

File # 19-662

IN THE MATTER OF THE *REAL ESTATE SERVICES ACT*

SBC 2004, c 42 as amended

AND

IN THE MATTER OF

604655 B.C. LTD. DBA REGENT PARK PINNACLE REALTY

(X027068)

AND

STEPHEN LAM

(082289)

File # 19-663

IN THE MATTER OF THE *REAL ESTATE SERVICES ACT*

SBC 2004, c 42 as amended

AND

IN THE MATTER OF

CORAL PROPERTY MANAGEMENT INC.

(X033908)

AND

STEPHEN LAM

(082289-2)

REASONS FOR DECISION REGARDING APPLICATION FOR A SUSPENSION

ORDER UNDER SECTION 45 AND ORDER TO FREEZE PROPERTY UNDER SECTION 46

DATE AND PLACE OF HEARING:	February 6, 2020 9:30 am Office of the Real Estate Council 900-750 West Pender Street Vancouver, BC V6C 2T8
DISCIPLINE COMMITTEE:	Sukh Sidhu (Council Member) (Chair) Ruth Hanson (Council Member) Neal Nicholson (Council Member) Lisa Fong, Q.C. – Independent Legal Counsel
ALSO PRESENT:	Janice Moore and Kyle Ferguson – Counsel for the Real Estate Council
Court Reporter:	Keith Bemister – Allwest Reporting Ltd

INTRODUCTION

1. An ex-parte hearing was held on February 6, 2020, pursuant to sections 39 and 45 and 46 of the *Real Estate Services Act* (“RESA”) by the discipline committee (the “Committee”) of the Real Estate Council of BC (the “Council”) to consider an application by the Council for suspension orders under section 45 and orders to freeze property under section 46 of the RESA.
2. The RECBC seeks the following orders
 - a. Pursuant to sections 39 and 45(1), (2) and (3) of the RESA, orders to suspend the licences of:
 - i. Regent Park Pinnacle;
 - ii. Coral Property Management; and
 - iii. Mr. Lam (primary and secondary licence); and
 - b. Pursuant to section 46 of the RESA, orders to freeze the property of:
 - i. Regent Park Pinnacle; and
 - ii. Coral Property Management.

Section 45 and 46 of RESA

3. Section 45 of the RESA– Orders in Urgent Circumstances:
 - 45 (1) A discipline committee may act under this section if the committee considers that:
 - (a) there has been conduct in respect of which a discipline committee could make an order under Section 43 against a licensee,
 - (b) the length of time that would be required to complete an investigation or hold a discipline hearing, or both, in order to make such an order would be detrimental to the public interest, and
 - (c) it is in the public interest to make an order under this section against the licensee.
 - (2) If the circumstances referred to in subsection (1) apply, the discipline committee may, by order, do one or more of the following:
 - (a) suspend the licensee's licence;
 - (b) impose restrictions or conditions on the licensee's licence or vary any restrictions or conditions applicable to the licence;
 - (c) require the licensee to cease or to carry out any specified activity related to the licensee's real estate business.

- (3) Despite any other provision of this Division, a discipline committee may make an order under subsection (2)
 - (a) whether or not notice of a discipline hearing has been issued under section 40 [notice of discipline hearing],
 - (b) without giving notice to the licensee, and
 - (c) without providing the licensee an opportunity to be heard.
- 4. Section 46 of the RESA— Orders to Freeze Property:
 - 46 (1) If it considers this to be in the public interest, a discipline committee may make an order under this section at the same time that, or at any time after, an order under section 43 [discipline orders] or 45 [orders in urgent circumstances] is made against a licensee.
 - (2) If subsection (1) applies, the discipline committee may, by order directed to the licensee, do either or both of the following:
 - (a) prohibit the licensee from withdrawing any of the licensee's property, or any of it identified in the order, from the possession of another person named in the order who has the property on deposit, under control or for safekeeping;
 - (b) require the licensee to hold all property, or any of it identified in the order, that is in the licensee's possession or control in trust for
 - (i) a receiver or receiver manager who has been appointed, or whose appointment has been or is to be applied for, under section 59 [court order for appointment of receiver], or
 - (ii) a custodian, trustee, receiver manager, receiver or liquidator who has been appointed, or whose appointment has been applied for, under any other enactment.
 - (3) If subsection (1) applies, the discipline committee may, by order, require a person having in British Columbia, on deposit, under control or for safekeeping, any property of the licensee to hold all of that property, or any of it identified in the order.
 - (4) An order under this section may be made without advance notice to a person affected by the order but, promptly after making the order, the discipline committee must give a copy of the order to the person to whom it is directed.

