

BC FINANCIAL SERVICES AUTHORITY

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

AND

IN THE MATTER OF

DAVID CHIAN WEI YANG
(043031)

AND

DAVID C.W. YANG PERSONAL REAL ESTATE CORPORATION
(043031PC)

NOTICE OF DISCIPLINE HEARING

[This Notice has been redacted before publication.]

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

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 **September 17 to 20, 2024 commencing at 9:30 am** in the Virtual Hearing Room at the BCFSA's offices located at **600 – 750 West Pender Street, Vancouver, British Columbia** 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 David Chian Wei Yang and David C.W. Yang Personal Real Estate Corporation ("DY PREC") are as follows:

1. David Chian Wei Yang and DY PREC committed professional misconduct within the meaning of section 35(1)(a) and/or section 35(1)(d) of the RESA when:
 - a. Between January 1, 2015 and December 31, 2016, while licensed as a representative in relation to Royal Pacific Realty Corp, he failed to reduce to writing commission agreement(s) with the client regarding the commission payable; and/or failed to provide proper written disclosure of his commission and/or any rebate to the client contrary to Rule 3-4 [*act with honesty and reasonable care and skill*], Rule 5-1(4) [*written service agreement*], Rule 5-8 [*disclosures*] and/or Rule 5-11 [*disclosure of remuneration*] of the Rules in relation to the assignment of the contract of purchase and sale of:

- i. [Property 1], Vancouver, BC by [Client 1];
 - ii. [Property 2], Richmond, BC by [Client 1];
 - iii. [Property 3], Richmond, BC by [Client 2];
 - iv. [Property 4], Vancouver, BC by [Client 3]; and/or
 - v. [Property 5], Vancouver, BC by [Client 4].
 - b. Between January 1, 2015 and December 31, 2016, while licensed as a representative in relation to Royal Pacific Realty Corp, he failed to provide disclosure of the representation and agency relationship to his respective client(s) 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 the client prior to the client entering into an agreement to assign their rights under a contract of purchase and sale contrary to Rule 3-3(a) *[act in the best interests of the client]*, Rule 3-3(f) *[disclose to the client all known material information respecting the real estate services, and the real estate and the trade in real estate to which those services relate]*, Rule 3-4 *[act with reasonable care and skill]*, 5-8 *[Disclosures]* and/or Rule 5(10) *[disclosure of representation and relationship in trading services]* of the Rules in respect of:
 - i. [Property 1], Vancouver, BC;
 - ii. [Property 2], Richmond, BC;
 - iii. [Property 3], Richmond, BC;
 - iv. [Property 4], Vancouver, BC; and/or
 - v. [Property 5], Vancouver, BC.
 - c. On or about December 7, 2015, he failed to act with reasonable care and skill and/or avoid a conflict of interest in relation to the assignment of a property located at [Property 1], Vancouver, BC by personally providing monies that were used to fund a holdback of \$100,000 on behalf of a client upon completion of the sale of the property contrary to Rule 3-4 *[act with reasonable care and skill]* and/or Rule 3-3(i) *[take reasonable steps to avoid any conflict of interest]* of the Rules; and/or failed to disclose the conflict of interest to the client once it arose as required by Rule 3-3(j) *[disclose conflict to client]* of the Rules; and/or
 - d. On or about June 13, 2016, he failed to act with reasonable care and skill and/or avoid a conflict of interest in relation to the sale of a property located at [Property 6], Vancouver, BC by personally funding a client's deposit of \$100,000 contrary to Rule 3-4 *[act with reasonable care and skill]* and/or Rule 3-3(i) *[take reasonable steps to avoid any conflict of interest]* of the Rules; and/or failed to disclose the conflict of interest to the client once it arose as required by Rule 3-3(j) *[disclose conflict to client]* of the Rules.
2. Between January 1, 2015 and December 31, 2016, David Chian Wei Yang and DY PREC committed professional misconduct within the meaning of section 35(1)(a) and/or 35(1)(d) of the RESA when, while licensed as a representative in relation to Royal Pacific Realty Corp, he provided information and/or documentation to the brokerage stating that his commission was an amount higher than his actual commission; and/or failed to inform his brokerage of the amount of a rebate that was to be disbursed from the commission contrary to Rule 3-2 *[associate broker and representative responsibilities]* and/or Rule 3-4 *[act with honesty and reasonable care and skill]* of the Rules in relation to the assignment of the contract of purchase and sale of:
- i. [Property 1], Vancouver, BC;
 - ii. [Property 2], Richmond, BC;
 - iii. [Property 3], Richmond, BC;
 - iv. [Property 4], Vancouver, BC; and/or

v. [Property 5], Vancouver.

3. Further and in the alternative, David Chian Wei Yang and DY PREC committed professional misconduct within the meaning of section 35(1)(c) [*Wrongful Taking or Deceptive Dealing*] of the RESA when while licensed as a representative in relation to Royal Pacific Realty Corp, when he engaged in any or all of the conduct set out in paragraphs 1.a. and/or paragraph 2.
4. Further and in the alternative, David Chian Wei Yang and DY PREC committed conduct unbecoming within the meaning of section 35(2) of the RESA when, while licensed as a representative in relation to Royal Pacific Realty Corp, he engaged in any or all of the conduct set out at paragraphs 1, 2 and/or 3, 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 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 14th day of March, 2024 at the City of Victoria, British Columbia.

BC FINANCIAL SERVICES AUTHORITY

"Original signed by Jonathan Vandall"

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