

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

AND

IN THE MATTER OF  
GUANYU (DAVID) YIN  
(167595)

CONSENT ORDER

RESPONDENT: Guanyu (David) Yin, Representative, West Coast Realty Ltd. dba Sutton Group-West Coast Realty

DATE OF CONSENT ORDER: 18 September 2020

CONSENT ORDER REVIEW COMMITTEE: Y. Amlani  
R. Hanson  
N. Nicholson

COUNSEL: Patrick Gilligan-Hackett, Legal Counsel for the Real Estate Council of BC

PROCEEDINGS:

On 18 September 2020, the Consent Order Review Committee (“CORC”) resolved to accept the Consent Order Proposal (the “Proposal”) submitted by Guanyu (David) Yin (“Mr. Yin”).

**WHEREAS** the Proposal, a copy of which is attached hereto, has been executed by Mr. Yin.

**NOW THEREFORE**, having made the findings proposed in the attached Proposal, and found that Mr. Yin committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* (“RESA”) and sections 3-3(d), 3-3(h) and 3-4 of the Rules made under the RESA, pursuant to section 43 of the RESA the CORC orders that:

1. Mr. Yin pay a discipline penalty to the Council in the amount of \$3,500 within four (4) months of the date of this Order;
2. Mr. Yin, at his own expense, register for and successfully complete the Real Estate Trading Services Remedial Education Course as provided by the Sauder School of Business at the University of British Columbia in the time period as directed by the Council; and

3. Mr. Yin pay enforcement expenses to the Council in the amount of \$1,500 within three (3) months from the date of this Order.

If Mr. Yin fails to comply with any term of this Order, the Council may suspend or cancel his licence without further notice to him, pursuant to sections 43(3) and 43(4) of the RESA.

Dated this 18 day of September 2020 at the City of Vancouver, British Columbia.

ON BEHALF OF THE CONSENT ORDER REVIEW COMMITTEE

“Yasin Amlani”

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Yasin Amlani  
Consent Order Review Committee

Attch.

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

**AND**

**IN THE MATTER OF**

**GUANYU (DAVID) YIN  
(167595)**

**CONSENT ORDER PROPOSAL BY GUANYU (DAVID) YIN**

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**BACKGROUND AND FACTS**

This Consent Order Proposal (“Proposal”) is made by Guanyu (David) Yin (“Mr. Yin”) to the Consent Order Review Committee (“CORC”) of the Real Estate Council of BC (“Council”) pursuant to section 41 of the *Real Estate Services Act* (“RESA”).

For the purposes of the Proposal, Mr. Yin and the Council have agreed upon the following facts:

1. Mr. Yin has been licensed as a representative since late December, 2013.
2. Mr. Yin was at all relevant times licensed as a representative with Sutton Group – West Coast Realty.
3. Mr. Yin represented the buyers (“Buyers”) in connection with the Buyers’ interest in a property located at XXX – XXXX Fleetwood Way, Surrey, BC (“Property”).
4. Another licensee, BR, represented the seller (“Seller”) of the Property.
5. On April 10, 2016 the Buyers emailed a complaint against BR to the Council.
6. In late March and early April, 2016 Mr. Yin prepared a series of offers for the Property on behalf of the Buyers. The Seller accepted the Buyers’ third offer on April 8, 2016 which resulted in a contract for the purchase and sale of the Property dated March 31, 2016 (“Contract”).
7. The Contract identified the Seller as the Estate of GM. However, on the date of the Contract, the registered owner of the Property was GM.
8. The Contract, which provided for completion on May 31, 2016, included conditions related to the Seller obtaining by May 13, 2016 both probate or letters of administration and an assurance that everyone entitled to claim under the *Wills, Estates and Succession Act* had waived or released their claims against the Property. These conditions were stated to be for the sole benefit of the Seller.

9. Mr. Yin did not take independent steps to confirm the Seller had the legal authority to sell the Property and he failed to advise the Buyers to seek independent legal advice about the risks associated with buying the Property when there might be a question about the Seller's authority to sell the Property.
10. The information about the Property provided by BR included information about the square footage, the monthly fees payable to the strata corporation, and the allocated parking spaces, and did not record a rental restriction. Before the sale closed, the Buyers discovered that the information BR had provided about each of the square footage, the monthly fees payable to the strata corporation, and the allocated parking spaces was, to the Buyers' detriment, inaccurate. In addition, the Property was subject to a rental restriction. Mr. Yin had not taken any independent steps to confirm the information which had been provided by BR.
11. The sale collapsed. The Seller and the Buyers executed a mutual release.
12. There are a number of mitigating factors.
13. At the time of the transaction, Mr. Yin was a very junior licensee.
14. In the Spring, 2016 the real estate market in the Lower Mainland was highly competitive with buyers pursuing aggressive strategies to acquire properties. In this case, the offer and acceptance process took place within a relatively short time-frame and involved three offers by the Buyers, the first two of which were declined.
15. The Buyers made a subject-free offer. Mr. Yin told the Council the Buyers asked him to write up a subject-free offer because they wanted their offer to be competitive. Mr. Yin warned the Buyers about the risks of a subject-free offer. In this regard, Mr. Yin asked the Buyers to sign waivers related to the following conditions: financing, inspection, insurance and strata documents. The Buyers did so. The waivers confirm Mr. Yin's warning and recommendation to the Buyers to obtain independent legal advice.
16. Mr. Yin's role in the events giving rise to this Proposal was a secondary one.
17. The Buyers complained to the Council about the conduct of BR not the conduct of Mr. Yin.

