

THE REAL ESTATE COUNCIL OF ALBERTA

IN THE MATTER OF section 39(1)(b) and section 41 of the *Real Estate Act*, R.S.A. 2000, c. R-5, (the “Act”)

AND IN THE MATTER OF a Hearing regarding the conduct of **PAMELA FILIPCHUK** currently unlicensed as a real estate associate and formerly registered with Re/Max Real Estate (Edmonton) Ltd. o/a Re/Max Real Estate

Hearing Panel Members: [A.T], Chair
[J.L],
[H.Y]

Hearing Date: June 9, 2025 via video conference

Appearances: G. Zha, Counsel for the Real Estate Council of Alberta

Kamal Elmahdi, Counsel for the Licensee, Pamela Filipchuk

Hearing Panel Decision

A. Overview and Decision Summary

These are the written reasons of the Hearing Panel of the Real Estate Council of Alberta on:

- i. conduct deserving of sanction; and
- ii. sanction

with respect to the conduct of Pamela Filipchuk, a real estate associate who is currently not registered (the “Former Licensee”).

After reading the parties’ joint written agreement and hearing the parties’ submissions at the hearing held on June 9, 2025, the Panel orally delivered its decision and advised the parties that these written reasons would follow.

The Former Licensee was represented by legal counsel and was not present at the hearing. Neither the Registrar nor the Former Licensee objected to the composition of the Hearing Panel.

The Registrar and the Former Licensee jointly submitted:

i. An agreement of conduct deserving of sanction pursuant to Part 3, Section M of the *Hearing and Appeal Practice and Procedure Guidelines*, setting out:

- Agreed facts;
- Agreed breaches;
- Agreed factors on sanction; and

ii. A joint submission on sanction.

B. Conduct Deserving of Sanction

The Hearing Panel accepted the parties' agreement of conduct deserving of sanction, including the agreed facts, the agreed breaches and the agreed factors on sanction and found that the Former Licensee breached:

- Rule 42(a);
- Rule 41(d);
- Rule 53(c);
- Rule 53(d);
- Rule 54(3);
- Rule 43(1);

of the *Real Estate Act* Rules (the "Rules").

The Panel further accepted the parties' agreement that the breaches of the Rules set out above were conduct deserving of sanction.

C. Sanction and costs

The Hearing Panel accepted the parties' joint submission on sanction and imposed the following sanctions:

a) Suspension

A 12-month suspension of the Former Licensee's authorization to trade in Real Estate issued under the *Real Estate Act*, effective June 9, 2025.

b) Education

The Former Licensee shall complete the following courses at her own expense:

- Fundamentals of Real Estate and the Practice of Residential Real Estate with completion of both pre-licensing exams.

Should the Former Licensee not complete this education requirement within 12 months of this decision, her authorization to trade in real estate under the *Real Estate Act* will continue to be suspended until she has completed this Education requirement.

c) Monetary Fines

The Former Licensee shall pay the following fines within 30 days of the date of this decision:

Breach	Fine
Rule 42(a) of the <i>Real Estate Act Rules</i>	\$10,000
Rule 41(d) of the <i>Real Estate Act Rules</i>	\$5,000
Rule 53(c) of the <i>Real Estate Act Rules</i>	\$1,500
Rule 53(d) of the <i>Real Estate Act Rules</i>	\$1,500
Rule 54(3) of the <i>Real Estate Act Rules</i>	\$1,500
Rule 43(1) of the <i>Real Estate Act Rules</i>	\$1,000
TOTAL	\$20,500.00

d) Costs

The Former Licensee shall pay no costs.

D. The Allegations in the Amended Notice of Hearing

In the Amended Notice of Hearing, Exhibit 1, the Registrar alleged as follows:

1. That on or about May 2013, the Former Licensee participated in fraudulent or unlawful activities in connection with the provision of services or in any dealings, contrary to s. 42(b) of the Rules:
 - a. That the Former Licensee defrauded her clients [C.T.] and [R.T.] (collectively the "Clients") of money by falsely claiming her property

was worth \$889,000 to make \$850,000 appear as a reasonable minimum purchase price. The property was not worth \$889,000 nor was it worth \$850,000 and the Former Licensee was aware of this.

