameron Voth (the "Licensee"). The Notice of Hearing alleged that:

- 1) On or about March 2021, the Licensee committed forgery in connection with the provision of services, contrary to section 42(b) of the Real Estate Act Rules when the Licensee:
 - a) Represented [P.N] and [B.K] (the "clients") regarding the purchase of a property and house that was under construction at [ADDRESS]
 - b) Knowingly forged the signatures of the clients on an Exclusive Buyer Representation Agreement ("ERBA")
 - c) Committed forgery so that the Licensee could be paid a commission.

- 2) On or about March 2022, the Licensee committed forgery in connection with the provision of services, contrary to section 42(b) of the *Real Estate Act Rules*:
 - a) While being investigated regarding the March 2021 forgery, the Licensee knowingly forged an AuthentiSign Signing Certificate by replacing the Licensee's email address with another email address.
 - b) The Licensee committed this forgery so that he could deceive RECA investigators and avoid consequences for the March 2021 forgery.

- 3) On or about March 11, 28, 29 and 31, 2022, the Licensee failed to cooperate with an investigator conducting an investigation contrary to Section 38(4)(a) of the *Real Estate Act*, when the Licensee:
 - a) Provided false answers and information to investigators in response to a variety of questions attempting to deceive the investigators and end an investigation in to the March 2021 forgery.

On April 29, 2023, the Licensee was personally served with the Notice of hearing, as declared in the Affidavit of Service (Exhibit 2).

Phase I – Conduct Deserving of Sanction

On May 11, 2023, at the hearing of this matter, an Agreement of Conduct Deserving of Sanction dated May 10, 2023 (Exhibit 3) (Schedule 1 attached) was accepted by the hearing panel as admitted facts, admitted breaches and admitted factors on sanction.

In accordance with the Agreement of Conduct Deserving of Sanction, the Hearing Panel found that the Licensee:

- a) knowingly participated in fraudulent or unlawful activities in connection with the provision of services or in any dealings, contrary to Rule 42(b) of the *Real Estate Act Rules*, when in March 2021, he forged the signatures of two former clients on an ERBA to obtain a commission; and
- b) participated in fraudulent or unlawful activities in connection with the provision of services or in any dealings contrary to Rule 42(b) of the *Real Estate Act Rules* when in March 2021, he forged an AuthentiSign Signing Certificate ("ASC") replacing his email address with another person's email address to deceive RECA investigators; and
- c) Failed to co-operate with an investigator conducting an investigation contrary to Section 38(4)(a) of the *Real Estate Act* when on March 11, 28, 29, and 31, 2022 he provided false answers and information to investigators and

created an excuse for the ERBA signature in an attempt to deceive the investigators and end an investigation into the ERBA's authenticity.

By committing these three breaches, the Licensee acted contrary to Section 42(b) on two occasions, and contrary to Section 43(1) of the *Real Estate Act Rules*, thereby engaging in conduct that undermines the public confidence in the industry, harms the integrity of the industry, and brings the industry into disrepute.

Phase II – Sanction and Costs

After accepting the Agreement of Conduct Deserving of Sanction and making the foregoing findings, the Hearing Panel directed the parties to make oral submissions on Sanctions and Costs, for consideration in Phase 2. The directive was done in accordance with RECA's Hearing and Appeal Practice and Procedure Guidelines (the "Guidelines"), and particularly, Part 5B. After hearing oral submissions, reply and rebuttal, the hearing panel did not require written submissions from the parties.

The parties were in agreement that the:

1. Licensee's license shall be cancelled pursuant to Section 43.1(a) of the *Real Estate Act*;
2. Licensee shall be required to complete all of the educational requirements that are in place, at the time, if and when the Licensee applies to have his license reinstated;
3. Licensee shall pay \$5,000.00 in sanctions, for each offence, for a total of \$15,000.00; and
4. Licensee shall pay \$1,500.00 in costs for the hearing in which cancellation duration and commencement date were contested.