### **PROPOSED FINDINGS OF MISCONDUCT**

For the sole purposes of the Proposal and based on the facts outlined herein, Mr. Yin proposes the following findings of misconduct be made by the CORC:

1. Mr. Yin committed professional misconduct within the meaning of section 35(1)(a) of the RESA in that while acting as the buyers' representative in connection with the buyers' intended purchase of a property located at XXX – XXXX Fleetwood Way, Surrey, BC ("Property"):
  - (a) he did not take reasonable steps to determine whether the named seller of the Property, being an estate, had the legal authority to enter into an agreement for the purchase and sale of the Property when at all material times the registered owner of the Property was not the named seller, contrary to sections 3-3(h) and 3-4 of the Rules;

(b) he did not advise the buyers to seek independent legal advice about the named seller's authority to enter into an agreement for the purchase and sale of the Property when at all material times the registered owner of the Property was not the named seller, contrary to section 3-3(d) of the Rules; and

(c) he did not take reasonable and sufficient steps to determine:

- i. the actual square footage of the Property,
- ii. the actual amount of the monthly fees to be paid by the owner of the Property to the relevant strata corporation,
- iii. the number and type of parking spaces allocated to the Property, and
- iv. whether there was a rental restriction on the Property,

contrary to section 3-4 of the Rules.

### **PROPOSED ORDERS**

Based on the facts herein and the Proposed Findings of Misconduct, Mr. Yin proposes that the Notice of Discipline Hearing in this matter be resolved through the following Orders being made by the CORC, pursuant to section 43 of the RESA:

1. Mr. Yin pay a discipline penalty to the Council in the amount of \$3,500 within four months of the date of this Order;
2. Mr. Yin, at his own expense, register for and successfully complete the Real Estate Trading Services Remedial Education Course as provided by the Sauder School of Business at the University of British Columbia in the time period directed by the Council; and
3. Mr. Yin pay enforcement expenses to the Council in the amount of \$1,500 within three months from the date of this Order.
4. If Mr. Yin fails to comply with any of the terms of this Order, a discipline committee may suspend or cancel Mr. Yin's licence without further notice to him. If Mr. Yin fails to comply with any of the terms of this Order, a discipline committee may suspend or cancel Mr. Yin's licence without further notice to him.

### **ACKNOWLEDGEMENTS AND WAIVER OF APPEAL RIGHT**

1. Mr. Yin acknowledges and understands that the Council may refer or decline to refer the Proposal to the CORC. If the Proposal is referred to the CORC, it may be accepted or rejected by the CORC. If the Proposal is rejected by the CORC, the matter may be referred to a disciplinary hearing.
2. Mr. Yin acknowledges that he 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 CORC;

and, that he has obtained independent legal advice or has chosen not to do so, and that he is making the Proposal with full knowledge of the contents and the consequences if the Proposal is accepted.

3. Mr. Yin acknowledges and is aware that the Council will publish the Proposal and the Consent Order or summaries thereof in its Report from Council newsletter, on the Council's website, on CanLII, a website for legal research and in such other places and by such other means as the Council in its sole discretion deems appropriate.
4. Mr. Yin acknowledges and is aware that the Superintendent of Real Estate has the right, pursuant to section 54 of the RESA, to appeal any decision of the Council, including any Consent Order made by the Council in relation to this matter.
5. Mr. Yin hereby waives his right to appeal pursuant to section 54 of the RESA.
6. If the Proposal is accepted and/or relied upon by the Council, Mr. Yin will not make any public statement(s) inconsistent with the Proposal and its contents. Nothing in this section is intended to restrict Mr. Yin from making full answer and defence to any civil or criminal proceeding(s).
7. The Proposal and its contents are made by Mr. Yin 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 Mr. Yin in any civil proceeding with respect to the matter.

"Guanyu (David) Yin"

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**GUANYU (DAVID) YIN**

Dated 20 day of August, 2020