- (5) A discipline committee may, by order, vary or rescind an order under this section on its own initiative or on the application of a person affected by the order.
- (6) Property affected by an order under this section continues to be affected by the order and remains frozen as provided in the order until the property is released under subsection (5) or is dealt with in accordance with a court order.
- (7) If a savings institution is the holder of property described in subsection (3), the order applies only to the offices, branches or agencies of the savings institution that are specified in the order.
- (8) If
 - (a) a person to whom an order under subsection (3) is directed is uncertain respecting the application of the order to any property, or
 - (b) a claim is made to the property by a person not named in the order,the person may, on giving notice to the real estate council, apply to the Supreme Court for an order under subsection (9).
- (9) On an application under subsection (8), the court may order the disposition of the property as it considers appropriate.

Documents and Submissions

- 5. Counsel for the Council tendered into evidence the following four affidavits which were entered as exhibits:
 - a. Affidavit #1 of Rosanna Lin, sworn February 5, 2020 (exhibit #1)
 - b. Affidavit #1 of Lisa Holst, sworn February 5, 2020 (exhibit #2)
 - c. Affidavit #1 of Sung Wuk (Brian) Jae, sworn February 5, 2020 (exhibit #3)
 - d. Affidavit #1 of Philip Staskiewicz, sworn February 5, 2020 (exhibit #4)
- 6. Counsel for the Council made submissions and provided authorities supporting their request for their orders.
- 7. These are written reasons pursuant to section 45(3) of the RESA for the our Orders attached to these reasons and made by this Committee.

BACKGROUND

- 8. Mr. Lam is licensed under RESA as the sole managing broker for Regent Park Pinnacle and Coral Property Management. Mr. Lam is currently licensed to provide trading, rental and strata property management services at both brokerages but the business of Regent Park Pinnacle and Coral Property Management currently only provides rental management services. He is an

officer, director and owner of the Regent Park Pinnacle and officer, director and one of two owners of Coral Property Management. He is the majority owner of Coral Property Management.

9. Regent Park Realty and Coral Property Management are affiliated brokerages within the meaning of section 2(1)(c) the *Business Corporation Act*, SBC 2002, ch 57.
10. Regent Park Pinnacle, at 306-2309 West 41st Avenue, Vancouver, BC, has been licensed since May 11, 2005. The brokerage is currently licensed to provide trading, rental and strata property management services, but only provides rental management services. Regent Park Pinnacle employs five licensees including Mr. Lam.
11. Coral Property Management at 2015-4311 Hazelbridge Way, Richmond, BC, has been licensed since September 8, 2017. The brokerage is currently licensed to provide trading, rental and strata property management services, but only provides rental management services. Coral Property Management employs three licensees including Mr. Lam.

