

**IN THE MATTER OF THE *REAL ESTATE SERVICES ACT*, S.B.C. 2004, C. 42 as amended
AND IN THE MATTER OF THE QUALIFICATION FOR LICENSING OF XXXXXXXX XXXX XXXXX**

REASONS FOR DECISION

DATE AND PLACE OF HEARING:	September 6, 2019 Office of the Real Estate Council Vancouver, BC
QUALIFICATION HEARING COMMITTEE:	Maggie Chan Catherine Ludgate Len W Hrycan (Chair)
COUNSEL FOR THE REAL ESTATE COUNCIL:	Mandeep Kalan Janice Moore
APPLICANT:	XXXXXXXX XXXX XXXXX appearing on his own behalf
WITNESS:	MXXXXX AXXX - Applicant's Managing Broker

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 XXXXXXXX XXXX XXXXX ("Mr. XXXXX") 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 XXXXXXXX XXXX XXXXX is currently of good reputation and suitability to be licensed, subject to conditions and restrictions on his license as permitted in Section 15 of the RESA. We are persuaded by both the evidence presented at the Qualification Hearing and the fact that RECBC staff deemed it suitable to originally license Mr. XXXXX in 2015, with the knowledge of an outstanding criminal charge, which was subsequently dismissed. See para [17] below under Evidence.

ISSUES

[3] There were four issues before the Hearing Committee in this qualification hearing:

- (a) Does Mr. XXXXX 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 from June 2011, which were dismissed by a Court of Law in 2016.
 - ii. A refusal to issue Mr. XXXXX a license by the Real Estate Council of Alberta in November of 2016 prior to the discharge of the above criminal charges; and
 - iii. Mr. XXXXX’s conduct while providing information to both the RECA and the Council during his suitability investigation.
- (b) If the Hearing Committee is not satisfied that Mr. XXXXX is currently of good reputation or suitable to be licensed, it may want to suggest a timeframe before which Mr. XXXXX may reapply.
- (c) If the Hearing Committee determines that Mr. XXXXX is suitable for licensing, should it impose any conditions on his license?
- (d) To what extent the Committee will apply the privacy conditions of the Pre-hearing Conference order dated September 5, 2019?

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 licence] 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 Notice of Qualification Hearing was sent to the Applicant advising him of the issues listed above.

[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 licence 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 licence,

- (a) impose conditions and restrictions on the licence,
- (b) vary a condition or restriction applicable to the licence,

(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 licence 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 6 Exhibits as listed in the List of Exhibits and oral testimony of Mr. XXXXX and Mr. AXXX.

[9] An RCMP Officer stopped Mr. XXXXX on June 21, 2011, while Mr. XXXXX was transporting 65 litres of GHB from British Columbia to Alberta. Mr. XXXXX was charged under section 5(1) of the *Controlled Drugs and Substances Act* – "trafficking in a substance included in Schedule III to the act being 4-hydroxybutanoic (GHB)" and under section 5(2) of the *Controlled Drugs and Substances Act* – "possessing a substance included in Schedule III to the act, 4-hydroxybutanoic (GHB)". Exhibit 1 Tab 14.

[10] Mr. XXXXX has maintained, since being charged, that the substance was to be used for bodybuilding purposes and that he himself was to receive half of the quantity for his own personal bodybuilding use and deliver the remaining half to a guy whom he met at the gym. Exhibit 1 Tab 20.

[11] The charges against Mr. XXXXX were to be heard by the Alberta Provincial Court on January 15, 2016.

[12] Mr. XXXXX made application for first time licensing in trading services to the Council on June 17, 2015. As part of the licensing application, he answered yes to the question “are you currently charged with a criminal offence.” Exhibit 1 Tab 2.

[13] On June 17, 2015, Mr. XXXXX provided the Council with a letter setting out the details of the charges against him and stated that the substance he was transporting “was legal prior to 1998 and used primarily in the bodybuilding industry”. Exhibit 1 Tab 3.

