

BC FINANCIAL SERVICES AUTHORITY

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

AND

IN THE MATTER OF

**TRACY XIAOMEI LI (178286),
TRACY LI PERSONAL REAL ESTATE CORPORATION (178286PC),
DAVID CHIAN WEI YANG (043031),
DAVID C.W. YANG PERSONAL REAL ESTATE CORPORATION (043031PC),
LOK CHI ANNIE FONG (173995),
ANNIE FONG PERSONAL REAL ESTATE CORPORATION (173995PC),
LO-MING LEE (125608),
AND
PACIFIC EVERGREEN REALTY LTD (X030719)**

NOTICE OF DISCIPLINE HEARING

[This Notice has been redacted before publication.]

To: Tracy Xiaomei Li
Tracy Li Personal Real Estate Corporation
c/o Pacific Evergreen Realty Ltd
#102 - 1245 West Broadway
Vancouver, BC, V6H 1G7

To: David Chian Wei Yang
David C.W. Yang Personal Real
Estate Corporation
c/o Pacific Evergreen Realty Ltd
#102 - 1245 West Broadway
Vancouver, BC, V6H 1G7

To: Lok Chi Annie Fong
Annie Fong Personal Real Estate Corporation
c/o Sutton Group - 1st West Realty
280 - 3631 No. 3 Road
Richmond, BC, V6X 2B9

To: Pacific Evergreen Realty Ltd
#102 - 1245 West Broadway
Vancouver, BC, V6H 1G7

To: Lo-Ming Lee
c/o Winnie Lam & Associates Realty Ltd.
dba Sutton Group – Vancouver First Realty
#205 - 2607 East 49th Avenue
Vancouver, BC V5S 1J9

TAKE NOTICE that the Superintendent of Real Estate (the “Superintendent”) of the BC Financial Services Authority (“BCFSA”) will hold a discipline hearing under Part 4 of the *Real Estate Services Act* (“RESA”) on **October 3-7, 2022 commencing at 9:30 am** in the Hearing Room at the BCFSA’s offices located at **600 – 750 West Pender Street, Vancouver, British Columbia** or in such other (including virtual) Hearing Room of which BCFSA informs you to determine whether your conduct contravened the RESA, the regulation 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 Tracy Xiaomei Li are as follows:

1. Tracy Xiaomei Li committed professional misconduct within the meaning of section 35(1)(a) and (d) of the RESA in that, while licensed as a representative in relation to Pacific Evergreen Realty Ltd in the trading category, she:
 - a. On or about November 16, 2019, failed to disclose to [Seller 1] in writing, separately from any service agreement or other agreement under which real estate services are provided, separately from any agreement giving effect to a trade in real estate, and in the form approved by the Real Estate Council of British Columbia (“RECBC”) at the time whether or not she would represent [Seller 1] as a client in regard to the sale of real property with civic address at [Property 1], Richmond, British Columbia (the “Property”) contrary to the Rules, sections 3-4 [*Duty to act honestly and with reasonable care and skill*], 5-8 [*Disclosures*] and 5-10 [*Disclosure of representation in trading services*];
 - b. Further and in the alternative, on or about November 16, 2019, failed to disclose to [Seller 2], or an individual falsely purporting to be [Seller 2], in writing, separately from any service agreement or other agreement under which real estate services are provided, separately from any agreement giving effect to a trade in real estate, and in the form approved by RECBC at the time whether or not she would represent [Seller 2], or an individual falsely purporting to be [Seller 2], as a client in regard to the sale of the Property contrary to the Rules, sections 3-4 [*Duty to act honestly and with reasonable care and skill*], 5-8 [*Disclosures*] and 5-10 [*Disclosure of representation in trading services*];
 - c. On or about November 19, 2020, prepared and falsely dated the following documents as November 16, 2019 and delivered them to [Seller 1] to execute on behalf of [Seller 2]:
 - i. Fee Agreement Seller Pays (Buyer Represented Seller Not Represented);
 - ii. Disclosure of Risk to Unrepresented Parties;
 - iii. Not a Client? Know the Risks;
 - iv. Your Relationship with a Real Estate Professional;
 - v. Privacy Notice and Consenteach and all contrary to the Rules, section 3-4 [*Duty to act honestly and with reasonable care and skill*];
 - d. On or about November 21, 2020, prepared and falsely stated on Individual Identification Information Records prepared for [Seller 1] and [Seller 2], or an individual falsely purporting to

be [Seller 2], that she had ascertained their respective identities in reference to their driver's licences on November 16, 2019, when in fact:

- i. she had first viewed [Seller 1]'s driver's licence on November 19, 2019;
- ii. she had only seen a digital copy of the driver's licence of [Seller 2], or an individual falsely purporting to be [Seller 2], on November 21, 2019 and had never seen the authentic, valid original of that driver's licence,

contrary to the Rules, section 3-4 [*Duty to act honestly and with reasonable care and skill*];

- e. Between on or about November 16, 2019 and November 29, 2019, provided trading services to [Seller 1]; [Seller 2], or an individual falsely purporting to be [Seller 2]; or both in relation to the sale of the Property where she knew or reasonably ought to have known [Seller 1] was not duly authorized to deal with the Property contrary to the Rules, sections 3-3(a) [*Duty to act in the best interest of the client*] and 3-4 [*Duty to act honestly and with reasonable care and skill*]; and
- f. Further and in the alternative, between on or about November 16, 2019 and November 29, 2019, failed to take reasonable measures to confirm that [Seller 1] was duly authorized to deal with the Property in relation to its sale and failed to take reasonable measures to alert other persons acting in relation to the sale of the Property of the suspicious circumstances surrounding the sale of the Property conducted by [Seller 1] in light of suspicious circumstances surrounding the sale of the Property conducted by [Seller 1] which were known or reasonably ought to have been known to Tracy Xiaomei Li, which included but were not limited to:
 - i. Tracy Xiaomei Li was contacted by cold call by [Seller 1];
 - ii. The Power of Attorney first presented by [Seller 1] to Tracy Xiaomei Li on November 16, 2018 was not properly completed;
 - iii. [Seller 1] advised Ms. Li that he did not want the Property listed for sale at all, that he wanted to keep the sale quiet, and that he wanted the sale to happen quickly;
 - iv. The Property was vacant at all relevant times and had been broken into;
 - v. [Seller 1] advised Tracy Xiaomei Li that [Seller 2], or an individual falsely purporting to be [Seller 2], was willing to sell the property for an amount that was significantly less than the fair market value as assessed by Tracy Xiaomei Li;
 - vi. [Seller 1] advised Tracy Xiaomei Li that [Seller 2] was in Toronto, Ontario and could not attend to the sale of the Property and later produced a form of power of attorney purporting to be signed by [Seller 2] and witnessed before a notary public in Vancouver, British Columbia on November 18, 2019;
 - vii. [Seller 1] provided an email address purporting to be [Seller 2]'s email address which was suspicious in format;
 - viii. Tracy Xiaomei Li never communicated directly with [Seller 2];
 - ix. [Seller 1] refused to sign an agency agreement with Tracy Xiaomei Li despite receiving trading services from her;
 - x. [Seller 1] initially refused to provide identity documents for [Seller 2], or an individual falsely purporting to be [Seller 2];

- xi. The power of attorney provided by [Seller 1] was not fully executed on November 20, 2019, being the date the contract of purchase and sale for the Property from [Seller 2] to [Buyer] was executed; and
 - xii. The address of [Seller 1], or in the alternative [Seller 2], or an individual falsely purporting to be [Seller 2], did not match tax reports, contrary to the Rules, sections 3-3(a) [*Duty to act in the best interest of the client*] and 3-4 [*Duty to act honestly and with reasonable care and skill*].
2. Further and in the alternative, Tracy Xiaomei Li committed professional misconduct within the meaning of section 35(c) [*Wrongful Taking and Deceptive Dealing*] of the RESA when, while licensed as a representative in relation to Pacific Evergreen Realty Ltd in the trading category, she engaged in any or all of the conduct set out in paragraphs 1.c, 1.d, and 1.e.
 3. Further and in the alternative, Tracy Xiaomei Li committed conduct unbecoming within the meaning of section 35(2) [*Conduct Unbecoming*] of the RESA when, while licensed as a representative in relation to Pacific Evergreen Realty Ltd in the trading category, she engaged in any or all of the conduct set out in paragraph 1 contrary to the best interests of the public, undermining public confidence in the real estate industry, or bringing the real estate industry into disrepute.