- b. The Clients used their life savings to purchase the Former Licensee's property for \$150,000 over market value.
2. On or about May 2013, the Former Licensee participated in fraudulent or unlawful activities in connection with the provision of services or in any dealings, contrary to s. 42(b) of the Rules or she made representations and carried on conduct that was reckless or intentional and that misled or deceived or was likely to do so, contrary to s. 42(a) of the Rules:
 - a. The Former Licensee misrepresented the sale price of her property to be \$700,000 when the actual sale price was \$850,000.
 - b. This representation misled/deceived or likely misled//deceived the City of St. Albert, the Land Titles Office and the lender.
3. On or about May 2013, the Former Licensee failed to fulfill her fiduciary obligations to her clients contrary to s. 41(d) of the Rules:
 - a. The Former Licensee gave her clients false or bad advice and failed to make full disclosure of all information known to her respecting the Clients' interest and decisions concerning the purchase of the Former Licensee's property including:
 - i. The history of the property
 - ii. The appropriate comparative market value of the property
 - iii. The lowest reasonable value the property could be expected to sell for at the time
 - b. The Former Licensee advanced her own interest ahead of the Clients by giving false or misleading advice knowing her clients would rely on it:
 - i. The Former Licensee counselled [C.T.] that the inflated amount of \$850,000 was a reasonable purchase price.
 - ii. The Former Licensee advised the Clients that paying the additional \$150,000 outside the purchase contract for the Clients' benefit.
 - iii. The Former Licensee advised that using the same lawyer was in the Clients' best interests.
 - c. The Former Licensee was aware of the Clients' vulnerable circumstances and used it to act in her own best interests, profiting significantly.

4. The Former Licensee did not obtain written informed consent from the Clients of the conflict of interest that existed from the Former Licensee representing them as buyers of her property while she was acting as the seller, contrary to s. 54(3) of the Rules.
5. The Former Licensee did not provide her broker with any of the original documentation concerning the purchase of the property, contrary to s. 53(c) of the Rules.
6. The Former Licensee did not inform her broker that she was acting for the Clients in the purchase of her own home, contrary to s. 53(d) of the Rules.
7. The Former Licensee established a client relationship with the Clients without entering into a written service agreement, contrary to s. 43(1) of the Rules.

E. Hearing Panel's Decision on Sanction

1) Conduct Deserving of Sanction- Phase 1

At the request of the Registrar and the Former Licensee, the Agreement of Conduct Deserving of Sanction pursuant to Part 3, section M (d) of the *Hearing and Appeal Practice Procedure Guidelines* (the "Agreement of Conduct Deserving of Sanction"), was entered into evidence as evidence of agreed facts, breaches, and conduct deserving of sanction.

Agreed Facts

The Hearing Panel accepted the following agreed facts as set out in Schedule A to the Agreement of Conduct Deserving of Sanction:

1. The Former Licensee had been licensed as a real estate associate since 1992 and has been licensed with RECA since its inception.
2. At all material times during the conduct in question, the Former Licensee was registered with Re/Max Real Estate (Edmonton) Ltd. o/a Re/Max Real Estate.
3. The Former Licensee is currently not practising. Her license expired in September 2024, and she voluntarily opted not to renew it.

4. In February 2019, [C.T.] complained to RECA regarding the Former Licensee's conduct while she was acting as a real estate associate for the Clients in 2013.
5. The Former Licensee first became familiar with the Clients in the early 1990s when the Former Licensee's father and brother sold the Clients a home in St. Albert, though the Former Licensee did not meet the Clients until 2012.
6. [C.T.] was 59 years old and [R.T.] was 70 years old when the Subject Property (as defined below) was purchased. [R.T.] had developed medical problems that resulted in him being in a wheelchair. To have ease in moving him around in the wheelchair, [C.T.] wanted to sell their five level home in [ADDRESS] (the "[ADDRESS]").
7. [C.T.] contacted [P.F.] in 2012 and asked him to act as an agent for her and her husband in purchasing a more accessible home. The Former Licensee worked with [P.F.] at that time, and she offered to work with the Clients to find them a suitable home.
8. On September 14, 2012, the Clients purchased a bungalow located at [ADDRESS 2] (the "[ADDRESS 2]"). The Former Licensee acted as agent for them in this purchase.
9. After living in the [ADDRESS 2] for a short duration of time, [C.T.] determined the property was not as suitable as she originally believed. [C.T.] expressed her concern to the Former Licensee, stating that the property was still not wide enough to accommodate her husband's wheelchair.
10. On April 25, 2013, the Clients sold the [ADDRESS]. The Former Licensee acted for them in this sale.
11. Sometime between April 25 and 29, 2013, [C.T.] visited the Former Licensee's bungalow located at [ADDRESS 3] (the "[ADDRESS 3]") for a social gathering.
12. During the visit, [C.T.] and the Former Licensee discussed the prospects of [C.T.] purchasing the [ADDRESS 3]. [C.T.] became emotional and expressed her interest in purchasing the [ADDRESS 3] as it had wide hallways and spacious rooms that would perfectly accommodate her husband's wheelchair.
13. On April 30, 2013, the Former Licensee emailed [C.T.] stating that she agreed to act for [C.T.] and her husband in selling the [ADDRESS 2] and in purchasing the [ADDRESS 3].

