

**IN THE MATTER OF THE REAL ESTATE SERVICES ACT.B.C. 2004 c.42 as amended AND IN THE MATTER
OF THE QUALIFICATION FOR LICENSING OF AARON SAO-JYE CHEN**

REASONS FOR DECISION

DATE AND PLACE OF HEARING:	August 10-12, 2020 Virtual Qualification Hearing
QUALIFICATION HEARING COMMITTEE:	Maggie Chan Blaire Chisholm Len W Hrycan (Chair)
COUNSEL FOR THE REAL ESTATE COUNCIL OF BRITISH COLUMBIA:	Mr. David McKnight, Ms. Menka Sull
COUNSEL FOR THE APPLICANT:	Mr. Chilwin Cheng
APPLICANT:	Aaron Sao-Jye Chen

INTRODUCTION

[1] This hearing was conducted pursuant to Section 10 of the Real Estate Services Act, S.B.C.2004, CH. 42 (the “RESA”) and Section 2-6 of the Rules (the “Rules”) of the Real Estate Council of British Columbia (the “Council”) to determine whether Aaron Sao-Jye Chen (“Mr. Chen”) satisfied the Council that he is currently of good reputation and is suitable to be licensed under the Real Estate Services Act (“RESA”), provided he meets all the other requirements for licensing under RESA.

DECISION

[2] The Hearing Committee is satisfied that Mr. Chen is currently of good reputation and suitable to be licensed, subject to conditions and restrictions on his license as permitted in Section 15 of the RESA. We are persuaded by the evidence presented at the Qualification Hearing. In considering the various factors potentially militating against licensure, including Mr. Chen’s alleged rental management activities as an owner and an unlicensed employee of AISA Realty Corp. dba AISA Real Estate Services (AISA), we also considered the nature and circumstances of those activities, and the lack of any disciplinary action by the Council against AISA with respect to those activities.

ISSUES

- [3] There were three issues before the Hearing Committee in this Qualification Hearing:
- (a) Does Mr. Chen meet the statutory burden to satisfy the Council that he is “of good reputation and suitable to be licensed” and that he “has not been disciplined by a professional body...for reasons that reveal the applicant is unfit to be a licensee,” as required by Section 10 of the RESA, in light of:

- i. Past criminal charges relating to events in 2005, resulting in a guilty plea for extortion in May 2008;
 - ii. Mr. Chen's ownership of Boutique Living Inc., which offered rental management services without appropriate licensing, and the extent to which Mr. Chen was involved in rental management services as an owner and unlicensed employee of AISA Real Estate Services; and
 - iii. Mr. Chen's conduct while providing information to the Council during his suitability investigation?
- (b) If the Hearing Committee is not satisfied that Mr. Chen is currently of good reputation or suitable to be licensed, the time period only after which Mr. Chen may reapply?
- (c) If the Hearing Committee determines that Mr. Chen is suitable for licensing, should it impose any conditions on his license?

PROCEEDINGS

[4] Section 2-6 of the Rules provides:

“Qualification hearings

2-6 If the Council considers that there may be an issue as to whether an applicant is qualified to be licensed

(a) in accordance with Section 10 [qualifications for obtaining license] of the Act,
or

(b) at the level and in the category for which the applicant is applying,

the Council may direct that the matter is to be dealt with by way of a hearing conducted by a hearing committee.”

The Amended Notice of Qualification dated April 24, 2020 Hearing was sent to the Applicant advising him of the issues listed above. Exhibit 1

[5] Section 10 of the RESA provides:

“Qualifications for obtaining licence

10 An applicant for a new license or license renewal must satisfy the real estate council that they meet the following applicable requirements:

(a) the applicant is of good reputation and suitable to be licensed at the level and in the category for which the applicant is applying;

...

(d) in all cases, the applicant has not:

- i. been refused a licence under real estate, insurance, mortgage broker or securities legislation in British Columbia or in another jurisdiction,
- ii. held a licence that was suspended or cancelled under real estate, insurance, mortgage broker or securities legislation in British Columbia or in another jurisdiction,
- iii. been disciplined by a professional body, or
- iv. been convicted of an offence

for a reason that reveals the applicant to be unfit to be a licensee;

(e) in all cases, the applicant meets any other qualification requirements established by the rules.”

