

THE REAL ESTATE COUNCIL OF ALBERTA

Case Number: 010462
Name on Licence: Stephen Wai Chung
Licence Type & Class: Real Estate Associate
Brokerage Name on Licence: Canadian Independent Realty Ltd O/A CIR Realty
Process: Section 39 & 83 of the *Real Estate Act*

Document: ADMINISTRATIVE PENALTY
Penalty: \$1,500

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: Stephen Wai Chung

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

Rule at time of conduct

Rule 41 – *Industry members must:*

(b) *provide competent service*

Particulars of the contravention(s):

1. In or around February to May 2019 you failed to provide competent service to your client, [S.C], contrary to section 41(b) of the *Real Estate Act* Rules:
 - a) In May 2019, you represented your client while he entered into a Purchase Contract for [ADDRESS], Calgary, Alberta (Contract), a foreclosure property.
 - b) On May 27, 2019, your client submitted the Offer to Purchase. The Offer was open for three days.
 - c) At some point prior to the seller's acceptance, your client asked you if the property had been previously used for the illegal growing of Cannabis. In response you reviewed a historical title (as described and defined on the Government of Alberta land titles search website SPIN2) pulled on May 19, 2019 showing the foreclosure transfer on January 23, 2019, as well as prior MLS listings. Neither the historical title nor the prior MLS listings had any indication the property had been previously used for illegal growing of Cannabis.
 - d) The Offer was accepted on May 30, 2019 at 3:00pm. On May 30 at 6:21pm you emailed your client "Nothing registered on title."
 - e) After your client took possession of the property he learned there was a 2009 order deeming the property unfit for human habitation due to an illegal drug operation by Alberta Health Services registered on title in May 2009. That Alberta Health Services had been rescinded and removed from title in May 2014 after the property was remediated, therefore it did not appear on the historical title you had pulled.
 - f) Your email failed to qualify that your review of title was current to May 2019 but did not speak to history of the property before that.

The following are aggravating and mitigating factors:

Aggravating Factors

- This was important information your client wanted.
- This was public information that was easily accessible.
- Your communication was general when the information you consulted was specific and limited.

Mitigating Factors

- This conduct was not intentional. It was a result of lack of knowledge and understanding. Once you became aware that there was a difference between a historical title and a cancelled title, you admitted you did not conduct reasonable due diligence while researching the property at your client's request. You took responsibility for the occurrence and learned from it.
- The client posed the question about prior Cannabis use after his Offer was presented and open for acceptance. You provided advice that "nothing was registered on title" after the Offer was accepted.

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: [B.T], Professional Conduct Review Officer
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 June 30, 2021.

"Signature"

Charles Stevenson, Registrar
Real Estate Council of Alberta

cc. [S.P], Real Estate Broker
CIR Realty