

Case Summaries

June 26 - October 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.

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 Decisions' is written in white, bold, sans-serif font across the blue area. The background shows the person's hands, a dark blue sleeve with gold buttons, and the silver laptop keyboard.

Hearing Panel Decisions

Ka Chun Kevin Cheung (Cheung),

Mortgage associate registered at the time of conduct with MA Mortgage Architects O/A Mortgage Architects. Currently not registered.

Issue

Cheung was reported to have breached two sections of the *Real Estate Act* Rules (the Rules)

- Rule 42(b) which requires that licensees not participate in fraudulent or unlawful activities in connection with the provision of services
 - Cheung participated in fraudulent or unlawful activities in connection with a trade in real estate
- Rule 69(a) which requires mortgage associates deal in mortgages only in the name that appears on an individual's licence.
 - Cheung failed to use the name that appears on their licence on a Mortgage Approval Letter

Facts

- on April 7, 2024, Cheung signed both an Admission of Conduct Deserving of Sanction (Admission) and a Joint Submission on Sanction, stating they had breached Rule 42(b) and Rule 69(a)
- the Admission was accepted by the RECA Board of Directors on May 15, 2024
- on June 11, 2024, a hearing was held under part 3 of the *Real Estate Act* where Cheung's Admission was presented to a Hearing Panel

Background

- Cheung has been licensed as a mortgage associate since June 13, 2016, and had no prior discipline history with RECA
- prior to May 5, 2021, Cheung was registered as a mortgage associate with the brokerage Grand Financial Group Ltd. O/A Dominion Lending Centre's Grand Financial
- in December 2020, Cheung represented buyer clients interested in purchasing a newly built home in Calgary
- in January 2021, Cheung's clients made an offer on a property with a builder but no vacant lots were available
- in January 2021, Cheung obtained a credit bureau report for their clients
- in May 2021, the builder released new lots, and Cheung's clients submitted an offer on a lot
- on June 11, 2021, Cheung met with their clients to discuss their mortgage options. At this time, Cheung and his clients signed a Client Engagement Letter and Service Agreement

- on June 12, 2021, Cheung drafted a Mortgage Approval Letter for their clients which was provided to the builder
- the Mortgage Approval Letter was on Dominion Lending Centre's letterhead
- the Mortgage Approval Letter was fraudulent
- there had been no mortgage funding approved for the clients
- Cheung attempted to discourage the builder from reporting the fraudulent letter to RECA
- Cheung did not advise the broker at MA Mortgage Architects of the fraudulent letter

Outcome

On August 27, 2024, the Hearing Panel found that based on the Admission and the Joint Submission on Sanction, Cheung had breached Rule 42(b) and 69(a) of the *Real Estate Act*.

The Hearing Panel imposed the following disciplinary actions:

1. cancellation of Cheung's mortgage associate license for one year, beginning June 14, 2024
2. Cheung must complete all education requirements before being eligible to apply for a new mortgage associate licence from RECA
3. total fines to Cheung of
 - \$5,000; for the breach of Rule 42(b)
 - \$1,500; for the breach of Rule 69(a)

Toni Hideki Tsim (Tsim),

Real estate associate currently registered with EXP Realty of Canada Inc. O/A EXP REALTY.

Issues

Tsim was reported to have breached one section of *Real Estate Act* (the Act) as well as three breaches of the *Real Estate Act Rules* (Rules) as follows:

- s.38(4.1) of the Act which requires that a person shall not withhold, destroy, conceal refuse to produce any books, documents, records or other things required for the purpose of an investigation
- s.41(b) of the Rules which requires licensees to provide competent service
- s.42(a) of the Rules which requires licensees to not make representation or carry on conduct that is reckless or intentional and that mislead or deceived any person or is likely to do so
- s.53(c) of the Rules which requires licensees provide to their broker in a timely manner all original documentation and copies of original documents provided to the parties

Facts

- on July 30, 2024, a hearing was held under Part 3 of the Act, Counsel for both parties were present
- the parties presented to the Hearing Panel an Admission of Conduct Deserving of Sanction (Admission) and a Joint Submission on Sanction

