

THE REAL ESTATE COUNCIL OF ALBERTA

Case Number: 012215
Name on Licence: Stephanie Yuen-shan Fan
Licence Type & Class: Real Estate Associate
Brokerage Name on Licence: Grand Realty & Management Ltd. o/a Grand Realty
Process: Section 39 & 83 of the *Real Estate Act*
Document: ADMINISTRATIVE PENALTY
Penalty: \$1,500.00

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: Stephanie Yuen-shan Fan

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

Rule 41 – *Licensees must:*

(d) fulfill their fiduciary obligations to their clients

Particulars of the contravention(s):

1. In or around February 2021, you failed to fulfill your fiduciary duty to your Buyer clients, contrary to section 41(d) of the *Real Estate Act* Rules:
 - a) February 6, 2021, an offer was made by your Buyer clients which included an inspection condition. You also drafted a term in the purchase contract that if damages were found there would be a hold back.

- b) Your client had an inspection of the property but wanted to inspect further items of the property, such as the roof. You provided advice that your clients could rely on the term in the purchase contract that allowed for a holdback if damages were found. This induced your client to waive their inspection condition. You failed to explain the risks of waiving the inspection condition without fully understanding the issues with the property. You failed to explain the potential challenges of dealing with any damages found through a hold back. This was a failure to fulfill your fiduciary obligation to properly advise your clients and protect their interests.
- c) Your client did a second inspection after waiving their conditions and prior to possession. Significant issues were found in the property. The lack of clarity in the term you drafted put your client in a difficult position. While these issues were ultimately settled and the transaction closed, your buyers had to make concessions they likely wouldn't have had to make had the term been drafted properly and protected their interests.

The Registrar considered the following aggravating and mitigating factors:

Aggravating Factors

- The failure to draft a term that adequately protected your clients and providing advice they could rely on that term was to the detriment of your clients.

Mitigating Factors:

- You took responsibility for this issue and contributed financially to rectifying some of the issues in the property.

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: [C.S], 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 April 29, 2022.

"Signature"

Charles Stevenson, Registrar
Real Estate Council of Alberta

cc [D.W], Real Estate Broker
Grand Realty