

Case Summaries

May 24 - August 8, 2023

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Case Summaries

Welcome to RECA's Case Summaries.

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 wooden house model is shown in the foreground, with its roof and chimney visible. The house is made of light-colored wood. In the background, there is a document with text, which is slightly out of focus. A blue rectangular overlay covers the middle part of the image, containing the title text.

Lifetime Withdrawal

Harsimran Kaur Saini - Lifetime Withdrawal from Industry

On June 15, 2023, the Mortgage Broker Industry Council of the Real Estate Council of Alberta (RECA) approved an application by Harsimran Kaur Saini under Section 54 of the *Real Estate Act* to permanently withdraw their licence, effective immediately.

At the time of their application, Saini was the subject of an investigation under the *Real Estate Act*. The issue under investigation was providing a fraudulent preapproval mortgage letter regarding a purchase transaction.

As per Section 54 of the *Real Estate Act*, RECA completed an investigation, made the Industry Council aware of the facts, and the Industry Council accepted the withdrawal.

Under the *Real Estate Act*, and Rules, the approved withdrawal application results in Saini's lifetime prohibition as a licensee, effective immediately. Conduct proceedings are also discontinued as required by Section 54.

A close-up photograph of a person's hand 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 a portion of the person's arm and sleeve.

Hearing Panel Decisions

Aslam Chaudhri,

Real estate associate, currently unregistered; registered at the time of conduct with Grand Realty & Management Ltd. o/a Grand Realty.

Decision pending appeal under s.48 of the Real Estate Act.

Issues

The Notice of Hearing submitted by the Registrar outlined conduct in breach of the *Real Estate Act* Rules:

1. s.42(b) of the Rules, which prohibits licensees from participating in fraudulent or unlawful activities.

Facts

- on November 12, 2018, a pair of potential buyer clients contacted Chaudhri to represent them in a real estate purchase and assist them with obtaining a mortgage
- between November 21 and 25, 2018, the clients informed Chaudhri that one of them was unemployed
- on November 25, 2018, Chaudhri entered into an Exclusive Buyer Representation Agreement with the clients and completed a Purchase Contract for a property on behalf of the clients
- on November 27, 2018, Chaudhri emailed a mortgage application along with employment letters and paystubs for the employed client to a lender representative,
- also on November 27, 2018, Chaudhri indicated by email to the lender their intent to send copies of paystubs for the (unemployed) co-borrower client the following day
- on November 29, 2018, Chaudhri emailed the lender a document described in the email as the unemployed client's "deductions as per Bookkeeper, in lieu of paystub." And further claimed "It is a small business and does not have a formal paystub system."
- on November 30, 2018, Chaudhri prepared a Notice of Non-waiver/non-satisfaction of conditions on behalf of the clients and submitted it to the seller, cancelling the sale due to lack of financing

Outcome

On October 31, 2022, after considering the evidence and respective submissions of the parties, the Hearing Panel found that Chaudhri engaged conduct deserving sanction. On January 4, 2023, the Hearing Panel ordered:

- cancellation of Chaudhri's licence for one year
- Chaudhri be prohibited from applying for any licence for 12 months from January 4, 2023
- Chaudhri must complete all pre-licensing education and examination requirements should they choose to apply for a new licence
- Chaudhri pay:
 - \$15,000 for breach of s.42(b) of the Rules
 - \$21,292.50 in costs

Farouk Sandrudin Mohamed,

Real estate associate broker, currently registered with R & D Realty Inc., o/a Maxwell Canyon Creek.

Decision pending appeal under s.48 of the Real Estate Act.

Issues

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

1. s.17(a) of the Act, prohibiting trading in real estate without appropriate authorization
2. s.53(a) of the Rules, requiring licensees to trade in the name of the brokerage to which they are registered
3. s.53(d) of the Rules, requiring licensees to keep their broker informed of all activities performed on behalf of the brokerage

Facts

- over April 11 and 12, 2022, a hearing was held under part 3 of the *Real Estate Act*, Counsel for the Registrar and Mohamed attended
- during the hearing, Mohamed admitted to breaches of s.53(a) and 53(d) of the Rules
- between December 2015 to August 2017, Mohamed performed property management services for multiple consumers, such as collecting and managing rent, paying condo fees, and entering tenancy agreements
- Mohamed charged fees for these services
- in some instances, Mohamed signed lease agreements on behalf of their unlicensed property management company, FM Properties Inc., or as an agent of the landlord
- Mohamed did not inform their brokerage of the property management services they were performing
- at all material times Mohamed's registered brokerage prohibited associates from performing property management services

Outcome

On September 1, 2022, after considering the evidence and respective submissions of the parties, the Hearing Panel found that Mohamed engaged conduct deserving sanction.