[14] On June 22, 2015, Mr. XXXXX provided the Council with a copy of a letter, which he sent to his proposed Managing Broker (Mr. MXXXXX AXXX), regarding the charges. Exhibit 1 Tab 4.

[15] On July 14, 2015, Mr. XXXXX made an additional application to the Council for first time licensing in the category of rental property management services. Exhibit 1 Tab 6.

[16] The Council licensed Mr. XXXXX on July 28, 2015 for trading and rental property management services.

[17] Mr. XXXXX’s 2015 licensing with the Council was conditional, stating that “upon conclusion of the pending legal proceeding against the above licensee, the Council will consider the licensee’s suitability for continued licensing.”

[18] On November 10, 2015, the Council issued Mr. XXXXX’s personal real estate corporation, XXXXXXX XXXX XXXXX Personal Real Estate Corporation, a license for trading and rental property management services with the same condition “upon conclusion of the pending legal proceeding against the above licensee, the Council will consider the licensee’s suitability for continued licensing.”

[19] On February 11, 2016, Mr. XXXXX made an application for licensing to the Real Estate Council of Alberta (“RECA”). He testified that he had a client in BC who wished to sell a building in AB that he owned and sought the assistance of Mr. XXXXX to represent him. Exhibit 1 Tab 12.

[20] On August 18, 2016, the Council was advised verbally in a telephone call from the RECA that in advance of Mr. XXXXX’s court date, they had decided not to license Mr. XXXXX, regardless of the outcome of the court proceeding, based on the amount of GHB in his possession and the deleterious effects this drug can have if used for purposes other than body building. Exhibit 1 Tab 9.

[21] On August 31, 2016, the charges against Mr. XXXXX were dismissed in Canmore Provincial Court and Mr. XXXXX advised Council of same. Court notes indicated that the Judge excluded evidence on a *voir dire* and the Crown called no further evidence; both charges were dismissed. Exhibit 1 Tab 10 & 11.

[22] On November 17, 2016, a written decision from the RECA refused to issue Mr. XXXXX a license.

[23] On July 6, 2017, Mr. XXXXX submitted a license renewal application to the Council. Exhibit 1 Tab 22.

[24] On July 21, 2017, the Council informed Mr. XXXXX that his 2017 renewal application had been referred to the Council's Compliance Department to determine suitability for licensing under section 10 of RESA. Exhibit 1 Tab 15.

[25] On April 11, 2018, Mr. XXXXX made an application to the Council to change his licensing level to that of Associate Broker. The application was not processed at the time given the suitability investigation by the Council. Exhibit 1 Tab 18.

[26] On April 12, 2018 and October 16, 2018, interviews were conducted with Mr. XXXXX in regards to the suitability investigation. Exhibit 1 Tab 30 & 31.

[27] On March 8, 2019, the Council advised Mr. XXXXX 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. Exhibit 1 Tab 22.

[28] On April 12, 2019, Mr. XXXXX advised the Council he would like to proceed with a Qualification Hearing and on May 23, 2019 Mr. XXXXX was serviced with a Notice of Qualification Hearing. On June 14, 2019, Mr. XXXXX confirmed receipt of the notice. Exhibit 1 Tab 23 & 24.

[29] Mr. XXXXX has been operating pursuant to section 12 of the RESA, since the Council has not processed his 2017 licensing renewal application due to the suitability investigation.

[30] As of July 27, 2019, the two-year period of licensure under the 2017 license renewal application came to an end and Mr. XXXXX has submitted a 2019 license renewal application for himself and his personal real estate corporation. The 2019 application has not been processed pending the outcome of this Qualification Hearing. Exhibit 1 Tab 29.

[31] The Applicant testified orally at the hearing on September 6, 2019. He stated that he understands the seriousness of his position and has faced the mistakes he made in the past. He spoke of being young, naive and foolish at the time of the charges and to his dedication to becoming a real estate

professional since that time. He highlighted that there have been no issues from a compliance perspective since being licensed by the Council or any further criminal activity. He further spoke to his attainment of considerable additional education in the areas of strata property management and brokerage management for the purpose of licensing to further his career. Mr. XXXXX indicated his willingness to comply with any conditions on his license the Committee may see fit and acknowledged and agreed to the Council's Proposed Draft Conditions to License, which he had reviewed in advance of the hearing. Exhibit 3.