14. In this email, the Former Licensee stated that the [ADDRESS 3] was worth \$889,000 and if she was going to list it on the market, she would not consider an offer lower than \$875,000 to \$880,000.
15. The Former Licensee made this representation without providing any appraisal or independent comparative market assessment.
16. The Former Licensee advised the Clients that she would sell them the [ADDRESS 3] for \$850,000.
17. The Former Licensee overstated the value of the [ADDRESS 3] which misled the Clients into believing \$850,000 was a fair purchase price.
18. An independent retrospective market value appraisal obtained by RECA for the [ADDRESS 3] (the "RECA Subject Appraisal") found that the qualified market value of the Subject Property was \$700,000.
19. An independent retrospective market value appraisal obtained by the Former Licensee for the [ADDRESS 3] (the "Licensee Subject Appraisal") found that the qualified market value of the Subject Property was \$815,000.
20. In or around early May 2013, the Former Licensee advised [C.T.] to record the purchase price on the purchase contract for the [ADDRESS 3] as \$700,000 and to pay the remaining \$150,000 to the Former Licensee via bank draft. The Former Licensee advised [C.T.] that this would conceal the full purchase price from the City of St. Albert and lower the Clients' property taxes. [C.T.] relied on this advice and proceeded as advised by the Former Licensee.
21. Pursuant to the parties' agreement, the Former Licensee set the purchase price on the contract at \$700,000 with the remaining amount to be paid directly between the parties through a bank draft. By this advice and in so structuring the purchase, the Former Licensee effectively concealed the true purchase price from the City of St. Albert, the conveyancing lawyer, and a lender who provided bridge financing on the purchase.
22. The 2014 Property Assessment from the City of St. Albert assessed the [ADDRESS 3] at \$763,000.
23. The [ADDRESS 3] was issued a development permit in 2007 to address geotechnical issues. It was deconstructed and reconstructed to address significant structural defects with the foundation of the house. It took about four years to complete this work. The Former Licensee did not disclose the reconstruction information to the Clients prior to them signing a purchase contract for the [ADDRESS 3]. The Clients did not raise issues of material defects with the [ADDRESS 3].

24. On May 22, 2013, the Clients and the Former Licensee signed a Residential Real Estate Purchase Contract drafted by the Former Licensee. The Residential Real Estate Purchase Contract contained the following information:
- a. Property: [ADDRESS 3]
 - b. Seller: The Former Licensee
 - c. Buyers: [C.T.] and [R.T.]
 - d. Initial Deposit: \$50,000
 - e. Purchase Price: \$700,000
 - f. Deposit to be paid to: J.W. in trust
 - g. Closing date: August 19, 2013
 - h. Seller is a licensed realtor in the Province of Alberta
 - i. Purchaser to accept Real Property Report from 2011
 - j. Seller Representative: the Former Licensee
 - k. Buyer Representative: the Former Licensee
 - l. The Former Licensee did not include an inspection condition in the contract she drafted for the Clients.
25. On May 22, 2013, [C.T.] signed an Acknowledgement provided by the Former Licensee stating that she was choosing to enter into a sole buyer agency relationship with the Former Licensee's brokerage. This Acknowledgement specified that it was not a service agreement.
26. The Former Licensee did not provide [C.T.] and her husband with any other written service agreement despite acting as agent for the Clients.
27. The Former Licensee was both the seller of the Subject Property and the agent representing the Clients in the purchase of the same property. The Former Licensee did not ask the Clients for a written informed consent to the conflict of interest.
28. On or around early May 2013, the Former Licensee advised the Clients to use the lawyer the Former Licensee normally uses in real estate transactions, [J.W.]. The Clients were familiar with [J.W.] having used his services for their prior three transactions. The Former Licensee advised the Clients they would save money on the transaction if they dealt with the same lawyer on both sides. [J.W.] was an active member of the Law Society of Alberta. All parties signed a conflict letter prepared by [J.W.] as is required in real estate transactions completed by one lawyer acting for both sides.
29. On or around May 22, 2013, the Clients paid a \$50,000 deposit via cheque to [J.W.] in trust and signed the Statement of Adjustments in [J.W.]'s office. The Statement of Adjustments stated the purchase price as \$700,000 and

the deposit paid as \$50,000. There was no mention of the \$150,000 that [C.T.] paid the Former Licensee in the Statement of Adjustments and [J.W.] was not told of the \$150,000 cash payment.

