

## THE REAL ESTATE COUNCIL OF ALBERTA

Case: 008413  
Process: Section 39 & 83 of the *Real Estate Act*  
Industry Member: Shamon Kureshi  
Authorization: Real Estate Broker  
Registration: Hope Street Real Estate Corp.  
Document: ADMINISTRATIVE PENALTY  
Penalty: \$1,000.00

### 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* and may suspend your authorization 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: Shamon Kureshi**

The Executive Director of the Real Estate Council of Alberta (RECA) has determined there is sufficient evidence you have contravened **section 51(1)(d) of the *Real Estate Act Rules*** and this is conduct deserving of sanction.

Rule 51(1) – *A real estate broker must:*

*(d) ensure the business of the brokerage is carried out competently and in accordance with the Act, Regulations, Rules and Bylaws:*

### **Particulars of the contravention(s):**

1. The information gathered shows you failed to ensure the business of the brokerage was carried out competently in accordance with the Act,

Regulations, Rules and Bylaws contrary to section 51(1)(d) of the *Real Estate Act* Rules:

- a) In February 2011, LA entered into a Property Management Agreement with Hope Street Real Estate Corp. for management of her property.
- b) At an undocumented date, Hope Street Real Estate Corp. prepared a new Property Management Agreement. This agreement did not include a commencement date, the names of all parties to the agreement and signatures of a Hope Street Real Estate Corp. industry member and LA. This is contrary to Section 43(2)(a), (b)(i) and (iii) of the *Real Estate Act* Rules. This was a failure to ensure you carried out the business of the brokerage in accordance with the Rules.
- c) Hope Street Real Estate Corp. proceeded to operate under the terms of the incomplete management agreement. You should have operated under the terms of the February 2011 agreement until your new agreement was completed in accordance with Section 43(2)(a), (b)(i) and (iii) of the *Real Estate Act* Rules. This was a failure to ensure you carried out the business of the brokerage in accordance with the Rules.
- d) Section 25(1)(d) of the *Real Estate Act* required you to disburse money received in trust only in accordance with the Rules and with the terms of the trust governing the use of that money. As the terms of trust were different under the February 2011 agreement compared to the new agreement, you disbursed approximately \$100.00 from the trust account without the proper authorization. This was a failure to ensure you carried out the business of the brokerage in accordance with the *Act*.

Real estate brokers must verify that all trades in real estate made by their industry professionals comply with the *Real Estate Act* and its Rules. It is the broker's responsibility to ensure management agreements are complete and terms of trust are in accordance with the *Real Estate Act* and Rules.

The Executive Director considered the following aggravating and mitigating factors:

***Aggravating Factors***

- You have been a broker for almost ten years and should know the importance of having your associates complete property management agreements in accordance with the Rules.

- As the brokerage did not have all parties sign the new agreement, it caused confusion for your client as to the charges she had authorized Hope Street Real Estate Corp. to deduct from her account.

### *Mitigating Factors*

- You acknowledge the 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: RM, 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