Regent Park Pinnacle

12. On November 28 and December 3 and 4, 2018, the RECBC's audit department conducted an inspection of the brokerage's books and record for the period from January 1, 2018 to the date of inspection. During the inspection, a number of deficiencies in the brokerage's books and records, as well as other contraventions of the Real Estate Rules were identified and were later set out in an Office and Records Inspection Report ("ORIR"). The ORIR was provided to Mr. Lam on January 29, 2019 and he was required to submit monthly reconciliations for the pooled rental trust account for the months of December 2018 through to February 2019.
13. Notable points from the ORIR include:
 - (a) the brokerage had experienced shortages in the pooled rental trust reconciliations during January 2018 throughout October 2018 in the range of (\$730.38) to (\$67,597.39). It was unclear whether this was a books and records issue or an actual shortage issue.
 - (b) the brokerage had experienced overdrafts in the pooled rental trust account during January 2018, February 2018 and April 2018 in the range of (\$791.85) to (\$2,417.80). It was unclear whether this was a books and records issue or an actual shortage issue.
 - (c) there was a trust shortage of (\$25,000) in the October 31, 2018 trust account reconciliation. At the Council's request, the account was replenished on November 30, 2018. Mr. Lam did not provide an explanation for the shortage. It is unclear whether this was a books and records issue or an actual shortage issue.

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- (d) Ms. IXX CXXXXX, CPA, CGA, was the external accountant for the brokerage who prepared the financial statements for the brokerage's annual Accountant's Report filing. Ms. CXXXXX also prepared the brokerage's bank reconciliations. However, Ms. CXXXXX did not prepare or maintain trust ledgers for the trust accounts and did not prepare trust liability listings for the brokerage, so the reconciliations were not agreed to a trust liability listing, and therefore incomplete.
- (e) Mr. Lam was unable to provide Ms. IXXXX with a sufficient explanation for the inconsistencies in the brokerage's accounting procedures.
14. On or about January 23, 2019, Mr. Lam provided the November 2018 pooled rental trust reconciliation. A shortage of (\$13,447.21) was identified at November 30, 2018. At the request of the Council, replenishment of that shortage was made on January 25, 2019. Mr. Lam did not provide an explanation of the shortage. Mr. Lam provided a response to the ORIR on April 15, 2019, where he stated that he was sourcing new accounting software programs and looking for another accountant more familiar with property management consulting.
15. A re-inspection of the Regent Park Pinnacle occurred on January 21, 22 and 23, 2020 due to issues concerning the Regent Park Pinnacle books and records, which involved an interview with Mr. Lam.
16. On January 21, 22 and 23, 2020, Mr. Bean, along with another RECBC auditor, Brian Jae, CPA, CMA, attended at the offices of Regent Park Pinnacle to conduct an inspection of the brokerage and its books and records. At the outset of that inspection, Mr. Jae and Mr. Bean conducted an initial interview of Mr. Lam, during which Mr. Lam stated the following:
- a. Regent Park Pinnacle provided primarily rental property management services, with minimal trading services. Mr. Lam stated that "approximately 99%" of Regent Park Pinnacle's revenue was generated from rental property management services;
 - b. the rental portfolio consists of approximately 180 rental units, comprised of residential properties that are houses and strata units, and one multi-unit commercial property known as "WXXXXXX GXXXXXX";
 - c. PXXX PXXXXX, CPA, the accountant engaged by Regent Park Pinnacle in July 2019 to assist in resolving deficiencies in the brokerage trust reconciliation procedures, was disengaged by Regent Park Pinnacle in September 2019;
 - d. starting September 2019, the bank accounts were being reconciled by Mr. MX;
 - e. the monthly management fees that Regent Park Pinnacle earned from providing rental property management services were slightly above \$20,000 per month. The portion of management fees payable to

licensees other than Mr. Lam were paid to the brokerage's commission trust account. Mr. Lam's share of the management fees was paid from the pooled rental trust account to the general account.

