

# Case Summaries

August 9 - November 22, 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 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 a bright, slightly blurred office setting.

# Hearing Panel Decisions

### Issue

The Notice of Hearing served by the Board on referral by the Complainant Appeal Panel under s.40 of the *Real Estate Act* (the Act) outlined a total of four breaches of the Act and the corresponding Rules:

- s. 41(a) of the Rules which requires licensees to act honestly
- s. 41(b) of the Rules which requires licensees to provide competent service
- s. 42(a) of the Rules which requires licensees to 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
- s. 42(g) of the Rules which requires licensees to not engage in conduct that undermines public confidence in the industry, harms the integrity of the industry, and brings the industry into disrepute

### Facts:

- in April 2021, the complainants began viewing properties with their licensee
- in April 2021 Schumacher engaged in an exclusive relationship with a seller client to sell a property listed for \$314,900
- on April 29, 2021, Schumacher received a \$290,000 offer on the seller's property from the licensee of an interested buyer
- on May 1, 2021, Schumacher received a second offer for \$295,000 on the property from the complainants
- on May 2, 2021:
  - Schumacher disclosed to the licensees of both buyers that there were multiple offers
  - at 2:39 pm the complainant's licensee sent a new offer by email of \$320,000. The email acknowledged their clients were aware there were multiple offers
  - the sellers instructed Schumacher to accept the new offer
  - Schumacher acted on the seller's instructions and messaged the complainant's licensee advising them that the latest offer would be accepted
  - at 3:37 pm the first buyer's licensee sent an email to Schumacher advising them that their client was withdrawing their offer
  - at 3:43 pm Schumacher verbally confirmed with the complainant's licensee that their offer was accepted and the sellers would sign the purchase contract as soon as possible
  - at 3:56 pm Schumacher sent an email acknowledging they had received the email from the first buyer's licensee where they withdrew their offer

- On May 3 at 9:59 am, Schumacher emailed the signed purchase contract to the complainant's licensee. The contract indicated it was subject to financing and property inspection conditions that were to be waived or satisfied by May 14, 2021
- the purchase closed
- Schumacher did not inform the complainants and their licensee that the competing offer from the first buyer had been withdrawn

### **Outcome**

On August 15, 2023, the Hearing Panel found that Schumacher had an obligation to tell the complainants the first buyer had withdrawn their offer, despite the instructions from the seller to accept the complainant's offer. Failure to disclose this information was conduct deserving of sanction for the following:

- a breach of s.41(a) of the Rules
- a breach of s.41(b) of the Rules
- a breach of s.42(a) of the Rules
- a breach of s.42(g) of the Rules

The Hearing Panel acknowledged that Schumacher had been previously fined for this transaction by the REALTORS® Association of Edmonton and no sanction was ordered.

## Gagandeep Singh – Hearing Panel Decision, Real Estate Licence Remains Cancelled

On August 16, 2023, a [Hearing Panel](#) heard an appeal of six Administrative Penalties issued for trading in real estate and dealing in mortgages without a license contrary to sections 17(a) and (b) of the *Real Estate Act* (Act). Based on an agreement reached between the Registrar and Singh which the Panel accepted, the Panel issued a varied penalty of \$15,000 for a breach of s.17(b) and confirmed a penalty of \$25,000 for a breach of s.17(a) and (b). The other four penalties were quashed as part of this agreement accepted by the Panel.

Previously, on February 13, 2023, a [Hearing Panel](#) for RECA cancelled the real estate licence of Singh for 10 years, having found that Singh breached s.42(b) of the Act four times and s. 43(1) of the Act three times. Singh is not eligible to reapply for any new licence from RECA until December 1, 2030. Singh was also ordered to pay \$80,000 in fines for breaching four counts of the *Real Estate Act* Rules and \$23,465 in costs.

As a result of this cancellation, Singh may not trade in real estate in Alberta. Before being eligible to apply for a licence, Singh must successfully satisfy all pre-licensing education requirements, as if they had never been licensed.

Singh was most recently registered with Grand Financial Group Ltd. o/a Dominion Lending Centres Grand Financial and Grand Realty & Management Ltd. o/a Grand Realty.



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.54(1)(e)

*A real estate licensee may not make an inducement unless that inducement is clearly outlined, and signed off on by that licensee, and if applicable, all others involved.*

### Shaun Johal

Real estate associate registered at the time of conduct with 2210220 Alberta Ltd. o/a One Percent Realty. Currently registered to 2103562 Alberta Ltd. o/a 2% Realty Edge AB.

