

BC FINANCIAL SERVICES AUTHORITY

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

AND

IN THE MATTER OF

GOBINDER KAUR (GINA) TAKHAR
(UNLICENSED)

CONSENT ORDER

[This Order has been redacted before publication.]

RESPONDENT: Gobinder Kaur Takhar

DATE OF CONSENT ORDER: March 6, 2024

COUNSEL: Catherine Davies, Legal Counsel for the BC Financial Services Authority
Scott Twining, Legal Counsel for the Respondent

PROCEEDINGS:

On March 6, 2024, the Superintendent of Real Estate (the "Superintendent"), or the Superintendent's authorized delegate, of BC Financial Services Authority ("BCFSA") accepted the Consent Order Proposal (the "Proposal") submitted by Gobinder Kaur (Gina) Takhar ("Ms. Takhar").

WHEREAS the Proposal, a copy of which is attached hereto, has been executed by Ms. Takhar.

NOW THEREFORE, having made the findings proposed in the attached Proposal, and found that Ms. Takhar committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* ("RESA") and sections 34, 54, and 30(d) of the *Real Estate Services Rules* (the "Rules"), pursuant to section 43 of the RESA the Superintendent orders that:

1. Ms. Takhar's license is cancelled.
2. Ms. Takhar pay a discipline penalty to BCFSA in the amount of \$55,000 within the time period directed by BCFSA;

3. Ms. Takhar pay enforcement expenses to BCFSa in the amount of \$2,000 within the time period directed by BCFSa.

Dated this 5th day of March, 2024 at the City of Victoria, British Columbia.

Superintendent of the BC Financial Services Authority

"Original signed by Jonathan Vandall"

Jonathan Vandall
Delegate of the Superintendent of Real Estate
Province of British Columbia

Attch.

BC FINANCIAL SERVICES AUTHORITY

IN THE MATTER OF THE *REAL ESTATE SERVICES ACT*

SBC 2004, c 42 as amended

IN THE MATTER OF

**GOBINDER KAUR (GINA) TAKHAR
(UNLICENSED)**

CONSENT ORDER PROPOSAL BY GOBINDER KAUR (GINA) TAKHAR

BACKGROUND AND FACTS

This Consent Order Proposal (the "Proposal") is made by GOBINDER KAUR (GINA) TAKHAR ("Ms. Takhar") 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, Ms. Takhar and the Superintendent have agreed upon the following facts:

1. Ms. Takhar was licensed as a trading representative discontinuously from 2010 to 2020.
2. Ms. Takhar was at all relevant times licensed as a trading representative with Global Force Realty Ltd.
3. This matter arises from Ms. Takhar's actions in 2017 in relation to the assignment of two adjacent properties in Chilliwack, BC.
4. In early 2017, three sisters (JA, PG and CJ) were interested in purchasing an investment property with funds they had recently received from a small inheritance.
5. Licensee LG was representing the sisters in their search for an investment property.
6. At or around that time, LG made professional acquaintance with Ms. Takhar and they discussed the prospect of working together in providing real estate trading services.
7. LG was planning to travel to India for six weeks during March-April 2017, and Ms. Takhar offered to look after LG's clients during her absence.
8. On February 24, 2017, the sisters and LG met with Ms. Takhar.
9. At this meeting, the sisters told Ms. Takhar:
 - a. they had a small inheritance from their parents that they wanted to grow through a real estate investment;
 - b. they were inexperienced with real estate investments;
 - c. they were pre-approved for a purchase of up to \$850,000 provided the property included rental income;

- d. all three sisters were in a position of financial hardship: PG was widowed and had a daughter to support; CJ was divorced and single with a son to support; and BA had three daughters, the youngest with special needs;

(the "Confidential Information").