AND TAKE NOTICE that the allegations against David Chian Wei Yang are as follows:

4. David Chian Wei Yang committed professional misconduct within the meaning of section 35(1)(a) and (d) of the RESA in that, while licensed as a representative in relation to Pacific Evergreen Realty Ltd in the trading and rental property management categories, he:
 - a. On or about November 16, 2019, failed to properly disclose to [Buyer] in writing, separately from any service agreement or other agreement under which real estate services are provided, separately from any agreement giving effect to a trade in real estate, and in the form approved by RECBC at the time whether or not he would represent [Buyer] as a client in regard to the purchase of real property with civic address at [Property 1], Richmond, British Columbia (the "Property") contrary to the Rules, sections 3-4 [*Duty to act honestly and with reasonable care and skill*], 5-8 [*Disclosures*] and 5-10 [*Disclosure of representation in trading services*];
 - b. Between on or about November 16, 2019 and November 29, 2019, provided trading services to [Seller 1]; [Seller 2], or an individual falsely purporting to be [Seller 2]; or both in relation to the sale of the Property where he knew or reasonably ought to have known that [Seller 1] was not duly authorized to deal with the Property contrary to the Rules, sections 3-3(a) [*Duty to act in the best interest of the client*] and 3-4 [*Duty to act honestly and with reasonable care and skill*]; and
 - c. Further and in the alternative, between on or about November 16, 2019 and November 29, 2019, failed to take reasonable measures to confirm that [Seller 1] was duly authorized to deal with the Property in relation to its sale and failed to take reasonable measures to alert other persons acting in relation to the sale of the Property of the suspicious circumstances surrounding the sale of the Property conducted by [Seller 1] in light of suspicious circumstances surrounding the sale of the Property conducted by [Seller 1] which were known

or reasonably ought to have been known to Tracy Xiaomei Li, which included but were not limited to:

- i. The circumstances set out in paragraphs 1.f.i to iv, vi, and viii to xi, inclusive;
- ii. David Chian Wei Yang saw [Seller 1] park down the street from the Property instead of in front of it when parking spaces were available in front of the Property; and
- iii. David Chian Wei Yang saw an individual leave the Property quickly and without acknowledging David Chian Wei Yang when David Chian Wei Yang was first to arrive at the Property for a meeting;

all contrary to the Rules, sections 3-3(a) [*Duty to act in the best interest of the client*] and 3-4 [*Duty to act honestly and with reasonable care and skill*].

5. Further and in the alternative, David Chian Wei Yang committed conduct unbecoming within the meaning of section 35(2) of the RESA when, while licensed as a representative in relation to Pacific Evergreen Realty Ltd in the trading and rental property management categories, he engaged in any or all of the conduct set out in paragraph 4 contrary to the best interests of the public, undermining public confidence in the real estate industry, or bringing the real estate industry into disrepute.

AND TAKE NOTICE that the allegations against Lok Chi Annie Fong are as follows:

6. Lok Chi Annie Fong committed professional misconduct within the meaning of section 35(1)(a) and (d) of the RESA in that, while licensed as a managing broker in relation to Pacific Evergreen Realty Ltd in the trading and rental property management categories, she:
 - a. In or about November, 2019, failed to provide adequate supervision to Tracy Xiaomei Li to ensure that she disclose in writing and in the form approved by the RECBC at the time whether or not she would represent [Seller 1]; [Seller 2], or an individual purporting to be [Seller 2]; or both of them as clients as required by the Rules, section 5-10 [*Disclosure of representation in trading services*] contrary to the Rules, section 3-1(3)(b) [*Accounts and records*];
 - b. In or about November, 2019, failed to provide adequate supervision to David Chian Wei Yang to ensure that he disclose in writing and in the form approved by the RECBC at the time whether or not he would represent [Buyer] as a client as required by the Rules, section 5-10 [*Disclosure of representation in trading services*] contrary to the Rules, section 3-1(3)(b) [*Accounts and records*];
 - c. Between on or about November 21, 2019 to November 29, 2019, failed to take reasonable steps to deal with any or all of Tracy Xiaomei Li's conduct set out in paragraphs 1 and 2 which she knew may constitute professional misconduct, conduct unbecoming, improper conduct, or negligent conduct on the part of Tracy Xiaomei Li contrary to the Rules, section 3-1(2) [*Knowledge of improper conduct*]; and
 - d. Between on or about November 21, 2019 to November 29, 2019, failed to take reasonable steps to deal with any or all of David Chian Wei Yang's conduct set out in paragraph 4 which she knew may constitute professional misconduct, conduct unbecoming, improper conduct, or

negligent conduct on the part of David Chian Wei Yang contrary to the Rules, section 3-1(2) [*Knowledge of improper conduct*],

each and all contrary to the Rules, sections 3-1(1)(a) [*Duty to be actively involved in brokerage management*], 3-1(1)(b) [*Duty to ensure the brokerage complies with the RESA and the Rules*], and 3-1(1)(c) [*Duty to supervise associate brokers and representatives*].

