

**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**

**RANDY CLAYTON DYCK  
(098238)**

**AND**

**RANDY DYCK PERSONAL REAL ESTATE CORPORATION  
(098238PC)**

**CONSENT ORDER**

RESPONDENT:	Randy Clayton Dyck, Representative, eXp Realty of Canada Inc. dba eXp Realty, while licensed with Little Oak Realty Ltd. dba RE/MAX Little Oak Realty  Randy Dyck Personal Real Estate Corporation
DATE OF REVIEW MEETING:	February 27, 2019
DATE OF CONSENT ORDER:	February 27, 2019
CONSENT ORDER REVIEW COMMITTEE:	E. Mignosa B. Chisholm L. Hrycan D. Peerless
ALSO PRESENT:	E. Duvall E. Seeley, Executive Officer D. Avren, Director, Legal Services J. Whittow, QC, Legal Counsel for the Real Estate Council

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**PROCEEDINGS:**

On February 27, 2019, the Consent Order Review Committee (the “Committee”) resolved to accept the Consent Order Proposal (the “Proposal”) submitted by Randy Clayton Dyck, on his own behalf and on behalf of Randy Dyck Personal Real Estate Corporation.

**WHEREAS** the Proposal, a copy of which is attached hereto, has been executed by Randy Clayton Dyck on his own behalf and on behalf of Randy Dyck Real Estate Corporation.

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

1. Randy Clayton Dyck and Randy Dyck Personal Real Estate Corporation be jointly and severally liable to pay a discipline penalty to the Council in the amount of \$7,500 within ninety (90) days from the date of this Order;
2. Randy Clayton Dyck, 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
3. Randy Clayton Dyck and Randy Dyck 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 Randy Clayton Dyck or Randy Dyck 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 *Real Estate Services Act*.

Dated this 27<sup>th</sup> day of February, 2019, at the City of Vancouver, British Columbia.

ON BEHALF OF THE CONSENT ORDER REVIEW COMMITTEE

“Elana Mignosa”

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Elana Mignosa  
Consent Order Review Committee

Attch.

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**CONSENT ORDER PROPOSAL**

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**BACKGROUND AND FACTS**

This Consent Order Proposal (the "Proposal") is made by Randy Clayton Dyck ("Mr. Dyck") and Randy Dyck Personal Real Estate Corporation ("Randy Dyck PREC") 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. Dyck and Randy Dyck PREC, and the Council have agreed upon the following facts:

1. Mr. Dyck was at all relevant times licensed with Little Oak Realty Ltd. dba RE/MAX Little Oak Realty (the "Brokerage") to provide trading and rental property management services.
2. Mr. Dyck became licensed as Randy Dyck PREC on April 1, 2010.
3. In about 2013, Little Oak sought to expand into the provision of rental property management services, by providing rental property management services for PCP, a BC company which owned a number of rental units, and expanding to additional clients and properties.
4. In May 2014, Little Oak hired a licensee, GD, who was licensed to perform rental property management with Little Oak.
5. The principals of PCP established a new BC company, SXHXXX Management Inc. ("SXHXXX"). Neither SXHXXX nor its principals held a licence to provide any kind of real estate service at any material time. SXHXXX was to manage the rental properties owned by its principals and/or PCP.
6. The Brokerage's business plan was that property management services for property other than that owned by PCP and SXHXXX would be conducted by GD.