On May 11, 2023, the hearing panel caucused to consider the Registrar's and the Licensee's submissions on Sanction and Costs (Phase 2). The hearing panel accepted the agreed submissions on license cancellation, reinstatement conditions, sanction and costs. The contested issues before the hearing panel were:

1. The commencement date of the Licensee's license cancellation; and
2. The duration of the Licensee's license cancellation;

Issue #1: Commencement date of the Licensee's license cancellation

Decision: The Commencement date of the Licensee's license cancellation shall be May 11, 2023, being the date of the hearing.

The Registrar's position was that the effective date for cancellation of the Licensee's license should be the date the decision of the hearing is served upon the Licensee's legal counsel; or 10 days after the decision is issued.

The Licensee's position was that the effective date should be May 1, 2023, being the date after the Licensee voluntarily cancelled his registration i.e. the end of April, 2023. The Licensee's legal counsel also volunteered to accept service of the hearing panel's decision, to facilitate a specific cancellation date.

The hearing panel's decision is that the effective date for cancellation of the Licensee's license shall be May 11, 2023, the date of the hearing. The hearing date was selected by the hearing panel for its certainty because the decision to cancel the license was confirmed on this date. The hearing date is reasonable because the date provides the Licensee with a slightly shortened cancellation period, when compared with the extra time required for this hearing panel to draft its decision and for the Registrar to effect service of the decision on a subsequent date.

The Licensee's submission that the cancellation effective date should be the date the Licensee cancelled his license was rejected, because the hearing panel considered the Licensee's voluntary act of cancellation as self-serving, in an attempt to reduce the cancellation period that would ultimately be imposed upon him.

Issue #2: The duration of the Licensee's license cancellation

Decision: The Licensee's license shall be cancelled for three-years, commencing from the date of this hearing, May 11, 2023.

The Registrar's position was that the Licensee shall be ineligible to apply for a real estate license for three-years, from the effective date of cancellation; and in doing so, reviewed factors in accordance with *Jaswal v Medical Board (Nfld.)* 1996 CanLii 11630 (NLSC) ("*Jaswal*"). The Admitted Factors on Sanction indicate that during September 2019, contrary to Rule 43(1), the Licensee did not obtain a signature on an ERBA, and as a result of this breach, was required to pay a \$1,000 administrative penalty. He should have been aware that a properly signed ERBA was essential to ensure that clients are informed of their rights, the use of their personal information, fees payable and responsibilities. The Registrar also argued that without a signed ERBA, the clients lost the opportunity to know the consequences of their contract with the Realtor and obtain legal advice.

The Licensee's position was that the Licensee shall be ineligible to apply for a real estate license for three-months, from the effective date of cancellation. Counsel for the Licensee urged the hearing panel to take into consideration the *Jaswal* factors along with the following:

- a) cancellation will have a significant negative impact and disrupt the Licensee's career, reputation and ability to gain employment in the future;
- b) *Re Sedgewick 2018 ABRECA 015*, a case in which a three-month cancellation period was agreed by the parties, should be followed for consistency;
- c) The Licensee's experience level is four to six years, not thirty years;

- d) The Licensee committed the forgeries to ensure that he received his commission, a payment to which he was entitled. He did not commit forgery to unfairly enrich himself;
- e) A three-month cancellation will restore public confidence in the industry;
- f) No financial loss was suffered by the complainants; and
- g) Mitigating factors include the Licensee's alcohol addiction.

Analysis & Reasons – Sanction and Costs:

On May 11, 2023, in caucus, the hearing panel considered that:

During Phase 2, evidence relating to prior administrative penalties and disciplinary sanctions is relevant and material to a hearing panel's determination regarding Sanction and Costs. *Jaswal* is clear and binding authority on that point:

...the previous character of the offender and in particular, the presence or absence of prior complaints or convictions ...

