

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
DEAN NICHOLAS DYMONT
(095522)

AND

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

CONSENT ORDER

RESPONDENT: Dean Nicholas Dymont, Associate Broker, Laboutique Realty Ltd. dba
LeHomes Realty First, while licensed with Pan Pacific Platinum Real
Estate Services Inc. Dba Lehomes Realty

DATE OF CONSENT ORDER: December 7, 2021

PROCEEDINGS:

On December 7, 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 Dean Nicholas Dymont ("Mr. Dymont").

WHEREAS the Proposal, a copy of which is attached hereto, has been executed by Dean Nicholas Dymont.

NOW THEREFORE, having made the findings proposed in the attached Proposal, and found that Dean Nicholas Dymont 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. Mr. Dymont pay a discipline penalty to BCFSA in the amount of \$10,000 in the time period as directed by BCFSA.
2. Mr. Dymont, at his own expense, register for and successfully complete the Broker's Remedial Education Course as provided by the Sauder School of Business at the University of British Columbia in the time period as directed by BCFSA.
3. If Mr. Dymont changes his license level to managing broker within two (2) years of the date of this Order, then the conditions as described in Schedule 1 to this Order will apply.
4. Mr. Dymont pay enforcement expenses to BCFSA in the amount of \$1,500 in the time period as directed by BCFSA.

5. If Mr. Dymont fails to comply with any term of this Order, the Superintendent may suspend or cancel his licence without further notice to him, pursuant to sections 43(3) and 43(4) of the RESA.

Dated this 7th day of December 2021 at the City of Vancouver, British Columbia.

BC FINANCIAL SERVICES AUTHORITY

"MICHAEL NOSEWORTHY"

Michael Noseworthy
Senior VP, Real Estate Market Conduct

Attch.

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

IN THE MATTER OF

**DEAN NICHOLAS DYMONT
(095522)**

AND

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

**CONSENT ORDER PROPOSAL BY
DEAN NICHOLAS DYMONT**

BACKGROUND AND FACTS

This Consent Order Proposal (the "Proposal") is made by Dean Nicholas Dymont ("Mr. Dymont") 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, Mr. Dymont, and the Superintendent have agreed upon the following facts:

1. Mr. Dymont has been licensed in various capacities since 1991. He was licensed as a trading and rental representative from 1991 to 2013. He became licensed as managing broker (trading) in 2013 and became licensed as a managing broker (trading and rental) in 2019.
2. From May 16, 2019 to September 16, 2020, Mr. Dymont was licensed as the sole managing broker of the Vancouver branch of Pan Pacific Platinum Real Estate Services Inc. dba LeHomes Realty (X034934) (the "Brokerage").
3. The Brokerage became licensed in February 2019 to provide trading and rental property management services.
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 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 the Brokerage's rental property management clients; and
 - ii. holding security deposits for some of the Brokerage's rental property management clients; and

14. Mr. Dymont 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 also identified that in May 2020 there were 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 five tenant security deposits that were refunded to tenants from XXX Co.'s bank account; and
 - 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. Dymont told BCFSA that the Brokerage's office and bank procedures, including using XXX Co., were set up prior to him joining the Brokerage.
20. Mr. Dymont told BCFSA that he now understands that using an unlicensed entity was not a proper way to pay expenses.

Subsequent Events

21. On September 16, 2020 Mr. Dymont's license with the Brokerage was surrendered.
22. On October 13, 2020 Mr. Dymont agreed to conditions on an associate broker license whereby, among other things:
 - a. for a period of at least six months, he would not apply to change his license level to Managing Broker; and
 - b. after that initial six-month period, if he is licensed as a Managing Broker, for a six-month period after becoming a Managing Broker there must be a second Managing Broker continuously engaged in the same category of activities;
 - c. during this second six-month period, any brokerage trust account of which he had signing or disbursement authority would require a second managing broker as signatory or disbursement authority.
23. On October 14, 2020, subject to the agreed upon conditions, Mr. Dymont became licensed as an associate broker with XXX Rxxx Exxxxx Sxxxxxx Inc. (XXXXXXXX). On December 18, 2020, he became licensed as an associate broker with Laboutique Realty Ltd. dba LeHomes Realty First (X031622) with whom he remains currently licensed.
24. A Notice of Discipline Hearing was issued on June 11, 2021 and served on Mr. Dymont and the Brokerage.

25. An Amended Notice of Discipline Hearing was issued on September 16, 2021 and served on Mr. Dymont and the Brokerage.
26. There was no complaint made to BCFSA regarding Mr. Dymont's conduct.
27. There was no harm to any Brokerage client or anyone else as a result of Mr. Dymont's conduct.
28. Mr. Dymont has one prior discipline matter. In a consent order dated September 27, 2018, Mr. Dymont consented to a sanction that included a \$3,000 penalty, the successful completion of the Broker's Remedial education course, and payment of enforcement expenses. He admitted that while he was licensed as a managing broker, he committed professional misconduct when he:
 - a. failed to verify that a representative's license has been transferred to the brokerage before that representative listed two properties for sale with the brokerage;
 - b. failed to ensure that there was an adequate level of supervision of employees who performed duties on behalf of the brokerage, and as a result he: failed to ensure that a representative properly disclosed the nature of representation they were providing to an assignor and assignee; allowed an addendum to an assignment to be drafted and signed that was not necessary; and failed to ensure that the licensee acted with reasonable steps to avoid a conflict of interest and to disclose the conflict of interest to the assignor in a timely manner; and
 - c. in relation to a collapsed sale, he failed to ensure that the seller's agent had ensured that the seller had provided the prospective buyer with the BC. Housing Owner Builder Disclosure Notice, and he permitted the brokerage to release the buyer's deposit without the written agreement of the buyer and the seller.