10. During LG's absence in March-April 2017, Ms. Takhar had minimal contact with the sisters and did not provide them with any real estate services.
11. Upon LG's return, she and Ms. Takhar worked together for a short period of time until the end of May 2017.
12. LG began to show the sisters properties throughout Surrey, Abbotsford, and Chilliwack, BC.
13. LG showed the sisters a property located at [Property 1], Chilliwack, BC ("[Property 1]"). The sisters were initially not interested because the home required renovations, and they were only interested in properties that had rental income and no additional required expense.
14. The sisters continued their property search without success.
15. In late July 2017, the sisters decided to write an offer [Property 1]. On July 31, 2017, LG prepared on behalf of the sisters a subject-free offer to purchase [Property 1] for a purchase price of \$350,000.
16. The offer was not accepted by the seller.
17. On July 31, 2017, the seller of [Property 1] entered into a subject-free contract of purchase and sale with buyer [Buyer 1] ("[Buyer 1]") for a purchase price of \$405,000.
18. At all material times, Ms. Takhar's spouse was the sole director and a minority shareholder of [Buyer 1].
19. Ms. Takhar's son, licensee MK, acted as buyer's agent for [Buyer 1] in the purchase of [Property 1].
20. In early August 2017, Ms. Takhar spoke with LG and separately with one of the sisters (JA) about whether the sisters were interested in an assignment of [Property 1] for the purchase price of \$405,000. The sisters became interested; however, throughout the month of August, no meaningful progress was made.
21. On August 10, 2017, [Buyer 1] entered into a contract of purchase and sale for a property located at [Property 2] ("[Property 2]") for a purchase price of \$370,000. MK along with licensee PD acted as buyer's agent for [Buyer 1].
22. Ms. Takhar says that upon securing [Property 2], [Buyer 1] was only interested in assigning both properties together, and would charge an assignment fee.
23. On September 3, 2017, the sisters ended their relationship with LG.

Assignment

24. On September 13, 2017, two of the sisters, JA and CJ, met with Ms. Takhar to discuss [Property 1].
25. JA and CJ say that Ms. Takhar mentioned they would have to purchase [Property 2] along with [Property 1]. She said they could flip them before closing to make a profit. She also mentioned that her spouse was a minority shareholder of [Buyer 1] but did not elaborate on what that meant.

26. Ms. Takhar has a different recollection of the meeting of September 13. She says that she explained to JA and CJ that [Buyer 1] was looking to assign both contracts. She explained that [Buyer 1] expected to make a profit and would not assign the contracts for the original purchase price. Ms. Takhar denies making any statements about the sisters reassigning prior to completion.
27. The sisters decided to go forward with [Property 1] and [Property 2] based on their perceived information from Ms. Takhar regarding reassigning the properties before closing for a profit.
28. On September 14, 2017, Ms. Takhar provided the assignment contracts to JA for review.
29. On September 16, 2017, the sisters attended at Ms. Takhar's home to execute the assignment contracts.
30. The assignment contract for [Property 1] provided the following:
 - a. [Buyer 1] was the assignor;
 - b. the designated agent for the assignor was MK (licensed with [Brokerage 1]);
 - c. sisters JA and PG together were the assignee;
 - d. the assignee was stated to have no agency;
 - e. the original purchase price was \$405,000;
 - f. the total assignment price was \$425,000;
 - g. reimbursement of assignor's original deposit of \$15,000 was to be paid on September 16, 2016;
 - h. the assignment fee was \$20,000, to be paid on September 20, 2017.
31. The assignment contract for [Property 2] provided the following:
 - a. [Buyer 1] was the assignor;
 - b. the designated agent for the assignor was MK (licensed with [Brokerage 1]);
 - c. sisters JA and PG together were the assignee;
 - d. the assignee was stated to have no agency;
 - e. the original purchase price was \$370,000;
 - f. the total assignment price was \$425,000;
 - g. reimbursement of assignor's original deposit of \$15,000 was to be paid on September 16, 2016;
 - h. the assignment fee was \$55,000, to be paid on September 20, 2017.
32. The sisters and Ms. Takhar differ in their recollection of what occurred at the meeting when the assignment contracts were executed.
33. The sisters say that Ms. Takhar quickly took them through the assignment contracts but did not explain the terms in detail nor go over a breakdown of the prices or fees. They say that the concept of the assignment fee was not explained to them, and they believed they were purchasing for the original purchase price for both properties. They say that Ms. Takhar did not explain that she was not acting on their behalf. They say that Ms. Takhar further discussed the possibility of them further assigning the properties to another buyer before closing to make a profit and said that she had potential buyers in mind for them.
34. Ms. Takhar has a different version of the September 16 meeting. She says she met with the sisters for about two hours and went through the contracts with them. She says she explained the assignment fee and pointed out the assignee's total purchase price, which was \$425,000 for each property. She denies making any statements about reassignment prior to completion.