Accordingly, the burden lies on each applicant to satisfy Council, on the balance of probabilities, that he or she is qualified.

[6] Section 13 of the RESA states that before refusing to issue a license the Council must provide the applicant with an opportunity to be heard respecting the matter.

[7] Section 15 of the RESA states:

“Conditions and restrictions in relation to a specific issue

15 (1) Subject to this section, the real estate council may, as it considers necessary or desirable in relation to a specific license,

(a) impose conditions and restrictions on the license,

(b) vary a condition or restriction applicable to the license,

(c) ... [omitted].

(2) The powers under subsection (1)(a) or (b) to impose or vary a condition or restriction are exercisable only

(a) on or before the date on which the license is issued, with effect on or after that date, or

(b) on the written application or with the written consent of the licensee.

(3) Before imposing or varying a condition or restriction as referred to in subsection (2)(a), the real estate council must give notice to the applicant and provide the applicant with an opportunity to be heard respecting the matter.

(4) If the real estate council imposes or varies a condition or restriction as referred to in subsection (2)(a), it must:

(a) provide the applicant with written notice of the condition or restriction and the reasons for it, and

(b) advise the applicant of the right to appeal under Division 4 [Appeals to Financial Services Tribunal] of Part 4.

(5) The power under subsection (1)(c) to remove a condition or restriction is exercisable at any time on the real estate council’s own initiative or on the written application of the licensee.”

EVIDENCE

[8] The documentary evidence before the Hearing Committee consisted of 5 Exhibits as listed in the List of Exhibits and oral testimony of Mr. MXXXXXX SXXXXX (a character reference), Mr. AXXX SXXXXX (Mr. Chen’s managing broker), Mr. Chen (the applicant), Mr. DXX HXXXXX (RECBC Compliance Officer) and Ms. RXXXXX PXX (Mr. Chen’s managing broker, business partner, and former common law spouse). The Exhibits included an Agreement Statement of Facts (Exhibit 2) and two books of documents (Exhibits 3 and 4).

[9] In or around 2005, Mr. Chen and three others were charged with four counts under the *Criminal Code* in relation to several incidents, all of which occurred from October 15 to 19, 2005, and all of which involved alleged conduct against the same person. Specifically, Mr. Chen and others were charged with:

- a. Kidnapping an individual and causing the individual to be confined against his will, contrary to s. 279(1.1)(b) of the *Criminal Code*;
 - b. Attempting to induce an individual to pay money by threats, accusations, menaces or violence, contrary to s. 346.(1.1)(b) of the *Criminal Code*;
 - c. Committing assault of an individual, contrary to s. 266 of the *Criminal Code*; and
 - d. Confining an individual without lawful authority, contrary to s. 279(2) of the *Criminal Code*.
- Exhibit 3 Tab 1

[10] On May 14, 2008, as part of a plea arrangement with Crown counsel, Mr. Chen pled guilty to one charge of extortion contrary to section 346(1.1)(b) of the *Criminal Code*. The Crown entered a stay of proceedings on all other charges. Exhibit 3 Tabs 2 & 17

[11] On the same date, Mr. Chen received a custodial sentence of two years and 341 days and a lifetime prohibition on possessing any prohibited firearm, restricted firearm, prohibited device, and any prohibited ammunition pursuant to section 109(1) of the *Criminal Code*. Exhibit 3 Tabs 1, 2 & 17

[12] Mr. Chen received day parole in November 2008 after becoming eligible, based on his conduct, for early release. Exhibit 3 Tab 26

[13] Prior to this conviction, Mr. Chen had not been convicted of any other criminal or regulatory offences.

[14] In addition to the Provincial Court documents, Mr. Chen also sent the following documents to the Council in support of his licensing Application:

- a. Letter of reference from MXXXXXX SXXXXX, CEO of AWM-Alliance Real Estate Group Ltd., dated February 7, 2018; Exhibit 3 Tab 18
- b. Letter of reference from SXXXXXX HXXXXXXXX, former Managing Broker of AISA, dated March 7, 2018; Exhibit 3 Tab 19
- c. Letter of reference from Rev. Dr. Pastor DXXXX KXXX of the Coast Church Vancouver dated March 15, 2018; and Exhibit 3 Tab 20
- d. Undated personal statement of Mr. Chen. Exhibit 3 Tab 26

