

Case Summaries

March 20 - June 25, 2024

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Case Summaries

Welcome to RECA's Case Summaries.

Inside you will find the summaries for all disciplinary and regulatory decisions occurring at the Real Estate Council of Alberta (RECA) since the previous newsletter, including any suspensions and approved lifetime withdrawals from the industry.

The Case Summaries are drafted with a focus on learning opportunities, including issues that may be relevant but not directly related to the case at hand.

RECA is authorized to carry out conduct proceedings under [Part 3](#) of the *Real Estate Act*.

Learning opportunities reflect advice for licensees under the *Real Estate Act*, including the amendments that came into force on December 1, 2020.

Questions about disciplinary information RECA publishes and why? Review [RECA's Publication Guidelines](#) online.

A close-up photograph of a person's hands typing on a laptop keyboard. The image is partially obscured by a semi-transparent blue rectangular overlay. The text 'Hearing Panel Decision' is written in white, bold, sans-serif font across the blue area. The background shows the person's hands, a portion of their dark blue patterned sleeve, and the laptop keyboard. The lighting is bright, creating a professional and focused atmosphere.

Hearing Panel Decision

Mohit Seth,

Mortgage broker currently registered with Maak Finance Ltd. o/a Ezee Mortgages and real estate associate currently registered with 1800086 Alberta Ltd. o/a First Place Realty.

Issue

The Notice of Hearing submitted by the Registrar outlined two breaches of the *Real Estate Act* (the Act) and the corresponding Rules:

- s.42(a) of the Rules which requires licensees not to make representations or carry on business that is reckless or intentional and that misleads or deceives any person or is likely to do
- s.54(3) of the Rules which requires that a licensee shall not provide any services to the client 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

Facts

- in 2017, Seth was licensed as a real estate associate registered with 1800086 Alberta Ltd. o/a First Place Realty and a mortgage associate registered with Enrich Mortgage Group Ltd. o/a Mortgage Alliance – Enrich Mortgage Group
- in or around 2017, Seth represented clients as a real estate associate and mortgage associate on the same purchase
- Seth did not obtain written and informed consent from his buyer clients clarifying the this was a conflict of interest
- on February 10, 2017, Seth loaned \$50,000 to his buyer client from his mortgage company. This was disclosed to the institutional lender financing the deal
- on February 21, 2017, the closing date, Seth loaned \$10,000 to his buyer clients from his mortgage company. He did not inform the institutional lender financing this deal of this loan. The lender had specific terms in their mortgage agreement concerning additional loans.
- Seth did not obtain written and informed consent from his buyer clients clarifying the loans were a conflict of interest
- a hearing was held on March 21, 2024
- the parties jointly presented to the Hearing Panel an Agreement of Conduct Deserving of Sanction and a Joint Submission on Sanction

Outcome

On May 7, 2023, the Hearing Panel accepted the Admission of Conduct Deserving of Sanction, and the Joint Submission on Sanction submitted by both parties.

The Panel confirmed from within the Joint Submission that Seth engaged in two breaches of the Rules and ordered:

- total fines of \$16,000

A close-up photograph of a person's hand typing on a silver laptop keyboard. The hand is wearing a blue sleeve and a watch. The laptop is on a wooden desk. In the foreground, a pair of black-rimmed glasses and a smartphone are visible. The background is blurred, showing a green plant and a yellow cup. A semi-transparent blue rectangle is overlaid on the image, containing the text.

Administrative Penalties

Real Estate Act s.17(c)

No person shall act as a property manager unless that person holds the appropriate licence.

[Debra Lynn Grymaloski](#),

Unlicensed at time of conduct

- Grymaloski ceased holding a condominium management broker licence on September 30, 2023
- at the time, Grymaloski was providing condominium management services to three Condominium Corporations
- from October 2023 to February 2024, Grymaloski continued to provide condominium management services while unlicensed
- on March 22, 2024, Grymaloski reinstated their licence as a condominium management associate
- \$5,000

Learning Opportunity

Unlicensed persons who provide services that require a licence put consumers at serious risk. Unlicensed persons do not have the required education or errors and omissions insurance. In this case, Grymaloski continued to provide multiple services they were not authorized to provide and failed to cease providing these services when their licence had expired.

[Professional Ethics of
Condominium Managers](#)

Real Estate Act Rules s.58(o)

A licensee who is in a sole agency relationship with a buyer must assist the buyer in negotiating favorable terms and conditions with a seller, and in preparing and complying with legally binding agreements and the sale of the property.

Gurpreet Singh Hayer,

Real estate associate registered with HR3 Alberta Inc. o/a Re/Max Crown

- in February 2022, clients entered into an Exclusive Buyer Representation Agreement with Hayer
- in February 2022, following Hayer's advice, Hayer's clients entered into an unconditional purchase agreement without financing in place
- Hayer's clients required financing
- Hayer failed to adequately inform their clients of the risks involved with an unconditional offer
- in March 2022, Hayer's clients failed to obtain financing for the purchase of the property
- Hayer advised their clients to enter an amendment to extend the purchase contract closing date
- in advising their clients to accept the amendment as written, Hayer failed to act with reasonable care and skill as the term was ambiguous regarding the fee for extending the offer
- this exposed Hayer's clients to incurring a significant fee
- \$3,000

Learning Opportunity

A licensee representing a buyer has an obligation to take reasonable steps to ensure they are negotiating favorable terms and conditions with a seller. In this case, the licensee advised their clients to submit an offer without financing in place. The licensee was aware their clients required financing and failed to adequately inform their clients of the risks involved with an unconditional offer.

