

THE REAL ESTATE COUNCIL OF ALBERTA

Case Number: 014187
Name on Licence: Pedro Villamar
Licence Type & Class: Real Estate Associate
Brokerage Name on Licence: Twin Oakes Real Estate 1993 Inc. o/a Re/Max
House of Real Estate
Process: Section 39 & 83 of the *Real Estate Act*

Document: ADMINISTRATIVE PENALTY
Penalty: \$1,500.00

Payment

This Penalty must be paid **within 30 days** of the date this Notice was issued.

If you fail to pay the Penalty the Registrar may commence collection under Part 6 of the *Real Estate Act* and may suspend your licence under section 38.1 of the Rules.

If you pay the Penalty

- You will have satisfied the Administrative Penalty and no further proceedings under Part 6 will be taken against you.
- You cannot be charged under the *Real Estate Act* with an offence for the contravention(s) in this Administrative Penalty.

TO: Pedro Villamar

The Registrar of the Real Estate Council of Alberta (RECA) has determined there is sufficient evidence you have contravened **section 41(d) of the *Real Estate Act* Rules** and this is conduct deserving of sanction.

Rule 41 – *Licensees must:*

(d) *fulfill their fiduciary duties to their clients*

Particulars of the contravention(s):

1. In or around May 2022, you failed to fulfill your fiduciary duty to your client, contrary to section 41(d) of the *Real Estate Act Rules*:
 - a) In May 2022, you represented a Buyer for the purchase of the property located at [ADDRESS] There was a hot tub on the property.
 - b) During negotiations, the Seller's agent asked you if the Buyer was including the hot tub in their offer. You replied they weren't.
 - c) June 2, 2022, an offer was accepted by the Sellers. The purchase contract did not document how the hot tub was being handled. Based on your previous representation that the Buyer was not including the hot tub, the Seller believed there was agreement that the hot tub was not part of the sale.
 - d) The Buyer believed that the hot tub was included in the sale. You explained that because the hot tub was not excluded under the purchase contract that the Buyer would be keeping it. This was not consistent with your communication with the Seller's agent where it was implied that the hot tub would need to be included in the offer for the Buyer to receive it.
 - e) On possession day, the Seller's agent asked you if the Seller can pick the hot tub up after possession date. You communicated that it should not be a problem. This was not consistent with your client's interests as your client believed the hot tub was staying with the property.
 - f) The Seller attempted to get the hot tub after possession. The Buyer would not allow the Seller to pick up the hot tub and was surprised when the Seller showed up.
 - g) This issue led to a legal dispute between the Seller and Buyer.

The Registrar considered the following aggravating and mitigating factors:

Aggravating Factors

- You failed to make your clients intentions clear at multiple points in the transaction and at times your communications were misleading. This failure contributed to your client facing a legal dispute.

Appeal

You have the right to appeal this Administrative Penalty to a Hearing Panel. See **section 83.1 of the *Real Estate Act*** for what you must do to appeal.

In an appeal you will be given a full opportunity consistent with procedural fairness and natural justice to present evidence before the Hearing Panel in relation to the contraventions alleged.

Your written notice of appeal must comply with section 83.1 and must be received by the Registrar **within 30 days** of you receiving this Administrative Penalty.

If you appeal, payment of the Penalty will not be required until an order to pay a penalty is issued by the Hearing Panel. If you have any questions regarding particulars or the appeal process, please contact:

Name: [C.S], Investigator
Email: [EMAIL]
Phone: 403.228.2954; Toll Free: 1.888.425.2754
Fax: 403.228.3065
Address: Real Estate Council of Alberta
Suite 202, 1506 11 Avenue SW
Calgary, Alberta, T3C 0M9

Issued at Calgary, Alberta, on November 23, 2023.

“Signature”

Warren Martinson, Registrar
Real Estate Council of Alberta

cc [D.N] Real Estate Broker
Re/Max House of Real Estate