

THE REAL ESTATE COUNCIL OF ALBERTA

Case: 006480
Process: Section 39 & 83 of the *Real Estate Act*
Industry Member: David Stephen Kennedy
Authorization: Real Estate Broker
Registration: Manor Management Ltd.
Document: ADMINISTRATIVE PENALTY

TO: David Stephen Kennedy

The Executive Director of the Real Estate Council of Alberta (RECA) has determined that there is sufficient evidence that you have contravened **section 91(4) of the Rules** and this is conduct deserving of sanction.

Penalty: \$1,500 (see Schedule 2 of the Bylaws)

Particulars of the contravention(s):

1. You failed to file your brokerage accounting within 3 months of your fiscal year contrary to section 91(4) of the *Real Estate Act Rules*:
 - a) Your brokerage's fiscal year end was June 30, 2016.
 - b) You were sent six emails to the brokerage email address and your personal email address reminding you that the required accounting forms must be filed by September 30, 2016. Those emails were sent on July 4, Aug 3, Sept 6, 15, 23 and 29, 2016.
 - c) Each email reminder sent gave clear instructions on what forms were required, a link to RECA's website that explained how to access the forms, and a warning that failure to complete the required forms by September 30, 2016, could result in an administrative penalty.
 - d) You filed the required form on November 25, 2016.

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

Aggravating Factors

- You were reminded six times that the required form had to be completed and those reminders made clear the potential consequences for failing to do so.

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: James Porter, Senior Professional Conduct Review Officer
Email: jporter@reca.ca
Phone: 403.228.2954; Toll Free: 1.888.425.2754
Fax: 403.228.3065
Address: Real Estate Council of Alberta
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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