

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

**JAGMOHAN SINGH SIDHU
(157584)**

AND

**JAG SIDHU PERSONAL REAL ESTATE CORPORATION
(157584PC)**

CONSENT ORDER

RESPONDENT: Jagmohan Singh Sidhu, Representative, Little Oak Realty Ltd. dba RE/MAX Little Oak Realty, while licensed with West Coast Realty Ltd dba Sutton Group-West Coast Realty

Jag Sidhu Personal Real Estate Corporation

DATE OF REVIEW MEETING: August 7, 2019

DATE OF CONSENT ORDER: August 7, 2019

CONSENT ORDER REVIEW COMMITTEE: Y. Amlani
B. Chisholm
L. Hrycan

PROCEEDINGS:

On February 27, 2019, a Consent Order Proposal submitted by Jagmohan Singh Sidhu, on his own behalf and on behalf of Jag Sidhu Personal Real Estate Corporation, was considered by a Consent Order Review Committee ("CORC") but not accepted. On July 31, 2019, a revised Proposal acceptable to the CORC was submitted by Jagmohan Singh Sidhu, on his own behalf and on behalf of Jag Sidhu Personal Real Estate Corporation (the "Proposal").

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

NOW THEREFORE, having made the findings proposed in the attached Proposal, and found that Jagmohan Singh Sidhu and Jag Sidhu 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. Jagmohan Singh Sidhu and Jag Sidhu Personal Real Estate Corporation each be reprimanded;
2. Jagmohan Singh Sidhu and Jag Sidhu Personal Real Estate Corporation be jointly and severally liable to pay a discipline penalty to the Council in the amount of \$5,000 within ninety (90) days from the date of this Order;
3. Jagmohan Singh Sidhu, at his own expense, register for and successfully complete the Real Estate Trading Services Remedial Education Course, as provided by Sauder School of Business at the University of British Columbia in the time period as directed by the Council; and
4. Jagmohan Singh Sidhu and Jag Sidhu Personal Real Estate Corporation 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 Order.

If Mr. Sidhu and Jag Sidhu Personal Real Estate Corporation fail 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 *Real Estate Services Act*.

Dated this 7th day of August, 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.

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S.B.C. 2004, c. 42 as amended**

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IN THE MATTER OF

**JAGMOHAN SINGH SIDHU (157584)
and
JAG SIDHU PERSONAL REAL ESTATE CORPORATION (157584PC)**

CONSENT ORDER PROPOSAL BY JAGMOHAN SIDHU

BACKGROUND AND FACTS

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

For the purposes of the Proposal, Mr. Sidhu on his own behalf and on behalf of Jag Sidhu Personal Real Estate Corporation, and the Council have agreed upon the following facts:

1. Mr. Sidhu (157584) has been licensed as a trading representative since 2009. Mr. Sidhu became licensed as Jag Sidhu Personal Real Estate Corporation on January 28, 2014.
2. Mr. Sidhu was at all relevant times licensed as a representative with Sutton Group-West Coast Realty (Sur132).
3. This matter was brought to the attention of the Council by the Homeowner Protection Office (the "HPO") in July 2015.
4. On November 16, 2014, a residential property located on 81 Avenue, Surrey, BC (the "Property") was listed for sale, with Mr. Sidhu acting as the designated agent.
5. According to the New Homes Registry on the BC Housing website, the Property is an "owner-built" home. The date of first occupancy was May 28, 2013. At the time of listing, the Property did not have home warranty insurance and no Owner Builder Disclosure Notice ("OBDN") had been issued by the HPO.
6. The owner builder, or any subsequent owner, of an owner-built home must provide an OBDN to any potential buyers within the first 10 years after initial occupancy, as required by the *Homeowner Protection Act* ("HPA").