The hearing panel accepts the undisputed position of the Registrar, that the Licensee was required to pay an administrative penalty during 2019, in relation to his failure regarding obtaining ERBA signatures. The Hearing Panel may give such weight to a Licensee's disciplinary history, as it considers fair and just.

In reaching its decision on sanction and costs, the Hearing Panel applied the factors outlined in *Jaswal*. Those factors are:

a) The nature and gravity of the proven allegations:

The Licensee intentionally participated in falsification of signatures when he created, and distributed, a false AuthentiSign Signing Certificate and when he used the name and email address of another person, to replace the Licensee's email address. According to the Admitted Facts, Paragraph 11, the Licensee committed this forgery so that he might cover up his previous forgery and convince RECA's investigator's to stop their investigation into the ERBA forgery. On March 24, 2021, he provided a forged ERBA to RE/Max. Altering an AuthentiSign document requires careful attention to detail and deliberate action by the Licensee; the nature of the forgeries is indicative of sophistication in software use and digital editing skills. On each occasion, the Licensee's fraud was done for self-serving reasons i.e. to collect a commission to which the Licensee considered himself entitled. His actions were deceptive in dealing with the RECA investigators and spanned a period of time. On March 11, 2022, he falsely and knowingly stated to RECA's investigators that the software sent out the ERBA. On March 28, 2022, the Licensee falsely stated that he tried to find a verification record for the client signature and could not do so. On that same day, he falsely stated that he sent the ERBA to a former client, who was actually

a different person, and that he had made an honest mistake. On March 28, 2022, the Licensee forged a false ASC and provided it to investigators. He used the email of a person whose initials were the same, to cover up his previous forgery and to persuade investigators to cease their investigation. On March 29 and 31, 2022, the Licensee made more false statements to RECA's investigators. It was not until July 11, 2022, when confronted with documents that demonstrated his inconsistencies, that he admitted that he forged the ERBA and ASC.

Forgeries of this nature shake the public's, and the industry's, confidence in the AuthentiSign system, and they undermine the high level of trust required to ensure ethical real estate industry business practices. His actions, along with his deliberate deception of the RECA investigators, put his clients and brokerage at risk. His 2019 experience wherein he failed to obtain ERBA signatures, indicates that he knew, or should have known, that signatures were required.

The real estate profession must self-regulate to protect the public. The Licensee's deliberate intent, coupled with his actions to manipulate digital software to commit fraud, along with his multiple deceptions during the investigation, speak strongly to a level of deliberate planning that significantly undermines the real estate industry's integrity. The nature of the Licensee's actions, coupled with the duration of time over which they occurred, demonstrate the Licensee's unwillingness to be governed in accordance with the standards of professional conduct required by the *Real Estate Act* and rules. The hearing panel finds that the nature and gravity of the three offences are very aggravating factors.

The Licensee engaged in a pattern of behavior that violates the fundamental trust and honesty that the public, lending institutions and other real estate professionals rely upon, to conduct real estate business in good faith.

Part 2 of the *Real Estate Act Rules*, section 41(a) requires that a Licensee "act honestly", and at Section 41(d) fulfill their fiduciary duties to their clients. The Rules also require at Section 41(g) that the Licensee practice in strict accordance with the *Act*, Regulations, Rules, and Bylaws ..." Section 42(b) prohibits a Licensee from participating in fraudulent activities in the provision of services.

The Hearing Panel is unanimous that the Licensee's actions and pattern of behavior, in committing two acts of fraud plus his deceptions during the RECA investigation over an extended period of time, are serious and egregious breaches of his professional responsibilities under the Rules. The Licensee's deliberate, carefully thought out, multiple breaches were a violation of the fundamental trust and confidence that the public, brokerages and other realtors, place in real estate professionals. The impact upon public confidence in the

profession must be given significant weight when considering the *Jaswal* factors.

