

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

**ABDUL QAYYUM
(159795)**

AND

**ABDUL QAYYUM PERSONAL REAL ESTATE CORPORATION
(159795PC)**

CONSENT ORDER

RESPONDENTS:

Abdul Qayyum, Representative, Team 3000
Realty Ltd., while licensed with name of OMAX
Realty Ltd. dba Coldwell Banker Universe Realty

Abdul Qayyum Personal Real Estate
Corporation

DATE OF REVIEW MEETING:

September 18, 2019

DATE OF CONSENT ORDER:

September 18, 2019

CONSENT ORDER REVIEW COMMITTEE:

E. Duvall, Chair
M. Chan
M. Walker

ALSO PRESENT:

E. Seeley, Chief Executive Officer
D. Avren, Vice President, Legal Services
Alex Bjornson, Legal Counsel for the Real Estate
Council of BC

PROCEEDINGS:

On September 18, 2019, the Consent Order Review Committee ("CORC") resolved to accept the Consent Order Proposal (the "Proposal") submitted by Abdul Qayyum, on his own behalf and on behalf of Abdul Qayyum Personal Real Estate Corporation.

WHEREAS the Proposal, a copy of which is attached hereto, has been executed by Abdul Qayyum, on his own behalf and on behalf of Abdul Qayyum Personal Real Estate Corporation.

NOW THEREFORE, having made the findings proposed in the attached Proposal, and in particular having found that Abdul Qayyum and Abdul Qayyum Personal Real Estate Corporation committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* ("RESA"), pursuant to section 43 of the RESA the CORC orders that:

1. Abdul Qayyum and Abdul Qayyum Personal Real Estate Corporation jointly and severally pay a discipline penalty to the Council in the amount of \$2,000 within three (3) months from the date of this Order;
2. Abdul Qayyum, at his own expense, register for and successfully complete the Real Estate Trading Services Remedial Education Course, as provided by the Sauder School of Business at the University of British Columbia in the time period as directed by the Council; and
3. Abdul Qayyum and Abdul Qayyum Personal Real Estate Corporation jointly and severally pay enforcement expenses to the Council in the amount of \$1,500 within two (2) months from the date of this Order.

If Abdul Qayyum and/or Abdul Qayyum Personal Real Estate Corporation fails to comply with any term of this Order, the Council may suspend or cancel their licences without further notice to them, pursuant to sections 43(3) and 43(4) of the RESA.

Dated this 18th day of September, 2019, at the City of Vancouver, British Columbia.

ON BEHALF OF THE CONSENT ORDER REVIEW COMMITTEE

"Elain Duvall"

Elain Duvall, Chair
Consent Order Review Committee

Attch.

**IN THE MATTER OF THE *REAL ESTATE SERVICES ACT*
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(159795)**

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**ABDUL QAYYUM PERSONAL REAL ESTATE CORPORATION
(159795PC)**

**CONSENT ORDER PROPOSAL BY ABDUL QAYYUM AND
ABDUL QAYYUM PERSONAL REAL ESTATE CORPORATION**

BACKGROUND AND FACTS

This Consent Order Proposal (the "Proposal") is made by Mr. Qayyum and Abdul Qayyum Personal Real Estate Corporation ("PREC") to the Consent Order Review Committee (the "CORC") of the Real Estate Council of British Columbia (the "Council") pursuant to section 41 of the *Real Estate Services Act* (the "RESA").

For the purposes of the Proposal, Mr. Qayyum on his own behalf, and on behalf of Abdul Qayyum PREC, and the Council have agreed upon the following facts:

1. Mr. Qayyum has been licensed as a trading representative since August 2010. Abdul Qayyum PREC has been listed as a trading PREC since May 2016.
2. Mr. Qayyum was at all relevant times licensed as a trading representative with OMAX Realty Ltd. dba Coldwell Banker Universe Realty.
3. Mr. Qayyum was the buyers' agent with respect to property in Surrey that was listed for sale on or about July 10, 2015 (the "Property"). The listing indicated that the Property was approximately one year old.
4. According to the New Homes Registry on the BC Housing website, the Property is an "owner-built" home and was not permitted to be offered for sale at that time.
5. Pursuant to the *Homeowner Protection Act*, SBC 1998, c 31 ("HPA"), within the first ten (10) years after initial occupancy, the owner-builder or any subsequent owner is required to provide a disclosure notice known as an Owner Builder Disclosure Notice ("OBDN") to any prospective purchasers. The OBDN must be provided prior to entering into a purchase and sale agreement. The OBDN informs prospective purchasers: (1) that the home was built under an

“Owner-Builder Authorization”; (2) the date that the 10 year period started; and (3) whether there is a voluntary policy of home warranty insurance in place.