7. Despite the fact that SXHXXXX did not have a licence to provide such services, it was identified in advertising, service agreements and tenancy agreements as the provider of rental property management in connection with the Brokerage.
8. In December 2014, Mr. Dyck took over the rental management portfolio when the licensee who had previously been doing so, GD, left the Brokerage. Mr. Dyck did not detect deficiencies in the Brokerage's documentation or the arrangements with SXHXXXX.
9. Mr. Dyck thereafter entered into service agreements on behalf of the Brokerage and tenancy agreements that referenced SXHXXXX, when it was an unlicensed entity.
10. As well, the service agreements used did not contain all of the information required by the Rules. In particular, they did not contain a description of the type of records to be kept by the Brokerage, and did not identify the nature and frequency of accounting statements which were to be provided to the client.
11. As well, tenancy agreements referenced the personal office address of the team with which Mr. Dyck was associated, the EXXXXX Real Estate Team, although this was not the address of the Brokerage.
12. In August 2015, after receipt of an application for licensing by one MM which gave rise to concerns about the provision of rental property management services by SXHXXXX, the Council conducted a brokerage visit and inspection at the Brokerage, including the EXXXXX Real Estate Team office. This disclosed the facts set out above and, further, a brochure advertising rental property management in the name of SXHXXXX was found in which identified the EXXXXX Real Estate Team office as the location from which real estate services were provided.
13. The brochure contained, as a contact number for services, a telephone number for MM. MM had never been licensed to provide real estate services.
14. MM was to be supervised by Mr. Dyck, but engaged in direct communication with clients and tenants.
15. Upon being made aware of the compliance issues, the Brokerage's relationship with SXHXXXX was severed and the deficiencies rectified.
16. No complaint was made to the Council by a client or any member of the public.
17. A Notice of Disciplinary Hearing was issued on March 7, 2018 and served on Mr. Dyck and Randy Dyck PREC.
18. Mr. Dyck was the subject of previous discipline by the Council in 2009. He admitted that he committed professional misconduct pursuant to section 35(1)(a) and (d) of the RESA in that he forged the signature of the complainants on a limited dual agency agreement. Mr. Dyck was suspended for four months, directed to complete two disciplinary education assignments and pay enforcement expenses.

### **PROPOSED FINDINGS OF MISCONDUCT**

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

1. Mr. Dyck for himself and Randy Dyck PREC admit that they committed professional misconduct within the meaning of section 35(1)(a) of RESA in that, between May 2014 and December 2015, they:
  - a. advertised or provided real estate services through a personal office, contrary to section 4-3 and 4-6 of the Rules;
  - b. entered into a service agreement on behalf of the Brokerage that referenced "SXHXXX Management", an unlicensed entity, contrary to section 3-4 and 4-5 of the Rules;
  - c. failed to ensure that the rental property management service agreements he employed included the content required by section 5-1(4) and (5) of the Rules; and
  - d. failed to adequately supervise an unlicensed party, MM, who was performing duties on their behalf, contrary to section 3-2(4) of the Rules.

### **PROPOSED ORDERS**

Based on the Agreed Statement of Facts as outlined herein, and without making any admissions of liability, Mr. Dyck, on behalf of himself and Randy Dyck PREC, is prepared to accept the following findings if made against them by the Council's CORC, pursuant to section 43 of the RESA:

1. Mr. Dyck and Randy Dyck PREC pay a discipline penalty to the Council in the amount of \$7,500.00 within ninety (90) days of the date of this Order.
2. Mr. Dyck, at his own expense, register for and successfully complete the 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. Dyck and Randy Dyck PREC pay enforcement in the amount of \$1,500.00 within sixty (60) days from the date of this Consent Order.
4. If Mr. Dyck and Randy Dyck PREC fail to comply with any of the terms of this Order, a Discipline Committee may suspend or cancel Mr. Dyck and Randy Dyck PREC's licence without further notice.

### **ACKNOWLEDGEMENTS AND WAIVER OF APPEAL RIGHT**

1. Mr. Dyck and Randy Dyck 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. Dyck acknowledge that they have 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 they have 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. Dyck and Randy Dyck 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. Dyck and Randy Dyck 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. Dyck and Randy Dyck PREC hereby waive their right to appeal pursuant to section 54 of the RESA.
6. The Proposal and its contents are made by Mr. Dyck and Randy Dyck 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. Dyck and Randy Dyck PREC or Little Oak in any civil proceeding with respect to the matter.

"Randy Clayton Dyck"

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**Randy Clayton Dyck**

**Dated 12<sup>th</sup> day of October, 2018**

**Randy Clayton Dyck Personal Real Estate Corporation**

**Per:**

"Randy Clayton Dyck"

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**Randy Clayton Dyck, Authorized Signatory**

**Dated 12<sup>th</sup> day of October, 2018**