The rationale for giving significant weight to the impact of the Licensee's conduct upon public confidence in the profession is articulated in *Bolton v Law Society [1993] EWCA Civ 32*, wherein the Court states that:

A profession's most valuable asset is its collective reputation and the confidence that it inspires. ... a solicitor appearing before a tribunal can adduce a wealth of glowing tributes ... show that ... the consequences of ... suspension would be little short of tragic. Often he will say, convincingly, that he has learned his lesson and will not offend again. ... All these matters are relevant and should be considered. But none of them touches the essential issue, which is the need to maintain among members of the public a well founded confidence that any solicitor whom they instruct will be a person of unquestionable integrity, probity and trustworthiness. ... The reputation of the profession is more important than the fortunes of any individual member ...

The *Real Estate Act Rules, Division 5, Section 26*, deem cancellation of a license to have occurred when a license is "terminated, suspended or cancelled". Cancellation can range from a lifetime ban to a three-year ban as permitted by the *Real Estate Act*.

The Hearing Panel accepts the Registrar's submissions that the Licensee's forgeries coupled with his deception of the investigators and his brokerage are serious violations, and although these actions do not warrant a lifetime cancellation, they warrant this Hearing Panel exercising its discretion to accept the three-year cancellation proposed by the Registrar.

Further, the Licensee is an experienced realtor; he is middle-aged, well educated, has software skills, and was a "high producer" in the real estate industry. His talents, age and prior success are not exceptional circumstances to warrant a three-month cancellation of his license.

The Licensee admits that he was deceptive and dishonest during the investigation. Honest co-operation is required of all Licensees and required by the RECA Hearing Guidelines. The Licensee's voluntarily cancellation of his license, after his acts of fraud and dishonest conduct during the investigation were exposed, is not a factor to justify a three-month sanction.

However, the Licensee chose to admit that he engaged in fraudulent behavior on two occasions; and that he failed to co-operate with the investigators; and as a result of his admissions, the Licensee eliminated the need for the Registrar to conduct a lengthy hearing, call witnesses, and prove the three counts against

him. The Licensee's admission can be factored into the panel's analysis during this second Phase of the hearing process.

The panel accepts the Registrar's submission that the Licensee's two deliberate breaches of Rule 42(b) plus the deliberate breach of Rule 38(4)(a) are very serious offences. The evidence in this case was convincing. The Licensee's deceptions were wrongful, numerous and occurred on different dates. His interaction with investigators indicates that he took deliberate steps to commit, and hide, his deceptive acts.

The Hearing Panel finds that a three-year cancellation from the date of this decision provides general deterrence to other members of the profession. The hearing panel considered and rejected the Licensee's submission that a three-month suspension is consistent with similar precedents or the public's expectations, in fraud cases.

Re Sedgwick, 2018 ABRECA 015, October 22, 2018, was relied upon by the Licensee's counsel, to justify a three-month suspension. *Sedgwick* can be distinguished from this case because the sanction applied in *Sedgwick* was the result of an Admission of Conduct Deserving of Sanction, Agreed Breaches, Agreed Facts and a Joint Submission Agreement upon Sanction. Licensee *Sedgwick* admitted to presenting a forged Agreement to the RECA investigator, making a misrepresentation to the RECA investigator, and providing a false written statement to RECA. He also admitted to breaching Rule 42(b) when he lied to his client, fraudulently created an Agreement, lied to his broker and circulated the forged Agreement. The parties in *Sedgwick* agreed that the Licensee should be sanctioned with \$25,000 in fines for breaches of s.38(4)(a) of the *Real Estate Act* and Rule 42(b) and suspended for three-months.