[15] Mr. Chen was the director and president of Boutique Living Inc. (“Boutique”), which was incorporated on March 3, 2009. Exhibit 3 Tab 3

[16] In or around 2008/2009, Mr. Chen’s family purchased three units in the Shangri-La condominium building located at 1111 Alberni Street, Vancouver, British Columbia (the “Shangri-La”). Exhibit 3 Tab 22

[17] Mr. Chen managed the rental of two of the units in the Shangri-La. Exhibit 3 Tabs 21 & 22

[18] In addition, Mr. Chen, via Boutique, provided rental management services to approximately eight other owners of units in the Shangri-La through Boutique. Exhibit 3 Tab 22

[19] However, neither Mr. Chen nor Boutique was licensed to provide rental management services with the Council.

[20] In response to an anonymous complaint to the B.C. Financial Institutions Commission (“FICOM”) that Boutique was providing rental management services without a licence, FICOM began an investigation into the activities of Boutique in 2011.

[21] On or around January 16, 2012, FICOM wrote to Mr. Chen advising him of its investigation. Exhibit 3 Tab 6

[22] On February 7, 2012, Mr. Chen sent an email to the FICOM investigator, proposing an action plan for Boutique, which included obtaining appropriate licensing from the Council. Exhibit 3 Tab 7

[23] On February 28, 2012, FICOM sent a letter to Mr. Chen confirming various compliance steps Mr. Chen and Boutique agreed to take, including:

- a. Ceasing and desisting from conducting rental property management services for which licensing under RESA was required until licensing was obtained;
- b. Ceasing and desisting from using the Boutique trade name in connection with any rental property management activities for which licensing under RESA was required, until such time as Boutique was licensed as a brokerage; and
- c. Disabling the Boutique website. Exhibit 3 Tab 8

[24] In addition, Mr. Chen agreed that Boutique would refer all property management activities, which required licensing, to a new company called AISA Realty Corp. doing business as AISA Real Estate Services (“AISA”) that Mr. Chen had founded with JXXXX (GXXX) CXXX in 2011.

[25] By way of letter to FICOM dated March 13, 2012, Mr. CXXX confirmed the following:

- a. AISA would manage all rental property management activities for existing property owners and tenants of Boutique which required licensing under RESA;
- b. AISA had initiated the process of entering into the necessary service agreements with the property owners to ensure compliance; and
- c. AISA would provide all rental property management activities for the properties. Exhibit 3 Tab 9

[26] AISA is a federally incorporated company, which is registered in British Columbia. AISA was incorporated on January 19, 2011. Exhibit 3 Tabs 24 & 25

[27] RXXXXX PXX and AXXX (JXXXXX) SXXXXX are the directors of AISA. Exhibit 3 Tab 25

[28] Mr. Chen is an owner of AISA and holds the titles of President and Director of Client Relations. Exhibit 3 Tabs 21 & 22

[29] AISA is a brokerage that has been licensed with the Council to provide trading services since June 24, 2011 and both trading and rental services since January 16, 2012. Exhibit 3 Tab 4

[30] AISA’s managing broker history is as follows:

- e. JXXXX (GXXX) CXXX - June 24, 2011 to August 23, 2012 and November 4, 2014 to January 25, 2017
- f. AXXX (JXXXXX) SXXXXX- August 22, 2012 to March 5, 2015 and September 24, 2019 to present
- g. SXXXXX HXXXXXXXXX- March 2, 2017 to June 29, 2019
- h. RXXXXX PXX- April 5, 2018 to present
- i. CXXX-HXXXXXXXX LXX - June 7, 2019 to June 12, 2019 Exhibit 3 Tab 5

[31] Following FICOM's investigation, the rental property management activities of Boutique were transferred to AISA.

[32] AISA currently provides rental management services to approximately 75 property owners of properties located in the Vancouver area.

[33] Mr. Chen has described himself as being like an office administrator or office manager of AISA, and as RXXXXX PXX's assistant. Exhibit 3, Tab 22, Items 113 and 143 and Tab 23, Items 312, 314, 337, 365, 375 and 505. The Council suggests that Mr. Chen engaged in rental management activities as an unlicensed employee of the brokerage. The Council did not, however, take any disciplinary action against AISA concerning his activities.