Background

- Tsim was hired by a client to sell a property that was subject to a purchase contract
- prior to closing the sale of the property, the client entered into a listing agreement with Tsim
- the client claimed they had authority to sell the property
- Tsim, on behalf of their brokerage, agreed to market the property by placing signs and advertising information about the property online
- Tsim proceeded to advertise the property online by using pictures created by the seller's licensee
- the seller's licensee saw the pictures and demanded that Tsim stop using the pictures
- Tsim failed to immediately remove the pictures.
- Tsim failed to confirm that their client had possession of the property or permission from the seller to place "for sale" signs on the property before installing them

- Tsim failed to complete several transaction records required by their brokerage regarding this sale as well as three other transactions
- Tsim failed to provide records to a RECA investigator as part of an investigation
- Tsim had “for sale” signs created that included their picture as well as an unlicensed individual. The signs included contact information suggesting that either Tsim or the unlicensed individual could be contacted regarding the purchase of the property
- the signs did not state that the other individual was unlicensed
- Tsim posted this sign on other property listings
- Tsim did not submit records to their brokerage for their work on several other property sales including the following:
 - consumer relationship acknowledgement forms
 - relevant title searches
 - corporate searches related to parties they were representing
 - FINTRAC individual identification information records
 - comparative market analyses

Outcome

On August 21, 2024, the Hearing Panel found that based on the Admission and the Joint Submission on Sanction, Tsim had breached:

- s.38(4.1) of the Act
- s.41(b) of the Rules
- s.42(a) of the Rules
- s.53(c) of the Rules

The Hearing Panel ordered:

- Tsim to pay total fines of \$7,000

Patrick Krause (Krause),

Real estate associate currently Registered with EXP Realty of Canada Inc. O/A EXP REALTY; Brokerage at the time of conduct Canadian Independent Realty Ltd. O/A CIR Realty

Issue

The Registrar and Krause entered into an Agreement of Conduct Deserving of Sanction (Agreement), pursuant to Part 3, Section M(d) of the Hearing and Appeal Practice and Procedure Guidelines. In the Agreement, Krause admitted to the breach of:

- Rule 42(a) of the *Real Estate Act* Rules which requires that licensees do not make representations or carrying on conduct that is reckless or intentional and that misleads or deceives any person or is likely to do

Facts

- on May 8, 2024, a hearing was held under Part 3 of the *Real Estate Act*
- the Hearing Panel was presented an Agreement of Conduct Deserving of Sanction, and a Joint Submission on Sanction

Background

- Krause was first licensed as a real estate associate on September 18, 1997
- around October 2021, Krause signed nine signatures on behalf of six clients on seven separate Exclusive Seller Representation Termination Agreements
- on October 14, 2021, Krause provided the Termination Agreements to their brokerage without advising the brokerage that they had signed on behalf of their clients
- after a complaint was made to RECA, and the brokerage informed Krause of their concerns, Krause informed their clients that they had signed the Termination Agreements on behalf of their clients
- when Krause signed for their clients, it was believed that they wanted their files transferred
- all but one of the clients transferred their files to Krause and their brokerage

Outcome

On May 23, 2024, the Hearing Panel accepted the Agreement and the Joint Submission on Sanction submitted by both parties.

The Panel issued the following fine:

- \$15,000 for the breach of Rule 42(a)

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.41(d)

A licensee must fulfill their fiduciary duties to their clients.

Tao Jiang,

Real estate associate registered with Homecare Realty Ltd.

- in March 2023, Jiang helped buyers who wanted to buy a condo, which had an age limit for residents
- the listing for the condo didn't mention this age limit
- it was an estate sale, so there wasn't much information available about the property
- before making an offer and while viewing the condo, the buyers asked Jiang if there were any age restrictions, since they had a nine-year-old living with them
- Jiang told them there was no age restrictions
- Jiang checked the current and past listings for that property in the same complex and didn't find any age restrictions
- Jiang didn't contact the listing agent or the condo manager to ask directly
- Jiang suggested that the buyers include a condition in their offer to review the condo documents, but they chose not to
- Jiang didn't explain that reviewing these documents was important to confirm any age restrictions
- after purchasing the condo, the buyers discovered there was indeed an age restriction
- Administrative Penalty: \$3,000

Learning Opportunity

Licensees must always act in their clients' best interests. Clients need to trust that licensees will do this. In this case, the licensee didn't check if the property had an age restriction, which meant they didn't gather important information to protect their clients.

Competent Service

Real Estate Act Rules s.54(3)

A licensee shall not provide any services to a client in which there is a conflict of interest without receiving the written informed consent of the party.

