

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

AND

IN THE MATTER OF
DXXX NXXXXXXXX DXXXXX
(XXXXXX)

AND

PAN PACIFIC PLATINUM REAL ESTATE SERVICES INC. DBA LEHOMES REALTY
(X034934)

CONSENT ORDER

RESPONDENT: Pan Pacific Platinum Real Estate Services Inc. DBA LeHomes Realty

DATE OF CONSENT ORDER: October 29, 2021

PROCEEDINGS:

On October 29, 2021, the Superintendent of Real Estate (the "Superintendent") of the BC Financial Services Authority ("BCFSA") resolved to accept the Consent Order Proposal (the "Proposal") submitted by Hxxx Cxxx on behalf of Pacific Platinum Real Estate Services Inc. dba LeHomes Realty

WHEREAS the Proposal, a copy of which is attached hereto, has been executed by Hxxx Cxxx on behalf of Pacific Platinum Real Estate Services Inc. dba LeHomes Realty.

NOW THEREFORE, having made the findings proposed in the attached Proposal, and found that Pacific Platinum Real Estate Services Inc. dba LeHomes Realty committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* ("RESA"), pursuant to section 43 of the RESA the Superintendent orders that:

1. Pacific Platinum Real Estate Services Inc. dba LeHomes Realty pay a discipline penalty to BCFSA in the amount of \$17,500 within three (3) months from the date of this Order;
2. Pacific Platinum Real Estate Services Inc. dba LeHomes Realty pay enforcement expenses to BCFSA in the amount \$1,500 within two (2) months from the date of this Order;
3. Pacific Platinum Real Estate Services Inc. dba LeHomes Realty undergo at its own expense an audit by BCFSA within six (6) months from the date of this Order to confirm its compliance with RESA and the Rules.;

-
4. If Pacific Platinum Real Estate Services Inc. dba LeHomes Realty fails to comply with any term of this Order, the Superintendent may suspend or cancel its licence without further notice to it, pursuant to sections 43(3) and 43(4) of the RESA.

Dated this 29th day of October, 2021 at the City of Vancouver, British Columbia.

BC FINANCIAL SERVICES AUTHORITY

“JONATHAN VANDAL”

Jonathan Vandal
VP, Real Estate Market Conduct

Attch.

CITATION: _____

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

amended IN THE MATTER

OF

DXXX NXXXXXXXX DXXXXX
(XXXXXX)

AND

PAN PACIFIC PLATINUM REAL ESTATE SERVICES INC. DBA LEHOMES REALTY
(X034934)

CONSENT ORDER PROPOSAL BY
PAN PACIFIC PLATINUM REAL ESTATE SERVICES INC. DBA LEHOMES REALTY

BACKGROUND AND FACTS

This Consent Order Proposal (the "Proposal") is made by Pan Pacific Platinum Real Estate Services Inc. dba LeHomes Realty (X034934) to the Superintendent of Real Estate (the "Superintendent") of the BC Financial Services Authority ("BCFSA") pursuant to section 41 of the *Real Estate Services Act* ("RESA").

For the purposes of the Proposal, Pan Pacific Platinum Real Estate Services Inc. dba LeHomes Realty (X034934) and the Superintendent have agreed upon the following facts:

1. Pan Pacific Platinum Real Estate Services Inc. dba LeHomes Realty operates a head office located in Richmond (X030113) and branch offices located in Burnaby (X031927) and Vancouver (X034934).
2. The Vancouver branch (the "Brokerage") became licensed on February 8, 2019 to provide trading and rental property management services.
3. From May 16, 2019 to September 16, 2020, Dxxx Nxxxxxxxx Dxxxxx ("Mr. Dxxxxx") was licensed as the managing broker of the Brokerage.
4. Between March 1 and August 5, 2020, BCFSA (formerly, the Real Estate Council of British Columbia) conducted an office and records inspection of the Brokerage (the "Audit").
5. On October 29, 2020, BCFSA finalized an Office and Records Inspection Report regarding the findings of the Audit (the "Report").
6. The Report contains findings as follows:
 - a. the Brokerage's rental trust account showed a shortage totaling \$4,872.50 as a result of six client ledgers that were in overdraft positions as of May 31, 2020;
 - b. the Brokerage permitted XXXXXXXX B.C. Ltd., an unlicensed company, to provide rental property management services on behalf of the Brokerage's rental property management clients, including:
 - i. making payments to third parties for property expenditures on behalf of the Brokerage's rental property management clients;

- ii. holding security deposits for some of the Brokerage's rental property management clients; and
- c. the Brokerage made payments from the rental commission trust account to XXXXXXX B.C. Ltd. notwithstanding that XXXXXXX B.C. Ltd. was not licensed.

