

THE REAL ESTATE COUNCIL OF ALBERTA

Case Number: 010429.001
Name on Licence: John William Wade
Licence Sector and Class: Real Estate Associate
Current Brokerage: Real Broker AB Ltd. O/A Real Broker
Conduct Brokerage: Irealty Calgary Inc. O/A Re/Max Irealty
Innovations
Process: A Hearing under Part 3 of the *Real Estate Act*

NOTICE OF HEARING

TO: John Wade

A hearing is set to review allegations about your conduct. Read this entire document to see what you must do.

Hearing Information

Date: June 3-4, 2024
Time: 9:30 a.m.
Venue: Virtual Hearing
Hearing Panel: [J.A]
[J.P]
[H.Y]
(Alternates: [G.F], [B.R], [B.W])
Counsel to the Panel: Carol Zukiwski, Reynolds Mirth Richards & Farmer LLP

It is alleged that the following conduct is deserving of sanction:

1. On or about May 2020, you did not act honestly, contrary to s. 41(a) of the Real Estate Act Rules:
 - a. You lied to the seller's representative about the requirement by the bank to have a condition on the purchase contract that \$20,000 of the purchase price be directed to a holding company.

2. Between March 2020 and May 2020, you failed to fulfil your fiduciary obligations to your clients contrary to s. 41(d) of the *Real Estate Act* Rules:
 - a. You recommended an individual to [M.P & J.P] that could help them qualify for a mortgage.
 - b. You represented, in ambiguous terms, that this individual was a licenced mortgage broker.
 - c. You created an amendment to the Purchase Contract that directed that \$20,000 be directed to M&M Real Estate Holdings, the unlicensed individual's company, without creating a condition that the money would be used to renovate the property.
 - d. You waived the financing condition on the Purchase Agreement without confirming that your clients had secured a mortgage.
 - e. You did not advise your clients about paying a deposit within 5 business days of acceptance of the Purchase Agreement and neglected to explain to the clients that the purchase would collapse if the deposit was not paid.
 - f. You failed to advise your clients that they would lose their deposit if the transaction collapsed.

3. On or around May 10, 2020, you discouraged a client from seeking legal counsel or expert advice, contrary to s. 42(d) of the *Real Estate Act* Rules

or you failed to fulfil your fiduciary obligations to your clients contrary to s. 41(d) of the *Real Estate Act Rules*:

- a. You told your client, [W.S], not to contact AISH when she questioned whether her benefits would be affected by purchasing the property.
- b. You directed [W.S] to only speak with the unlicensed individual about her AISH benefits.

4. Between March 2020 and June 2020, you participated in fraudulent or unlawful activities in connection with the provision of services or in any dealings, contrary to s.42(b) of the *Real Estate Act Rules* and/or you made representations or carried on conduct that was reckless or intentional and that misleads or deceives any person or is likely to do so, contrary to s. 42(a) of the *Real Estate Act Rules*:

- a. You introduced your clients, [M.P & J.P], to an individual that could help them obtain a mortgage, knowing that this individual was not a licensed mortgage broker.
- b. You communicated regularly with the unlicensed individual and [M.P & J.P], and [W.S], assuring the clients that they would obtain a mortgage, despite knowing that they were not dealing with a mortgage broker.
- c. You did not disclose to your clients that the individual was not licensed to deal in mortgages.

5. Between September 2019 and May 2020, when trading in residential real estate, you failed to enter into a written service agreement with a prospective client, contrary to s. 43(1) of the *Real Estate Act Rules*:

- a. In September 2019, the prospective clients, [M.P & J.P] told you about what they were seeking in a residential real estate

purchase and their financial position, thereby establishing a client relationship.

- b. In March 2020, you showed properties to [M.P & J.P], further establishing a client relationship.
- c. You did not enter into a Consumer Relationship Guide or Exclusive Buyer Representation Agreement on behalf of the brokerage with [M.P & J.P] at any time.

Virtual Hearings

Hearings at RECA are conducted virtually. The Hearing Administrator will provide you with the Guide to Virtual Hearings and you will receive help in participating in the virtual process.

Why You Should Attend the Hearing

The hearing is your opportunity to respond to the allegations and state your side of the case in front of the Panel.

Learn About the Hearing Process

Please read these guides on the RECA website

<https://www.reca.ca/complaints-discipline/hearings-information-procedures/>

- *Hearing and Appeal Practice and Procedures Guidelines and*
- *How to Represent Yourself at a Real Estate Council of Alberta Hearing or Appeal*
- *RECA Self-Represented Program*

Before the Hearing

You will receive full disclosure of all evidence gathered by the Registrar relevant to the allegations in this Notice of Hearing for your review. This disclosure is for use in the conduct proceedings only and you may not use it for any other purpose.

You are also invited to meeting with Counsel for the Registrar prior to the hearing to consider entering agreement on non-contested matters such as:

- An admission of conduct deserving of sanction
- An agreement on facts
- An agreement on breaches
- An agreement on a finding of conduct deserving of sanction
- An agreement on sanction and/or costs.

Admissions or agreements can reduce the time and costs of the hearing.

What You Should Bring to the Hearing

Bring any witnesses and evidence you want the Panel to consider, with you to the hearing.

What Will Happen If You Don't Attend

If you do not attend the Panel may proceed to make a decision without you.

What Will Happen At the Hearing

After hearing all evidence and argument the Panel will decide whether the Registrar has proven any of the breaches. If no breach is proven you will face no sanction.

If the Panel finds a breach is proven the Panel may do one or more of the things listed in **section 43** of the *Real Estate Act*:

- Cancel or suspend your authorization
- Order you to pay a fine for each breach
- Order you to pay the cost of the investigation and the hearing
- Order you to complete an education course

Submitting Written Arguments After the Evidence

You can ask the Panel to allow you to provide written arguments at the end of presentation of evidence. The Panel will give directions on how this may be done.

You Can Get Legal Advice

You may get legal advice and may be represented by legal counsel at the hearing. If you do not have a representative please read information for unrepresented Licensees here:

<https://www.reca.ca/complaints-discipline/hearings-information-procedures/>

If You Object to a Panel Member

Please review who is on the Panel. If you object to any of the people being on the Panel, you must advise the Hearings Administrator **who you object to and why within 14 days** of receiving this Notice.

If you do not object to the Panel within 14 days, this Panel will conduct the hearing.

Postponing the Hearing

If you are not available on the date set for the hearing you can apply to the Panel for a new date. Contact the lawyer for the Registrar and the Hearings Administrator as soon as possible if you need a new date.

Dated at Calgary, Alberta, on April 5, 2024.

"Signature"

Warren Martinson, Registrar
Real Estate Council of Alberta

Contact Information:

Hearings Administrator:	Administrator for Counsel for the Registrar:
Email: hearingsadmin@reca.ca	Email: conductadmin@reca.ca
Fax: 403 228 3065	Fax: 403 228 3065
Direct: 403 685 7913	Direct: 403 685 7944
Toll Free: 1 888 425 2754	Toll Free: 1 888 425 2754
Address: Real Estate Council Suite 202, 1506 11 Avenue SW Calgary, Alberta T3C 0M9	Address: Real Estate Council Suite 202, 1506 11 Avenue SW Calgary, Alberta T3C 0M9