Condition Free Offers

Competent Service

Real Estate Act Rules s.45(3)

If a licensee makes a referral to another person, the licensee must take reasonable steps to ensure the person is authorized to carry out the activities for which the referral is made.

Harminster Singh Mann,

Real estate associate registered at the time of conduct Brokerage Twin Oakes Real Estate 1993 Inc. o/a Re/Max House of Real Estate. Currently registered at Brokerage 969801 Alberta Ltd. o/a Avenue Commercial.

- in August 2022, a client and their partner approached Mann to represent them in their efforts to purchase a commercial property
- on August 12, 2022, the client made an offer on the property that was accepted by the sellers
- Mann's clients required the services of a mortgage broker
- Mann referred their clients to an individual to handle their mortgage application
- the individual was not licensed to carry out the activities of a mortgage licensee
- on October 14, 2022, Mann sent a text message with the name and contact information for the individual to the seller's licensee and requested they contact the individual to see why the buyers were having difficulty securing financing
- \$3,500

Learning Opportunity

If a licensee makes a referral to another person, the licensee must take reasonable steps to ensure the person is authorized to carry out the activities for which the referral is made. In the case, the associate referred their clients to an individual that was not licensed to deal in mortgages.

Referrals – Licence Requirements

A person is writing in a blue notebook on a wooden desk. The background is blurred, showing a person's hand and a computer monitor. A blue semi-transparent box is overlaid on the image, containing the text "Letters of Reprimand".

Letters of Reprimand

Real Estate Act Rules s.69(d)

A mortgage associate must keep their broker informed of the activities being performed on behalf of the brokerage.

Mortgage Associate

- in February 2019, the associate met with a client who was seeking commercial mortgage financing
- a Commercial Lending Agreement was signed which indicated a condition may be registered on the property to secure the payment of costs
- the brokerage fee was \$15,000
- in March 2019, the lender issued a written commitment to fund the mortgage which was agreed to by the borrower
- the mortgage did not fund
- in June 2019, the associate placed a caveat on the property on behalf of the brokerage for brokerage fees
- the associate did not get permission from the brokerage to place the caveat
- the brokerage was not aware of the caveat placed on the property

Learning Opportunity

Licensees must keep their broker informed of the activities being performed on behalf of the brokerage. In this case, the associate placed a caveat on a property without getting brokerage approval. Licensees must get brokerage approval before acting on the brokerage behalf.

Mortgage Associate – Responsibilities

Real Estate Act Rules s.43(2)(c)

Every written service agreement shall provide that any amendments to the terms of the agreement are in writing and signed by the relevant parties

Real Estate Associate

- on June 8, 2022, the associate entered a service agreement to list a property
- the agreed term was to offer the property for \$534,000
- on June 11, 2022, the associate reduced the price to \$520,000
- this price amendment was not agreed to in writing
- on July 6, 2022, the associate reduced the price to \$489,000
- this price amendment was not agreed to in writing
- on July 23, 2022, the associate reduced the price to \$449,000
- this price amendment was not agreed to in writing
- the lack of documentation concerning these price reductions led the seller clients to become confused and concerned

Learning Opportunity

Every written service agreement shall provide that any amendments to the terms of the agreement are in writing and signed by the relevant parties. In this case, the associate made multiple amendments to the service agreement and failed to get each amendment in writing. The associate did provide some communication with their client on price adjustments, but failing to get these changes in writing led to their client being confused and concerned the associate was not following instructions.

Written Service Agreements

Service Agreements - Real Estate Brokerage

Real Estate Act Rules s.44

A licensee must not disclose information regarding a client, property or transaction to another person unless authorized by the client or required by law.

Condominium Management Broker

- a brokerage managed a condominium property from November 2019 to August 2022
- on September 21, 2022, the brokerage sent financial documents to all owners
- the documents contained owner names, unit numbers, and balances owing and arrears
- these documents contained personal information and should not have been shared without permission
- personal information should only be shared with the Board
- the Board did not approve of this information being sent out to owners

Learning Opportunity

Licensees are obligated to take all reasonable steps to ensure they protect their clients' information. Client information may only be used for the purposes it was collected for and can never be provided to a third party without written consent from the client. In this case, the licensee shared sensitive client information with multiple third parties.

Protection of Client Information

Real Estate Act Rules s.55(1)(a)

Before assisting in a trade in real estate a licensee must disclose, in writing, the nature of the services they will provide.

Real Estate Associate

- on January 15, 2023, the associate communicated with a potential buyer for a property
- the associate discussed with the potential buyer that they would provide services for a fixed fee
- the associate did not discuss the Consumer Relationships Guide with the potential buyer or have an agreement in writing on what services they would provide
- the associate drafted an offer on behalf of the potential buyer
- that offer was not successful
- the potential buyer was confused about the associates' obligations to them in further negotiations

Learning Opportunity

Failing to disclose in writing the nature of a licensee's services and important details of a transaction, puts clients in a vulnerable position and undermines the integrity of the industry. Consumers depend on licensees to accurately explain the terms and conditions of a contract. In this case, the licensee failed to disclose in writing all the services that they would be providing in the transaction.

Competent Service

Client - Real Estate Brokerage

Written Service Agreements

RECA Management

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CONTACT RECA

The Case Summaries is published by the Real Estate Council of Alberta.

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