30. On July 5, 2013, [C.T.] gave a \$150,000 bank draft to the Former Licensee.
31. On the Former Licensee's recommendation, the Clients were referred to [M.A] for mortgage financing of the [ADDRESS 3].
32. On or around August 8, 2013, the Clients obtained a mortgage from the National Bank of Canada. The principal amount stated on the Mortgage Form was \$700,000. The mortgage was registered in the Land Titles Office.
33. The trust reconciliation statement from [J.W.]'s office stated \$480,000 as received mortgage funds. The mortgage was discharged on or around September 9, 2013.
34. The sale of the [ADDRESS 3] closed on or around August 12, 2013. The Clients received possession on or around this date.
35. The transfer of land for the [ADDRESS 3] registered with the Land Titles Office states the value and consideration was \$700,000.
36. The Former Licensee did not report this sale of the [ADDRESS 3] to her brokerage, nor did she provide the brokerage with any documentation relating to the transaction until prompted to through the RECA investigation.

Agreed Breaches

The Hearing Panel accepted the following agreed breaches jointly submitted by the parties as being conduct deserving of sanction:

1. The Former Licensee failed to fulfil her fiduciary obligations to the Clients contrary to s. 41(d) of the Rules:
 - a. The Clients relied on the Former Licensee as their agent. The Former Licensee neglected to fulfil her fiduciary duties to the Clients when she gave them advice contrary to their best interests and failed to make full disclosure of all information known to her respecting the Clients' interest and decisions concerning the purchase including:
 - i. The history of the [ADDRESS 3]; and
 - ii. The appropriate comparative market value of the [ADDRESS 3].

- b. Despite being aware of the Clients' unfortunate circumstances and vulnerability, the Former Licensee advanced her own interests ahead of her clients by giving false or misleading advice which the Clients relied on:
 - i. The Former Licensee counselled [C.T.] that the inflated amount of \$850,000 was a reasonable purchase price when this number was not based on any independent comparative market assessment or appraisal.
 - ii. The Former Licensee advised the Clients that paying the additional \$150,000 outside the purchase contract was for the Clients' benefit.
 - c. The Former Licensee counselled the Clients to participate in a transaction which concealed the actual amount paid by the Clients for the Subject Property from the municipality, their lawyer, the Former Licensee's brokerage and the lender of the bridge financing. This potentially exposed the Clients to allegations of tax and mortgage fraud, though no allegations of fraud were brought against the Clients.
 - d. The Former Licensee's false and misleading representations were relied on by the Clients who purchased the [ADDRESS 3] at a price well over its market value.
- 2. The Former Licensee misrepresented the sale price of the [ADDRESS 3] to be \$700,000 when the actual sale price of the [ADDRESS 3] was \$850,000. This representation misled and deceived the City of St. Albert, the Land Titles Office, and the lender. This was a breach of s. 42(a) of the Rules.
- 3. The Former Licensee did not obtain written informed consent from the Clients regarding the conflict of interest that existed by virtue of the Former Licensee representing them as buyers of the [ADDRESS 3] while she was the seller of the [ADDRESS 3], contrary to s. 54(3) of the Rules.
- 4. The Former Licensee did not provide her broker any of the original documentation of the purchase of the [ADDRESS 3], contrary to s. 53(c) of the Rules.

5. The Former Licensee did not inform her broker that she was acting for the Clients in the purchase of the [ADDRESS 3], contrary to s. 53(d) of the Rules.
6. The Former Licensee established a client relationship with the Clients and failed to enter into a proper written service agreement, contrary to s. 43(1) of the Rules.

Agreed Factors on Sanction

The Hearing Panel accepted the following agreed factors on sanction jointly submitted by the parties.

The Hearing Panel accepted that the following jointly submitted facts were relevant as mitigating factors:

1. The Former Licensee agreed to take responsibility for her actions by making these admissions, thereby saving the time and expense of a hearing.
2. The Former Licensee has no disciplinary history over her three-decade career and has cooperated with the investigation conducted by RECA.

The Hearing Panel further accepted that the following jointly submitted facts were relevant as aggravating factors:

1. The Former Licensee was an experienced real estate associate.
2. The Former Licensee engaged in multiple breaches in relation to the sale of the [ADDRESS 3].
3. The Former Licensee breached the fiduciary duties she owed to her clients by failing to act in their best interests in multiple ways.
4. The duties of honesty and integrity are essential to the integrity of the entire industry and to the principles of self-regulation. The Former Licensee's conduct and representations deceived her clients, the City of St. Albert, the Land Titles Office and the lender.
5. The Former Licensee knew that her clients were adjusting to unfortunate medical circumstances, with [C.T.] expressing to the Former Licensee that she so badly wanted a spacious bungalow that would be accessible and comfortable for her husband's medical conditions. Knowing this, the Former Licensee led the Clients to believe that \$850,000 was a fair purchase price for the [ADDRESS 3].