The trust shortage and trust record-keeping procedures

7. The Audit commenced on March 1, 2020. The auditor discovered deficiencies and subsequently engaged in discussions with Mr. Dxxxxx and the Brokerage, requiring further information and corrective action over the course of the next several months, as follows:
 - a. On April 24, 2020, the auditor requested copies of bank reconciliations for March 2020 for the Brokerage's rental trust account and rental commission account.
 - b. On May 10, 2020, the Brokerage provided copies of bank reconciliations for the rental trust account for March 2020 but failed to provide a trust liability listing. While the bank statements showed 146 deposits and five disbursements for the month of March 2020, only five journal entries were recorded in the general trust ledger showing aggregated deposits and disbursements.
 - c. Following further requests, on June 10, 2020 the Brokerage provided a trust liability listing for the rental trust account for March 2020.
 - d. The Brokerage also provided the April 2020 bank reconciliations, which only showed seven journal entries with the deposits and disbursements aggregated, notwithstanding that there were 142 deposits and nine disbursements that month.
 - e. On June 16, 2020, the auditor emailed the Brokerage advising of the concerns with the trust record-keeping deficiencies and requested copies of the May 2020 trust reconciliations.
 - f. On July 15, 2020, the Brokerage provided copies of the May 2020 bank reconciliation, again with the deposits and disbursements aggregated, such that only five transactions were recorded when the bank statements showed 156 deposits and 4 disbursements for the month. Several accounting ledgers for May 2020 that appeared to reflect individual trust account transactions were also provided.
 - g. The auditor identified that six of the client balances were in negative positions and accordingly identified a trust shortage totaling \$4,872.50.
8. The Brokerage's rental trust account was in a shortage position from at least May 31 to July 24, 2020.
9. On July 24, 2020, at the request of the auditor, the Brokerage replenished the trust account to eliminate the \$4,872.50 shortage.
10. On August 17, 2020, the Brokerage provided the June 2020 reconciliation.
11. On September 9, 2020, the Brokerage provided the July 2020 reconciliation.
12. At the conclusion of the Audit, the auditor determined that significant improvements had been made to the Brokerage's trust record-keeping procedures. The auditor was satisfied with a reasonable level of assurance that trust funds were intact as of July 31, 2020.
13. As a result of the Audit, BCFSa determined the following:

- a. At the relevant time, the Brokerage was using three different software programs for reconciliation procedures, resulting in disconnects of transactions and balances creating deficiencies in the trust reconciliation procedures and in the trust liability listings;
 - b. Mr. Dxxxxx was unaware that the Brokerage rental trust account was not being reconciled in an appropriate form and timely manner until this was discussed with him;
 - c. Mr. Dxxxxx was unaware of the trust shortage until being notified by the auditor.
14. Mr. Dxxxxx admitted to BCFSA that the trust shortage could have been prevented by more timely reconciliations conducted in a proper manner.

XXXXXXXX BC Ltd.

15. XXXXXXXX BC Ltd. ("XXX Co.") was at all material times an unlicensed entity.
16. A licensed trading representative with the Brokerage ("GG") was the shareholder and director of XXX Co. GG was also sole signatory of all cheques disbursed from XXX Co.'s bank account.
17. The Audit found that XXX Co. made several payments to third parties for property expenditures on behalf of the Brokerage's rental property management clients. In addition, several tenant security deposits were administered through XXX Co.'s bank account.
18. In particular:
 - a. the auditor identified that in May 2020 there were at least three payments for property expenditures, totaling \$3,255.05, made on behalf of rental property management clients which were made from XXX Co.'s bank account;
 - b. the auditor identified that in May 2020 there were at least five tenant security deposits that were refunded to tenants from XXX Co.'s bank account;
 - c. the auditor identified that in or about April and May 2020, payments from the Brokerage's rental commission trust account were made to XXX Co. as commissions for providing rental property management services.
19. Mr. Dxxxxx told BCFSA that the Brokerage's office and bank procedures, including using XXX Co., were set up prior to him joining the Brokerage.
20. The Brokerage has not provided BCFSA with an explanation for allowing an unlicensed entity, namely XXX Co., to pay expenses, to refund tenant deposits, and to be paid commissions.