On February 23, 2023, the Hearing Panel ordered Mohamed pay:

- \$15,000 for breach of s.17(a) of the Act
- \$10,500 for seven breaches of s.53(a) of the Rules
- \$5,000 for breach of s.53(d) of the Rules

On April 17, 2023, the Hearing Panel ordered Mohamed pay:

- \$11,000.00 in costs

Shane Cameron Voth,

Real Estate Associate, registered at the time of conduct with 4th Street Holdings Ltd. o/a REMAX Real Estate (central). Currently registered with EXP Realty of Canada Inc. o/a EXP Realty.

Issues

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

1. s.38(4)(a) of the *Real Estate Act*, which requires a person relevant to an open investigation to cooperate with investigators, and promptly respond to their questions.
2. s.42(b) of the Rules, which prohibits licensees from participating in fraudulent or unlawful activities.

Facts

- on May 11, 2023, a hearing was held under part 3 of the *Real Estate Act*, Counsel for the Registrar and Voth attended
- an Agreement of Facts and Breaches was submitted by the parties and accepted by the Hearing Panel
- in March 2021, Voth knowingly participated in fraudulent or unlawful activities when they forged the signatures of two former clients to obtain a commission.
- in March 2021, Voth forged an AuthentiSign Signing Certificate by replacing their email with another to deceive RECA investigators.
- in March 2022, Voth failed to cooperate with RECA investigators by providing false answers.
- the Hearing Panel directed the parties to make oral submissions on Sanction and Costs

Outcome

On May 11, 2023, after considering the oral arguments from both parties the Hearing Panel found that Voth engaged in the following conduct deserving of sanction and ordered:

- cancellation of Voth's real estate licence
- Voth be prohibited from applying for a real estate licence for 36 months from May 11, 2023
- Voth to successfully complete all pre-licensing education and examination requirements should they choose to apply for a new licence
- Voth pay:
 - \$5,000 for breach of s.38(4)(a) of the Act
 - \$10,000 for breaches of s.42(b) of the Rules
 - \$1,500 in costs

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. s.17(a)

No person shall trade in real estate as a real estate broker unless that person holds the appropriate license.

Real Estate Act. s.17(b)

No person shall deal as a mortgage broker unless that person holds the appropriate license.

Azher Haleem Chaudhary,
Not Licensed

\$25,000

\$25,000

Total Fines \$50,000

- consumers looking for assistance with purchasing property and obtaining a mortgage, were referred to Chaudhary
- in January and February 2022, Chaudhary offered, on behalf of the property owners, to show the consumers four separate properties
- Chaudhary advised the consumers on the supporting documentation required to secure a mortgage
- the consumers provided information and documentation to Chaudhary
- Chaudhary then provided that documentation to a lender to secure a mortgage on behalf of the consumers
- Chaudhary reviewed and offered the consumers advice on transaction documents connected to a fifth property
- in February 2022, Chaudhary met with and advised the consumers on the purchase of the fifth property
- these activities required licences to trade in real estate and deal as a mortgage broker
- Chaudhary also falsified documents on behalf of the consumers, providing the lender with false employment documentation including, employment letters, and paystubs from their own company in order to for the consumers to secure a mortgage
- the consumers paid a fee in connection with Chaudhary's unlicensed mortgage services
- the consumers purchased the fifth property. The mortgage was funded by the lender, based on the falsified information Chaudhary provided

Learning Opportunity

Unlicensed persons who provide services that require a licence put consumers at serious risk. Unlicensed persons do not have the required education or errors and omissions insurance. Consumers working with unlicensed persons do not receive protection under the Real Estate Assurance Fund. In this case, Chaudhary was providing services to clients that required a licence to trade in real estate and deal in mortgages. Chaudhary created and provided false information to lenders on behalf of their clients, which led to them being approved for a mortgage. Chaudhary provided multiple services they were not licensed to provide.