7. Further and in the alternative, Lok Chi Annie Fong committed conduct unbecoming within the meaning of section 35(2) of the RESA when, while licensed as a managing broker in relation to Pacific Evergreen Realty Ltd in the trading and rental property management categories, she engaged in any or all of the conduct set out in paragraph 6 contrary to the best interests of the public, undermining public confidence in the real estate industry, or bringing the real estate industry into disrepute.

AND TAKE NOTICE that the allegations against Lo-Ming Lee are as follows:

8. Lo-Ming Lee committed professional misconduct within the meaning of section 35(1)(a) and (d) of the RESA in that, while licensed as a managing broker in relation to Pacific Evergreen Realty Ltd in the trading and rental property management categories, he:
 - a. In or about November, 2019, failed to provide adequate supervision to Tracy Xiaomei Li to ensure that she disclose in writing and in the form approved by the RECBC at the time whether or not she would represent [Seller 1]; [Seller 2], or an individual purporting to be [Seller 2]; or both of them as clients as required by the Rules, section 5-10 [*Disclosure of representation in trading services*], contrary to the Rules, section 3-1(3)(b) [*Accounts and records*];
 - b. In or about November, 2019, failed to provide adequate supervision to David Chian Wei Yang to ensure that he disclose in writing and in the form approved by the RECBC at the time whether or not he would represent [Buyer] as a client as required by the Rules, section 5-10 [*Disclosure of representation in trading services*], contrary to the Rules, section 3-1(3)(b) [*Accounts and records*];
 - c. Between on or about November 21, 2019 to November 29, 2019, failed to take reasonable steps to deal with any or all of Tracy Xiaomei Li's conduct set out in paragraphs 1 and 2 which he knew may constitute professional misconduct, conduct unbecoming, improper conduct, or negligent conduct on the part of Tracy Xiaomei Li contrary to the Rules, section 3-1(2) [*Knowledge of improper conduct*]; and
 - d. Between on or about November 21, 2019 to November 29, 2019, failed to take reasonable steps to deal with any or all of David Chian Wei Yang's conduct set out in paragraph 4 which he knew may constitute professional misconduct, conduct unbecoming, improper conduct, or negligent conduct on the part of David Chian Wei Yang contrary to the Rules, section 3-1(2) [*Knowledge of improper conduct*],

each and all contrary to the Rules, sections 3-1(1)(a) [*Duty to be actively involved in brokerage management*], 3-1(1)(b) [*Duty to ensure the brokerage complies with the RESA and the Rules*], and 3-1(1)(c) [*Duty to supervise associate brokers and representatives*].

9. Further and in the alternative, Lo-Ming Lee committed conduct unbecoming within the meaning of section 35(2) of the RESA when, while licensed as a managing broker in relation to Pacific Evergreen Realty Ltd in the trading and rental property management categories, he engaged in any or all of the conduct set out in paragraph 8 contrary to the best interests of the public, undermining public confidence in the real estate industry, or bringing the real estate industry into disrepute.

AND TAKE NOTICE that the allegations against Pacific Evergreen Realty Ltd are as follows:

10. Pacific Evergreen Realty Ltd committed professional misconduct within the meaning of section 35(1)(a) of the RESA in that, while licensed as a brokerage in the trading and rental property management categories, it:
 - a. failed to provide and retain the disclosures referred to in paragraphs 1.a, 1.b, and 4.a above, contrary to the Rules, sections 5-8 [*Disclosures*], 5-10 [*Disclosure of representation in trading services*] and 8-4(1)(a) [*General records*].

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

AND FURTHER TAKE NOTICE that if you do not attend the discipline hearing, the Superintendent 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 16th day of March, 2022 at the City of Vancouver, British Columbia.

BC Financial Services Authority

"JONATHAN VANDALL"

Per: Jonathan Vandall
Vice President, Compliance and Market Conduct