

THE REAL ESTATE COUNCIL OF ALBERTA

Case: 008549
Process: Section 83 of the *Real Estate Act*
Industry Member: Samantha Myles
Authorization: Unauthorized
Document: ADMINISTRATIVE PENALTY
Penalty: \$25,000.00

Payment

This Penalty must be paid **within 30 days** of the date this Notice was issued.

If you fail to pay the Penalty the Executive Director may commence collection under Part 6 of the *Real Estate Act*.

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: Samantha Myles

The Executive Director of the Real Estate Council of Alberta (RECA) is of the opinion you have contravened **section 17(d) of the *Real Estate Act***.

Section 17 - Authorization Required

No person shall (d) advertise himself or herself as, or in any way hold himself or herself out as, a mortgage broker, real estate broker or real estate appraiser unless that person holds the appropriate authorization for that purpose issued by the Council.

Particulars of the contravention(s):

1. In and around September, 2017 through December, 2018 you advertised and accepted payments for services you were not authorized to perform. Despite being licenced from August 1st, 2017, you have never been authorized to engage in property management. Your conduct was contrary to section 17(d) of the *Real Estate Act Rules*:
 - a) On September 28th, 2017, via the RentFaster interface, you advertised unauthorized services. In an email to EM you stated, "My team and I guarantee to find you a suitable tenant for your home at the price you require ... Our service fee is \$600.00 and we will provide a full refund if no tenant is found." The email was signed "Samantha Myles, Re/Max First, Owner and Managing Partner of YYC Rental Finders." You were not authorized to provide these services. By utilizing the Re/Max First business name, you held yourself out as a properly authorized industry member, contrary to section 17(d) of the *Real Estate Act Rules*.
 - b) On or around September 29th, 2017, you presented your Re/Max Real Estate business card to EM during an in-person meeting. Re/Max First did not authorize you to utilize its business name for this transaction. Your attempt to bolster your credibility by utilizing the Re/Max First's business card, and thereby hold yourself out as an authorized industry member, was contrary to section 17(d) of the *Real Estate Act Rules*.
 - c) On or around September 29th, 2017, you provided a receipt for a \$600.00 payment for "Service Fee" from "Samantha Myles, Associate Re/Max Real Estate (Central)." The receipt stated, "If no tenant is found within 120 days of this agreement YYC Rental Finders will pay back in full to the client the above via interact e transfer." The funds were transferred directly to your account and not to the brokerage presented on the receipt. By utilizing the Re/Max name on your receipt, you held yourself out as an authorized industry member. Your conduct was contrary to section 17(d) of the *Real Estate Act Rules*.
 - d) On October 6th, 2018, a social media post advertising YYC Rental Finders stated, "YYC Realtor. Big things coming, expansions on the way, completely new and improved marketing, bringing more fun and professionalism to the industry." On this date, you were licenced, however, not authorized to provide services. Your advertisement holds you out as an authorized industry member and, therefore, is contrary to section 17(d) of the *Real Estate Act Rules*.
 - e) On or round November 6th, 2018, an online advertisement with your contact information stated, "Calgary Real Estate Buy Sell & Rent, Real Estate Agent." On this date, you were licenced, however, not authorized to provide services.

Your advertisement holds you out as an authorized industry member and, therefore, is contrary to section 17(d) of the *Real Estate Act Rules*.

- f) On November 25th, 2018, via Facebook account "Samantha Myles," an advertisement was posted stating, "Goals? Realtor – Samantha Myles 403-991-5114 Buy, Sell or Rent." On this date, you were licenced, however, not authorized to provide services. Your advertisement holds you out as an authorized industry member and, therefore, is contrary to section 17(d) of the *Real Estate Act Rules*.
2. In and around September, 2017 through December, 2018 you advertised and accepted payments for services you were not authorized to perform. Despite being licenced from August 1st, 2017, you have never been authorized to engage in property management. Your conduct was contrary to section 17(d) of the *Real Estate Act Rules*:
- a) On or around July 12th, 2018, via an email to JM, you stated, "I own a tenant finding company ... our service includes full marketing ... tenant applications, [and] showings." You were not authorize to provide these services. Through your actions, you held yourself out as an authorized industry member and, therefore, your conduct was contrary to section 17(d) of the *Real Estate Act Rules*.
 - b) On or around July 13th, 2018, JM provided you with a \$550.00 payment in the form of a cheque to the order of "McAloney Real Estate." McAloney Real Estate is not an authorized real estate company. By utilizing the phrase "Real Estate", and promising services that require authorization, you held yourself out as a properly authorized industry member, contrary to section 17(d) of the *Real Estate Act Rules*.
 - c) In or around November, 2018, via Facebook account "Samantha Myles" an advertisement was posted offering your services as a "Real Estate Agent" associated with Greater Property Group. The advertisement stated, "First time home buyer? Call us! Experienced home buyer? Call us! Looking to Rent? Call..." On this date, you were licenced, however, not authorized to provide services. Your advertisement held you out as an authorized industry member and, therefore, is contrary to section 17(d) of the *Real Estate Act Rules*.
 - d) In or around November, 2018, via a Google+ account an advertisement was posted offering industry services under the business name "McAloney Real Estate." On this date, you were licenced, however, not authorized to provide services. Your advertisement held you out as an authorized industry member

