

THE REAL ESTATE COUNCIL OF ALBERTA

Case Number: 013071.001
Name on Licence: Toni Hideki Tsim
Licence Sector and Class: Real Estate Associate
Current Brokerage: EXP Realty of Canada Inc. o/a EXP Realty
Conduct Brokerage: EXP Realty of Canada Inc. o/a EXP Realty
Process: A Hearing under Part 3 of the *Real Estate Act*

NOTICE OF HEARING

TO: Toni Hideki Tsim

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

Hearing Information

Date: Tuesday, July 30, 2024
Time: 9:30 a.m.
Venue: Virtual Hearing
Hearing Panel: [G.F]
[A.S]
[D.T]
(Alternates: [R.D], [B.R], [B.W])
Counsel to the Panel: Rita Aggarwala

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

1. Between February and September 2022, you failed to provide competent service contrary to section 41(b) of the Real Estate Act Rules:

- a. You were retained by a buyer to flip a property at [ADDRESS 1], which was subject to a purchase contract but prior to closing. The buyer entered into a listing agreement with you and warranted he had authority to sell the property. You, on behalf of your brokerage, agreed to market the property by placing signs and advertising information about the property online.
 - b. You proceeded to advertise the property online on your social media using pictures created by the agent for the seller of the property. That agent saw the pictures and demanded that you stop using them. You failed to immediately remove the pictures.
 - c. You failed to confirm your client had possession of the property or permission from the seller to place "for sale" signs on the property before installing your signs at the property.
 - d. You further failed to complete several transaction records required by your brokerage on this transaction and three other transactions even after being asked about the records by your broker and by a RECA investigator as part of an investigation.
2. Between February and September 2022, you made a representation or carried on conduct that was reckless or intentional and that misled or deceived any person or is likely to do so contrary to section 42(a) of the Real Estate Act Rules:
- a. You had "for sale" signs created that included a picture of you and an unlicensed individual ("[A.D]").
 - b. The signs included contact information suggesting that either you or the other person on the sign could be contacted about purchasing the for-sale property.
 - c. The sign did not state that [A.D] was unlicensed.
 - d. The sign could mislead people to believe that [A.D] was licensed to trade in real estate.

- e. You also posted this sign on other properties that you were agent for the seller.

- 3. Between February 2022 and July 2023, you failed to provide to your broker in a timely manner all original documentation and copies of original documents provided to the parties or maintained by other brokerages related to a trade in real estate and required under the Act and Rules, contrary to section 53(c) of the Real Estate Act Rules:
 - a. You were agent for parties on several properties, including the following:
 - 1. [ADDRESS 1]
 - 2. [ADDRESS 2]
 - 3. [ADDRESS 3]
 - 4. [ADDRESS 4]

 - b. You did not submit records for your work on these properties to your brokerage including the following:
 - 1. consumer relationship acknowledgment forms
 - 2. relevant title searches
 - 3. corporate searches related to parties you were acting for
 - 4. FINTRAC Individual Identification Information records, and
 - 5. comparative market analyses

- 6. Between May and June 2023, you withheld, destroyed, concealed or refused to produce any books, documents, records or other things required for the purpose of an investigation, contrary to section 38(4.1) of the Real Estate Act:
 - a. You did not provide bank account records for Onyx Real Estate Inc., despite several requests from the investigator.

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 July 4, 2024.
(date)

"Signature"

Warren Martinson, Registrar
Real Estate Council of Alberta

Contact Information:

Hearings Administrator:	Administrator for Counsel for the Registrar:
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