[34] Mr. Chen completed the Real Estate Trading Services Licensing course in 2017 and passed the exam on August 31, 2017 with a grade of 81%. Exhibit 3 Tab 31

[35] On September 25, 2017, Mr. Chen submitted an application for a trading services representative licence to the Real Estate Council of British Columbia (the "Council") seeking to become licensed with the Council (the "Application"). Exhibit 3 Tab 17

[36] The Council informed Mr. Chen that his license application had been referred to the Council's Compliance Department to determine suitability for licensing under Section 10 of RESA. Exhibit 1 Tab 15

[37] Mr. Chen attended two interviews with the Council, which took place on September 26, 2018 and October 3, 2018. Exhibit 3 Tabs 22 & 23

[38] In an October 3, 2018 interview with the Council, Mr. Chen stated that he wanted to obtain his representative license as a first step and to then acquire certification for property management license to be able to provide rental management and trading services and eliminate any "grey areas" from his activities as an unlicensed individual. Exhibit 3 Tab 23

[39] On January 9, 2019, AISA requested that Council remove the conditions and restrictions on its license and Council did so effective February 1, 2019. Exhibit 3 Tabs 29 & 30

[40] The Council advised Mr. Chen that the Council had concerns as to whether he met the requirements for licensing as set out in RESA and that if he wished to pursue his application for licensing, this matter would be dealt with by way of a Qualification Hearing pursuant to Section 2-6 of RESA.

[41] Mr. Chen advised the Council he would like to proceed with a Qualification Hearing and on May 23, 2019 Mr. Chen was serviced with an Amended Notice of Qualification Hearing. On June 14, 2019, Mr. Chen confirmed receipt of the notice.

WITNESS TESTIMONY

[42] Mr. SXXXXX testified orally at the hearing in support of Mr. Chen's application for licensure. Mr. SXXXXX was a business acquaintance of Mr. Chen as his rental management company provides services to buildings for which Mr. Chen is a member of the Strata Council. Mr. SXXXXX also testified to the fact that Mr. Chen had often contacted him as a mentor, so to speak, to discuss his business ventures with AISA Real Estate Services. Mr. SXXXXX spoke to Mr. Chen's passion for the real estate profession and his strong desire to establish and maintain a successful and respected company in AISA.

[43] Mr. SXXXXX, one of the two current co-managing brokers of AISA Real Estate Services and a recently appointed director to the business also testified orally at the hearing and spoke to Mr. Chen's success as an owner of AISA. He indicated to the Committee that he wished to see Mr. Chen attain licensing from the Council. Mr. SXXXXX clarified his role as a part time managing Broker of AISA while still conducting his personal trading service activities and his limited time in the office during business hours, while clarifying that in his experience, many managing brokers conduct trading services activity

and still provide responsible management of a brokerage. He stated that the business of the brokerage is overseen by both himself and Ms. PXX and he received few, if any, issues from tenants of the properties managed by AISA and was not aware of any issues relating to Mr. Chen as owner of the business or with his involvement in promoting the services offered by AISA. Mr. SXXXXX indicated his willingness to provide enhanced supervision of Mr. Chen, however he clarified that he was not fully aware of the requirements of Council's Proposed Draft Conditions to License, which he had not been provide a copy of in advance of the hearing. Mr. SXXXXX also expressed some reservation about his ability to meet all of the supervision expectations, not knowing fully what those conditions were.

[44] Mr. Chen testified orally at the hearing on August 12 and 13, 2020. He stated that he understands the seriousness of his situation and has faced the mistakes he made in the past. He spoke to being young and perhaps naive at the time of the criminal charges and to his view that his two greatest mistakes in his life were his criminal past and the loss of his relationship with Ms. RXXXXX PXX. He spoke to his dedication to becoming a real estate professional since that time and the success that he and Ms. PXX have achieved in establishing a thriving real estate business in AISA Real Estate Services. He highlighted that he has established a strong connection to religion as a path to help him reconcile his criminal past and that he has not had any contact with his past associates or been involved in any further criminal activity. Mr. Chen spoke to his passion for real estate and his strong desire to be licensed and continue to grow the high quality service provided by AISA Real Estate Services. Mr. Chen acknowledged that he had been reluctant to apply for licensing with the Council due to his embarrassment of having a criminal past and acknowledged that he had conducted some rental management services with Boutique Living Inc. prior to becoming aware of the need for licensing. He spoke to the action plan that was put into place when he had been contacted by FICOM over concerns about unlicensed activity. Mr. Chen further spoke to the issues leading to the break-up of his relationship with Ms. PXX and his deep regret for the loss of that relationship. Mr. Chen indicated that he would do whatever the Council saw fit to become licensed and indicated his willingness to comply with any conditions on his license the Committee may see fit. He further acknowledged and agreed to the Council's Proposed Draft Conditions to License, which he had reviewed in advance of the hearing. Exhibit 5

