

THE REAL ESTATE COUNCIL OF ALBERTA

Case: 004588
Process: Section 39 and 83 of the *Real Estate Act*
Industry Member: Byron Marlin
Authorization: Real Estate Associate
Registration: 1538070 Alberta Ltd. o/a Rock Point Realty
Document: ADMINISTRATIVE PENALTY

TO: Mr. Byron Marlin

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): Section 42(a) of the Rules

Penalty: \$1500.00 (see Schedule 2 of the Bylaws)

Particulars of the contravention(s):

1. During February 2014 you made reckless representations contrary to section 42(a) of the *Real Estate Act* Rules:
 - a) You represented that 106, 9640 105 Street, Edmonton, AB, had a registered condominium size of 94.6 m².
 - b) The condominium plan states the property has a registered condominium size of 83.4 m².
 - c) You represented that 44 30 Oak Vista, Edmonton, AB, had a registered condominium size of 95.7 m².
 - d) The condominium plan states the property has a registered condominium size of 89.0 m².

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

Aggravating Factors

- Your brokerage has a policy that requires associates to abide by all of the Rules, Regulations and Bylaws of the REALTORS® Association of Edmonton, in addition to stipulating that the Total Above Grade and/or floor space cannot be greater than the Registered size.
- You indicate, in your October 17 and October 19, 2014, responses to RECA, that you relied on the square footage of a previous listing despite being aware of brokerage policy.
- There were multiple instances of this conduct.

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 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:

Nancy Iwasiw, Professional Conduct Review Officer
Email:
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 October 28, 2014

Charles Stevenson, for

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

cc: Steven Reid, Real Estate Broker
1538070 Alberta Ltd. o/a Rock Point Realty