

THE REAL ESTATE COUNCIL OF ALBERTA

Case Number: 014811
Name on Licence: Brian Andrew Fischer
Licence Type & Class: Condominium Management Broker
Brokerage Name on Licence: KDM Management Inc.
Process: Section 39 & 83 of the *Real Estate Act*

Document: ADMINISTRATIVE PENALTY
Penalty: \$3,000 (see Schedule 2 of the Bylaws)

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: Brian Andrew Fischer

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

Rule 41 – Licensee must:

(g) practice in strict accordance with the Act, regulations, Rules, Bylaws and any other laws that govern trading in real estate, mortgage transactions or property management, or condominium management services in Alberta.

Condominium Property Regulation

Section 20.52(1) - *Subject to subsection (2), the following information and documents are prescribed for the purposes of section 44 of the Act:*

(b) an information statement that includes all of the following:

(iv) a statement setting out any structural deficiencies that the corporation has knowledge of at the time of the request in any of the buildings that are included on the condominium plan.

Particulars of the contravention(s):

1. In or around February 24th, 2023, you failed to ensure all condominium management services and relevant documentation provided by KDM Management Inc. (KDM) met the legislative requirements found under the *Condominium Property Act* and Regulation contrary to section 80.84(1)(f) of the *Real Estate Act* Rules:
 - a) On February 22nd, 2023, [C.C] submitted an offer to purchase the property located at [ADDRESS] (Property). The purchase contract was subject to a buyer's condition of reviewing condominium documents. This included providing an Information Statement about any structural deficiencies the condominium corporation has knowledge of at the time of the request.
 - b) KDM managed the condominium complex where the Property was located. KDM provided services on behalf of the Condominium Corporation (Corporation), such as issuing Information Statements. You were the broker of KDM.
 - c) KDM received a request for an Information Statement for the Property. Section 20.52 of the Condominium Property Regulation required that an Information Statement set out any structural deficiencies the Corporation has knowledge of at the time of the request.
 - d) On February 24th, 2023, KDM Management Inc. provided [C.C] an Information Statement on behalf of the Corporation which stated there were no structural deficiencies to the best of KDM's knowledge.
 - e) Five sets of meeting minutes predating the Information Statement discussed water issues or foundation leaks and cracks within the same block of units as [ADDRESS]. KDM was in attendance for each of these meetings.

- f) At the time KDM provided the Information Statement, the representation there were no structural deficiencies was not accurate.
- g) Shortly after [C.C] took possession of the Property, the Property flooded. It appeared the flooding was related to foundational leaks.
- h) On July 25th, 2023, an engineering firm provided KDM a report concerning the foundation of the units in [C.C]'s block. The report detailed the weeping tile had collapsed on the southwest corner and it was suspected to be similar throughout the perimeter of the building.

The Registrar considered the following aggravating factors.

Aggravating Factors

- An Information Statement is critical for potential purchasers of a condominium. Consumers must trust an Information Statement is accurate. There must be general deterrence of this misconduct.
- KDM's actions of providing an inaccurate Information Statement have exposed the Condominium Corporation to legal action and potential liability.

Mitigating Factors

- The Buyer had the opportunity to review meeting minutes and ask further questions. Had that been done, the foundation issues would likely have been discovered.

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: [S.W], Investigator
Email: [EMAIL]
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Issued at Calgary, Alberta, on April 10, 2025.

"Signature"

Warren Martinson, Registrar
Real Estate Council of Alberta