

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)**

THIRD SECOND AMENDED 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 **November 20 – December 8, 2023 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 each or both of sections 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 the individual representing himself as [Seller 1] (“[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 each or all of 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 each or all of 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, 2019, 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. Not a Client? Know the Risks;
 - iii. Your Relationship with a Real Estate Professional;
 - iv. Privacy Notice and Consent; and
 - v. a Property Disclosure Statement for the Propertyeach or all contrary to the Rules, section 3-4 [*Duty to act honestly and with reasonable care and skill*];
 - c.1 On or about November 19, 2019, prepared a Fee Agreement Seller Pays (Buyer Represented Seller Not Represented) for execution by [Seller 1] or [Seller 2] in which she indicated she and

David Chian Wei Yang were the designated agents for the buyer when she knew, or reasonably ought to have known that she was not a designated agent for the buyer contrary to the Rules, section 3-4 [*Duty to act honestly and with reasonable care and skill*];

- d. On or about November 21, 2019, 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 a driver's licence proffered as authentic by [Seller 1]'s on November 19, 2019; and
 - 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 that [Seller 1] was not duly authorized to deal with the Property contrary to each or both of 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 whether [Seller 1] was duly authorized to deal with the Property in relation to its sale, 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], or both 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 each or all of the following:
 - 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, 2019 was not properly completed; Tracy Xiaomei Li did not see a copy of a Power of Attorney providing [Seller 1] with authority to conduct the Sale of the Property on November 16, 2019;
 - 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] advised Tracy Xiaomei Li that he was the executive assistant or personal assistant to [Seller 2] but the power of attorney provided to Tracy Xiaomei Li on November 18, 2019 described him as a Real Estate Manager;
 - viii. [Seller 1] provided an email address purporting to be [Seller 2]'s email address which was suspicious in format;
 - ix. Tracy Xiaomei Li never communicated directly with [Seller 2], despite attempting to;
 - x. [Seller 1] refused to sign an agency agreement with Tracy Xiaomei Li despite receiving trading services from her;
 - xi. [Seller 1] initially refused to provide identity documents for [Seller 2], or an individual falsely purporting to be [Seller 2];
 - xii. The power of attorney provided by [Seller 1] on November 18, 2019 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~~
 - xiii. The power of attorney provided by [Seller 1] on November 21, 2019 described [Seller 2] as a "student" and the copy of the photo identification purporting to show [Seller 2] indicated a birth date of October 22, 1978. [Seller 1] advised Tracy Xiaomei Li on November 21, 2019 that [Seller 2]'s occupation was "self-employed", and [Seller 1] advised Tracy Xiaomei Li's assistant on November 27, 2019 that [Seller 2] was an international student; and
 - xiv. 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 each or all of 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 each or all of paragraphs 1.c, 1.c.1, 1.d, and 1.e
 - 2.1 Further and in the alternative, Tracy Xiaomei Li committed professional misconduct within the meaning of section 35(g) [*False or Misleading Statement in a Document Required or Authorized*] 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.c.
 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 each or all of 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, between on or about November 16, 2019 and November 29, 2019, failed to take reasonable measures to confirm whether [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 David Chian Wei Yang, which included but were not limited to each or all of the following:
 - i. The circumstances set out in each or all of paragraphs 1.f.i to iv, vi, and ~~viii~~ ix to xii, 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; andall contrary to each or all of 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 22, 2019, failed to take reasonable steps to confirm if Tracy Xiaomei Li was in an agency relationship with [Seller 1]; [Seller 2], or an individual falsely purporting to be [Seller 2]; or both in relation to the sale of the Property contrary to the Rules, section 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*];
 - b.1 In or about November 2019, failed to provide adequate supervision of Tracy Xiaomei Li to ensure that she would not continue to provide trading services to an individual acting under a power of attorney until she had taken sufficient steps to confirm the validity of a power of attorney used to transact the sale by the seller and the authority of the individual to transact before continuing to provide trading services;
 - b.2 In or about November 2019, failed to provide adequate supervision of David Chian Wei Yang to ensure that he would not continue to provide trading services in respect of the purchase of the Property until he had taken sufficient steps to confirm the validity of a power of attorney used to transact the sale by the seller and the authority of the individual acting under a power of attorney to transact continuing to before provide trading services;
 - 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 each or all of paragraphs 1, 2, and 2.1 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 or all contrary to each or all of 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*];
 - b.1 In or about November 2019, failed to provide adequate supervision of Tracy Xiaomei Li to ensure that she would not continue to provide trading services to an individual acting under a power of attorney until she had taken sufficient steps to confirm the validity of a power of attorney used to transact the sale by the seller and the authority of the individual to transact before continuing to provide trading services;
 - b.2 In or about November 2019, failed to provide adequate supervision of David Chian Wei Yang to ensure that he would not continue to provide trading services in respect of the purchase of the Property until he had taken sufficient steps to confirm the validity of a power of attorney used to transact the sale by the seller and the authority of the individual acting under a power of attorney to transact before continuing to provide trading services;
 - 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 each or all of paragraphs 1, 2, and 2.1 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 or all contrary to each or all of 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 each or all of paragraphs 1.a, 1.b, and 4.a above, contrary to each or all of 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 ~~10th day of July, 2023~~ 9th day of August at the City of ~~Victoria Vancouver~~, British Columbia.

BC Financial Services Authority

“CHRIS BISCOE”

Per: Chris Biscoe
Director, Legal, Compliance & Enforcement