R v Anthony-Cook, 2016 SCC 43, as cited in *Re Sedgwick*, sets out the public interest test that a trial judge should not depart from a joint submission on sentence unless the proposed sentence would bring the administration of justice into disrepute or is otherwise contrary to the public interest. In this case, there is no joint submission upon sanction that, if not adopted by the hearing panel, would bring the administration of justice into disrepute or adversely impact the public interest. This hearing panel considers it appropriate, and in the public interest, to exercise its discretion in accordance with the *Jaswal* factors and declare the Licensee ineligible to apply for his license for three-years, rather than for three-months, as was jointly submitted in *Sedgwick*.

b) The age and experience of the Licensee

The Licensee is forty-two (42) years old and has been licensed as a realtor in Alberta since August 2017. He was licensed as a Mortgage Associate for two (2)

years, from 2013 to 2015. It is a very aggravating factor that a Licensee with more than minimal experience plus education in both mortgages and real estate transactions, would act dishonestly, and commit two acts of fraud and deception during investigation, rather than protect his clients, his professional reputation, his brokerage, and the reputation of the real estate profession.

- c) The previous character of the Licensee, and in particular, the presence or absence of prior complaints or convictions.

Registrar submits and the Licensee concedes that the Licensee has had an administrative penalty issued for failing to obtain a client signature on an ERBA. The fact that an administrative penalty was issued can be an aggravating factor; and in this case, the hearing panel considers the administrative penalty an aggravating factor.

- d) The number of times the offence was proven to have occurred.

The fact that two sophisticated fraudulent activities occurred, and the RECA investigators were misled by dishonest statements, is a very aggravating factor.

- e) The role of the Licensee in acknowledging what occurred

The Licensee's failure to acknowledge the impact of his fraudulent acts, and his deception during the RECA investigation, is an aggravating factor. While the hearing panel recognizes that the Licensee voluntarily cancelled his license, the hearing panel notes that the Licensee apologized for "wasting everyone's time"; he did not acknowledge the impact of his conduct, upon the Complainants, his brokerage, his peers, or the public. His apology failed to acknowledge his responsibilities, and his deliberate calculations in attempting to avoid fulfilling his professional responsibilities. The Licensee's actions were pre-meditated. He failed to show any remorse for the impact of his actions. The Licensee's failure to acknowledge appreciation for his professional obligations is a very aggravating factor.

- f) Whether the Licensee already suffered serious financial or other penalties as a result of the allegations having been made

There was no evidence before the hearing panel that the Licensee suffered any financial or other penalties as a result of the allegations in this case. This factor is not relevant to sanction.

- g) Impact of the incident on the victims, if any

The evidence during Phase 1 of the hearing was that the Licensee's clients did not suffer any financial loss, as a result of his fraud. It is reasonable for this hearing panel to conclude that the Licensee's clients lost faith and trust in the

real estate profession as a whole, as a result of the Licensee's fraudulent acts, and his attempts to mislead RECA's investigators. The Hearing Panel accepts that these losses, although not financial, are aggravating factors.

h) Mitigating circumstances

Evidence of mitigating factors must be exceptional to warrant less than the three-year cancellation period permitted by the *Real Estate Act*. Such evidence could include medical reasons, financial desperation, or severe duress. The evidence proving these exceptional circumstances must be so obvious to the public that there is no need to reassure the public about the integrity of the profession. *The Law Society of Upper Canada v Abbott 2017 ONCA 525 at page 25*.

The Licensee submits that he was suffering from alcohol addiction, that he subsequently overcame; however, he provided no evidence of the duration of his medical condition nor the impact upon his judgment during the March 2021 to July 2022 time frame, during which he committed the two forgeries and deceived the RECA investigators. The Licensee has not provided evidence of exceptional circumstances; to warrant a suspension or cancellation of only three-months duration, as proposed during the Phase 2 oral submission on Sanction and Costs.

i) Aggravating circumstances

If the Licensee's two acts of fraud and attempts to thwart the RECA investigation had been successful, there may have been a loss to the clients, even though the Licensee claimed "entitlement" to a commission. The Licensee did not provide any evidence of his "entitlement" to the commission; there was no evidence before the panel that the sale closed, as a result of the Licensee's efforts. Even if there had been such evidence, the hearing panel does not accept, under any circumstances, that a perception of "entitlement", or a legal right to collect a commission, is justification for acting dishonestly or fraudulently, or deceptively with RECA investigators.

j) The need to promote specific and general deterrence and thereby protect the public and ensure the safe and proper conduct of the profession.