[45] Ms. PXX testified orally at the hearing and spoke to her common-law relationship with Mr. Chen and her early involvement in their joint business ventures with Boutique and AISA. She spoke to the events leading up to her completion of her Managing Brokers licence and what she believes is the successful operation of AISA in accordance with the regulations of the Council. Ms. PXX testified to her desire to see Mr. Chen receive his licensing from the Council and her transition at the appropriate point in time away from a Managing Broker role with AISA. Ms. PXX was candid in her testimony about the state of her relationship with Mr. Chen both from the past to the present and for the most part her testimony aligned with that of Mr. Chen.

REASONS FOR DECISION

[46] The onus is on the Applicant to demonstrate that he is, on a balance of probabilities, currently of good reputation, and suitable to be licensed. Evidence must be scrutinized with care and must always be sufficiently clear, convincing and cogent to satisfy the balance of probabilities test.

[47] We are guided by the Council's "Good Reputation" Guidelines, which is a Council-approved document that provides guidance to applicants, and to Qualification Committees, about what hearing committees may consider when assessing an applicant's past and their current reputation, suitability, and fitness.

[48] The Council's Good Reputation Guidelines ("Guidelines") reiterate that every applicant for a licence must, among other things, be of "good reputation." General business and personal reputation...

and/or whether an applicant has been disciplined by a professional body will be reviewed when considering an application's "good reputation".

[49] The Guidelines also provide rehabilitation factors that may be considered by a Hearing Committee when determining whether an applicant has fully rehabilitated himself or herself and is currently of good reputation and suitable to be licensed within Section 10 of the RESA. These rehabilitation factors include:

...

(d) Change in attitude from that which existed at the time of the conduct in question as evidenced by relevant sources such as:

- testimony of the applicant;
- evidence from family members, friends, or other persons familiar with the applicant's previous conduct and with the subsequent attitudes and behavior patterns;

...

[50] These Guidelines do not bind the Council or this Hearing Committee, but they provide notice of how Hearing Committees will generally approach issues of good reputation, suitability and fitness. Likewise, the Notice of Hearing is provided to applicants to give notice of the issues giving rise to a qualification hearing but cannot restrict the Hearing Committee's jurisdiction to consider whether the Applicant has met the requirements for a licence under Section 10 of the RESA.

[51] A tribunal is not bound to rely solely on the law as presented by the parties: *International Woodworkers of America, Local 2-69 v. Consolidated-Bathurst Packaging Ltd.* [1990] 1 S.C.R. 282 (S.C.C) (at para. 32). The Hearing Committee may therefore note that the good reputation, suitability and fitness requirement under the RESA are similar to the "good character" and "fitness" requirements of other professions in British Columbia and elsewhere in Canada.

[52] A hearing committee of the Law Society of British Columbia summarized good character and fitness principles in *Applicant 3 (Re)*, 2010 LSBC 23. Fitness encompasses good character, and in the context of the legal profession quoted the principle that "a lawyer must not only show that he or she has all the attributes of good character – honesty being one of them – the lawyer must also show that he or she has other attributes from which a forecast of future integrity can be made" (at para. 19). The panel noted that the standard is not one of perfection, but an applicant must establish good character at the time of the hearing (at para. 19), and that the determining factor is the public interest (at para. 23).

[53] We note that the Applicant expressed remorse and takes responsibility for his actions. He testified that over the intervening years, he has come to understand the mistakes he made and the need to set his life on a new path. He has done so by removing himself from his past associates and community at the time of the criminal charge, by making a concerted commitment to establishing a successful real estate services business and eventually pursuing professional licensing. He is a respected and contributing member of his church community, well liked by clients of his business and seen by his real estate industry associates as a successful addition to the industry.