[32] Mr. XXXXX's current managing broker, Mr. MXXXXX AXXX, also testified orally at the hearing and spoke to Mr. XXXXX's success as a licensee and that he was a model and highly valued employee of the brokerage. He indicated to the Committee that he did not wish to lose Mr. XXXXX as a licensee of the brokerage. He indicated that he received few, if any, issues from tenants of the properties Mr. XXXXX manages. Mr. AXXX indicated his willingness to provide enhanced supervision of Mr. XXXXX in accordance with the Council's Proposed Draft Conditions to License, which he had reviewed in advance of the hearing. Exhibit 3.

REASONS FOR DECISION

[33] 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.

[34] 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.

[35] 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".

[36] 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;

...

[37] 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.

[38] 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.

[39] 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).

[40] 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 removing himself from his associates and community at the time of the criminal charge, by making a concerted commitment to the real estate profession and taking every opportunity to further his education and qualifications. He is respected in his community and real estate industry and deemed a very good employee by his current managing broker.

[41] This Hearing Committee also places a significant reliance on the evidence of MXXXXX AXXX who is a current licensee in good standing since 1996 and the current managing broker of M. XXXXX. With full knowledge of the Applicant's prior conduct, he wishes to continue to employ Mr. XXXXX at his brokerage and is prepared to offer an associate broker position to Mr. XXXXX under his supervision. Thus, there is 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.

CONDITIONS

[42] 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)

[43] 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.”

[44] 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.”

[45] While the Hearing Committee is satisfied that Mr. XXXXX 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. XXXXX’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) The licenses of XXXXXXXX XXXX XXXXX (“Mr. XXXXX”)’s and XXXXXXXX XXXX XXXXX Personal Real Estate Corporation (“XXXXX PREC”) will be restricted to Re/Max Commercial Advantage (doing business as CLC Commercial Lease Consultants Corp.) or another brokerage acceptable to Council (the “Brokerage”), for a period of not less than twelve (12) months from the date that they are licensed by Council (the “Enhanced Supervision Period”).
- 2) During the Enhanced Supervision Period, Mr. XXXXX and XXXXX PREC 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 has read these conditions, is aware of his duties under these conditions, and agrees to accept these duties (the “Managing Broker”).
- 3) Mr. XXXXX and XXXXX PREC must keep the Managing Broker informed weekly, or more frequently as required, of the real estate services that they are providing and other real