The Hearing Panel accepts that there is a general need to make other members of the real estate industry aware that fraud, and especially two carefully orchestrated acts of fraud, are a very serious matter; and will result in cancellation of a license. There is also a need in this case, given his prior administrative penalty involving an ERBA, to ensure that the Licensee is specifically deterred from committing dishonest and misleading acts in the future.

The Licensee's fraudulent acts, misrepresentation and dishonesty impact the reputation of the entire real estate profession. His actions undermine public confidence in the real estate industry; and particularly in the software system used throughout the real estate industry in Alberta. The Hearing Panel accepts the Registrar's submission that the committing of two acts of fraud and deception during the investigation undermined public confidence in the profession, is a very aggravating factor.

- k) The degree to which the offensive conduct that was found to have occurred was clearly regarded, by consensus, as being the type of conduct that would fall outside the range of permitted conduct

The Hearing Panel finds that there would be a high degree to which the offensive conduct falls outside the range of permitted conduct.

- l) The range of sentence in other similar cases

The Registrar recommended, in oral submission, that a three-year license cancellation and a \$5,000 fine be imposed, for each infraction. This hearing panel accepts the Registrar's recommendation as reasonable, given the *Jaswal* factors. In fact, but for the Registrar's recommendation, this hearing panel could impose a much longer cancellation period, and more significant financial sanctions, upon the Licensee.

The Hearing Panel accepts the Registrar's submission that given multiple breaches, the severity of the breaches, and lack of taking responsibility for his actions, that the Licensee should be sanctioned for three (3) years from the date of this decision, and the very modest low end for fines of \$5,000 for two breaches of Rule 42(b) and one breach of Rule 38(4)(a) for a total of \$15,000 in fines, be imposed for the three breaches.

Costs

The Real Estate Council of Alberta By-Laws, Section 28(1) stipulate that when an industry member is ordered to pay costs under Section 43(2) of the Act, the costs payable shall be determined in accordance with a set fee schedule for investigation costs, and for hearing costs.

RECA's Hearing and Appeal Practice and Procedure Guidelines, Part 5, (the "Guidelines"), Section D, stipulate that "the hearing panel has discretion to determine if the licensee must pay for all or some of the costs of the hearing." Costs can include, but are not limited to, the costs of the investigation, costs of the registrar's legal counsel, independent counsel costs, the hearing panel's honorarium and hearing administrator costs.

According to the Guidelines, Part E, due to the joint submission on sanction and costs, the hearing panel may, but is not required, to exercise its discretion to accept the joint submission on sanction and costs. Part E is clear that “absent special circumstances, such as the sanction falling well below or above the range in similar cases, the hearing panel should accept the joint submission on sanction and costs.”

In this case, the issues, and cost of the hearing, were narrowed considerably by the Licensee’s co-operation in agreeing to a joint submission. The degree of the Licensee’s cooperation is a factor that can be considered by the hearing panel in assessing costs, *Re Pethick 2019 AB RECA 118*.

Pethick factors must also be considered in light of *Jinnah v Alberta Dental Association and College, 2022 ABCA 336*. In *Jinnah*, the Alberta Court of Appeal stipulated that the governing body should bear the costs associated with the privilege and responsibility of self-regulation, unless:

- a) serious unprofessional conduct occurred. The member must have known the behavior was unacceptable and unprofessional and that the member can be ordered to pay “a substantial portion or all of the costs”. Fraud was cited as an example of serious unprofessional conduct.
- b) the member is a serial offender i.e. engaged in unprofessional conduct on two or more occasions. A repeat offender may be ordered to pay “some” costs. A repeat of less serious offences could justify less than 25% of the costs.
- c) the member failed to co-operate with investigators. The Registrar is forced to spend more resources than necessary. The member may be ordered to pay those additional costs.
- d) the member engaged in hearing misconduct. The member unnecessarily prolonged the hearing or otherwise unjustifiably increased the costs. The member may be ordered to completely or largely indemnify the College for those increased costs.