[54] Mr. Chen provided several letters of support for his licensing and the committee, having reviewed these and the testimony of witnesses, believes these to be a genuine indication of who Mr. Chen has become since his past criminal charges. The Hearing Committee is satisfied that Mr. Chen is currently of good reputation and suitable to be licensed, subject to the conditions and restrictions set out below.

[55] This Hearing Committee has heard considerable details about the business structure at AISA and the ongoing compliance by their operations since 2017, as measured by Council spot audits and compliance reviews. The Hearing Committee none the less has some concern about the effectiveness of a current managing broker and director of the company being in a suitable position to effectively provide close supervision of a new licensee that is also the owner of AISA. We can appreciate that this creates some level of complexity and for this reason are of the belief that any managing broker offering to supervise Mr. Chen should not have any business interest in AISA. Recognizing that there is not currently a definite plan in place with a committed managing broker who will directly supervise the Applicant to ensure that he adheres to any restrictions or conditions imposed on his licence, we will leave the approval of an acceptable managing broker up to the Council.

CONDITIONS

[56] Section 15(1) of the RESA empowers the Council to impose conditions and restrictions on a licence, or to vary a condition or restriction applicable to a licence. In deciding to exercise this power, a regulatory body should not utilize terms and conditions to permit applicants to be licensed where they have failed to prove, on the balance of probabilities, they are currently of good reputation and suitable to be licensed. Where, however, the Hearing Committee finds that an applicant is of good reputation and suitable, it may still exercise discretion to protect the public against recidivism. This basis for imposing conditions or restrictions on someone found to be of good character was noted by a hearing panel of the Law Society of Upper Canada (now the Law Society of Ontario) in *Law Society of Upper Canada v. Levenson*, 2009 ONLSHP 98. In rejecting a previous approach that disapproved of conditions upon a successful applicant for a licence, the hearing panel reasoned that proof of good character is no guarantee against recidivism:

“[81] ... (5) Contrary to the Hearing Panel's reasoning in *Re Preyra*, issues that might prompt the imposition of terms and conditions do not mean that the applicant has necessarily failed to prove his or her good character. First, terms and conditions may address concerns about public confidence in the regulation of licensees arising from the applicant's prior misconduct. Second, it is acknowledged that **proof of good character on a balance of probabilities provides no guarantee against recidivism. Terms and conditions can both assist the applicant, and protect the public.** Third, while hearings under s. 27 are directed to the issue of good character, it is untenable to say that terms and conditions cannot be imposed upon an applicant who is of good character to also ensure competency, particularly when the applicant is seeking to be readmitted or restored after a long absence from practising law.” (emphasis added)

[57] The hearing panel in *Levenson* recognized that a regulator should never address concerns about whether an applicant is of good character by imposing terms and conditions: “[82] ... We cannot emphasize strongly enough that terms and conditions should never be utilized to permit applicants to be licensed who have failed to prove, on a balance of probabilities, that they are currently of good character. That would erode this precondition for licensing in an unacceptable way.” The panel further reasoned, however, that, “[82] ... terms and conditions might be imposed where the hearing panel is satisfied that the applicant is currently of good character, but that public confidence in the regulation of lawyers and paralegals would be enhanced through such terms and conditions.”

[58] Another law society tribunal reiterated this reasoning more recently, in *Sheps v. Law Society of Upper Canada*, 2016 ONLSTH 124: “[85] Terms and conditions should not be used to ‘bootstrap’ good character. That is, terms and conditions cannot be used to enhance or improve the panel's consideration of whether the applicant has good character. Rather, only after the hearing panel

determines that the applicant is of good character, may it consider whether terms and conditions are nevertheless required to ensure public confidence in the regulation of lawyers.”