6. The Former Licensee's conduct is serious and there is a need to promote specific and general deterrence to ensure that the Former Licensee and other real estate professionals understand this conduct is wrong and will be met with consequences.

Oral Submissions at the Hearing

At the hearing, counsel for the Registrar presented the Agreement of Conduct Deserving of Sanction.

The Registrar submitted that the Hearing Panel did not have to accept the Agreement of Conduct Deserving of Sanction, but that the Hearing Panel would need to have a compelling reason not to do so.

Counsel for the Former Licensee made oral submissions at the hearing. While he agreed that the Registrar's submissions accurately represented the Agreement of Conduct Deserving of Sanction between the parties, he pointed out that the Notice of Hearing was not agreed to by the parties. Rather, the Notice of Hearing set out what was alleged against the Former Licensee by the Registrar.

Decision on Conduct Deserving of Sanction - Phase 1

The Hearing Panel accepted the parties' agreement of conduct deserving of sanction, including the agreed facts, the agreed breaches and the agreed factors on sanction.

The Panel found that the Former Licensee breached the following Rules:

1. Rule 41(d) which provides that licensees must fulfill their fiduciary obligations to their clients;
2. Rule 42(a) which provides that licensees must 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;
3. Rule 54(3) which provides that a licensee shall not provide any services to the clients or potential client in a trade or anticipated trade in which the licensee has, or will have, a conflict of interest without receiving the written and informed consent of the party.
4. Rule 53(c) which provides that a real estate associate broker and associate must provide to the broker in a timely manner all original documentation and copies of original documents provided to the parties or maintained by other brokerages:

- (i) related to a trade in real estate; and
 - (ii) required under the Act and the Rules.
5. Rule 53(d) which provides that a real estate associate broker and associate must keep the broker informed of the activities being performed by the associate broker or associate on behalf of the brokerage.
 6. Rule 43(1) which provides that subject to the Rules, a licensee who establishes a client relationship when trading in residential real estate must enter into a written service agreement with that prospective client.

The Panel found that the breaches of the Rules set out above were conduct deserving of sanction.

2) Sanction and Costs – Phase 2

Sanctions

The Registrar and the Former Licensee submitted a Joint Submission on Sanction.

The Registrar and the Former Licensee proposed the following sanctions:

a. Suspension

A 12-month suspension of the Former Licensee's authorization to trade in Real Estate issued under the *Real Estate Act*, effective June 9, 2025.

b. Education

The Former Licensee shall complete the following courses at her own expense:

- Fundamentals of Real Estate and the Practice of Residential Real Estate with completion of both pre-licensing exams.

Should the Former Licensee not complete this education requirement within 12 months of this decision, her authorization to trade in real estate under the *Real Estate Act* will continue to be suspended until she has completed this Education requirement.

c. Monetary Fines

The Former Licensee shall pay the following fines within 30 days of the date of this decision:

Breach	Fine
Rule 42(a) of the <i>Real Estate Act Rules</i>	\$10,000
Rule 41(d) of the <i>Real Estate Act Rules</i>	\$5,000
Rule 53(c) of the <i>Real Estate Act Rules</i>	\$1,500
Rule 53(d) of the <i>Real Estate Act Rules</i>	\$1,500
Rule 54(3) of the <i>Real Estate Act Rules</i>	\$1,500
Rule 43(1) of the <i>Real Estate Act Rules</i>	\$1,000
TOTAL	\$20,500.00

d. Costs

The Former Licensee shall pay no costs.

Panel Authority on Sanction

The parties jointly submitted that sanction is within the discretion of the Hearing Panel.

The Hearing Panel's authority to impose sanction is set out in section 43 of the *Real Estate Act*:

Decision of Hearing Panel

43(1) If a Hearing Panel finds that the conduct of a licensee was conduct deserving of sanction, the Hearing Panel may make any one or more of the following orders:

- (a) an order cancelling or suspending any authorization issued to the licensee by the Council;
- (b) an order reprimanding the licensee;
- (c) an order imposing any conditions or restrictions on the licensee and on that licensee's carrying on of the business of an licensee that the Hearing Panel, in its discretion, determines appropriate;
- (d) an order requiring the licensee to pay to the Council a fine, not exceeding \$25,000, for each finding of conduct deserving of sanction;
- (d.1) an order prohibiting the licensee from applying for a new authorization for a specified period of time or until one or more

conditions are fulfilled by the licensee;

(e) any other order agreed to by the parties.

Factors to Consider

The parties jointly submitted that the Hearing Panel must consider the specific facts of the case when deciding on a sanction.

