

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
LUKE SHEN QING SUN
(106329)

CONSENT ORDER

RESPONDENT: Luke Shen Qing Sun, Representative, Pan Pacific Platinum Real Estate Services Inc. dba LeHolmes Realty, while licensed with New World Realty Ltd.

DATE OF REVIEW MEETING: January 30, 2019

DATE OF CONSENT ORDER: January 30, 2019

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

ALSO PRESENT: E. Duvall, Chair
E. Seeley, Executive Officer
D. Avren, Director, Legal Services
C. Davies, 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 Luke Shen Qing Sun.

WHEREAS the COP, a copy of which is attached hereto, has been executed by Luke Shen Qing Sun.

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

1. Luke Shen Qing Sun have his licence suspended for fourteen (14) days;

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2. Luke Shen Qing Sun will not act as an unlicensed assistant during the time of his licence suspension;
 3. Luke Shen Qing Sun, at his own expense, register for and successfully complete the REIC2600 Ethics in Business Practice, as provided by the Real Estate Institute of Canada, in the time period as directed by the Council;
 4. Luke Shen Qing Sun, 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
 5. Luke Shen Qing Sun pay enforcement expenses to the Council in the amount of \$1,500.00 within sixty (60) days from the date of this Order.

If Luke Shen Qing Sun 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 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*
S.B.C. 2004, c. 42 as amended**

AND

**IN THE MATTER OF
LUKE SHEN QING SUN
106329**

CONSENT ORDER PROPOSAL BY LUKE SHEN QING SUN

BACKGROUND AND FACTS

This Consent Order Proposal (the "Proposal") is made by Luke Shen Qing Sun ("Mr. Sun") 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. Sun and the Council have agreed upon the following facts:

1. Mr. Sun (106329) has been licensed as a representative since 1993.
2. Mr. Sun has been licensed to provide trading services since 1993 (other than two brief gaps in May 2001 and February 2017).
3. Mr. Sun was at all relevant times licensed as a representative with New World Realty Ltd. (the "Brokerage").
4. This matter concerns Mr. Sun's conduct when he acted as buyer's agent for himself as buyer in the purchase and sale of a property located on Sherbrooke Street, Vancouver BC (the "Property").
5. Mr. Sun viewed the Property on January 18, 2017.
6. On January 19, 2017, Mr. Sun submitted to JW, the listing agent, an offer of purchase and sale of the Property where he acted as buyer's agent for himself as the buyer. The offer specified a purchase price of \$1,200,000, was subject-free, and had a number of warranties on the part of the seller, including a warranty that there was no easement, right of way, or encroachment on the Property. Mr. Sun also provided JW with a copy of a bank draft in the amount of \$65,000 payable to the Brokerage representing the deposit on the purchase price, and a signed Disclosure of Interest in Trade form indicating himself as the buyer.
7. The offer was not accepted.