17. A further inspection of Regent Park Pinnacle's books and records and a meeting with Mr. Lam occurred at Regent Park Pinnacle's office on January 31, 2020, which was attended by Lisa Holst, the RECBC's Senior Director, Accounting & Audit ("Ms. Holst"), Adriana Watkins, CPA, CA, Senior Manager, Audit and Assurance ("Ms. Watkins"), Philip Staskiewicz, CPA ("Mr. Staskiewicz") and Mr. Jae.
18. In their review of the Regent Park Pinnacle's banking records, the auditors became concerned by the amount of payments from the pooled rental trust account to the commission trust account ("CTA") and the general account. Those transfers from the pooled rental trust account to the CTA and the general account, which were often in round numbers, exceeded the monthly management fees by \$6,583.01 to \$21,064.44 each month.
19. When the auditors asked Mr. Lam on January 22, 2020 why the transfers from the pooled rental trust account to the general account and CTA exceeded the approximately \$20,000 per month management fee, Mr. Lam was silent for a brief period and then said that he did not know why and that he would ask Mr. MX to review and see if he could provide further information. On January 23, 2020, the auditors again asked Mr. Lam about the payments from the pooled rental trust account to the CTA and the general account, but Mr. Lam was unable to explain: how he decided how much to withdraw from the pooled rental trust account each month; the basis on which the brokerage and its licensees were entitled to these funds; and why the withdrawals exceeded the approximately \$20,000 monthly management fee.
20. On January 31, 2020, Ms. Holst and Ms. Watkins interviewed Mr. Lam, during which, inter alia:
 - a. Mr. Lam acknowledged that he had transferred money from Regent Park Pinnacle's pooled rental trust account to its general account to pay bills because he did not have sufficient funds in the general account. Mr. Lam agreed that he was borrowing money from the pooled rental trust account to pay the brokerage's bills and wages. He did not know exactly how much money he owed to his clients.
 - b. Mr. Lam explained that he had to make large payments of invoices for Mr. PXXXXX's services, which totaled approximately \$20,000. Mr. Lam said that Regent Park Pinnacle charges an extra service charge, on top of the monthly management fees, that is charged once a year for managing the income tax withholdings for the brokerage's non-resident clients. Mr. Lam said that this extra service charge totaled around \$20,000 and would be received at the end of January 2020.

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- c. Mr. Lam stated that when he transferred the funds from the pooled rental trust account to the general account he did so without any supporting documentation. He acknowledged that if all of Regent Park Pinnacle's clients decided to leave the brokerage that day, the brokerage "probably" would not have enough money to repay them, although he was not sure. He said that he thought the pooled rental trust account would be \$20,000 short but that he would be getting that money at the end of January 2020.
 - d. When asked about the \$10,500 transfer from his personal account to the pooled rental trust account on December 31, 2019, Mr. Lam said that he made this transfer because he was trying to replenish the trust account. Mr. Lam said that he did not, but that he "just figured" that he needed about that much because his office manager, Mr. MX, had told him that the trust account was around \$10,000 short.
 - e. Mr. Lam explained that past transfers had been made from Coral Property Management Inc. ("Coral Property Management") to Regent Park Pinnacle's accounts, because at the time the non-resident tax remittances were done under Regent Park Pinnacle's name and this had not been set up at the time with Coral Property Management. Mr. Lam said that the remittances are now done separately for each brokerage.
 - f. When asked what he had to say about everything, Mr. Lam said that he was very regretful and that he would not do it again, but that his lines of credit are "up to the maximum" and he was "caught in a bind". Mr. Lam then said that he expected everything would be back to normal in April or May and that everything will be replenished then.
 - g. When asked about the round number transfers from the pooled rental trust account to the general account, Mr. Lam said that he monitors the general account to make sure that there are funds to pay the brokerage's bills, such as wages and rent. He said that there is no overdraft on the general account, so he monitors the account and when it gets close to zero, he transfers money from the pooled rental trust account.
21. Mr. Staskiewicz and Mr. Jae again attended at Regent Park Pinnacle's offices on February 3, 2020 and the morning of February 4, 2020 to continue the review. The auditors selected five rental properties for further review and reviewed the corresponding property management agreements, client trust ledgers, monthly rent statements, rent rolls and payments made to the owners.
22. The auditors were unable to trace the management fees paid into the general account that were allocated to each rental property and Mr. MX advised them that there was no supporting documentation to support the amounts transferred from the rental pooled trust account to the general account.