In this case, the Licensee should have been aware that if the allegations of two acts of fraud, and failure to co-operate with the investigator were proven, and that based on a plain reading of the Act, the Rules and other materials relating to the conduct of hearings, he could be ordered to pay “a substantial portion or all of the costs”.

But for the joint submission on sanction and costs made between the Registrar and the Licensee, the Hearing Panel would have ordered the Licensee to pay a “substantial portion or all of the costs”, because all of the *Jinnah* exceptions except “hearing misconduct”, existed in this case.

The Licensee committed multiple acts of fraud, over different time periods, and he deceived investigators over an extended period of time. Acts of this nature are defined by the Court of Appeal as “serious unprofessional conduct”.

At a minimum, but for the joint submission, this panel could have ordered costs for a half day hearing on the issues of sanction duration and sanction commencement, as follows :

4 hours of legal research @ \$100-\$250 per hour	\$800 - \$2,000
4 hours of legal counsel time @ \$100-\$250 per hour	\$800 - \$2,000
4 hours of Independent legal counsel time @ the above	\$800 - \$2,000
4 hours of hearing secretary time at \$15 per hour	\$120 \$ 120
2 hearing panel members honoraria at \$300 per person	\$600 \$ 600
1 hearing panel chairperson at \$400	\$400 \$ 400
Decision drafting time - chairperson	\$400 \$ 400
Decision drafting time - 2 panel members at \$300	<u>\$600 \$ 600</u>
Costs range	\$4,520 - \$8,120

The Hearing Panel finds that \$1,500 payable in costs, as agreed by the parties in their joint submission, is more than reasonable in comparison to the allowable costs, given the requirements of *Jinnah* and *Pethick*.

Summary

Pursuant to its authority in the *Real Estate Act, s.43(1)*, ("*the Act*"), and having found that the conduct of the Licensee was conduct deserving of sanction for having breached the Real Estate Rules s.42(b) on two occasions; and for having breached the Real Estate Rules s.38(4)(a), this Hearing Panel Orders that:

1. Pursuant to Section 43(1)(a) of the *Act*, notwithstanding the Licensee's voluntary resignation of his license at the end of April 2023, the Registrar shall cancel the Licensee's real estate license effective **May 11, 2023**.
2. Pursuant to Section 43(1) (d) (1) of the *Act*, the Licensee shall be prohibited from applying for a new license for three (3) years from the date of this hearing, being May 11, 2023.
3. Pursuant to Section 43(1)(d)(1) of the *Act*, the Licensee shall be prohibited from applying for a new license until the Licensee has met the educational requirements, and the examination requirement(s), as described by the *Real Estate Act Rules*, sections 14(b) and 14(c), as at the date the Licensee applies for a new license;
4. Pursuant to the *Real Estate Act Rules, Division 4, Section 16(4)*, the Licensee shall not be exempt from the education, examination or other requirements prescribed, approved, or adopted by the relevant Industry Council to become a new Licensee, in the sector in which he was licensed within the past thirty-six (36) months.
5. Pursuant to Section 43(1)(d) of the *Act*, the Licensee shall pay a fine of five thousand dollars (\$5,000) per breach for a total of fifteen thousand (\$15,000.00)

for breaching two counts of the *Real Estate Act Rule 42(b)*; and one count of the Real Estate Act Rule 38(4)(a).

6. Pursuant to *Section 43(2)* of the *Act*, in addition to dealing with the conduct of the Licensee under *Section 43(1)*, the Licensee shall pay part of the costs of the investigation and hearing, in the amount of one thousand five hundred dollars (\$1,500.00).

This decision was unanimously made by the hearing panel at the City of Calgary, in the Province of Alberta, on May 11, 2023, and issued in writing on June 12, 2023.

"SIGNATURE"

[G.F]
Hearing Panel Chairperson