

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
JAMES DEMITRI ZAMBUS
(152722)

CONSENT ORDER

RESPONDENT:	James Demitri Zambus, Representative, Homelife Benchmark Realty Corp., while licensed with Homelife Benchmark Realty Corp. (Surrey Branch)
DATE OF REVIEW MEETING:	December 11, 2019
DATE OF CONSENT ORDER:	December 11, 2019
CONSENT ORDER REVIEW COMMITTEE:	Y. Amlani R. Hanson K. Ameyaw
ALSO PRESENT:	E. Seeley, Chief Executive Officer D. Avren, Vice President, Legal Services and Compliance J. Moore, Legal Counsel for the Real Estate Council of BC

PROCEEDINGS:

On December 11, 2019, the Consent Order Review Committee ("CORC") resolved to accept the Consent Order Proposal (the "Proposal") submitted by James Demetri Zambus ("Mr. Zambus").

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

NOW THEREFORE, having made the findings proposed in the attached Proposal, and found that Mr. Zambus committed professional misconduct within the meaning of sections 35(1)(a), 7(3)(a) and (b), and 27(1)(a) of the *Real Estate Services Act* ("RESA") and sections 3-2(1) and (2) and 5-11 of the Rules made under the RESA, pursuant to section 43 of the RESA the CORC orders that:

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1. Mr. Zambus have his licence suspended for fourteen (14) days;
 2. Mr. Zambus will not act as an unlicensed assistant during the time of his licence suspension;
 3. Mr. Zambus pay a discipline penalty to the Council in the amount of \$7,500 within three (3) months from the date of this Order;
 4. Mr. Zambus, 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
 5. Mr. Zambus pay enforcement expenses to the Council in the amount of \$1,500 within two (2) months from the date of this Order.

If Mr. Zambus 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 11th day of December 2019, at the City of Vancouver, British Columbia.

ON BEHALF OF THE CONSENT ORDER REVIEW COMMITTEE

“Yasin Amlani”

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

**JAMES DEMITRI ZAMBUS
(152722)**

CONSENT ORDER PROPOSAL BY JAMES DEMITRI ZAMBUS

BACKGROUND AND FACTS

This Consent Order Proposal (the "Proposal") is made by James Demitri Zambus ("Mr. Zambus") to the Consent Order Review Committee ("CORC") of the Real Estate Council of BC (the "Council") pursuant to section 41 of the *Real Estate Services Act* ("RESA").

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

1. Mr. Zambus has been licensed as a representative trading since September 2007.
2. Mr. Zambus was at all relevant times licensed with Homelife Benchmark Realty Corp. (Surrey Branch Office).
3. Mr. Zambus is currently licensed with another of Homelife's Surrey branch offices.
4. In or around February 2011, Mr. F. entered into 3 separate contracts (with a developer) for the purchase of strata property units in a new condominium development ("KXXXX"), one of which was dated February 8, 2011 and provided for a purchase price of \$344,350 (the "Contract"). The completion date was anticipated to be the summer of 2013.
5. In the spring of 2011, Ms. S. contacted Mr. Zambus to enquire about purchasing a residential property. Mr. Zambus was known to Ms. S. as he had worked with her husband and they lived in the same neighborhood.
6. Mr. Zambus was aware that Mr. F. (who he knew through a family connection) had expressed a desire to assign the Contract to another buyer.
7. In or around June 2011, Mr. Zambus, Ms. S. and her husband met with Mr. F. to tour the KXXXX showroom. Mr. Faris agreed to assign the Contract to Ms. S. for \$394,350.
8. On Mr. Zambus' suggestion, Ms. S. met with a mortgage broker to discuss financing.
9. On June 24, 2011 Mr. F. emailed Mr. Zambus wherein he agreed to prepare an assignment agreement and advised that 2 cheques would be due upon signing the assignment agreement;

one for a deposit of \$17,500 (which would be payable to the developer's lawyer) , and the other in the amount of \$49,827 payable to Mr. F. for an assignment fee.

10. Mr. Zambus stated to the Council that he had tried to "figure out the process, as it was an assignment and starting to get very complicated". Mr. F. provided him with a number of options one of which was to add Ms. S. to the Contract and remove himself from the Contract before the completion date.
11. On or about July 5, 2011, Mr. F. and the developer signed an addendum to the Contract which stated that Ms. S. would be added to the Contract as the buyer (in the place of Mr. F.) prior to the completion date.
12. On or about July 20, 2011, Ms. Zambus met with Ms. S. at her home and provided her with a copy of the Contract and addendum. Ms. S. provided Mr. Zambus with the 2 cheques, as outlined in paragraph 9 above.
13. Mr. Zambus stated to the Council that he personally delivered both of the cheques directly to Mr. F.
14. Mr. Zambus stated to the Council that he received a \$10,000 commission from Mr. F. for bringing Ms. S. to Mr. F as a buyer.
15. In or about March 2013, Ms. S. received notice from the developer that she would be required to provide a further deposit of \$17,000 to complete the purchase.
16. Ms. S. informed Mr. Zambus that she would be unable to complete the purchase.
17. Mr. Zambus stated that he advised Ms. S. to seek independent legal advice.
18. Ms. S. did not complete the purchase of the property.
19. Ms. S. stated to the Council that she was under the impression that the assignment fee was to be used as a deposit.
20. In October 2013, Mr. F. assigned the Contract to another buyer.
21. Ms. S. stated to the Council that she received 2 cheques from Mr. F.; one in the amount of \$17,000 (partial return of the deposit) and one in the amount of \$25,000 for a partial return of the assignment fee.
22. Mr. Zambus stated to the Council that on May 31, 2013 he returned the \$10,000 commission fee to Mr. F.
23. Ms. S. stated to the Council that she had not signed a 'Working with Realtor®' form.
24. Mrs. S. stated to the Council that she was unaware that Mr. Zambus had received a commission from Mr. F.
25. In July 2015, Mr. Zambus stated to the Council that he:

- (a) did not provide any paperwork to the Brokerage because he felt that he removed himself from the transaction and that both parties understood this as well;
 - (b) always advised his clients to seek independent legal advice; and
 - (c) did not recall the particular time when Ms. S.'s name was added to the Contract.
26. Mr. Zambus provided the Council with a document dated July 20, 2011 and signed only by Ms. S, that stated:
- (a) on July 9, 2011, he had shown the showroom for the KXXXX development to Ms. S and her husband;
 - (b) Mr. F. had purchased the property in February 2011 and would add Ms. S. to his contract in the form an addendum;
 - (c) he was not representing Ms. S. or Mr. F. as the Contract had already been made in February 8, 2011; and
 - (d) his Brokerage was not getting paid a fee for the transaction.
27. Mr. Zambus stated to the Council that he:
- (a) did not advise his MB or the Brokerage about the real estate transaction;
 - (b) did not turn any documents with respect to the transaction into his Brokerage;
 - (c) did not disclose his commission to the Brokerage;
 - (d) did not deliver the commission to the Brokerage; and
 - (e) did not deliver the 2 cheques that he had received from Ms. S. (for the deposit and assignment fee) to the Brokerage.
28. Mr. Zambus stated to the Council that he was very remorseful for his actions. ...[A]s a professional realtor I wish I would have made better judgment calls. Although [I] was still a junior realtor at the time.... that was not an excuse. I made some mistakes I will never make again."
29. A Notice of Discipline Hearing was issued on May 16, 2017 (and as amended on March 15, 2018) and served on Mr. Zambus.
30. Mr. Zambus does not have a discipline history with the Council.

PROPOSED FINDINGS OF MISCONDUCT

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

1. Mr. Zambus committed professional misconduct within the meaning of section 35(1)(a) of the RESA in that, while licensed as a representative with Homelife Benchmark Realty Corp. ("Brokerage") in relation to the purchase of a property located at XXXXXX Avenue, Vancouver, BC, he:
 - (a) provided real estate services other than on behalf of the brokerage in relation to which he was licensed, contrary to s.7(3)(a) of the RESA;
 - (b) accepted remuneration in relation to real estate services from persons other than the brokerage in relation to which he was licensed, contrary to s. 7(3)(b) of the RESA;
 - (c) failed to promptly pay or deliver to the Brokerage all money held or received from, for or on behalf of a principal in relation to real estate services, when he collected 2 cheques from the buyer and delivered them directly to the seller, contrary to s. 27(1)(a) of the RESA;
 - (d) failed to disclose the remuneration in the amount of \$10,000 he received from the seller, contrary to s. 5-11 of the Rules;
 - (e) failed to keep his managing broker informed of the real estate services being provided and other activities being performed on behalf of the brokerage with respect to the property, contrary to s. 3-2(2) of the Rules; and
 - (f) failed to deliver to the brokerage a copy of all substantive records of the real estate services being provided with respect to the property, contrary to s. 3-2(1) of the Rules.

PROPOSED ORDERS

Based on the facts herein and the Proposed Findings of Misconduct, Mr. Zambus 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. Zambus' licence be suspended for 14 days.
2. Mr. Zambus be prohibited from acting as an unlicensed assistant during the licence suspension period.
3. Mr. Zambus pay a discipline penalty to the Council in the amount of \$7,500 within three (3) months from the date of this Order.
4. Mr. Zambus, 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.
5. Mr. Zambus pay enforcement expenses to Council in the amount of \$1,500 within two (2) months from the date of this Order.
6. If Mr. Zambus fails to comply with any of the terms of this Order, a discipline committee may suspend or cancel Mr. Zambus' licence without further notice to him.

ACKNOWLEDGEMENTS AND WAIVER OF APPEAL RIGHT

1. Mr. Zambus 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. Zambus 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. Zambus 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. Zambus 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. Zambus 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. Zambus will not make any public statement(s) inconsistent with the Proposal and its contents. Nothing in this section is intended to restrict Mr. Zambus from making full answer and defence to any civil or criminal proceeding(s).
7. The Proposal and its contents are made by Mr. Zambus or 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. Zambus in any civil proceeding with respect to the matter.

"James Demitri Zambus"

JAMES DEMITRI ZAMBUS

Dated 8th day of November, 2019