- Johal represented clients in the sale of their property
- in May 2022, when negotiating a possession date change with the buyer, Johal paid the buyer money to cover additional rent expenses
- this was an inducement
- as part of the inducement, Johal's clients paid them money towards the buyer's rent expenses
- Johal failed to provide a signed statement to the buyer or their clients clearly setting out the details of the inducement
- Johal failed to provide any details in writing to the brokerage about the inducement
- the brokerage did not approve this inducement
- \$1,500

### Learning Opportunity

Licensees may not make an inducement unless that inducement has received written approval from their broker, and the specific details are clearly outlined in writing for all parties. This requirement is meant to reduce conflict respecting any payment. Brokerages must directly pay inducements. In this case, the licensee offered a rental inducement that was paid by them and their clients and did not have permission from their brokerage.

### Inducements



## *Real Estate Act 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.*

[Tsz Kan Ng](#),

Real estate broker registered with ARIVL Ltd. o/a ARIVL

- ARIVL's brokerage fiscal year end was December 31, 2022
- RECA sent numerous reminder emails to the brokerage email address and Ng's personal email address that the required accounting forms must be filed by March 31, 2023
- 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 March 31, 2023, could result in an administrative penalty
- to date, Ng's brokerage year end accounting reports are still outstanding
- \$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](#)

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 Rules s.41(d)

*A licensee must fulfill their fiduciary duty to their clients.*

### Real Estate Associate

- on July 29, 2022, the associate's clients and a buyer entered into a Commercial Purchase Contract
- the contract represented the sale of the seller's property and was signed by all relevant parties
- on August 4, 2022, the associate's clients were presented with a second Commercial Purchase Contract from another prospective buyer
- this contract was understood by all relevant parties to be a backup offer, there was no mention in the contract that it was a back-up offer
- on August 5, 2022, the associate sent the accepted back-up contract to the prospective buyer's associate with revisions but failed to add terms to indicate this was a back-up offer
- failing to make the second offer a back-up offer in the contract put the associate's clients at risk of selling the property twice and led to a legal dispute between the parties

### Learning Opportunity

Licensees must always fulfil their fiduciary obligations to their clients. Clients must have confidence that licensees will act in their best interests. In this case, the licensee failed to ensure that all parties involved knew in writing that their offer was a back-up offer. This put the associate's clients at risk and led to legal disputes between the parties.

### Competent Service

## Real Estate Act Rules s.41(d)

*A licensee must fulfill their fiduciary duty to their clients.*

### Real Estate Associate

- in September 2022, the associate listed a property
- the client asked the associate whether GST was payable on the sale of the property
- the associate provided incorrect information to the client regarding GST and the transaction
- the client sought advice from an expert on the matter and the associate continued to express disagreement with the client and the experts' interpretation
- the associate was not an expert in GST matters and should have deferred to the client and their experts
- the associate's opinion on the matter caused confusion and distress to their client
- this was a failure to act in the best interest of their client
- there were multiple offers on the property
- the associate communicated with one of the interested buyers and said their client had accepted another offer
- this was not accurate
- at the time the statement was made, while their client may have been contemplating acceptance, the client had not accepted an offer in writing
- the associate communicated inaccurate information that may have potentially discouraged an interested buyer
- this was also a failure to act in the best interest of their client

### Learning Opportunity

Licensees must always fulfil their fiduciary obligations to their clients. Clients must have confidence that licensees will act in their best interests. In this case, the associate provided guidance on subject matter they were not an expert in even after their clients had sought out a matter expert. The associate also provided interested buyers with inaccurate information that could have discouraged them from purchasing their client's property.

### Competent Service



## Real Estate Act Rules s.41(d)

*A licensee must fulfill their fiduciary duty to their clients.*

### Real Estate Associate

- on June 11, 2022, the associate wrote an offer for a property, on behalf of the buyers
- the buyers were interested in a property inspection condition
- the associate presented a “mini inspection” option, where a home inspector attends the property, but no property report is prepared
- the buyers agreed to move forward without a property inspection condition
- the associate put a term in the purchase contract stating the buyers may revisit the property by June 17, 2022, with their parents
- this term failed to secure access to the property for the purposes of an inspection and allow a home inspector to access the property
- on June 17, 2022, a home inspector accessed the property, and an inspection was completed with the buyers
- this was not a full property inspection, and the buyers did not receive a report

### **Learning Opportunity**

Licensees must always fulfil their fiduciary obligations to their clients. Clients must have confidence that licensees will act in their best interests. In this case, the licensee failed to receive permission from the seller in the purchase contract to access the property with a home inspector. The sellers may have refused access for the purposes of an inspection. The buyers were also able to access the property with a property inspector despite the inadequate terms in the purchase contract.

### Competent Service





## RECA Management

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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](mailto:info@reca.ca)

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