

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
TIMOTHY ANDREW SADER
(099813)

CONSENT ORDER

RESPONDENT: Timothy Andrew Sader, Managing Broker,
Haven Management Co. Ltd. dba Haven
Properties

DATE OF CONSENT ORDER: January 21, 2019

CONSENT ORDER REVIEW COMMITTEE: E. Mignosa
Y. Amlani
L. Hrycan
N. Nicholson

PROCEEDINGS:

WHEREAS on December 12, 2018, a Consent Order Proposal (COP) was submitted to a Consent Order Review Committee (the "Committee") by Timothy Andrew Sader but was not accepted by that Committee.

WHEREAS Timothy Andrew Sader has submitted an amended COP.

WHEREAS the amended COP, a copy of which is attached hereto, has been executed by Timothy Andrew Sader.

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

1. Timothy Andrew Sader be reprimanded;
2. Timothy Andrew Sader pay a discipline penalty to the Council in the amount of \$10,000 within ninety (90) days from the date of this Order;

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3. Timothy Andrew Sader, at his own expense, register for and successfully complete the Broker's 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. Timothy Andrew Sader pay enforcement expenses to the Council in the amount of \$1,500 within sixty (60) days from the date of this Order.

If Timothy Andrew Sader 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 21st day of January, 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*
S.B.C. 2004, c. 42 as amended**

AND

IN THE MATTER OF

TIMOTHY ANDREW SADER

CONSENT ORDER PROPOSAL BY TIMOTHY ANDREW SADER

BACKGROUND AND FACTS

This Consent Order Proposal (the "Proposal") is made by Timothy Andrew Sader ("Mr. Sader") 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. Sader and the Council have agreed upon the following facts:

1. Mr. Sader (099813) has been licensed as a representative since 1992 and as a managing broker since 2008.
2. Mr. Sader was at all relevant times licensed as a managing broker with Haven Properties.

FILE# 16-140

3. The Council received a complaint that DD, a licensee of the Brokerage, was providing rental property management services while suspended by the Council.
4. Council staff conducted an internet search that revealed five Craigslist advertisements for rental properties that contained Mr. Sader's name and DD's telephone number.
5. On July 21, 2016, Council staff contacted the number on the advertisements by text and telephone. A woman identifying herself as DD answered the telephone and when staff asked for Tim Sader, was advised that she was the person who was dealing with the rental properties.
6. When Council staff asked for her to repeat her name she identified herself as "Lisa" and began making representations about the rental properties.
7. On July 21, 2016, Council staff attended an open house that DD was hosting to obtain prospective tenants. DD made representations about the property, as well as representations about another property that the Brokerage had as a client, and provided Council staff with a Brokerage application form.

8. In response to Council's investigation, Mr. Sader stated that DD placed the Craigslist advertisements and that he was unaware of them.
9. Mr. Sader also stated that it was his understanding that during her suspension, DD would be updating records from the Brokerage's hardcopy files to the new database program and file paperwork.
10. Mr. Sader stated that a printout of what unlicensed rental property management assistants can and cannot do was provided to DD. However, there was no written communication with respect to her duties during her suspension period.
11. The checklist of duties that Mr. Sader referred to are those that unlicensed rental property management assistants are permitted to undertake as an employee of the brokerage under exemption 2.14 of the Regulation. Since DD was a suspended licensee at the time, she could not perform duties under the exemption and would not be able to perform any of the duties on the checklist that were considered to be real estate services.
12. Mr. Sader stated he was not aware that DD was showing rental properties and communicating with potential tenants while she was suspended. Mr. Sader further stated that at the time these events occurred the Brokerage was understaffed and that DD was not paid for the services she provided in the course of her suspension.
13. Council staff obtained Brokerage documents that showed during the period of her suspension, DD, on behalf of the Brokerage:
 - a. on or about July 13, 2016, signed a Parking Spot Rental Agreement for a property on 104th Avenue, Surrey, BC;
 - b. on or about July 18, 2016, signed a Residential Tenancy Agreement for a property on 104th Avenue, Surrey, BC;
 - c. provided rental property management and trading services to clients CY, on or about July 20, 2016.

FILE# 16-052

14. In the course of the investigation outlined above, Council staff discovered that WKC, a licensee, was a Brokerage employee.
15. Mr. Sader stated the he was introduced to WKC by DD, with the idea that once he completed his property management licence he would become a property manager at the Brokerage.
16. Mr. Sader stated he was aware that WKC was licensed with another brokerage, but that he hired WKC at the Brokerage to provide IT and marketing support while he was working towards his rental property management licence.
17. Council staff reviewed the letter of employment made to WC by Mr. Sader that stated the Brokerage was hiring him as a property management assistant starting April 18, 2016, and his duties would also include administration support, IT support and marketing.

18. Mr. Sader stated he had no knowledge of the email exchange between DD, WKC, and a client of the Brokerage, in which DD asked WKC to provide a list of comparable sales in the building so the owner/client could determine whether she wanted to sell the property or continue to rent it.
19. WKC sent an email from the Brokerage email address with the information requested and a representation of the average selling price.
20. A Notice of Discipline Hearing was issued on September 20, 2018, and served on Timothy Andrew Sader.
21. Mr. Sader does not have a prior discipline history with the Council.

PROPOSED FINDINGS OF MISCONDUCT

For the sole purposes of the Proposal and based on the facts outlined herein, Timothy Andrew Sader proposes the following findings of misconduct be made by the CORC:

1. Mr. Sader committed professional misconduct within the meaning of section 35(1)(a) of RESA in that:
 - a. on or about July 2016, while licensed as a managing broker with Haven Properties (the "Brokerage"), he failed to ensure that the business of the Brokerage was carried out competently and in accordance with the Act, when he failed to ensure that:
 - i. DD, a licensee, did not provide real estate services during the term of her suspension, and
 - ii. WKC, a licensee, who was licensed in relation with another brokerage, was not providing real estate services through the Brokerage,contrary to section 6(2) of the RESA and section 3-1(1) of the Rules.

PROPOSED ORDERS

Based on the facts herein and the Proposed Findings of Misconduct, Mr. Sader 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. Sader be reprimanded.
2. Mr. Sader pay a discipline penalty to the Council in the amount of \$10,000 within ninety (90) days of the date of this Order.
3. Mr. Sader, at his own expense, register for and successfully complete the Broker's 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. Mr. Sader 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. Sader fails to comply with any of the terms of this Order, a Discipline Committee may suspend or cancel Mr. Sader's licence without further notice to him.

ACKNOWLEDGEMENTS AND WAIVER OF APPEAL RIGHT

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

"Timothy Andrew Sader"

TIMOTHY ANDREW SADER

Dated 11th day of January, 2019