

**IN THE MATTER OF THE *REAL ESTATE SERVICES ACT*
SBC 2004, c 42 as amended**

AND

IN THE MATTER OF

**ROSS CHONN
(SURRENDERED)**

AMENDED NOTICE OF DISCIPLINE HEARING

To: Ross Chonn
48075 Trans Canada Hwy
Box 396
Boston Bar, BC V0K 1C0

Ross Chonn
1511 Cariboo Hwy
Clinton, BC V0K 1K0

TAKE NOTICE that a discipline committee of the Real Estate Council of British Columbia (the "Council") will hold a discipline hearing under Part 4 of the *Real Estate Services Act* ("RESA") on February 16, 17 and 18, 2021 commencing at 9:30 am in the Hearing Room at the Council's offices located at **900 – 750 West Pender Street, Vancouver, BC, or in such other (including virtual) Hearing Room of which the Council informs you** to determine whether your conduct contravened the RESA, the regulations made under the RESA (the "Regulation"), or any rules made under the RESA (the "Rules") in effect at the relevant time.

AND TAKE NOTICE that the allegations against you are as follows:

1. You committed professional misconduct within the meaning of sections 35(1)(a) and (d) and conduct unbecoming within the meaning of section 35(2) of the RESA between October 2016 and March 2017 in that you:
 - a. failed to name your brokerage at the time, One Percent Realty Ltd. ("One Percent Realty"), in the Contract of Sale and Purchase (the "Contract") and failed to submit both the Contract and remuneration in the form of commission to One Percent Realty with respect to the purchase and sale of your clients', [REDACTED] (the "Sellers"), property at [REDACTED], Clinton, BC (the "Property"). In doing so, you provided real estate services separate from your brokerage at the time and accepted remuneration in relation to real estate services from a person other than your brokerage, contrary to section 7(3)(a) and section 7(3)(b) [Relationships between brokerages and other licensees] of the RESA;

- b. failed to provide One Percent Realty with the relevant trading records, including the Contract and disclosure statements, and admitted that the Contract had been written “outside the brokerage”, contrary to section 3-2(1) [Associate broker and representative responsibilities: records] and section 3-2(2) [Associate broker and representative responsibilities: keeping managing broker informed] of the Rules;
- c. failed to fully inform the Sellers of all material information and any conflicts of interest by:
 - i. acting as a dual agent and representing both the Sellers and the buyer, your wife, (the “Buyer”), without properly executing a Limited Dual Agency Agreement;
 - ii. failing to present the Sellers with a completed Disclosure of Interest in Trade form before an offer was prepared;
 - iii. failing to clearly inform the Sellers as to whether the \$13,250 was accurately characterized as a commission fee or a deposit to be returned to the Sellers;
 - iv. having the Sellers sign the signature page of the Contract without including the entire Contract or explaining the purpose of the document;
 - v. requesting an early move-in date which preferred your own interests to that of the Sellers; and
 - vi. failing to present the Sellers with the option to cancel the listing once it was clear there was a conflict of interest,

contrary to section 3-3(a) [Duties to Clients: act in the best interests of the client], section 3-3(f) [Duties to Clients: disclose to the client all known material information], section 3-3(i) [Duties to Clients: take reasonable steps to avoid any conflict of interest] and section 3-3(j) [Duties to Clients: promptly and fully disclose a conflict of interest to the client] of the Rules;

- d. failed to advise the Sellers to seek independent professional advice about:
 - i. your interest in the Property, considering the fact that you were the listing agent and your wife was the Buyer;
 - ii. offering a vendor take back mortgage to a buyer with no credit history; and
 - iii. whether to cancel the listing or continue with the sale once it was clear there was a conflict of interest,

contrary to section 3-3(a) [Duties to Clients: act in the best interests of the client] and section 3-3(d) [Duties to Clients: advise the client to seek independent professional advice] of the Rules;

- e. failed to act honestly and with reasonable care and skill by:
 - i. failing to ensure that all necessary documents were properly signed and witnessed;

- ii. allowing for a discrepancy between the date the Contract was prepared and the date the Sellers actually signed the Contract; and
 - iii. failing to disclose the exact nature of your remuneration to the Sellers,
- contrary to section 3-4 [Duty to act honestly and with reasonable care and skill] of the Rules;
- f. failed to promptly deliver a copy of the accepted offer to your brokerage, One Percent Realty, and the Sellers contrary to section 5-4 [Acceptance of offer] of the Rules;
 - g. failed to prepare a Limited Dual Agency Agreement which would have set out your relationship to both the Sellers and the Buyer, therefore failing to fully disclose to the Sellers the nature of the representation that you were providing to the Buyer, contrary to section 5-10 [Disclosure of representation in trading services] of the Rules;
 - h. provided a number of differing explanations for the commission received from the Sellers, first stating that instead of receiving commission directly, the purchase price was reduced, then suggesting to the Sellers that the commission be used as a deposit on the Property, and then stating that you were receiving a commission of \$13,250 on the Disclosure of Remuneration form. You failed to accurately disclose your actual commission to the Sellers contrary to section 5-11 [Disclosure of remuneration] of the Rules.


AND FURTHER TAKE NOTICE that if the discipline committee finds you committed professional misconduct or conduct unbecoming, the discipline committee must make an order against you, and may also order you to pay enforcement expenses incurred by the Council, under sections 43 and 44 of the RESA.

AND FURTHER TAKE NOTICE that if you do not attend the discipline hearing, the discipline committee may proceed with the discipline hearing in your absence and may make findings and orders under sections 43 and 44 of the RESA without further notice to you.

AND FURTHER TAKE NOTICE that you are entitled, at your own expense, to be represented by legal counsel and to participate in the discipline hearing.

Dated this 14th day of December, 2020 at the City of Vancouver, British Columbia.

Real Estate Council of British Columbia



Per: Charlene McLaughlin
Director, Legal Services