

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

AMIR SOLTANI
(157770)

CONSENT ORDER

RESPONDENT: Amir Soltani, Representative,
Royalty Group Realty Inc.

DATE OF REVIEW MEETING: April 3, 2019

DATE OF CONSENT ORDER: April 3, 2019

CONSENT ORDER REVIEW COMMITTEE: E. Mignosa (Chair)
E. Duvall
R. Hanson
N. Nicholson

ALSO PRESENT: E. Seeley, Executive Officer
D. Avren, Director, Legal Services
K. Mactaggart Wright, Legal Counsel for
the Real Estate Council
C. Cheng, Legal Counsel for the Licensee
A. Soltani, Licensee

PROCEEDINGS:

On April 3, 2019, the Consent Order Review Committee (the "Committee") resolved to accept the Consent Order Proposal (the "Proposal") submitted by Amir Soltani.

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

NOW THEREFORE, the Committee having made the findings proposed in the attached Proposal, and in particular having found that Amir Soltani committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act*, orders that:

1. Amir Soltani be reprimanded;

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2. Amir Soltani pay a discipline penalty to the Council in the amount of \$6,000 within ninety (90) days from the date of this Order;
 3. Amir Soltani, 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. Amir Soltani pay enforcement expenses to the Council in the amount of \$1,500 within sixty (60) days from the date of this Order.

If Amir Soltani 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 *Real Estate Services Act*.

Dated this 3rd day of April, 2019, at the City of Vancouver, British Columbia.

ON BEHALF OF THE CONSENT ORDER REVIEW COMMITTEE

“Elana Mignosa”

Elana Mignosa
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

**AMIR SOLTANI
(157770)**

CONSENT ORDER PROPOSAL BY AMIR SOLTANI

BACKGROUND AND FACTS

This Consent Order Proposal (the "Proposal") is made by Amir Soltani ("Mr. Soltani") 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 Services Act* ("RESA").

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

1. Mr. Soltani (157770) has been licensed as a representative for trading services since 2009.
2. Mr. Soltani was at all relevant times licensed as a representative for trading services with Royalty Group Realty Inc. ("RGR"), although in different branches of RGR.
3. In April 2015, Mr. Soltani acted as the buyer's (the "Buyer") designated agent for the purchase of a presale strata unit to be developed in Burnaby, BC (the "Unit").
4. Some time after this purchase, the Buyer instructed Mr. Soltani to find an assignee who would take over the obligations as the buyer of the Unit. There was time sensitivity and difficulty to this request because:
 - a. The Unit's developer had marketing restrictions such as no listing, promotion or advertisements on the Unit, and a deadline of March 2018 to enter into an assignment agreement;
 - b. The Buyer wanted the deposit recovered, and an additional profit, although there was a lack of comparable sales data and the Unit was not yet completed; and
 - c. Mr. Soltani states the Buyer indicated to him that they were involved in divorce proceedings and wished to keep the interest in the Unit undisclosed.
5. In May 2017, Mr. Soltani had located assignees from among his former client contacts, without any public marketing of the Unit. An Assignment of the Agreement of Purchase and Sale, with RGR's logo on it, was entered into between the original Buyer (now the assignor) and two

assignees (the "Assignees"); the Developer of the Unit also had its own Assignment Agreement contract to complete (collectively, the "Assignment Agreement(s)").

