

THE REAL ESTATE COUNCIL OF ALBERTA

Case Number: 014190
Name on Licence: Ginny Melinda Webster
Licence Type & Class: Real Estate Associate
Brokerage Name on Licence: Zolo Realty (Alberta) Inc. o/a Zolo 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: Ginny Melinda Webster

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 duties to their clients

Particulars of the contravention(s):

1. In or around December 2022, you failed to fulfill your fiduciary duty to your client, contrary to section 41(d) of the *Real Estate Act* Rules:
 - a) On December 3, 2022, you represented buyers who entered a purchase contract for [ADDRESS]. There was a financing condition to be satisfied by December 16, 2022. Your clients provided a deposit in the amount of \$45,000.
 - b) On December 8, 2022, you were advised by the buyers' mortgage broker that it was ok to waive the financing condition. In your communications with the mortgage broker, it was clear a mortgage commitment had not been received and there may be a need to adjust the closing date.
 - c) December 9, 2022, you sent a Notice of Waiver to the Seller's associate that waived the financing condition. This was a week before the condition deadline and a mortgage commitment had not been received by the buyers. You failed to advise your clients of the risks of waiving the financing condition when there was no mortgage commitment in place and uncertainty with the closing date required by the lender. You also failed to caution your client that there was no need to send the financing waiver a week earlier than required when there were potentially unresolved issues.
 - d) December 12, 2022, your clients received a Mortgage Commitment from the lender.
 - e) It appeared the lender was prepared to fund the mortgage but declined to fund. Ultimately, the transaction failed to close, and the buyers lost their deposit.

The Registrar considered the following aggravating and mitigating factors:

Aggravating Factors

- Your clients had a \$45,000 deposit at risk and no mortgage commitment in place when you facilitated the waiving of their financing condition a week early. Your failure to clearly explain the risks in this situation falls well below the standard expected.

Mitigating Factors

- The mortgage broker told you in writing that it was okay to waive the financing condition.
- The buyers' lost deposit was not directly attributable to your misconduct. The lender did issue a commitment, but then declined to fund.

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 June 13, 2024.

"Signature"

Warren Martinson, Registrar
Real Estate Council of Alberta

cc [K.A], Real Estate Associate
Zolo Realty