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7. The OBDN must be provided prior to entering into a contract of purchase and sale. It informs the buyer:
 - That the home was built under an “Owner Builder Authorization” issued by the HPO;
 - When the 10-year period started; and
 - If there is a voluntary policy of home warranty insurance in place.
 8. If the home is not covered by a policy of home warranty insurance, statutory protection is available to a potential buyer pursuant to section 23 of the HPA.
 9. The Property was listed for sale within the 10 year period. The seller was therefore required to provide an OBDN to a prospective purchaser prior to entering into a contract of purchase and sale.
 10. On April 30, 2015 a contract of purchase and sale was entered into for the Property (the “Contract”). The HPO had not issued an OBDN at this time. There was no applicable home warranty insurance at this time.
 11. The Contract included a completion date of June 18, 2015. The Contract was subject to the buyers obtaining and approving a current Property Disclosure Statement (the “PDS”). The Contract also provided that “the seller will transfer 2 5 10 yrs HPO Home warranty to the Buyers on completion.”
 12. In the PDS, dated March 14, 2015, the sellers answered “DO NOT KNOW” to the question “Were these Premises constructed by an “owner builder” as defined in the *Homeowner Protection Act*, with construction commencing, or a building permit applied for, after July 1, 1999?” The sellers answered “YES” to the question “Are these Premises covered by home warranty insurance under the *Homeowner Protection Act*?” Mr. Sidhu was not present when the sellers completed the PDS.
 13. On June 18, 2015 the purchase of the Property completed. The buyers did not receive proof of home warranty insurance from the sellers at completion and the Property was, in fact, not covered by home warranty insurance. The HPO had not issued an OBDN prior to completion.
 14. In or around late June 2015, the HPO contacted Mr. Sidhu’s managing broker and notified him that the Property did not have a warranty.
 15. On or around February 15, 2017 BC Housing issued a monetary penalty against one of the sellers, who is the owner builder on record with the HPO, for contravening s. 21(2) of the HPA, which states:

An owner builder, and any subsequent purchaser of a new home built by an owner builder, before selling his or her new home during the purchase period, must provide to a prospective purchaser of the new home

- (a) a disclosure notice in a form satisfactory to the registrar stating whether or not the home is covered by home warranty insurance, and

(b) if required by the regulations, another form of security instead of home warranty insurance.

16. By August 2017 an OBDN had been issued for the Property.
17. A Notice of Discipline Hearing was issued on December 18, 2018 and served on Mr. Sidhu.
18. Mr. Sidhu and Jag Sidhu Personal Real Estate Corporation have no history of discipline with the Council.

PROPOSED FINDINGS OF MISCONDUCT

For the sole purposes of the Proposal and based on the facts outlined herein, Mr. Sidhu and Jag Sidhu Personal Real Estate Corporation propose the following findings of misconduct be made by the CORC:

1. Mr. Sidhu and Jag Sidhu Personal Real Estate Corporation committed professional misconduct within the meaning of section 35(1)(a) of RESA in that, while acting as the listing agent in the sale of the Property, Mr. Sidhu failed to act with reasonable care and skill when he did not ensure that a disclosure notice was provided to a person making an offer to purchase the Property, as required under section 21(2) of the HPA and contrary to section 3-4 of the Rules.

PROPOSED ORDERS

Based on the facts herein and the Proposed Findings of Misconduct, Mr. Sidhu and Jag Sidhu Personal Real Estate Corporation 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. Sidhu and Jag Sidhu Personal Real Estate Corporation be reprimanded.
2. Mr. Sidhu and Jag Sidhu Personal Real Estate Corporation be jointly and severally liable to pay a discipline penalty to the Council in the amount of \$5,000 within ninety (90) days of the date of this Order.
3. Mr. Sidhu, at his own expense, register for and successfully complete the Real Estate Trading Services Remedial Education Course in the time period as directed by the Council.
4. Mr. Sidhu and Jag Sidhu Personal Real Estate Corporation be jointly and severally liable to pay enforcement expenses to Council in the amount of \$1,500 within sixty (60) days from the date of this Consent Order.
5. If Mr. Sidhu and Jag Sidhu Personal Real Estate Corporation fail to comply with any of the terms of this Order, a Discipline Committee may suspend or cancel Mr. Sidhu and Jag Sidhu Personal Real Estate Corporation's licences without further notice to them.

ACKNOWLEDGEMENTS AND WAIVER OF APPEAL RIGHT

1. Mr. Sidhu and Jag Sidhu Personal Real Estate Corporation 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. Sidhu and Jag Sidhu Personal Real Estate Corporation 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. Sidhu and Jag Sidhu Personal Real Estate Corporation 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. Sidhu and Jag Sidhu Personal Real Estate Corporation 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. Sidhu and Jag Sidhu Personal Real Estate Corporation hereby waive their right to appeal pursuant to section 54 of the RESA.
6. The Proposal and its contents are made by Mr. Sidhu and Jag Sidhu Personal Real Estate Corporation 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. Sidhu and Jag Sidhu Personal Real Estate Corporation in any civil proceeding with respect to the matter.

"Jagmohan Singh Sidhu"

**JAGMOHAN SINGH SIDHU on his own behalf and
on behalf of JAG SIDHU PERSONAL REAL ESTATE
CORPORATION**

Dated 31st day of July, 2019