

THE REAL ESTATE COUNCIL OF BRITISH COLUMBIA
IN THE MATTER OF THE *REAL ESTATE SERVICES ACT*
S.B.C. 2004, c. 42 as amended

AND

IN THE MATTER OF

MICHAEL RYAN MARFORI
(162741)

AND

MIKE MARFORI PERSONAL REAL ESTATE CORPORATION
(162741PC)

CONSENT ORDER

RESPONDENT: Michael Ryan Marfori, Representative, Envoy Realty Ltd. dba Sutton Premier Realty
Mike Marfori Personal Real Estate Corporation

DATE OF REVIEW MEETING: January 30, 2019

DATE OF CONSENT ORDER: January 30, 2019

CONSENT ORDER REVIEW COMMITTEE: S. Heath
Y. Amlani
E. Mignosa

ALSO PRESENT: E. Duvall, Chair
E. Seeley, Executive Officer
D. Avren, Director, Legal Services
Patrick Gilligan-Hackett, Legal Counsel for the Real Estate Council

PROCEEDINGS:

On January 30, 2019, the Consent Order Review Committee ("Committee") resolved to accept the Consent Order Proposal ("COP") submitted by Michael Ryan Marfori, on his own behalf and on behalf of Mike Marfori Personal Real Estate Corporation.

WHEREAS the COP, a copy of which is attached hereto, has been executed by Michael Ryan Marfori, on his own behalf and on behalf of Mike Marfori Personal Real Estate Corporation.

NOW THEREFORE, the Committee having made the findings proposed in the attached COP, and in particular having found that Michael Ryan Marfori and Mike Marfori Personal Real Estate Corporation committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act*, orders that:

1. Michael Ryan Marfori and Mike Marfori Personal Real Estate Corporation each be reprimanded;
2. Michael Ryan Marfori and Mike Marfori Personal Real Estate Corporation be jointly and severally liable to pay a discipline penalty to the Council in the amount of \$3,500.00 within ninety (90) days from the date of this Order;
3. Michael Ryan Marfori, 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;
4. Within sixty (60) days after successfully completing the Real Estate Trading Services Remedial Education Course, Michael Ryan Marfori will submit to the Council a certification signed by his managing broker that he has reviewed with his managing broker, his understanding of the duties of a licensee to the licensee's brokerage and its managing broker; and
5. Michael Ryan Marfori and Mike Marfori Personal Real Estate Corporation be jointly and severally liable to pay enforcement expenses to the Council in the amount of \$1,500.00 within sixty (60) days from the date of this Order.

If Michael Ryan Marfori or Mike Marfori 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 30th day of January, 2019, at the City of Vancouver, British Columbia.

ON BEHALF OF THE CONSENT ORDER REVIEW COMMITTEE

"S. Heath"

Sandra Heath
Consent Order Review Committee

**IN THE MATTER OF THE *REAL ESTATE SERVICES ACT*
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IN THE MATTER OF

**MICHAEL RYAN MARFORI
(162741)**

AND

**MIKE MARFORI PERSONAL REAL ESTATE CORPORATION
(162741PC)**

**CONSENT ORDER PROPOSAL BY MICHAEL RYAN MARFORI AND MIKE MARFORI PERSONAL REAL
ESTATE CORPORATION**

BACKGROUND AND FACTS

This Consent Order Proposal (“Proposal”) is made by Michael Ryan Marfori (“Mr. Marfori”) and Mike Marfori Personal Real Estate Corporation (“MM PREC”) to the Consent Order Review Committee (“CORC”) of the Real Estate Council of British Columbia (“Council”) pursuant to section 41 of the *Real Estate Service Act* (“RESA”).

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

1. Mr. Marfori has been licensed as a Representative, Trading since September, 2011.
2. MM PREC became licensed on 25 September, 2014.
3. Mr. Marfori was at all relevant times licensed as a Representative, Trading with Sutton Premier Realty.
4. In November, 2015 Mr. Marfori was acting as the sellers’ representative in the sale of a residential property located on 68A Avenue in Langley, BC (“Property”).
5. The sellers (“Sellers”) of the Property accepted an offer (“First Offer”) from a buyer (“First Buyer”) who was represented by a buyer’s agent, DM. The resulting contract between the Sellers and the First Buyer (“First Contract”) was conditional and included a provision permitting the Sellers to give notice to the First Buyer to remove her conditions within 48 hours after delivery of the notice (“48 Hour Notice”).

