

THE REAL ESTATE COUNCIL OF ALBERTA

Case: 006272
Process: Section 39 & 83 of the *Real Estate Act*
Industry Member: Krochmal, Mr. Kenneth Allan
Authorization: Real Estate Associate
Registration: Logic Realty Inc. o/a Logic Realty.
Document: ADMINISTRATIVE PENALTY

TO: Mr. Kenneth Krochmal:

The Executive Director of the Real Estate Council of Alberta (RECA) has determined that there is sufficient evidence that you have contravened **section 41(e) of the Rules** and this is conduct deserving of sanction.

Penalty: \$1500

Particulars of the contravention(s):

1. In or around May 2016 you failed to ensure your role was clearly understood by your client M.S. contrary to section 41(e) of the *Real Estate Act Rules*:
 - a) On April 23, 2016 you entered into an Exclusive Seller Representation Agreement on behalf of your brokerage with Ms. S. for the sale of her property located [("address")].
 - b) On or about May 17, 2016 you presented Ms. S. with an Offer to Purchase from M.T., a buyer you were also representing in this transaction. Ms. S. signed the Offer to Purchase on May 17, 2016. Final signing was completed by the buyer on May 19, 2016.
 - c) On or about May 18, 2016, Ms. S. signed the Agreement to Represent Both Seller and Buyer, after the offer was written and presented.

Industry professionals have a responsibility to ensure that their role is clearly understood and that their role has been properly documented. This is especially true when an industry professional represents a seller and a buyer. Consumers must give informed consent to resolve this conflict of interest prior to the industry professional drafting an offer for a buyer or presenting an offer to a seller.

The circumstances of this matter indicate the following factors were considered:

Aggravating Factors

- There is a need to promote general deterrence of this conduct. Consumers must give timely and fully informed consent for an industry professional to represent both sides of a transaction.

Payment

This Penalty must be paid **within 30 days** of the date this Notice was issued.

If you fail to pay the Penalty the Executive Director may commence collection under Part 6 of the *Real Estate Act* and may suspend your authorization 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.

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 Executive Director **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: Sherry Hillis, Professional Conduct Review Officer
Email: shillis@reca.ca
Phone: 403.228.2954; Toll Free: 1.888.425.2754
Fax: 403.228.3065
Address: Real Estate Council of Alberta
350 4954 Richard Road SW
Calgary, Alberta, T3E 6L1

Issued at Calgary, Alberta, on December 2, 2016.

Charles Stevenson, for
Bob Myroniuk, Executive Director
of the Real Estate Council of Alberta

cc. Ken Zilliox, Real Estate Broker
Logic Realty