35. A Working With A Realtor form indicating a customer relationship was signed by JA and dated September 16, 2017, though JA does not recall signing it, nor Ms. Takhar going over it.
36. On September 18, 2017, [Buyer 1] signed the assignment contracts for both [Property 1] and [Property 2].
37. On September 18, 2017, Ms. Takhar picked up the assignee's bank draft payable to [Buyer 1] in the amount of \$30,000 representing repayment of [Buyer 1]'s deposits.
38. On September 22, 2017, MK picked up the assignee's bank draft payable to [Buyer 1] the amount of \$75,000 representing the total assignment fee.
39. On October 15, 2017, Ms. Takhar contacted JA to discuss the upcoming completion of the transactions.
40. The sisters say this discussion came as a surprise as they thought Ms. Takhar was going to assist them in finding new buyers to assign the properties for a profit prior to closing, and they relied on this information when deciding to purchase the properties by assignment.
41. The sisters took steps to inquire into financing and their options regarding completing the transactions, as they did not have financing approval in place at that time for completion of the properties.
42. The sisters say it was around this time they first fully appreciated that they were being charged an assignment fee for [both] properties.
43. In order to complete the transactions, the sisters had to obtain financing from other sources, including cashing in personal investments and borrowing money from family members, thereby suffering financial hardship.
44. The purchase of [Property 1] completed on October 31, 2017. The purchase of [Property 2] completed on November 15, 2017.
45. BCFSA's predecessor, the Real Estate Council of BC received a complaint from the sisters on November 27, 2017.
46. The complainants say that throughout all of their communications and meetings with Ms. Takhar, beginning with their meeting in February 2017 when they confided in her and provided her with the Confidential Information, and throughout all their dealings with Ms. Takhar regarding [both] properties, Ms. Takhar's actions lead them to believe she was acting as their agent and was acting in their best interests.
47. Ms. Takhar maintains that she was fully transparent regarding her neutral role in the transactions and regarding the assignment fee. Ms. Takhar accepts that she did not clearly explain her role in the transactions to the sisters.
48. Ms. Takhar voluntarily surrendered her license in August 2020.
49. A notice of Discipline Hearing issued October 8, 2020 was served on Ms. Takhar.
50. Ms. Takhar has no prior discipline with BCFSA.

PROPOSED FINDINGS OF MISCONDUCT

For the sole purposes of the Proposal and based on the Facts outlined herein, Ms. Takhar proposes the following findings of misconduct be made by the Superintendent:

1. Ms. Takhar committed professional misconduct within the meaning of section 35(1)(a) of the RESA in relation to the assignment of a contract of purchase and sale dated September 16, 2017 respecting a property located at [Property 1], Chilliwack, BC and the assignment of a contract of purchase and sale dated September 16, 2017 respecting a property located at [Property 2], Chilliwack, BC (together, the "Properties") when:
 - a. she failed to disclose to the assignees, prior to providing trading services, the nature of the representation that she would be providing and/or that she did provide, contrary to section 34 [*duty to act with reasonable care and skill*] (formerly 3-4) and section 54 [*disclosure of representation in trading services*] (formerly 5-10) of the Rules;
 - b. she failed to advise the assignees to seek independent professional advice regarding the assignments of the Properties in circumstances where the assignees had provided Ms. Takhar with confidential information regarding their limited financial means, where the assignment contracts provided an assignment fee in respect of each property, and where the assignment contracts stated that the assignees were unrepresented, contrary to section 30(d) [*advise client to seek independent professional advice*] (formerly 3-3(d)) and section 34 [*act with reasonable care and skill*] (formerly 3-4) of the Rules.

PROPOSED ORDERS

Based on the facts herein and the Proposed Findings of Misconduct, Ms. Takhar 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. Ms. Takhar's licence be cancelled.
2. Ms. Takhar pay a discipline penalty to BCFSA in the amount of \$55,000 within the time period directed by BCFSA.
3. Ms. Takhar pay enforcement expenses to BCFSA in the amount of \$2,000 within the time period directed by BCFSA.

ACKNOWLEDGEMENTS AND WAIVER OF APPEAL RIGHT

1. Ms. Takhar 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. Ms. Takhar acknowledges that she 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 she has obtained independent legal advice or has chosen not to do so, and that she is making the Proposal with full knowledge of the contents and the consequences if the Proposal is accepted.
3. Ms. Takhar 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. Ms. Takhar hereby waives her right to appeal pursuant to section 54 of the RESA.

5. If the Proposal is accepted and/or relied upon by the Superintendent, Ms. Takhar will not make any public statement(s) inconsistent with the Proposal and its contents. Nothing in this section is intended to restrict Ms. Takhar from making full answer and defence to any civil or criminal proceeding(s).
6. Ms. Takhar acknowledges and is aware that the Superintendent is not bound to accept any application for relicensing or renewal of their licence. Ms. Takhar must always satisfy the Superintendent that she meets the requirements for a licence in section 10 of the RESA, and any Rules, regulations or other instruments made pursuant to the RESA.
7. The Proposal and its contents are made by Ms. Takhar 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 Ms. Takhar in any civil proceeding with respect to the matter.

"Gobinder Kaur (Gina) Takhar"

GOBINDER KAUR (GINA) TAKHAR

Dated 5th day of March, 2024