6. A person with a business connection to Mr. Marfori and her partner (“Second Buyers”) were also interested in the Property and ultimately decided to make an offer (“Second Offer”). Mr. Marfori entered into a limited dual agency agreement (“LDAA”) with the Sellers and the Second Buyers. Under the terms of the LDAA, Mr. Marfori was required to be impartial as between the interests of the Sellers and the interests of the Second Buyers.
7. The Sellers accepted the Second Offer and entered into a conditional contract with the Second Buyers (“Second Contract”). The Second Buyers knew they were in a backup position to the First Buyer.
8. After consulting with Mr. Marfori, the Sellers issued the 48 Hour Notice to the First Buyer but only after they had unilaterally revised the language of the 48 Hour Notice to give the First Buyer an extra-contractual extension of the time allowed for removing her conditions. The First Buyer removed her conditions but only within the extra-contractual extension of time which the Sellers had provided in the revised 48 Hour Notice. The sale of the Property to the First Buyer completed.
9. Mr. Marfori failed to include a condition in the Second Contract to ensure the Sellers would be released from the First Contract before the Second Contract became unconditional.
10. Mr. Marfori failed to promptly provide his managing broker with the original or a copy of the Second Contract.
11. The Second Buyers filed a complaint with the Council which the Council investigated.
12. A Notice of Discipline Hearing was issued on 14 June, 2018 and subsequently served on Mr. Marfori on his own behalf and on behalf of MM PREC.
13. Mr. Marfori does not have a prior disciplinary record.

PROPOSED FINDINGS OF MISCONDUCT

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

1. Michael Ryan Marfori and Mike Marfori Personal Real Estate Corporation committed professional misconduct within the meaning of section 35(1)(a) of the RESA in that they:
 - a) failed to act with reasonable care and skill when they did not include a clause to ensure the sellers of a property would be released from a first contract before a second contract became unconditional, contrary to section 3-4 of the Rules;
 - b) failed to act with reasonable care and skill under the terms of a Limited Dual Agency Agreement when they failed to identify the potential for a conflict of interest to arise between their clients after one client decided to prefer the interests of a third party over the interests of the other client, contrary to Rule 3-4 of the Rules; and

- c) failed to promptly provide their managing broker with the original or a copy of a document referred to in Rule 8-5, contrary to section 3-2(1)(b) of the Rules.

PROPOSED ORDERS

Based on the above Facts and the Proposed Findings of Misconduct, Michael Ryan Marfori and Mike Marfori 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. Michael Ryan Marfori and Mike Marfori Personal Real Estate Corporation be reprimanded.
2. Michael Ryan Marfori and Mike Marfori Personal Real Estate Corporation be jointly and severally liable to pay a discipline penalty to the Council in the amount of \$3,500.00 within ninety (90) days of the date of this Order.
3. Michael Ryan Marfori register for and successfully complete the Trading Services Remedial Education Course offered by the Sauder School of Business at the University of British Columbia within the time period directed by the Council.
4. Michael Ryan Marfori meet with his managing broker within 60 days after successfully completing the Trading Services Remedial Education Course to review his understanding of the duties of a licensee to the licensee's brokerage and its managing broker; and
5. Michael Ryan Marfori and Mike Marfori Personal Real Estate Corporation be jointly and severally liable to pay enforcement expenses in the amount of \$1,500.00 within sixty (60) days from the date of this Consent Order.
6. If Michael Ryan Marfori and Mike Marfori Personal Real Estate Corporation fail to comply with any of the terms of this Order, a Discipline Committee may suspend or cancel Michael Ryan Marfori and Mike Marfori Personal Real Estate Corporation's licences without further notice to them.

ACKNOWLEDGEMENTS AND WAIVER OF APPEAL RIGHT

1. Michael Ryan Marfori and Mike Marfori 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. Michael Ryan Marfori and Mike Marfori 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. Michael Ryan Marfori and Mike Marfori 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. Michael Ryan Marfori and Mike Marfori 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. Michael Ryan Marfori and Mike Marfori 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 Michael Ryan Marfori and Mike Marfori 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 Michael Ryan Marfori and Mike Marfori Personal Real Estate Corporation in any civil proceeding with respect to the matter.

"M. R. Marfori"

**Michael Ryan Marfori on his own behalf and on
behalf of Mike Marfori Personal Real Estate
Corporation**

Dated 29 day of OCTOBER, 2018