Trading in Real Estate –
Residential Real Estate

Dealing in Mortgages as a
Mortgage Broker

Real Estate Act s.17(c)

No person shall act as a property manager unless that person holds the appropriate license.

Jacky Chen,
Unlicensed

\$25,000
\$25,000

Total Fines \$50,000

- Chen was the sole director and shareholder of Goodwill Property Management Ltd.
- on November 5, 2021, Chen negotiated a lease with a tenant to rent a property on behalf of the owner
- on November 5, 2021, Chen collected a security deposit from the tenant and held that security deposit
- between November 2021 and May 2022, Chen collected rent from the tenant on behalf of the owner
- on January 20, 2022, in an unrelated transaction, Chen negotiated a lease with a tenant to rent a property on behalf of the owner
- on January 20, 2022, Chen collected a security deposit from that tenant and held that security deposit
- in subsequent months, Chen collected rent from the tenant on behalf of the owner
- these activities required a licence to act as a property manager

Learning Opportunity

Unlicensed persons who provide services that require a licence put consumers at serious risk. Unlicensed persons do not have the required education or errors and omissions insurance. Consumers working with unlicensed persons do not receive protection under the Real Estate Assurance Fund. In this case, Chen was providing services to clients that required a licence to trade in property management. Chen provided multiple services they were not licensed to provide.

Trading in Real Estate – Property Management

Real Estate Act s.25(1)(d)

A licensee who is required by the Rules to keep and operate a trust account shall disburse money received or held in trust in respect of a property management service, dealing or trade in the business of the licensee only in accordance with the Rules and with the terms of the trust governing the use of that money.

Michael Robert Holmes,

Condominium management broker registered with Larlyn Property Management Limited

- Holmes was providing condominium management services to a condominium corporation (corporation)
- Holmes maintained both an operating account and a reserve account for funds held in trust on behalf of the corporation
- the management agreement between Holmes and the corporation specifically prohibited paying operational expenses with funds collected for the reserve account
- the Condominium Property Act also imposes restrictions on reserve funds and how those funds may be used
- in May 2022, the condominium board (board) gave Holmes notice to terminate the management agreement
- Holmes believed the corporation owed them fees for the remaining term of the management agreement
- the board disputed the amount they owed Holmes
- on June 30, 2022, the board sent Holmes an email stating that they were not authorized to collect the remaining fees owed under the management agreement
- on July 28, 2022, Holmes transferred \$14,408 from the corporation's reserve fund account to their operating account
- Holmes then transferred that amount to their brokerage account for management fees owed to the brokerage
- the terms of trust governing the reserve fund did not allow reserve funds to be used for this purpose
- \$15,000

Learning Opportunity

A broker's role in handling trust funds is that of a trustee. As a trustee, the broker must hold the trust monies for the parties in the transaction and disburse money only in accordance with the terms of trust. In this case, the broker disbursed funds from the reserve fund for purposes that were not allowed under the terms of trust. This was a failure to disburse funds held in trust only in accordance with the terms of trust governing those funds.

Trust Money Disputes and Disbursements

Real Estate Act s.17(c)

No person shall act as a property manager unless that person holds the appropriate license.

Rahmon Adegbola,

Unlicensed

- in February 2022, Adegbola entered an agreement with a property owner to provide services, such as advertising the property for rent, signing rental agreements, and collecting rent
- in March 2022, Adegbola signed a tenant lease on behalf of the owner
- from March 2022 to February 2023, Adegbola collected rent from the tenant
- these activities required a licence to act as a property manager
- in July 2022 Adegbola became aware that certain property management activities required a licence and enrolled in pre-licensing property management education
- Adegbola continued to provide property management services to the owner, despite being aware that these activities required a licence
- in March 2023, Adegbola ceased providing property management services for the owner
- \$1,000

Learning Opportunity

Unlicensed persons who provide services that require a licence put consumers at serious risk. Unlicensed persons do not have the required education or errors and omissions insurance. Consumers working with unlicensed persons do not receive protection under the Real Estate Assurance Fund. In this case, Adegbola provided multiple services they were not authorized to provide.