8. JW advised Mr. Sun that the sellers were looking for a higher purchase price and were also unable to make some of the warranties Mr. Sun was seeking.
9. On the evening of January 19, 2017, Mr. Sun provided JW with a new offer to purchase the Property. The offer was subject-free and included the following terms: purchase price of \$1,230,000; deposit of \$65,000 to be paid within 24 hrs of acceptance; and completion date of March 15, 2017. The new offer did not contain the seller's warranty of no easement, right of way or encroachment that appeared in the earlier offer.
10. The sellers accepted the offer, and on January 20, 2017, JW forwarded to Mr. Sun a signed copy of the contract of purchase and sale of the property signed by the sellers (the "Contract").
11. In the meantime, Mr. Sun had concerns regarding the existence of encroachments on the Property, and expressed to JW that he wished to terminate the Contract. JW advised Mr. Sun that the sellers were prepared to proceed with the Contract.
12. Pursuant to the terms of the Contract, the deposit was due to be delivered to the Brokerage within 24 hours of acceptance, i.e., by January 21, 2017.
13. Mr. Sun failed to deliver the deposit to the Brokerage by January 21, 2017.
14. Mr. Sun did not advise his managing broker, AP, that the deposit was not delivered according to the time stipulated by the Contract. In addition, Mr. Sun did not promptly provide AP or the Brokerage with the documents relating to the Contract. Mr. Sun also did not advise AP about his activities and services relating to the Contract, namely: that he was acting as buyer's agent for himself as buyer; that he had concerns about encroachments on the Property; that he wished to terminate the contract; and that he did not intend to deliver the deposit to the Brokerage.
15. On January 23, 2017, which fell on a Monday, JW submitted his sales report and transaction sheet regarding the Contract to his brokerage.
16. The conveyance department of JW's brokerage provided the conveyance department of the Brokerage with a commission letter regarding the Contract.
17. Over the course of the next few days, various individuals from the Brokerage repeatedly contacted and/or attempted to contact Mr. Sun requesting delivery of the deposit, as well as delivery of all documentation relating to the Contract.
18. Mr. Sun was generally unresponsive to the Brokerage's questions and requests and continued to fail to deliver the deposit and the Contract documents to the Brokerage.
19. On January 30, 2017, AP advised Mr. Sun in writing that if Mr. Sun did not deliver the deposit as required, he would surrender Mr. Sun's licence. Mr. Sun still did not deliver the deposit to the Brokerage.

20. On January 31, 2017, the conveyance department of the Brokerage advised the conveyance department of JW's brokerage that the deposit had not yet been received.
21. The Contract collapsed and Mr. Sun's license was surrendered by the Brokerage on February 9, 2017.
22. On February 17, the Council received a complaint from the sellers.
23. On February 24, 2017, the sellers and Mr. Sun entered into a release and discharge of the Contract.
24. On February 26, 2017, the sellers sold the Property to a different buyer.
25. Mr. Sun has no prior discipline history with the Council.

PROPOSED FINDINGS OF MISCONDUCT

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

1. Mr. Sun committed professional misconduct within the meaning of section 35(1)(a) of the RESA in that:
 - a. he failed to promptly deliver to the Brokerage the bank draft in the amount of \$65,000 representing the deposit payable under the Contract, contrary to section 27(1)(a) of RESA;
 - b. he failed to immediately notify his managing broker that while he had a bank draft representing the deposit for the purchase and sale of the Property, he had not delivered it to the Brokerage pursuant to the terms of the Contract, contrary to section 3-2(2)(b) of the Rules;
 - c. he failed to promptly provide to his managing broker all documentation with respect to the Contract, contrary to section 3-2(1)(b) of the Rules;
 - d. he failed to keep his managing broker informed of the real estate services being provided and activities being performed with respect to the purchase and sale of the Property, including:
 - i. acting as buyer's agent for himself as buyer with respect to the Property;
 - ii. deciding to allow the Contract to collapse; and
 - iii. deciding to not deliver the deposit as required by the terms of the Contract

contrary to section 3-2(2)(a) of the Rules.

PROPOSED ORDERS

Based on the facts herein and the Proposed Findings of Misconduct, Mr. Sun 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. Sun's licence be suspended for fourteen (14) days .
2. Mr. Sun be prohibited from acting as an unlicensed assistant during the licence suspension period.
3. Mr. Sun, at his own expense, register for and successfully complete the course: REIC2600 Ethics in business Practice, offered by the Real Estate Institute of Canada, within the time period directed by the Council.
4. Mr. Sun, 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.
5. Mr. Sun pay enforcement expenses in the amount of \$1,500 within sixty (60) days from the date of this Consent Order.
6. If Mr. Sun fails to comply with any of the terms of this Order, a Discipline Committee may suspend or cancel Mr. Sun's licence without further notice to him.

ACKNOWLEDGEMENTS AND WAIVER OF APPEAL RIGHT

1. Mr. Sun 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. Sun 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. Sun 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. Sun 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. Sun hereby waives his right to appeal pursuant to section 54 of the RESA.
6. The Proposal and its contents are made by Mr. Sun 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. Sun in any civil proceeding with respect to the matter.

"L. S. Q. Sun"

LUKE SHEN QING SUN

Dated 3rd day of December, 2018