6. Mr. Soltani assisted the original Buyer in completing the forms as assignor and located the Assignees. No other licensee was involved in the assignment transaction for the Unit. Mr. Soltani mistakenly believed that he was not engaging in services subject to his licence if he elected not to take compensation or to disclose himself as an agent in the transaction. With that mistaken belief, Mr. Soltani did not disclose any agency relationship in writing or on either Assignment Agreement.
7. As a result of the Assignment Agreements, the original Buyer received two cheques. The cheques were intended for the return of the deposit, and an amount of profit. In both cases, the payment cheques were made out to a third party, although not a party to either the original Contract of Purchase and Sale of the Unit, or either Assignment Agreement. Mr. Soltani states the cheques were made out to a third party on the original Buyer's instructions.
8. Also because of Mr. Soltani's mistaken belief in the scope of his licence, Mr. Soltani did not disclose his activities in respect of the Assignment Agreements, or deliver a copy of the 2017 Assignment Agreements to his brokerage.
9. Neither RGR nor Mr. Soltani received a commission from the Assignment Agreements.
10. Mr. Soltani failed to advise the Buyer to seek independent professional advice on the assignment of the Unit in respect of both the Buyer's spouse's (potential) interest in the Unit, and on how to receive the proceeds of sale from the assignment of the Unit.
11. Mr. Soltani did not obtain copies of any court orders or agreements in the divorce proceedings of the Buyer, with respect to the Unit.
12. As a result, Mr. Soltani's conduct created risks for the original Buyer: (1) the original Buyer's spouse's (beneficial) ownership of the Unit and/or interests in the proceeds, if any, was at risk as a result of the assignment; and (2) the receipt of proceeds from the Unit by a third party could have tax or other consequences.
13. By not satisfying himself with respect to the original Buyer's spouse's beneficial or other interest(s) in the Unit or proceeds from the Unit, Mr. Soltani created risks for himself and for the Assignees in that he failed to (1) (potentially) act with the authorization of both owners of the Unit; or (2) make reasonable efforts to discover and disclose all relevant facts about the Unit that the Assignees were acquiring the interest in.
14. In June 2017, the Buyer complained to Council about the price obtained for the Unit.
15. A Notice of Discipline Hearing was issued on November 23, 2018 and served on Mr. Soltani.
16. Mr. Soltani has no discipline history with Council.

PROPOSED FINDINGS OF MISCONDUCT

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

1. Mr. Soltani committed professional misconduct within the meaning of section 35(1)(a) of the RESA while assisting the Buyer to assign their property interests in the Unit in or about May 2017, when Mr. Soltani:
 - a. provided real estate services outside of or other than on behalf of the brokerage in relation to which he was licensed, contrary to section 7(3)(a) of the RESA;
 - b. failed to provide disclosure, before providing trading services to either the Buyer or the assignees, that he was not offering any representation to any party, contrary to section 5-10 of the Rules;
 - c. failed to keep his managing broker informed of the real estate services he was providing, contrary to section 3-2(2)(a) of the Rules;
 - d. failed to promptly provide to his managing broker the original or a copy of the trading records, contrary to section 3-2(1) of the Rules;
 - e. failed to advise the Buyer to seek independent professional advice on family law or tax matters outside his expertise when he knew the Buyer wanted to sell the Unit while divorcing, and the proceeds of sale were directed to a third party, contrary to section 3-3(d) of the Rules; and
 - f. failed to act honestly and with reasonable care and skill, when he assisted the Buyer to dispose of the Unit, in the course of a divorce, without any reasonable inquiry about the spouse's interest, if any, in the Unit, contrary to section 3-4 of the Rules.

PROPOSED ORDERS

Based on the facts herein and the Proposed Findings of Misconduct, Mr. Soltani 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. Soltani be reprimanded.
2. Mr. Soltani pay a discipline penalty to the Council in the amount of \$6,000 within ninety (90) days of the date of this Order.
3. Mr. Soltani, 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.
4. Mr. Soltani pay enforcement expenses to the Council in the amount of \$1,500 within sixty (60) days from the date of this Consent Order.

5. If Mr. Soltani fails to comply with any of the terms of this Order, a Discipline Committee may suspend or cancel Mr. Soltani's licence without further notice to him.

ACKNOWLEDGEMENTS AND WAIVER OF APPEAL RIGHT

1. Mr. Soltani 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. Soltani 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 they are making the Proposal with full knowledge of the contents and the consequences if the Proposal is accepted.
3. Mr. Soltani 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. Soltani 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. Soltani hereby waives their right to appeal pursuant to section 54 of the RESA.
6. The Proposal and its contents are made by Mr. Soltani 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. Soltani in any civil proceeding with respect to the matter.

"Amir Soltani"

AMIR SOLTANI

Dated 29th day of March, 2019