

THE REAL ESTATE COUNCIL OF ALBERTA

Case Number: 014849
Name on Licence: Clare Ellen Packer
Licence Type & Class: Real Estate Associate
Brokerage Name on Licence: Excellence Real Estate Edmonton Ltd. O/A Re/Max
Excellence
Process: Section 39 & 83 of the *Real Estate Act*

Document: ADMINISTRATIVE PENALTY
Penalty: \$3,000
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: Clare Ellen Packer

The Registrar of the Real Estate Council of Alberta (RECA) has determined there is sufficient evidence you have contravened **section 57(g) of the *Real Estate Act* Rules** and this is conduct deserving of sanction.

Rule 41 – *Licensee's must:*

(d) fulfill their fiduciary obligations to their clients.

Particulars of the contravention(s):

1. In or around July 2023 you failed to fulfill your fiduciary obligations to your clients, [R.K & N.K], contrary to section 41(d) of the *Real Estate Act* Rules:
 - a) You entered into an Exclusive Seller Representation Agreement (Agreement) with the Sellers to assist in the sale of [ADDRESS] (Property).
 - b) You recommended a staging company, [INTERIOR DESIGNER] (Interior), to the Sellers. Interior sold the staging furniture to the Sellers with the agreement that Interior would buy back the staging furniture at a reduced cost once the property had sold. The Sellers spent thousands of dollars on the furniture.
 - c) On June 12th, 2023, the Sellers accepted an offer with a possession date of July 14th, 2023.
 - d) On June 28th, 2023, [INTERIOR DESIGNER] with Interior received an email from the Sellers to schedule a time to meet at the property to have the furniture removed.
 - e) You believed the email correspondence between the Sellers and [INTERIOR DESIGNER] was the Sellers consenting to [INTERIOR DESIGNERS]'s access to the Property and complete the removal. You did not discuss the access to the Property with the Sellers or confirm if they wanted to be present when the furniture was removed. This was a failure to look out for the best interests of your clients.
 - f) On July 2nd, 2023, your assistant provided the keys to [INTERIOR DESIGNER] to access the Sellers' property. Neither you nor [INTERIOR DESIGNER] attended the property when the furniture was removed. Instead, an alternative staging company, who did not have a contract with the Sellers, accessed the property to remove the furniture.
 - g) On July 5th, 2023, the Sellers walked by their vacant property and found the keys unsecured in the mailbox.
 - h) On July 8th, 2023, you contacted the Sellers to confirm if they received the keys back from [INTERIOR DESIGNER], and the Sellers informed you they collected the keys from the mailbox.
 - i) You stated you believed the keys were returned to the Sellers as [INTERIOR DESIGNER] informed you that one of the Sellers picked them up from her.
 - j) You did not know where the keys were for approximately three days.

The Registrar considered the following aggravating and mitigating factors:

Aggravating Factors:

- Your misconduct exposed your client to risk. A lack of oversight on what was happening with the keys allowed contractors you didn't know to access the property. The keys were unaccounted for during a period of time and the keys were left unsecured in the mailbox.

- Your misconduct also contributed to the Sellers' property being removed from their property without their permission and deprived the Sellers of setting clear terms of how they were going to receive a refund. The Sellers are facing a potential loss of several thousand dollars.

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]
Phone: 403.228.2954; Toll Free: 1.888.425.2754
Fax: 403.228.3065
Address: Real Estate Council of Alberta
Suite 202, 1506 11 Avenue SW
Calgary, Alberta, T3C 0M9

Issued at Calgary, Alberta, on November 28, 2024.

"Signature"

Warren Martinson, Registrar
Real Estate Council of Alberta

cc. [D.P], Real Estate Broker
Excellence Real Estate Edmonton Ltd. O/A Re/Max Excellence