[59] While the Hearing Committee is satisfied that Mr. Chen has rehabilitated himself to a point that he is currently of good repute and suitable to be licensed, no question exists that he had engaged in the conduct for which he was charged. These circumstances warrant the Hearing Committee imposing terms and conditions to ensure public confidence. Overall, Mr. Chen’s evidence and submissions satisfies the Hearing Committee, on the balance of probabilities, that he is suitable for licensing subject to the following conditions:

- 1) Mr. Chen’s licence will be restricted to AISA Realty Corp. or another brokerage acceptable to the Council (the “Brokerage”) for a period of not less than one year following the issuance of his licence (the “Conditional Licence Period”).
- 2) During the Conditional Licence Period, Mr. Chen must remain under the direct supervision of a managing broker of the Brokerage who is acceptable to the Council, and who has confirmed in writing to the Council that he/she has read these conditions, is aware of his/her duties under these conditions, and agrees to accept these duties (the “Managing Broker”).
- 3) These conditions are in addition to Mr. Chen’s and the Managing Broker’s obligations under the Real Estate Services Act (“RESA”), and the Regulations, Rules and Bylaws made under the RESA (together, the “Legislation”). The Managing Broker may impose his/her own additional conditions to ensure that Mr. Chen meets his obligations under the Legislation.
- 4) Mr. Chen must keep the Managing Broker informed weekly, or more frequently as required, of the real estate services that he is providing and other real estate-related activities that he is engaging in by providing written status reports (the “Status Reports”) to the Managing Broker that include, for each matter, as applicable:
 - a. the names of the principals and their agents;
 - b. the locations of the properties;
 - c. a description of services provided;
 - d. the status of the matter;
 - e. scheduled dates (e.g. closing dates and dates for waiver or satisfaction of conditions precedent);
 - f. funds paid and received; and
 - g. any other information relevant to the matter.
- 5) To ensure that Mr. Chen meets his obligations under these conditions and the Legislation, the Managing Broker must meet with Mr. Chen on a weekly basis, or more frequently as required, to discuss the following:
 - a. the most recent Status Report;
 - b. any practice issues identified by the Managing Broker or Mr. Chen;
 - c. the appropriate course of action for addressing any identified practice issues and/or whether appropriate steps have been taken to address previously identified practice issues; and
 - d. confirm Mr. Chen’s attendance at or completion of any educational or training opportunities recommended by the Managing Broker.

- 6) Mr. Chen must consult with the Managing Broker in advance of taking any action on matters in respect of which there are questions or concerns regarding compliance with the Legislation, other applicable legislation, or the Brokerage's policies and procedures.
- 7) In addition to providing the Brokerage with all records required under the Legislation, Mr. Chen must provide the Brokerage with all records created in connection with the provision of real estate services regardless of whether such records are associated with a specific transaction, including records of listing presentations, appraisals, competitive market analyses, correspondence, and referrals.
- 8) Mr. Chen must obtain the Managing Broker's approval before presenting documents prepared by Mr. Chen to principals or their agents for execution.
- 9) Mr. Chen must provide to the Managing Broker all documents signed by Mr. Chen's principals and Managing Broker must review all such documents.
- 10) Within 14 days after the end of each calendar quarter, the Managing Broker will provide a report to the Council (each, an "Interim Report") confirming in relation to that calendar quarter (the "Reporting Period"):
 - a. that Mr. Chen has provided real estate services under his/her direct supervision;
 - b. that Mr. Chen's activities have been carried out competently and in compliance with these conditions, the Legislation, all other applicable legislation (to the best of the Managing Broker's knowledge having made reasonable inquiries), and in accordance with Brokerage's policies and procedures, or alternatively, providing details of non-compliance;
 - c. that the Managing Broker has reviewed all transactions in which Mr. Chen has provided real estate services, and that all documents relevant to the transactions are contained in the appropriate deal file and kept at the Brokerage;
 - d. that the Managing Broker has met with Mr. Chen on a weekly basis, or more frequently as required, to discuss the matters specified under these conditions; and
 - e. the number of real estate transactions that Chen has conducted and details regarding the principal(s), the agency offered, and any dealings with unrepresented parties.
- 11) Each Interim Report will be reviewed by the Council, who will determine if Mr. Chen has been providing real estate services in accordance with the Legislation and these conditions during the Reporting Period and if not, will so advise the Managing Broker and Mr. Chen.
- 12) Within 30 days before the end of the Conditional Licence Period, or within 14 days after the Managing Broker ceases to be the Managing Broker, whichever is earlier, the Managing Broker must provide a final report (the "Report") to the Council confirming in relation to the Conditional Licence Period, or during the period in which Managing Broker acted as Managing Broker under these conditions, as applicable:
 - a. that Mr. Chen has provided real estate services under his/her direct supervision;
 - b. that Mr. Chen's activities have been carried out competently and in compliance with these conditions, the Legislation, all other applicable legislation (to the best of the Managing Broker's knowledge having made reasonable inquiries), and in accordance with Brokerage's policies and procedures, or alternatively, providing details of non-compliance;