estate-related activities that they are 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.
- 4) To ensure that Mr. XXXXX and XXXXX PREC meet their obligations under these conditions and the Legislation, the Managing Broker must meet with Mr. XXXXX and XXXXX PREC 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. XXXXX and XXXXX PREC;
 - 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. XXXXX and XXXXX PREC’s attendance at or completion of any educational or training opportunities recommended by the Managing Broker.
- 6) Mr. XXXXX and XXXXX PREC 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. XXXXX and XXXXX PREC 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. XXXXX and XXXXX PREC must obtain the Managing Broker's approval before presenting documents prepared by Mr. XXXXX and XXXXX PREC to principals or their agents for execution.
- 9) Mr. XXXXX and XXXXX PREC must provide to the Managing Broker all documents signed by Mr. XXXXX and XXXXX PREC's principals, and the Managing Broker must review all such documents.
- 10) Mr. XXXXX, at his own expense, must register for and successfully complete the **Rule Changes: Agency and Disclosure Course** as provided by the Real Estate Division, Sauder School of Business at the University of British Columbia by December 31, 2019 or, on written application by Mr. XXXXX prior to December 31, 2019, such other date permitted by the Council.
- 11) Mr. XXXXX, at his own expense, must register for and successfully complete the: **Legal Update 2019** as provided by the Real Estate Division, Sauder School of Business at the University of British Columbia by July 1, 2020, or on written application by Mr. XXXXX prior to July 1, 2020, such other date permitted by the Council.
- 12) Within 30 days before the end of the Enhanced Supervision 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 Enhanced Supervision Period, or during the period in which Managing Broker acted as Managing Broker under these conditions, as applicable:
 - a. that Mr. XXXXX and XXXXX PREC have provided real estate services under his direct supervision;
 - b. that Mr. XXXXX and XXXXX PREC'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 he has reviewed all transactions in which Mr. XXXXX and XXXXX PREC 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. he has met with Mr. XXXXX and XXXXX PREC 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. XXXXX and XXXXX PREC have 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 Enhanced Supervision Period has provided an adequate opportunity to observe Mr. XXXXX and XXXXX PREC's real estate services practices and if not, will so advise the Managing Broker and Mr. XXXXX and XXXXX PREC, and Mr. XXXXX and XXXXX PREC may elect to:
- a. continue with enhanced supervision until the Council is satisfied by further evidence that the required period and purpose of enhanced supervision has been met; or
 - b. have their licences suspended until a further order is made by the Council under section 43(4) or (5) of the RESA.
- 14) The Managing Broker must immediately report to the Council anything of an adverse nature with respect to Mr. XXXXX and XXXXX PREC's real estate services, including
- a. failure of Mr. XXXXX or XXXXX PREC 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) The Managing Broker must ensure that Mr. XXXXX and XXXXX PREC and their 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.
- 16) Mr. XXXXX and XXXXX PREC may have no unlicensed assistant(s) during the Enhanced Supervision Period.
- 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 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. XXXXX and XXXXX PREC must notify Council immediately and approval from the Council for a successor managing broker to supervise Mr. XXXXX and XXXXX PREC must be sought as set out in paragraph 17 of these conditions.
- 18) If for any reason the Managing Broker is unable to perform any of the duties imposed herein, he must immediately advise Council.
- 19) If there is a change in the Managing Broker of the Brokerage, the former managing broker and Mr. XXXXX and XXXXX PREC 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. XXXXX and XXXXX PREC's licences will be suspended and will remain suspended until all conditions herein are met, or until a further order is made by Council under section 43(4) or (5) of the RESA if:
- a. there is no Brokerage;
 - b. there is no Managing Broker;
 - c. the Managing Broker is unable or unwilling to perform any of the duties imposed herein; or
 - d. Mr. XXXXX and XXXXX PREC fails to meet their obligations under these conditions.

[46] Any suspension of Mr. XXXXX and XXXXX PREC's licences under paragraph 20 does not limit the Council's ability to take further disciplinary action for breach of the conditions, the Legislation and all other applicable legislation.

[47] The Committee further turned its mind to the Order and Reasons dated September 5, 2019 issued by the Qualification Hearing Committee as a result of the Pre-hearing Conference of September 3, 2019. This Qualification Hearing Committee determined that it accepts those reasons and will apply that order in full, to the outcome of the September 6, 2019 Qualification Hearing.

DATED at VANCOUVER, BRITISH COLUMBIA this 21st day of October 2019

"Len W. Hrycan"

Len W Hrycan, Chair
Qualification Hearing Committee

"Maggie Chan"

Maggie Chan
Qualification Hearing Committee

"Catherine Ludgate"

Catherine Ludgate
Qualification Hearing Committee

LIST OF EXHIBITS

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| Exhibit 1 | Council's book of documents |
| Exhibit 2 | RECBC order dated September 5, 2019 and reasons from the pre-hearing conference dated September 5, 2019. |
| Exhibit 3 | Council's proposed draft conditions to license |
| Exhibit 4 | Full transcript of Alberta Provincial Court proceedings dated February 26, 2016 |
| Exhibit 5 | Transcript excerpt of Alberta Provincial Court proceedings dated February 26, 2016 |
| Exhibit 6 | RECBC licensing history of MXXXXX AXXX |