Trading in Real Estate – Property Management

Real Estate Act s.91(4)

A brokerage's accounting shall be filed with the Council within 3 months of that brokerage's fiscal year end.

Anson Yiu Cheung,

Real estate broker registered with 178 Real Estate Inc.

- Cheung's brokerage fiscal year ends on December 31
- RECA sent numerous fiscal year end reminder emails to both Cheung's brokerage and personal email addresses
- each email reminder gave clear instructions on the required forms, a link to RECA's website that explained how to access the forms, and a warning that failure to complete the required forms by March 31, 2023, could result in an administrative penalty
- \$1,500

Solomon Aloysius Davies,

Real estate broker registered with Smartway Real Estate Inc. o/a Smartway Real Estate

- Davies' brokerage fiscal year ends on November 30
- RECA sent numerous fiscal year end reminder emails to both Davies' brokerage and personal email addresses
- each email reminder gave clear instructions on the required forms, a link to RECA's website that explained how to access the forms, and a warning that failure to complete the required forms by February 28, 2023, could result in an administrative penalty
- Davies submitted their brokerage year-end accounting reports to RECA on April 22, 2023
- \$1,500

Learning Opportunity
on page 16

Yu Song,

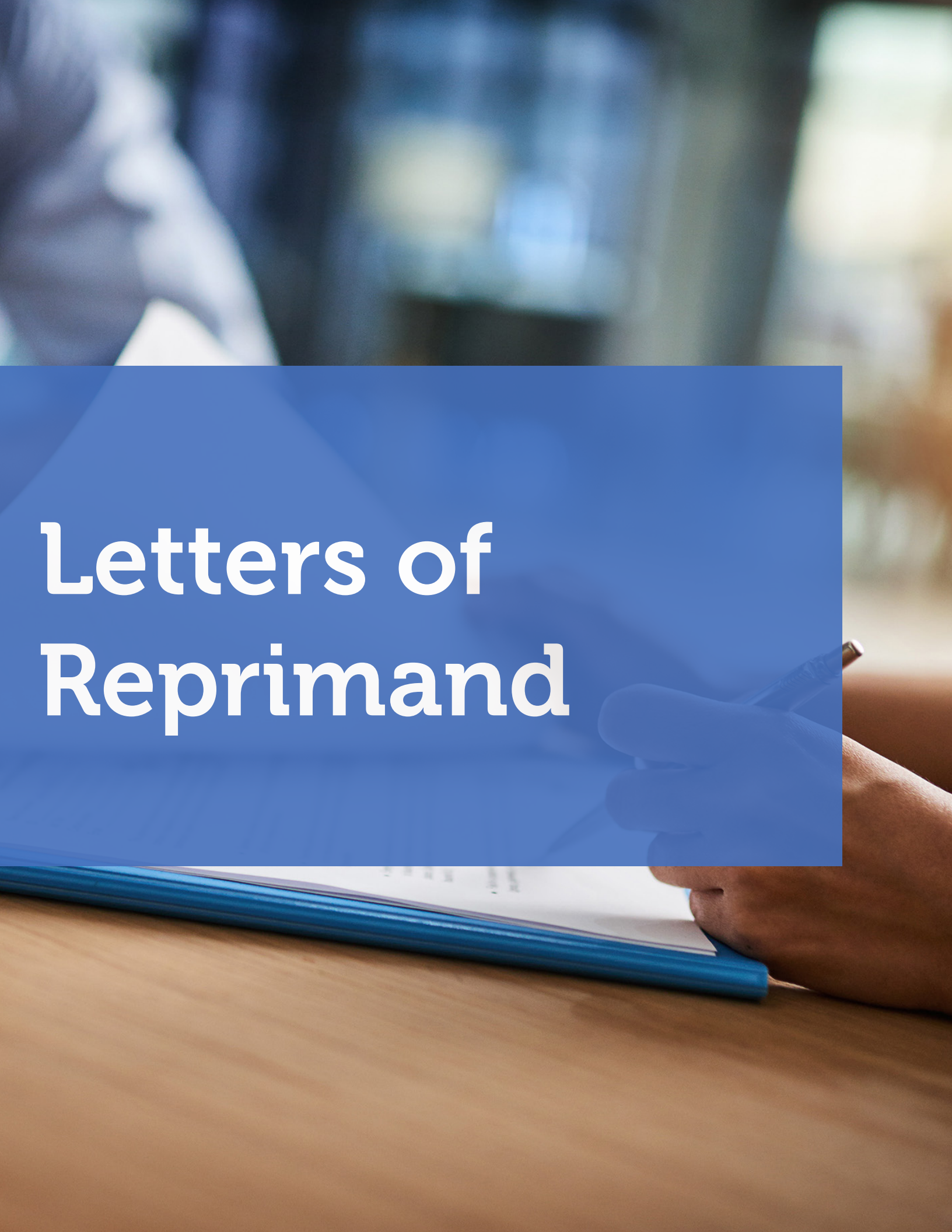
Real estate broker registered with Key Realty Group Inc.

