

THE REAL ESTATE COUNCIL OF ALBERTA

Case: 004358
Process: Section 39 and 83 of the *Real Estate Act*
Industry Member: James Atkinson
Authorization: Real Estate Broker
Registration: Strata Realty Corporation Ltd. O/A Montgomery Ross & Associates. Currently not registered

Document: ADMINISTRATIVE PENALTY

TO: Mr. James Atkinson

The Executive Director of the Real Estate Council of Alberta (RECA) is of the opinion that you have contravened the following section(s) and this is conduct deserving of sanction.

Contravention(s): 25(1)(d) of the Act

Penalty: \$1500

Particulars of the contravention(s):

1. In or around October, 2013, you acted contrary to Rule 25(1) (d) which states: An industry member who is required by the rules to keep and operate a trust account shall disburse money received or held in trust in respect of a dealing or trade in the business of the industry member only in accordance with the rules and terms of the trust governing the use of that money.
 - a) On September 30, 2013, the Condominium Management Agreement between a Condominium Corp. and Montgomery Ross & Associates expired.
 - b) In or around October, 2013, a management fee was charged to the Condominium Corp. by Montgomery Ross & Associates. The contract was no longer in effect at this time, and the funds were taken from the trust account.
 - c) To date, no refund has been given to the Condominium Corp.

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

Aggravating Factors

- You were a registered broker since 1997 and ought to have known better

Mitigating Factors

- This is an isolated incident

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*.

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 and make representations in relation to the contraventions alleged.

Your written notice of appeal must comply with section 83.1 and must be received by a delegate of 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:

Carla Sasley, Professional Conduct Review Officer

Email: csasley@reca.ca

Phone: 403.228.2954; Toll Free: 1.800.425.2754

Fax: 403.228.3065

Address: Real Estate Council of Alberta
350 4954 Richard Road SW
Calgary, Alberta, T3E 6L1

Issued at Calgary, Alberta, on November 3, 2014.

Charles Stevenson, for

Bob Myroniuk, Executive Director
of the Real Estate Council of Alberta