The parties submitted that in determining the sanction, the Hearing Panel should consider following the factors set out in *Jaswal v Newfoundland (Medical Board)*, 1996 CanLII 11630 (NLSC):

- a. the nature and gravity of the proven allegations;
- b. the age and experience of the Licensee;
- c. the previous character of the Licensee and, in particular, the presence or absence of prior complaints or convictions;
- d. the number of times the offence was proven to have occurred;
- e. the role of the Licensee in acknowledging what occurred;
- f. whether the Licensee had already suffered serious financial or other penalties as a result of the allegations having been made;
- g. impact of the incident on the victim, if any;
- h. mitigating circumstances;
- i. aggravating circumstances;
- j. the need to promote specific and general deterrence and thereby protect the public and ensure the safe and proper conduct of the profession;
- k. the need to maintain the public's confidence in the integrity of the profession;
- l. the degree to which the offensive conduct that was found to have occurred was clearly regarded, by consensus, as being the type of conduct that would fall outside the range of permitted conduct; and
- m. the range of sentences in other similar cases.

The parties jointly submitted that general deterrence refers to the effect a sanction will have on others in the future: will it dissuade others from the same conduct? General deterrence is also about how the public and industry would consider a reasonable response to the conduct.

The parties submitted that specific deterrence refers to the effect a sanction will have on the subject of the sanction: will it dissuade them from repeating the conduct? The Hearing Panel can weigh factors like the subject's current work, social or financial circumstances, their remorse or lack of remorse, and what impact a sanction will have on them personally.

The parties submitted that in addressing specific deterrence, the Hearing Panel should address the person in front of them and make an order that speaks to them. Mitigating and aggravating refers to facts which make the conduct less or more serious. These will indicate a lower or higher sanction.

The parties submitted that the factors are based on facts. The facts come from the hearing evidence or from additional evidence entered in the second phase of the hearing.

Analysis of the *Jaswal* Factors

Mitigating Factors

The parties submitted and the Panel accepts that the Panel should consider the following mitigating factors:

1. The previous character of the Former Licensee.

The Former Licensee had no previous disciplinary history. This is mitigating

2. The role of the Former Licensee in acknowledging what occurred

The Former Licensee took responsibility for these breaches. She entered into an agreement of conduct deserving of sanction and a joint submission on sanction, thus saving the time and expense of a hearing. This is very mitigating.

Aggravating Factors

The parties submitted and the Panel accepts that the Panel should consider the following aggravating factors:

1. Age and experience of the Former Licensee

The Former Licensee is 62 years old and was first authorized as a real estate associate at RECA's inception in 1997. Given her lengthy experience in the industry, she ought to have been aware that her conduct in this matter was unacceptable. This is aggravating.

2. The number of times the offence was proven to have occurred

Throughout the course of one transaction, the Former Licensee breached a total of six different Rules. This is very aggravating.

3. The nature and gravity of the proven allegations

The Former Licensee's conduct is egregious and requires a significant sanction. She acted in her own interest by misleading the Clients into purchasing her property over the market value. In doing so, the Former Licensee exposed her vulnerable clients to financial loss at a time when she knew [C.T.] was desperately looking to purchase a spacious bungalow to assist with her husband's medical conditions.

Intentionally deceiving or instructing her clients to deceive the City of St. Albert, the Land Titles Office, their own lawyer and the lender of the true price of the [ADDRESS 3] is a serious breach.

That the Former Licensee's brokerage was not aware of the transaction and was not provided with any documents pertaining to the transaction until after RECA commenced its investigation is also a serious breach.

The Former Licensee failed to act in her clients' best interests and failed to uphold her duties as a licensed professional.

Given her experience, the Former Licensee ought to have been aware that her conduct fell seriously short of the professional standard she was bound to uphold. In so doing, she showed an absence of regard for the real estate industry and the collective reputation of real estate professionals. Her conduct is serious in both nature and gravity as it goes to the profession's credibility and reputation.

This is very aggravating.

4. The need to maintain public confidence in the profession

Public confidence in the real estate profession requires real estate professionals to provide honest representation to their clients. Real estate associates must practice in strict compliance with the Act and the Rules to maintain the integrity of the profession. Public confidence in the profession is compromised when an associate is dishonest and does not fulfill fiduciary duties owed to their clients.

The Alberta Court of Appeal in *Adams v Law Society of Alberta*, 2000 ABCA 240, held that public confidence in the profession should be of utmost importance to disciplinary bodies, stating at para. 6 that:

A professional misconduct hearing involves not only the individual and all the factors that relate to that individual, both favorably and unfavorably, but also the effect of the individual's misconduct on both the individual client and generally on the profession in question. This public dimension is of critical significance to the mandate of professional disciplinary bodies.

In *Law Society of Upper Canada v. Lambert*, 2014 ONLSTH 158 at para. 17, the Law Society Hearing Panel stated that a profession's "most valuable asset is its collective reputation." The parties submitted that this must be considered in determining an appropriate sanction.