- c. that the Managing Broker has reviewed all transactions in which Mr. Chen has provided real estate services, and that all documents relevant to the transactions are contained in the appropriate deal file and kept at the Brokerage;
 - d. that the Managing Broker has met with Mr. Chen on a weekly basis, or more frequently as required, to discuss the matters specified under these conditions; and
 - e. the number of real estate transactions that Mr. Chen has conducted and details regarding the principal(s), the agency offered, and any dealings with unrepresented parties.
- 13) The Report will be reviewed by the Council, who will determine if the Conditional Licence Period has provided an adequate opportunity for Council to make a determination that Licensee is providing real estate services in accordance with the Legislation and these conditions and if not, will so advise the Managing Broker and Mr. Chen.
- 14) The Managing Broker must immediately report to the Council anything of an adverse nature with respect to Mr. Chen's real estate services, including
- a. failure of Mr. Chen to observe these conditions, the requirements of the Legislation or all other applicable legislation; and
 - b. complaints received by the Brokerage, including the nature of the complaint, the parties involved, and how the complaint was resolved.
- 15) Mr. Chen may have no unlicensed assistant(s) during the Conditional Licence Period.
- 16) In the alternative to paragraph 15, the Managing Broker must ensure that Mr. Chen and his licensed assistants, if any, receive adequate, appropriate and ongoing training with respect to their obligations under the Legislation and the Brokerage's policies and procedures.
- 17) If the Managing Broker is absent from the Brokerage:
- a. for more than one week but less than one month, the Managing Broker may delegate his/her duties to another managing broker or an associate broker who confirms his/her agreement to accept the supervision duties under these conditions to the Council in writing; or
 - b. for more than one month, Mr. Chen must notify Council immediately and approval from the Council for a successor managing broker to supervise Mr. Chen must be sought as set out in paragraph 19 of these conditions.
- 18) If for any reason the Managing Broker is unable to perform any of the duties imposed herein, he/she must immediately advise Council.
- 19) If there is a change in the managing broker of the Brokerage, the former managing broker and Mr. Chen must immediately notify Council in writing. If Council determines that the successor managing broker is acceptable as a managing broker for the purposes of these conditions, he/she will be provided with a copy of these conditions and will be asked to confirm in writing to the Council that he/she has read these conditions, is aware of his/her duties under these conditions, and agrees to accept these duties. If that managing broker fails to provide such confirmation within 14 days of becoming a managing broker at the Brokerage, he/she will be deemed to be unable or unwilling to perform the duties set out in these conditions.
- 20) Mr. Chen, at his own expense, must register for and successfully complete the **Ethics Course** as provided by the Real Estate Division, Sauder School of Business at the University of British

Columbia by June 1, 2021 or, on written application by Mr. Chen prior to December 31, 2020, such other date permitted by the Council.

- 21) Mr. Chen, at his own expense, must register for and successfully complete the **AML Course** as provided by the Real Estate Division, Sauder School of Business at the University of British Columbia by February 1, 2021, or on written application by Mr. Chen prior to December 31, 2020, such other date permitted by the Council.
- 22) Failure by Mr. Chen to adhere to one or more of the conditions may constitute professional misconduct and the Council retains the discretion to investigate this and any other matter, including matters set out in the Interim and Final Reports reviewed by the Council, pursuant to section 37 or the RESA.

DATED at VANCOUVER, BRITISH COLUMBIA this 14 day of September 2020.

“Len W. Grycan”

Len W Hrycan, Chair
Qualification Hearing Committee

“Maggie Chan”

Maggie Chan
Qualification Hearing Committee

“Blair Chisholm”

Blair Chisholm
Qualification Hearing Committee

LIST OF EXHIBITS

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| Exhibit 1 | Amended Notice of Qualification Hearing |
| Exhibit 2 | Agreed Statement of Facts |
| Exhibit 3 | Common Book of Documents |
| Exhibit 4 | Council's Book of Documents |
| Exhibit 5 | Council's proposed draft conditions to license |