

THE REAL ESTATE COUNCIL OF ALBERTA

Case Number: 009655
Name on Licence: Al-Nawaz Mohamed Dharamsi
Licence Type & Class: Real Estate Associate
Brokerage at Time of Conduct: 1601407 Alberta Ltd. o/a Re/Max Complete Realty
Current Registered Brokerage: Bryken Investments Ltd. o/a RE/MAX Complete Realty
Process: Section 39 & 83 of the *Real Estate Act*

Document: ADMINISTRATIVE PENALTY
Penalty: \$3,000.00 (see Schedule 2 of the Bylaws)

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: Al-Nawaz Mohamed Dharamsi

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 at time of conduct:

41 *Industry members must:*

- (d) *fulfill their fiduciary obligations to their clients;*

Particulars of the contravention(s):

1. In or around August 2019, you failed to fulfill your fiduciary duty to your client, contrary to section 41(d) of the *Real Estate Act Rules*:
 - a) On August 7, 2019, you entered into an Exclusive Seller Representation Agreement with [R.W] and [L.D] for the sale of their marital home through divorce and foreclosure proceedings.
 - b) On August 9, 2019, you left the country for approximately 11 days.
 - I. You had a fiduciary obligation to ensure your clients' interests were protected in your absence. You failed to make appropriate arrangements or follow brokerage policy of appointing another licensee in the brokerage during your absence. This was a failure to fulfill your fiduciary obligation to your clients.
 - c) You verbally informed your seller clients that another agent, Lee Serridge, would be assisting you while you were out of the country to ensure no showing opportunities were missed.
 - I. Your clients believed that Mr. Serridge was representing them in your absence.
 - II. At this time, Mr. Serridge, who was planning to join your brokerage, was registered with a different brokerage and was not an appropriate point of contact on your behalf.
 - d) Subsequently, Mr. Serridge represented a buyer who made an offer. The sellers and buyer entered a purchase contract.
 - e) On August 14, 2019, you sent [R.W] a copy of a blank amendment for the purposes of amending the name of the buyer on the purchase contract. You requested that [R.W] sign this document blank, allowing Mr. Serridge time to attend the buyer's home to obtain his signature.
 - I. Having clients sign blank documents is not in their best interest and does not fulfill your fiduciary obligation to them.
 - f) On September 23, 2019, this transaction collapsed.

The Registrar considered the following aggravating and mitigating factors:

Aggravating Factors

- Your brokerage had a clear policy on handling of vacations and absenteeism when representing clients. You did not follow this policy which created confusion for your clients
- There were multiple instances where you failed to fulfill your fiduciary obligations

Mitigating Factors

- Beyond the confusion the situation created for your clients, there was insufficient evidence your misconduct affected the outcome of the transaction.

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: [A.L], 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 January 14, 2022.

“Signature”

Charles Stevenson, Registrar
Real Estate Council of Alberta