23. The auditors also observed that the liability listings were incomplete. This was discovered because the liabilities in respect of one of the rental properties selected for further examination (XXXX Comstock Rd., Richmond), was missing from the November 2019 liability listing. When the liabilities in respect of that property were included, the total liability listings as at November 30, 2019 was \$35,402.67, and the pooled rental trust shortage was therefore (\$15,696.93) (as opposed to the (\$11,963.43) referred to above at paragraph 30(c)).

Coral Property Management

24. On January 15 and 16, 2020, Mr. Staskiewicz attended Coral Property Management's office to inspect its books and records. At the time of the inspection, Coral Property Management managed four rental properties. The rent for one of these rental properties is paid by the tenant directly to the property owner.
25. Issues were identified in respect of the books and records of Coral Property Management including, *inter alia*, reconciliations were not up to date; trust liability listings were not being prepared for the pooled trust account; the individual client trust ledgers did not include all transactions; a rental property listing had not been prepared; and a tenancy agreement in respect of one of the properties was executed by JXXXXXX (AXXXXX) LX on behalf of Coral Property Management, even though Mr. LX was licensed with another brokerage, Regent Park Pinnacle.
26. Seven transactions were identified between Coral Property Management and Regent Park Pinnacle bank accounts.
27. No shortages in Coral Property Management pooled trust account were identified as of November 30, 2019.

No Complaint History

28. There has been no history of complaints made to RECBC against Mr. Lam, Coral Property Management or Regent Park Pinnacle.

ANALYSIS

29. In order for the Committee to make any order under s. 45(2), it must find that it is satisfied on a provisional assessment of the evidence that a *prima facie* case for professional misconduct or conduct unbecoming of a registrant has been proven.

***Danjou (Re)*, Reasons for Order in Urgent Circumstances, July 31, 2018 (BC REC) [*Danjou (Re)*], *Brown (Re)*, Reasons for Order in Urgent Circumstances, March 28, 2019 (BC REC)**

30. The BC Court of Appeal considered the proper approach for extraordinary action under the *Health Professions Act*, RSBC 1996, c 183 ("HPA"), in *Scott v College of Massage Therapists of British Columbia*, 2016 BCCA 180. In that case, section 35 of the HPA authorized an inquiry committee to take extraordinary action

necessary to protect the public during the investigation of a registrant or pending a hearing of the discipline committee. The court considered the strength of the case supporting the index allegations, and the case for immediate risk of harm to the public. The court determined that a committee could act where it is satisfied “there is a prima facie case supporting the index allegations, and that having regard to such material as is put before it by the registrant, the public requires protection through an interim order”.

Scott v College of Massage Therapists of British Columbia, 2016 BCCA
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A Prima Facie Case of Misconduct and Conduct Unbecoming

31. The Committees finds that on a provisional assessment of the evidence in the affidavits, a prima facie case has been proven that Mr. Lam and both brokerages could be culpable for professional misconduct or conduct unbecoming, pursuant to s. 43 of the RESA. Specifically, the Committee agrees with counsel for the Council that the following conduct could result in an order under s. 43 of the RESA:

With respect to Regent Park Pinnacle, a Discipline Committee could find that it has committed professional misconduct contrary to section 35(1)(a) of the RESA, as follows:

- a. failed to prepare and maintain proper books and records during the years 2018 and 2019, contrary to section 25 of the RESA;
- b. failed to take immediate steps to eliminate negative balance (shortages) in the pooled rental trust account, contrary to section 7-5(2) of the Rules;
- c. failed to take immediate steps to eliminate negative balances (overdrafts) in the rental trust bank account, contrary to section 7-5(2) of the Rules;
- d. failed to notify the RECBC about any of the negative balances as set out above, no later than 10 days after the day on which the negative balance(s) arose, contrary to section 3(b) of the Rules; and
- e. permitted trust monies to be withdrawn from a trust account, without the consent, authorization or knowledge of the client, contrary to section 30 of the RESA.