The parties submitted that RECA must be able to demonstrate to the public that it is investigating, detecting and suppressing dishonest conduct perpetrated by licensees. RECA must not only actually protect the public but also show the public that their protection is of central concern. That is RECA's legislated mandate.

The parties further submitted that members of the public use a licensee's services for assistance, trusting that they will not be misled and subjected to deception against their best interests. The Former Licensee's conduct undermines the trust the public puts in real estate professionals when they enter into real estate transactions. Her breach impacts the reputation of Alberta's real estate profession along with the public confidence that reputation should inspire.

The parties jointly submitted that a licence suspension of one year, the fines proposed, and the education requirement are necessary to maintain public confidence in the Alberta real estate profession.

5. The impact of the incident on the victims

The parties submitted that the misrepresentations made by the Former

Licensee caused the Clients to pay significantly over market value for the [ADDRESS 3].

The Clients purchased the [ADDRESS 3] in a state of urgency as [R.T.] had become confined to a wheelchair and required a wide property to move around with ease. [C.T.] expressed to the Former Licensee that she so badly wanted to have a spacious bungalow to meet her husband's medical needs. The Former Licensee was aware of her clients' needs when she advised that the inflated amount of \$850,000 was a reasonable purchase price for the [ADDRESS 3].

The Clients were advised by the Former Licensee to conceal the true purchase price of the [ADDRESS 3] from the municipality, their own lawyer, the brokerage and the lender. This potentially exposed the Clients to allegations of tax and mortgage fraud, though no such allegations ever arose.

This is very aggravating.

6. Specific and General Deterrence

There is a significant need for general deterrence, especially in serious situations where a licensee engages in deceptive behavior and fails to fulfill their fiduciary duties.

The parties jointly submitted that the Former Licensee has no prior disciplinary history and has taken responsibility through the joint agreements on breaches and sanction. However, given the length of time she has been in the industry, the gravity of her conduct and the vulnerability of the victims necessitates specific deterrence.

Precedent decisions

Although past decisions are not binding on this Hearing Panel, the parties submitted decisions for the Panel to consider when determining the sanction.

1. Rule 42(a)

The parties submitted the following RECA decisions for the Panel to consider when determining the sanction for the breach of Rule 42(a):

- *Aery (Re)*, 2022 ABRECA 18
- *Lalji (Re)*, unreported ("*Lalji*")
- *Antonini (Re)* 2011 ABRECA 316
- *Kwan (Re)*, unreported ("*Kwan*")

2. Rule 41(d)

The parties submitted the following decisions for the Panel to consider when determining the sanction for the breach of Rule 41(d):

- *Law Society of Upper Canada v Francis (Peter Yungwirth)*, 2004 ONLSAP 1 ("Yungwirth")
- *James Sydney Parsons v. Real Estate Council of British Columbia*, 2015 BCFST 9 ("Parsons")
- *Kalia (Re)*, 2018 ABRECA 10
- *Kennedy (Re)*, 2022 ABRECA 70

3. Rule 53(c)

The parties submitted the following RECA decisions for the Panel to consider when determining the sanction for the breach of Rule 53(c):

- *Ross (Re)*, 2021 ABRECA 85
- *Liu*, unreported

4. Rule 53(d)

The parties submitted the following RECA decisions for the Panel to consider when determining the sanction for the breach of Rule 53(d):

- *Pastachak (Re)*, 2019 ABRECA 79
- *Murphy*, unreported

5. Rule 54(3)

The parties submitted the following RECA decisions for the Panel to consider when determining the sanction for the breach of Rule 54(3):

- *Jenkins*, unreported
- *Lea*, unreported
- *Lyons (Re)*, 2019 ABRECA 54

6. Rule 43(1)

The parties submitted the following RECA decisions for the Panel to consider when determining the sanction for the breach of Rule 43(1):

- *Kisilowski (Re)*, 2020 ABRECA 117
- *Jochem (Re)*, 2022 ABRECA 76

The parties submitted that the decisions in *Lalji*, *Kwan*, *Yungwirth*, and *Parsons*, suggest that a suspension is warranted in this case. The Former Licensee made false representations and acted dishonestly. There was a breach of fiduciary duty from multiple aspects, which is significant.

Costs

The parties jointly submitted that pursuant to the Alberta Court of Appeal decision in *Jinnah v. Alberta Dental Association and College*, 2022 ABCA 336 ("*Jinnah*") at paras. 140-144, there is a presumption in professional disciplinary hearings that no costs is the default, and that costs should only be imposed where there are compelling reasons. Compelling reasons include that:

- a. The breach was especially serious;
- b. The subject was a "serial offender";
- c. The subject failed to cooperate with the investigation and extended the use of resources of the regulator; and
- d. The subject participated in hearing misconduct which made the hearing more expensive.