6. The Property was listed for sale within the 10 year period and therefore the sellers were required to provide an OBDN to a prospective purchaser pursuant to s. 21 of the HPA.
7. On or about July 12, 2015, the sellers and buyers entered into a contract of purchase and sale. The contract did not include a term relating to an OBDN or to home warranty.
8. The Homeowner Protection Office had not issued an OBDN from the HPO at the time of entering into the contract of purchase and sale.
9. On or about August 31, 2015, the transaction completed. The buyers had not received an OBDN at this time.
10. On the completion date, the sellers’ agent informed Mr. Qayyum that the sellers did not have an OBDN.
11. On or about September 11, 2015, the HPO provided an OBDN and the sellers’ agent provided it to Mr. Qayyum.
12. A Notice of Discipline Hearing was issued on July 3, 2019 and served on Mr. Qayyum on his own behalf and on behalf of Abdul Qayyum PREC.
13. Mr. Qayyum and Abdul Qayyum PREC had no prior discipline with the Council.
14. The Council is unaware of any parallel proceedings.

PROPOSED FINDINGS OF MISCONDUCT

For the sole purposes of the Proposal and based on the Facts outlined herein, Mr. Qayyum and Abdul Qayyum PREC propose the following findings of misconduct be made by the CORC:

1. Mr. Qayyum and Abdul Qayyum PREC committed professional misconduct within the meaning of section 35(1)(a) of the RESA in that, while acting as the buyers’ agent in the purchase of a new home at XXXX 85A Avenue, Surrey, BC, they
 - a. failed to ensure that a disclosure notice was provided to buyer clients prior to making an offer to purchase property and prior to the property transaction, contrary to s. 3-4 of the Rules; and
 - b. failed to ensure that the contract of purchase and sale contained terms concerning an OBDN and home warranty, contrary to s. 3-4 of the Rules.

PROPOSED ORDERS

Based on the Facts herein and the Proposed Findings of Misconduct Mr. Qayyum and Abdul Qayyum PREC propose 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. Qayyum and Abdul Qayyum PREC be jointly and severally liable to pay a discipline penalty to the Council in the amount of \$2,000 within ninety (90) days of the date of this Order.
2. Mr. Qayyum, at his own expense, register for and successfully complete the Real Estate Trading Services Remedial Education Course as provided by the Real Estate Division, Sauder School of Business at the University of British Columbia within the time period directed by the Council.
3. Mr. Qayyum and Abdul Qayyum PREC be jointly and severally liable to pay enforcement expenses to the Council in the amount of \$1,500 within sixty (60) days from the date of this Consent Order.
4. If Mr. Qayyum and Abdul Qayyum PREC fail to comply with any of the terms of this Order, a Discipline Committee may suspend or cancel Mr. Qayyum and Abdul Qayyum PREC's licences without further notice to them.

ACKNOWLEDGEMENTS AND WAIVER OF APPEAL RIGHT

1. Mr. Qayyum and Abdul Qayyum PREC acknowledge and understand 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. Qayyum and Abdul Qayyum PREC have been advised of and understand their right to obtain independent legal advice regarding the disciplinary process, including with respect to the execution and submission of the Proposal.
3. Mr. Qayyum and Abdul Qayyum PREC acknowledge and are 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. Qayyum and Abdul Qayyum PREC acknowledge and are 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. Qayyum and Abdul Qayyum PREC hereby waive their right to appeal pursuant to section 54 of the RESA.

6. The Proposal and its contents are made by Mr. Qayyum and Abdul Qayyum PREC for the sole purpose of resolving the Notice of Discipline Hearing in this matter and do not constitute an admission of civil liability. Pursuant to section 41(5) of the RESA, the Proposal and its contents may not be used without the consent of Mr. Qayyum and Abdul Qayyum PREC in any civil proceeding with respect to the matter.

“Abdul Qayyum on his own behalf and on
behalf of ABDUL QAYYUM PERSONAL REAL
ESTATE CORPORATION”

**ABDUL QAYYUM on his own behalf and on
behalf of ABDUL QAYYUM PERSONAL REAL
ESTATE CORPORATION**

Dated 12th day of July, 2019