With respect to Mr. Lam, a Discipline Committee could find that he has committed professional misconduct contrary to section 35(1)(a) of the RESA in relation to Regent Park Pinnacle as follows:

- a. failed to ensure that the brokerage prepared and maintained trust liability listings and separate trust ledgers for the pooled rental trust account;
- b. permitted the brokerage to maintain negative balances (shortages and overdrafts) in the pooled rental trust accounts;

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- c. failed to ensure that the brokerage notified the RECBC about any of the negative balance(s) no later than 10 days after the day on which the negative balance(s) arose, or if at all, contrary to section 6(2)(b) of the RESA [managing broker responsibilities]; section 3-1(1)(a) [be actively engaged in the management of their related brokerage]; section 3-1(1)(b) [ensure that the business of the brokerage is carried out competently and in accordance with the Act, regulations, rules and bylaws]; section 3-1(3)(a) [ensure the trust accounts and records of the brokerage are maintained in accordance with the Act, regulations, rules and bylaws]; and section 3-1(3)(b) [ensure proper management and control of documents and other records related to licensing and regulatory requirements] of the Rules;
 - d. permitted a licensee of the brokerage to engage in real estate services for which they were not licensed to provide and permitted the brokerage to remunerate the licensee for providing services for which they were not licensed to provide, contrary to section 6(2)(b) of the RESA [managing broker responsibilities]; and sections 3-1(1)(a) [be actively engaged in the management of their related brokerage] and 3-1(1)(b) [ensure that the business of the brokerage is carried out competently and in accordance with the Act, regulations, rules and bylaws] of the Rules;
 - e. permitted trust monies to be withdrawn from a trust account, without the consent, authorization or knowledge of the client, contrary to section 30 of the RESA and contrary to section 6(2)(b) of the RESA [managing broker responsibilities]; and sections 3-1(1)(a) [be actively engaged in the management of their related brokerage] and 3-1(1)(b) [ensure that the business of the brokerage is carried out competently and in accordance with the Act, regulations, rules and bylaws] of the Rules;
 - f. permitted trust monies to be withdrawn from a trust account, without the consent, authorization or knowledge of the client, contrary to section 35(1)(c) of the RESA [wrongful taking]; and
 - g. demonstrated incompetence in relation to managing brokerage responsibilities and oversight of the brokerage, contrary to section 35(1)(d).

With respect to Mr. Lam, a Discipline Committee could also find that he has committed conduct unbecoming a licensee, contrary to sections (35(2) of RESA for the conduct set out above, that:

- a. is contrary to the best interests of the public (section 35(2)(a));
- b. undermines public confidence in the real estate industry (section 35(2)(b)); or
- c. brings the real estate industry into disrepute (section 35(2)(c)).

With respect to Coral Property Management, a Discipline Committee could find that it has committed professional misconduct contrary to section 35(1)(a) of the RESA for failing to prepare and maintain proper books and records, contrary to section 25 of the RESA. Mr. Lam in relation to Coral Property Management could be found to have committed professional misconduct contrary to section 35(1)(a) of the RESA for failing to ensure Coral Property Management prepared and maintained proper books and records, contrary to section 6(2)(b) of the RESA [managing broker responsibilities] and sections 3-3(1)(b) and 3-3(3) of the Rules.