[Daniel Jason Scott](#),

Real estate broker registered with 697567 Alberta Ltd. O/A Sutton Group Grande Prairie Professionals

- Scott was representing the seller of a property
- a buyer interested in the property reached out to Scott for a property viewing
- there were discussions about Scott representing both the seller and the buyer
- Scott didn't provide the buyer with any written information about their services or get their signed agreement
- on February 6, 2022, Scott drafted an offer on behalf of the buyer
- Scott had a conflict of interest because he was representing both the buyer and seller
- Scott did not have the written informed consent to provide services to the buyer
- Administrative Penalty: \$1,500

Learning Opportunity

A licensee shouldn't offer services to a client when there's a conflict of interest unless they have the written consent of that client. In this case, the licensee didn't get the buyer's written consent while representing both the buyer and the seller.

[Conflict of Interest](#)

[Written Service Agreements](#)

[Conflict of Interest - Representing Both Seller and Buyer](#)

Real Estate Act Rules s.41(d)

A licensee must fulfill their fiduciary duties to their clients.

Ginny Melinda Webster,

Real estate associate registered with Zolo Realty (Alberta) Inc. O/A Zolo Realty

- on December 3, 2022, Webster represented buyers who signed a purchase contract for a property
- the buyer's had a financing condition that needed to be met by December 16, 2022
- they made a \$45,000 deposit
- on December 8, 2022, the buyers' mortgage broker said it was okay to waive the financing condition
- the buyers had not received a mortgage commitment
- Webster knew that a mortgage commitment hadn't been received, and the closing date might need to change
- on December 9, 2022, Webster sent a Notice of Waiver to the seller's associate, waiving the financing condition a week before the deadline, even though the buyers hadn't received a mortgage commitment
- Webster didn't inform their clients about the risks of waiving this condition without a mortgage commitment or the uncertainty about the closing date
- Webster didn't mention that there was no need to send the waiver early given these issues
- on December 12, 2022, the buyers finally received a mortgage commitment from the lender
- although the lender seemed ready to fund the mortgage, they ultimately decided not to, causing the transaction to fail and the buyers to lose their deposit
- Administrative Penalty: \$1,500

Learning Opportunity

Licensees must always act in their clients' best interests. In this case, the licensee didn't explain the risks of waiving the financing condition without a mortgage commitment.

Competent Service

Real Estate Act Rules s.42(a)

A Licensee must not make representations that are reckless or intentional and that misleads or deceives any person.

Ali Omar Shaben.

Real estate broker registered with Sable Realty Corp. O/A Sable Realty

- on June 15, 2023, Shaben discussed a property with a listing associate from Jones Lang LaSalle Real Estate Services Inc (JLL)
- Shaben mentioned having a client interested in the property and asked for their marketing brochure and a Confidentiality Agreement
- the listing associate agreed to provide the information for Shaben's potential client
- on the same day, after receiving the information from the other brokerage, Shaben's associate sent their brochure and a cover letter to investor clients at their brokerage, but removed the other brokerage's logo and contact details
- the cover letter was signed by Shaben's associate, which made it look like the associate and their brokerage had listed the property
- the Confidentiality Agreement wasn't signed by Shaben's potential buyer until June 23, 2023
- Administrative Penalty: \$1,500

Learning Opportunity

A licensee must not make reckless or intentional misrepresentations that mislead or deceive anyone. In this case, the licensee intentionally removed the listing brokerage's information from a brochure, making the licensee look like they listed the property. Additionally, the brochure was sent to potential investors a full week before your interested buyer signed the Confidentiality Agreement.

Competent Service

Advertising Guidelines

Real Estate Act Rules s.38(4)(a)

A person conducting an investigation may demand that any person answer any questions that are relevant to the investigation; a person who is required to answer the questions of an investigator shall cooperate and promptly respond to the questions.