- Song's brokerage fiscal year ends on April 30
- RECA sent numerous fiscal year end reminder emails to both Song's brokerage and personal email addresses
- each email reminder gave clear instructions on the required forms, a link to RECA's website that explained how to access the forms, and a warning that failure to complete the required forms by August 2, 2022, could result in an administrative penalty
- \$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 these cases, the broker failed to file the forms by their fiscal year end deadlines despite RECA sending them numerous reminders.

Real Estate Fiscal Year End



Letters of Reprimand

Real Estate Act s.43(2)(a)

Every written service agreement shall be signed by the relevant parties.

Real Estate Broker

-
- in June 2013, the licensee's property management brokerage acquired another brokerage, merging the two into a single brokerage under the broker licensee
- with the merger, the existing client management agreements from the acquired brokerage were assigned to the new merged brokerage, including Management Agreements and the Owners' Pooling Agreements
- from 2013 until present day, the licensee performed property management activities for a client property of the acquired brokerage—collecting rents, paying property expenses, and remitting the monthly net incomes to the owners' pool
- on April 30, 2020, the owner in one of the Pooled Units moved out, prompting the licensee to perform various property management activities for the unit, including hiring a contractor to inspect the unit to identify needed repairs and renovations and communicating with the unit owner
- between June 2020 and January 2021, the unit owner disputed costs being charged directly to them that they believed should be charged to the owners' pool
- the unit owner requested copies of the management agreements for review
- at this time, the licensee discovered they did not have a signed management agreement or a signed Pooling Agreement with the owner
- the licensee did have a signed agreement whereby the acquired brokerage had assigned their management agreements to the merged brokerage and the licensee, as its broker
- the licensee had managed the owner's property for many years without incident, there appears to have been a general understanding between merged brokerage and the owner as to the general services and responsibilities of each party
- it was only when the cost issues arose in 2020 that either party realized there was no signed management agreements to rely on

Learning Opportunity

A signed 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. In this case, the lack of signed agreements caused confusion and disagreements between the licensee and client as to what expenses were the responsibility of the owner and what were the responsibility of the pooled account.

Written Service Agreements

Real Estate Act Rules s.41(d)

A licensee must fulfill their fiduciary duty to their clients.

Real Estate Associate

- the licensee represented the sellers for a property
- the sellers informed the licensee that someone else in the neighbourhood may be looking to list their property
- on June 25, 2022, licensee showed the property to potential buyers who were unrepresented
- during the showing, the licensee told the buyers that another property in the neighbourhood may be coming on the market, mentioning an attractive quality that it backed onto a green space
- during this interaction the licensee was representing the seller, and had a fiduciary obligation to act in the best interests the sellers of the property they were showing at that time
- promoting a comparable property to potential buyers was inconsistent with their duty to promote their seller clients' property and act in the clients' best interests

Learning Opportunity

Licensees must always fulfil their fiduciary obligations to their clients. Clients must have confidence that licensees will act in their best interests and promote their property. In this case, the licensee failed to fulfill their fiduciary duty to their clients by promoting another property when showing the client's property.

Competent Service



RECA Management

RUSS MORROW
Chief Executive Officer

JANICE HARRINGTON
Chief Operating Officer

WARREN MARTINSON
Registrar

STACY PAQUIN
General Counsel & Corporate Secretary

CONTACT RECA

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

Please forward any questions regarding the content of the Case Summaries, or any questions regarding licensing or mandatory education, to info@reca.ca

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