Urgent Circumstances

32. The Committee finds that the length of time that would be required to complete an investigation or hold a discipline hearing with respect to Mr. Lam and his two brokerages would be detrimental to the public interest if the orders sought were not granted.
33. Mr. Lam's treatment of the monies in Regent Park Pinnacles' pooled and general trust accounts bear out that there is, inter alia, systemic books and records issues, shortages in the rental trust accounts and general trust account ledgers, and potential misuse of client trust funds. Mr. Lam has not been forthright with the auditors about his transfers between Regent Park Pinnacles' pooled and general trust accounts. On January 31, 2020 during the follow-up inspection, Mr. Lam admitted that he withdrew \$20,000 from Regent Park Pinnacle's rental trust account to cover brokerage expenses. It has not yet been determined whether this is an accurate figure or whether Mr. Lam had obtained authorization from a client(s) to withdraw funds from this account. He has stated that he does not know exactly how much money he owed to his clients. He has stated that if all of Regent Park Pinnacle's clients decided to leave the brokerage that day, the brokerage "probably" would not have enough money to repay them, although he was not sure.
34. The Committee is advised that the ongoing inspection of Regent Park Pinnacle's books and records will require considerable resources and may take weeks if not months, to complete. The evidence is that the audit of Coral Property Management is incomplete and ongoing as well. While there are only minor deficiencies reported with respect to Coral Property Management, the more serious concern is Mr. Lam's apparent co-mingling of its trust funds with Regent Park Pinnacle's trust funds.
35. The evidence shows Regent Park Pinnacle will receive approximately \$300,000 in rental income for February (obtained by post-dated cheques, electronically, or by cash) in addition to the \$20,000 currently on deposit in all accounts as at February 3, 2020. With respect to Coral Property Management it will be in receipt of approximately \$10,000 in rental income for February (obtained by post-dated cheques, electronically, or by cash), in addition to approximately \$10,000 currently on deposit in all accounts as at February 3, 2020.

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36. Mr. Lam is the managing broker for both brokerages and has signing authority for their bank accounts. He has the ability to remotely transfer funds held in all accounts between and within both brokerages. He has not been able to explain a transfer from his personal bank account into the Regent Park Pinnacle's rental trust account. Nor has he been able to explain deposits between the brokerages into and out of the general and trust accounts.
 37. Mr. Lam's history of his treatment of the pooled and trust accounts of both brokerages puts his clients in current and future financial risks that their monies will be wrongfully removed. Given the length of time needed to complete the ongoing investigations, this Committee finds that not making the orders sought would be detrimental to the public interest.
 38. The Committee further finds that proceeding to obtain an *ex parte* order given Mr. Lam's evasiveness during the audits and the purported lack of proper documentation is supported by the need to preserve any documents that exist and prevent the withholding, destruction or concealment of any existing brokerage documents.

Public Interest

39. The RECBC has a statutory mandate to protect the public interest.
40. The auditors have identified ongoing risk to the public and the potential misuse of client trust funds.
41. The public and the brokerages' clients should be aware of the steps taken by the RECBC to protect the clients of the brokerage in the face of potential risk and actions detrimental to the public interest.

PROPOSED ORDERS

42. The RECBC submits that there is a prima facie case before the Committee of conduct in respect of which a discipline committee could make an order.
43. Section 45(2)(a) of the RESA allows the Committee to suspend a licensee's licence in these circumstances.
44. Section 45(2)(c) and 46(2)(a) allows the Committee to order that a licensee cease all dealings with any brokerage accounts, deliver up and provide access to all books and records to the RECBC and prohibit account withdrawals.
45. Section 46(3) permits the Committee to order in the public interest that TD Canada Trust hold all trust funds and other related brokerage funds held on deposit.
46. Suspension of the licences of Mr. Lam, Regent Park Pinnacle and Coral Property Management and freezing the bank accounts of both brokerages are the most appropriate, prudent and effective courses of action.

47. Failure to grant the orders sought would undermine public confidence in the real estate industry and its regulation and would bring the real estate industry into disrepute.

Conclusion

48. For the forgoing reasons and based upon the evidence presented and submissions made by counsel for the Council, the Committee made the four Orders sought pursuant to sections 45 and 46 of RESA as attached to these reasons.

DATED at VANCOUVER, BRITISH COLUMBIA this 6th day of February 2020.

FOR THE DISCIPLINE COMMITTEE

“Sukh Sidhu”

Sukh Sidhu
Discipline Committee Chair

“Ruth Hanson”

Ruth Hanson
Discipline Committee member

“Neal Nicholson”

Neal Nicholson
Discipline Committee member