

BC FINANCIAL SERVICES AUTHORITY

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

AND

IN THE MATTER OF
PHILIP JOHN DANYLUK
(140420)

AND

VENTURE WEST REAL ESTATE SERVICES LTD.
(X033117)

NOTICE OF DISCIPLINE HEARING

To: Philip John Danyluk
[Address Redacted]

To: Venture West Real Estate Services Ltd.
c/o Philip John Danyluk

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 **December 28 to 30, 2022 commencing at 9:30 am** in the Hearing Room at 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 you are as follows:

1. Philip John Danyluk committed professional misconduct within the meaning of section 35(1)(a) and (d) [Misconduct by licensee] of the RESA and conduct unbecoming a licensee, within the meaning of section 35(2) [Misconduct by licensee] of the RESA in that, between August 1, 2019, and June 30, 2020, you:
 - a. failed to disclose benefits you anticipated receiving directly or indirectly, or that your associate [Company 1] ("[Company 1]") would receive, through providing rental property management services through Venture West Real Estate Services Ltd. (the "Brokerage"), contrary to section 5-12 [Benefits in relation to rental property management services and strata management services] of the rules made under the RESA (the "Rules");
 - b. failed to review monthly trust account reconciliation as required by section 7-4(2) [Other trust account requirements] of the Rules; and

c. failed to ensure that the Brokerage:

- i. prepared and maintained trust liability listings and separate trust ledgers for the pooled rental trust account;
- ii. did not maintain negative balances (shortages and overdrafts) in the pooled rental trust accounts;
- iii. notified BCFSa about any of the negative balance(s) no later than 10 days after the day on which the negative balance(s) arose, or if at all,

all contrary to section 6(2) [Brokerage must have a managing broker] of the RESA and sections 3-1(1) and 3-1(3) [Managing broker responsibilities] and 7-5 [Negative balances in trust accounts and trust records] of the Rules;

1. The Brokerage committed professional misconduct within the meaning of section 35(1)(a) [Misconduct by licensee] of the RESA between August 1, 2019, and June 30, 2020, in that the Brokerage:
 - a. failed to prepare and maintain proper books and records contrary to section 25 [Brokerage records] of the RESA;
 - b. failed to take immediate steps to eliminate negative balance (shortages) in the pooled rental trust account, contrary to section 7-5(2) [Negative balances in trust accounts and trust records] of the Rules;
 - c. failed to take immediate steps to eliminate negative balances (overdrafts) in the rental trust bank account, contrary to section 7-5(2) [Negative balances in trust accounts and trust records] of the Rules;
 - d. failed to notify BCFSa about any of the negative balances as set out above, no later than 10 days after the day on which the negative balance(s) arose, contrary to section 7-5(3)(b) [Negative balances in trust accounts and trust records] of the Rules; and
 - e. permitted trust monies to be withdrawn from a trust account, without the consent, authorization or knowledge of the client, contrary to section 30 [Withdrawals from trust account] of the RESA.

AND FURTHER TAKE NOTICE that if the Superintendent finds you committed professional misconduct, 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 August 2022 at the City of Vancouver, British Columbia.

Superintendent of the BC Financial Services Authority

"RAHEEL HUMAYUN"

Raheel Humayun
Delegate of the Superintendent of Real Estate
Province of British Columbia