Subsequent Events

21. On September 16, 2020 Mr. Dxxxxx's license with the Brokerage was surrendered.
22. There was no complaint to BCFSA as a result of either Mr. Dxxxxx's conduct or the Brokerage's accounting procedures.
23. A Notice of Discipline Hearing was issued on June 11, 2021 and served on Mr. Dxxxxx and the Brokerage.
24. An Amended Notice of Discipline Hearing was issued on September 16, 2021 and served on Mr. Dxxxxx and the Brokerage.
25. The Brokerage has no prior discipline history.

PROPOSED FINDINGS OF MISCONDUCT

For the sole purpose of the Proposal and based on the Facts outlined herein, the Brokerage proposes the following findings of misconduct be made by the Superintendent:

1. The Brokerage committed professional misconduct within the meaning of section 35(1)(a) of the RESA in that:
 - a. as of around May 31, 2020, the Brokerage's rental trust account showed trust shortages totaling \$4,872.50 as a result of six individual client ledgers that were in overdraft positions, which negative balances were not immediately eliminated and reported to BCFSA, contrary to section 73 (1), (2) and (3) (formerly 7-5(1), (2) and (3)) [*negative balances in trust accounts and trust records*] of the Rules;
 - b. in or around April and May 2020, the Brokerage permitted XXXXXXX B.C. Ltd., an unlicensed company, to provide rental property management services on behalf of the Brokerage's rental property management clients, including by:
 - i. making payments to third parties for property expenditures on behalf of Brokerage's rental property management clients; and
 - ii. holding security deposits for some of the Brokerage's rental property management clients,contrary to section 7(5)(1)(a) of the RESA;
 - c. in or around April and May 2020, the Brokerage made payments from the rental commission trust account to XXXXXXX B.C. Ltd., an unlicensed entity, contrary to section 66(1) (formerly 6-1(1)) [*payment to persons who are not licensed*] of the Rules.

PROPOSED ORDERS

Based on the Facts herein and the Proposed Findings of Misconduct, the Brokerage proposes that the Notice of Discipline Hearing in this matter be resolved through the following Orders being made by the Superintendent, pursuant to section 43 of the RESA:

1. The Brokerage pay a discipline penalty to BCFSA in the amount of \$17,500 within three (3) months from the date of this Order.
2. The Brokerage pay enforcement expenses to BCFSA in the amount of \$1,500 within two (2) months from the date of the Order.
3. The Brokerage undergo at its own expense an audit by BCFSA within six (6) months from the date of this Order to confirm the Brokerage's compliance with RESA and the Rules.
4. If the Brokerage fails to comply with any of the terms of the Order set out above, the Superintendent may suspend or cancel its license without further notice to it.

ACKNOWLEDGEMENTS AND WAIVER OF APPEAL RIGHT

1. The Brokerage acknowledges and understand that the Superintendent may accept or reject the Proposal. If the Proposal is rejected by the Superintendent, the matter may be referred to a discipline hearing.
2. The Brokerage acknowledge that it has been urged and given the opportunity to seek and obtain independent legal advice with respect to the disciplinary process, the allegations contained in the Notice of Discipline Hearing, and the execution and submission of the Proposal to the Superintendent; and, that it has

obtained independent legal advice or has chosen not to do so, and that it is making the Proposal with full knowledge of the contents and the consequences if the Proposal is accepted.

3. The Brokerage acknowledges and is aware that BCFSA will publish the Proposal and the Consent Order or summaries thereof on BCFSA's website, on CanLII, a website for legal research and in such other places and by such other means as BCFSA in its sole discretion deems appropriate.
4. The Brokerage hereby waives its right to appeal pursuant to section 54 of the RESA.
5. If the Proposal is accepted and/or relied upon by the Superintendent, the Brokerage will not make any public statement(s) inconsistent with the Proposal and its contents. Nothing in this section is intended to restrict the Brokerage from making full answer and defence to any civil or criminal proceeding(s).
6. The Proposal and its contents are made by the Brokerage for the sole purpose of resolving the Notice of Discipline Hearing in this matter and do not constitute an admission of civil liability. Pursuant to section 41(5) of the RESA, the Proposal and its contents may not be used without the consent of the Brokerage in any civil proceeding with respect to the matter.

"CHEN HONG"

**HONG CHEN, Authorized Signatory for PAN
PACIFIC PLATINUM REAL ESTATE SERVICES INC.
DBA LEHOMES REALTY**

Dated 22 day of October 2021