PROPOSED FINDINGS OF MISCONDUCT

For the sole purposes of the Proposal and based on the facts outlined herein, Mr. Dymont proposes the following findings of misconduct be made by the Superintendent:

1. Mr. Dymont committed professional misconduct within the meaning of section 35(1)(a) of the RESA in that while the sole managing broker of the Vancouver branch of Pan Pacific Platinum Real Estate Services Inc. dba LeHomes Realty (X034934) (the "Brokerage"):
 - a. as of around May 31, 2020, the 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 75 (1), (2) and (3) (formerly 7-5(1), (2) and (3)) [*negative balances in trust accounts and trust records*], section 28(1) (b) (formerly 3-1(1)(b)) [*ensure that business is carried out competently and in accordance with the Act, regulations, rules and bylaws*] and section 28(3)(a) (formerly 3-1(3)(a)) [*ensure that trust accounts and records are maintained in accordance with the Act, regulations, rules and bylaws*] of the Rules.
 - b. in or around April and May 2020, the Brokerage permitted an unlicensed company, XXXXXXX B.C. Ltd., 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,
 and as a result, Mr. Dymont failed to ensure that business of the Brokerage was carried on in accordance with the Act, regulations, rules, and bylaws, contrary to section 28(1)(b) (formerly 3-1(1)(b)) of the Rules [*ensure that business is carried out competently and in accordance with the Act, regulations, rules, and bylaws*]'

- c. in or around April and May 2020, Mr. Dymont permitted the Brokerage to make payments from the rental commission trust account to XXXXXXX B.C. Ltd., an unlicensed entity, contrary to section 66(1) (formerly 6-1(1)) of the Rules [*payment to persons who are not licensed*] and section 28(1)(b) (formerly 3-1(1)(b)) of the Rules [*ensure that business is carried out competently and in accordance with the Act, regulations, rules, and bylaws*];

PROPOSED ORDERS

Based on the facts herein and the Proposed Findings of Misconduct, Mr. Dymont 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. Mr. Dymont pay a discipline penalty to BCFSA in the amount of \$10,000 in the time period as directed by BCFSA.
2. Mr. Dymont, at his own expense, register for and successfully complete the Broker's Remedial Education Course as provided by the Sauder School of Business at the University of British Columbia in the time period as directed by BCFSA.
3. If Mr. Dymont changes his license level to managing broker within two (2) years of the date of this Order, then the conditions as described in Schedule 1 to this Order will apply.
4. Mr. Dymont pay enforcement expenses to BCFSA in the amount of \$1,500 in the time period as directed by BCFSA.
5. If Mr. Dymont fails to comply with any of the terms of this Order, the Superintendent may suspend or cancel Mr. Dymont's license without further notice to him.

ACKNOWLEDGEMENTS AND WAIVER OF APPEAL RIGHT

1. Mr. Dymont acknowledges and understands that the Superintendent may accept or reject the Proposal. If the Proposal is rejected by the Superintendent, the matter may be referred to a disciplinary hearing.
2. Mr. Dymont acknowledges that he 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 he has obtained independent legal advice or has chosen not to do so, and that he is making the Proposal with full knowledge of the contents and the consequences if the Proposal is accepted.
3. Mr. Dymont 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. Mr. Dymont hereby waives his right to appeal pursuant to section 54 of the RESA.
5. If the Proposal is accepted and/or relied upon by the Superintendent, Mr. Dymont will not make any public statement(s) inconsistent with the Proposal and its contents. Nothing in this section is intended to restrict Mr. Dymont from making full answer and defence to any civil or criminal proceeding(s).
6. The Proposal and its contents are made by Mr. Dymont 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 Mr. Dymont in any civil proceeding with respect to the matter.

"DEAN DYMONT"

DEAN NICHOLAS DYMONT

Dated 30 day of Nov, 2021

Schedule 1 - Conditions
Dean Nicholas Dymont (095522)

1. In the event that Dean Nicholas Dymont ("Mr. Dymont") applies to change his license level to managing broker, for the six-month period after becoming a managing broker there must be a second managing broker continuously engaged at the brokerage for the same category of activities, or greater;
2. During the six-month period described above and while licensed as a managing broker with the brokerage, any brokerage trust account over which Mr. Dymont has signing or disbursement authority would require a second managing broker as a signatory or disbursement authority; and
3. Prior to Mr. Dymont becoming licensed as a managing broker, he must provide to BCFSa a document clearly setting out the job duties to be performed by himself and the other managing broker. This document must be signed by Mr. Dymont and the other managing broker and must specifically address who has responsibility for maintaining the brokerage's books and records and supervision of employees. If any of those agreed job duties or responsibilities are to be altered during the six-month period, notification must be provided to BCFSa, in writing, without delay.

I “DEAN DYMONT” acknowledge that I have received and read a copy of the above Conditions and that I Consent and agree to the conditions as set out therein.

Acknowledged this 30 day of November, 2021

“DEAN DYMONT”
Dean Nicholas Dymont