and, therefore, is contrary to section 17(d) of the *Real Estate Act* Rules.

- e) In or around November, 2018, an online advertisement promoted you as a Real Estate Agent with Greater Property Group and McAloney Real Estate via the 411.ca website. The advertisement stated, "McAloney Real Estate is a trusted real estate company in the Calgary, Alberta area. At McAloney Real Estate we are staffed by a highly skilled team that understands the dynamics of your local real estate market." On this date, you were licenced, however, not authorized to provide services. Your advertisement held you out as an authorized industry member and, therefore, is contrary to section 17(d) of the *Real Estate Act* Rules.
3. In and around September, 2017 through December, 2018 you advertised and accepted payments for services you were not authorized to perform. Despite being licenced from August 1st, 2017, you have never been authorized to engage in property management. Your conduct was contrary to section 17(d) of the *Real Estate Act* Rules:
- a) In or around July 2018, PJ provided you \$383.25 as payment for a tenant locating service. PJ stated, "I had Googled her name in July to confirm she was licenced and found she was on your team [Greater Property Inc.] ... so I was not concerned." Since paying for the service, PJ has not been able to contact you. You failed to provide the services and failed to provide a refund. Your offer of services and acceptance of payment held you out as an authorized industry member even though you were unauthorized. Your conduct was contrary to section 17(d) of the *Real Estate Act* Rules.
 - b) In or around July 2018, MD provided you \$550.00 as payment for a tenant locating service. MD stated that he has attempted to contact you eight separate times requesting a refund. You have not contacted MD or provided him a refund. Your offer of services and acceptance of payment held you out as an authorized industry member even though you were unauthorized. Your conduct was contrary to section 17(d) of the *Real Estate Act* Rules.
 - c) In or around November 2018, JM provided you \$400.00 as payment for a tenant locating service. You have not provided the service and you have not provided JM with a refund. Your offer of services and acceptance of payment held you out as an authorized industry member even though you were unauthorized. Your conduct was contrary to section 17(d) of the *Real Estate Act* Rules.
 - d) In or around November 2018, CM provided you \$650.00 as payment for a tenant locating service. You have not provided the service and you have not

provided CM with a refund. Your offer of services and acceptance of payment held you out as an authorized industry member even though you were unauthorized. Your conduct was contrary to section 17(d) of the *Real Estate Act Rules*.

- e) In or around October 2018, JB provided you a payment of \$1000 to located and secure a home for himself and his children. You failed to render the service. Your offer of the service held you out as an authorized industry member even though you were unauthorized. Your conduct was contrary to section 17(d) of the *Real Estate Act Rules*.
- f) In or around November 2018, you offered WY property management services. WY provided a \$300.00 payment to you and you failed to render the services. Your offer of services and acceptance of payment held you out as an authorized industry member even though you were unauthorized. Your conduct was contrary to section 17(d) of the *Real Estate Act Rules*.

The Executive Director considered the following aggravating factors:

Aggravating Factors

- In 2014, you received a warning letter for similar conduct.
- You are licensed, therefore should know that your conduct required authorization.
- From September 2017 through December 2018, there have been multiple instances of similar conduct.
- Despite numerous attempts to contact you via email, phone, and letter, you have failed to cooperate with the investigation.
- You have utilized the names and reputations of actual real estate companies to perpetuate your unauthorized conduct and bolster your reputation in the eyes of the public.
- Numerous members of the public have been negatively impacted by your conduct.

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 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:

Name: AB, Professional Conduct Review Officer
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 December 14, 2018.

Charles Stevenson, for
Bob Myroniuk, Executive Director
of the Real Estate Council of Alberta