Simerjit Singh Warraich,

Public member

- on May 14, 2024, a letter was sent to Warraich via Canada Post asking them to contact the investigator before May 24, 2024.
- Warraich did not contact the investigator
- on June 28, 2024, the investigator visited Warraich's home and left a demand letter at their door
- the letter stated that Warraich needed to contact the investigator before July 5, 2024, to schedule an interview
- Warraich did not contact the investigator
- on July 15, 2024, a demand letter was hand-delivered to Warraich, stating that they should contact the investigator before July 25, 2024, to arrange an interview
- Warraich did not contact the investigator
- Administrative Penalty: \$5,000

Jeramel Quincina,

Mortgage broker, not registered

- on February 23, 2024, the RECA Investigator sent Quincina a letter notifying them of the investigation and requesting information and documents related to five concerning transactions
- Quincina acknowledged receiving this letter, which had a deadline of March 15, 2024, for their response
- the RECA Investigator granted Quincina an extension until April 5, 2024, to provide the requested information
- Quincina failed to cooperate
- on April 30, 2024, the RECA Investigator sent Quincina another letter stating that they had failed to cooperate and demanded the information under section 38 of the *Real Estate Act*
- Quincina accepted the letter but still did not provide the information by the May 13, 2024, deadline
- on July 15, 2024, the RECA Investigator issued a final notification that Quincina had not cooperated with the investigation
- Quincina was given a final deadline of July 26, 2024, to provide the requested information
- RECA still has not received the requested information
- Administrative Penalty: \$25,000

Learning Opportunity

All individuals are required to cooperate with an investigation, which means providing truthful and complete answers promptly and constructively. In both these cases, the individuals did not cooperate with the investigator and failed to answer questions related to an ongoing investigation. Despite receiving multiple requests for information, the individuals did not respond to any of them, showing a lack of cooperation with the investigator.

[Guide to Investigations: For Consumers](#)

[Guide to Investigations: For Licensees](#)

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 s42(a)

Licensees must not make representations or carry on conduct that is reckless or intentional that misleads or deceives any person.

Real Estate Associate

- the associate's brokerage was offering an incentive for buyers, offering a one year warranty program for purchased properties
- on February 28, 2023, the associate's buyer client signed an Incentive Acknowledgment & Acceptance form for a Blanket Home Warranty
- the associate told their client it was "good to go."
- the associate submitted the form to their brokerage, but didn't complete all the necessary steps to activate the Warranty
- on August 3, 2023, the associate's client found an issue with their furnace and asked them how to start a claim under the Warranty
- the associate realized that the Warranty had not been completed and activated by their brokerage
- the Warranty was finally activated on August 22, 2024
- due to the delay, the client was unable to successfully claim the warranty for their furnace issue

Learning Opportunity

Licensees should not act recklessly or intentionally in ways that mislead or deceive anyone. In this case, the licensee didn't complete and file the warranty paperwork correctly with their brokerage. This was careless and made the client think the warranty was active.

Competent Service

Real Estate Act Rules s.41(b)

A licensee must provide competent service.

Real Estate Associate

- from March to July 2023, the associate helped a client purchase a property
- on July 1, 2023, the associate released the keys to their client without receiving authorization from the sellers, their lawyer, or their licensee

Learning Opportunity

Licensees must provide competent service. In this case, the licensee released the keys to the property without the proper authorization. Releasing the keys without authorization was a breach of contract and put the sellers at unnecessary risk.

Competent Service

Real Estate Act Rules s.41(b)

A licensee must provide competent service.

Real Estate Associate

- in May 2023, the associate represented the sellers and listed their property
- on May 26, 2023, the associate measured the property and reported it as 1,463 sq ft
- this was an attached property and the association did not measure according to the standards
- this resulted in the property being advertised as larger than it was
- after the buyer took possession, they discovered the actual size of the property was significantly different

Learning Opportunity

The Residential Measurement Standard (RMS) guidelines were established to provide a consistent way to represent the above-ground size of a property, helping interested parties compare properties accurately. Licensees must measure any residential property using RMS or hire a third party to do so. In this case, the licensee did not measure the property according to the published standards, resulting in a failure to ensure the advertised property size was accurate within the margin of error.

[Residential Measurement Standard Guidelines](#)

RECA Management

RUSS MORROW
Chief Executive Officer

JANICE HARRINGTON
Chief Operating Officer

WARREN MARTINSON
Registrar

STACY PAQUIN
General Counsel & Corporate Secretary

CONTACT RECA

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

Please forward any questions regarding the content of the Case Summaries, or any questions regarding licensing or mandatory education, to info@reca.ca

202, 1506 11 Avenue SW,
Calgary, AB T3C 0M9
Phone (403) 228-2954
Toll-free 1-888-425-2754
Fax (403) 228-3065

www.reca.ca