The parties submitted that while the breaches in this case were serious, the Former Licensee was not a serial offender, she cooperated with the investigation and did not engage in any hearing misconduct.

As such, the parties jointly submitted that costs should not be ordered for this hearing.

F. The Test to Accept a Joint Submission

The test for whether a decision maker should depart from a joint submission has been set out by the Supreme Court of Canada in *R. v. Anthony-Cook*, 2016 SCC 43 ("*Anthony-Cook*") at paras. 32-35.

In *Bradley v. Ontario College of Teachers*, 2021 ONSC 2303 the Ontario Superior Court of Justice held that the public interest test set out in *Anthony-Cook* applies to professional disciplinary tribunals. We note that the public interest test has been applied by other RECA panels.

In *Anthony-Cook*, the Supreme Court of Canada set out the public interest test as follows:

[32] Under the public interest test, a trial judge should not depart

from a joint submission on sentence unless the proposed sentence would bring the administration of justice into disrepute or is otherwise contrary to the public interest. But, what does this threshold mean? Two decisions from the Newfoundland and Labrador Court of Appeal are helpful in this regard.

[33] In *Druken*, at para. 29, the court held that a joint submission will bring the administration of justice into disrepute or be contrary to the public interest if, despite the public interest considerations that support imposing it, it is so “markedly out of line with the expectations of reasonable persons aware of the circumstances of the case that they would view it as a break down in the proper functioning of the criminal justice system”. And, as stated by the same court in *R. v. B.O.2*, 2010 NLCA 19, at para. 56, when assessing a joint submission, trial judges should “avoid rendering a decision that causes an informed and reasonable public to lose confidence in the institution of the courts”.

[34] In my view, these powerful statements capture the essence of the public interest test developed by the Martin Committee. They emphasize that a joint submission should not be rejected lightly, a conclusion with which I agree. Rejection denotes **a submission so unhinged from the circumstances of the offence and the offender that its acceptance would lead reasonable and informed persons, aware of all the relevant circumstances, including the importance of promoting certainty in resolution discussions, to believe that the proper functioning of the justice system had broken down. This is an undeniably high threshold** — and for good reason, as I shall explain.

(emphasis added)

G. The Panel’s Findings and Acceptance of the Joint Submission on Sanction

The test set out by the Supreme Court of Canada in *Anthony-Cook* has been followed by regulatory bodies, including RECA. The Hearing Panel held that it is bound by the test set out in *Anthony-Cook*. The Hearing Panel found that the Joint Submission on Sanction is not so unhinged from the circumstances of the breaches and the Former Licensee that its acceptance would lead reasonable and informed persons, aware of all the relevant circumstances, including the importance of promoting certainty in resolution discussions, to believe that the proper functioning of the justice system had broken down.

The Hearing Panel was satisfied that the parties have provided “a full description of the facts relevant to the offender and the offence” in order to give the Hearing

Panel “a proper basis upon which to determine whether [the joint submission] should be accepted”: *Anthony-Cook* at para. 54.

H. Conclusion

The Hearing Panel accepted the parties’ agreement of conduct deserving of sanction and the parties’ joint submission on sanction.

Pursuant to section 43 of the *Real Estate Act*, this Panel imposed the following sanctions:

a. Suspension

A 12-month suspension of the Former Licensee’s authorization to trade in Real Estate issued under the *Real Estate Act*, effective June 9, 2025.

b. Education

The Former Licensee shall complete the following courses at her own expense:

- Fundamentals of Real Estate and the Practice of Residential Real Estate with completion of both pre-licensing exams.

Should the Former Licensee not complete this education requirement within 12 months of this decision, her authorization to trade in real estate under the *Real Estate Act* will continue to be suspended until she has completed this education requirement.

c. Monetary Fines

The Former Licensee shall pay the following fines within 30 days of the date of this decision:

Breach	Fine
Rule 42(a) of the <i>Real Estate Act Rules</i>	\$10,000
Rule 41(d) of the <i>Real Estate Act Rules</i>	\$5,000
Rule 53(c) of the <i>Real Estate Act Rules</i>	\$1,500
Rule 53(d) of the <i>Real Estate Act Rules</i>	\$1,500
Rule 54(3) of the <i>Real Estate Act Rules</i>	\$1,500
Rule 43(1) of the <i>Real Estate Act Rules</i>	\$1,000
TOTAL	\$20,500.00

d. Costs

The Former Licensee shall pay no costs.

Signed and dated this 8th day of July, 2025 at the City of Edmonton in the Province of Alberta.

"Signature"

[A.T],
Hearing Panel Chair