

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

DI (TONY) XU
(153350)

AND

TONY XU PERSONAL REAL ESTATE CORPORATION
(153350PC)

CONSENT ORDER

RESPONDENT: Di (Tony) Xu, representative, Seafair Realty Ltd dba Sutton Group Seafair Realty
Tony Xu Personal Real Estate Corporation

DATE OF REVIEW MEETING: October 10, 2018

DATE OF CONSENT ORDER: October 10, 2018

CONSENT ORDER REVIEW COMMITTEE: J. Daly
L. Hrycan
E. Mignosa
S. Sidhu
R. Wong

ALSO PRESENT: E. Seeley, Executive Officer
D. Avren, Director, Legal Services
Sabinder Sheina, Legal Counsel for the Real Estate Council

PROCEEDINGS:

On October 10, 2018, the Consent Order Review Committee (“Committee”) resolved to accept the Consent Order Proposal (“COP”) submitted by Di (Tony) Xu, on his own behalf and on behalf of Tony Xu Personal Real Estate Corporation.

WHEREAS the COP, a copy of which is attached hereto, has been executed by Di (Tony) Xu, on his own behalf and on behalf of Tony Xu Personal Real Estate Corporation.

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

1. Di (Tony) Xu and Tony Xu Personal Real Estate Corporation each be reprimanded;
2. Di (Tony) Xu and Tony Xu Personal Real Estate Corporation have their licences suspended for 30 days;
3. Di (Tony) Xu and Tony Xu Personal Real Estate Corporation will not act as an unlicensed assistant during the time of their licence suspension;
4. Di (Tony) Xu and Tony Xu Personal Real Estate Corporation be jointly and severally liable to pay a discipline penalty to the Council in the amount of \$1,500.00 within ninety (90) days from the date of this Order;
5. Di (Tony) Xu, 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
6. Di (Tony) Xu and Tony Xu 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 Di (Tony) Xu or Tony Xu 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 10th day of October, 2018, at the City of Vancouver, British Columbia.

ON BEHALF OF THE CONSENT ORDER REVIEW COMMITTEE

“J. Daly”

John Daly
Consent Order Review Committee

Atch.

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

AND

IN THE MATTER OF

**DI (TONY) XU
(153350)**

AND

**TONY XU PERSONAL REAL ESTATE CORPORATION
(153350PC)**

**CONSENT ORDER PROPOSAL BY DI (TONY) XU AND TONY XU PERSONAL REAL ESTATE
CORPORATION**

BACKGROUND AND FACTS

This Consent Order Proposal (the "Proposal") is made by Di (Tony) Xu ("Mr. Xu") and Tony Xu Personal Real Estate Corporation 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 purpose of the Proposal, Mr. Xu on his own behalf and on behalf of Tony Xu Personal Real Estate Corporation and the Council have agreed upon the following facts:

1. Mr. Xu (153350) has been licensed as a representative in trading services since 2007.
2. Mr. Xu became licensed as Tony Xu Personal Real Estate Corporation on August 1, 2014.
3. Mr. Xu was at all relevant times licensed as a representative with Seafair Realty Ltd. dba Sutton Seafair Realty ("Brokerage").
4. This matter arose in the course of investigating a complaint about licensees providing services to immigration settlement companies. Mr. Xu stated to Council that he received referrals from the immigration settlement companies.
5. Mr. Xu provided copies of the contract of purchase and sale for the property transactions at Arlington Street, Rosamond Avenue and Regent Street ("Property Transactions") that arose out of the referrals.

6. Mr. Xu stated to Council, "I do business practice purely on an individual basis, so I did not inform my managing broker for each case."
7. Mr. Xu stated that he disclosed the remuneration that he earned from the Property Transactions to his clients. However, he did not disclose the amount of commission that he would be paying for the referral or the identity of the referral source to his clients.
8. Mr. Xu stated that he did not think the referral source had to be disclosed to his clients. However, when he spoke to his managing broker, he was informed that was not the case. He stated that he will make sure that he does not make this mistake again.
9. A Notice of Discipline Hearing was issued on April 26, 2016 and served on Mr. Xu on his own behalf and on behalf of Tony Xu Personal Real Estate Corporation.
10. Mr. Xu and Tony Xu Personal Real Estate Corporation do not have a discipline history with the Council.

PROPOSED FINDINGS OF MISCONDUCT

For the sole purposes of the Proposal and based on the Facts outlined herein, Mr. Xu and Tony Xu Personal Real Estate Corporation propose the following findings of misconduct be made by the CORC:

1. Mr. Xu and Tony Xu Personal Real Estate Corporation committed professional misconduct within the meaning of section 35(1)(a) of the RESA in that:

he failed to keep his managing broker informed of the real estate services he was providing and other activities being performed, specifically that he was being referred clients by immigration settlement companies and was paying them referral fees, contrary to section 3-2(2)(a) of the Council Rules.

PROPOSED ORDERS

Based on the Facts herein and the Proposed Findings of Misconduct Mr. Xu and Tony Xu 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. Mr. Xu and Tony Xu Personal Real Estate Corporation be reprimanded.
2. Mr. Xu and Tony Xu Personal Real Estate Corporation's licences be suspended for 30 days.
3. Mr. Xu and Tony Xu Personal Real Estate Corporation be prohibited from acting as an unlicensed assistant during their licence suspension period.

4. Mr. Xu and Tony Xu Personal Real Estate Corporation be jointly and severally liable to pay a discipline penalty to the Council in the amount of \$1,500 within ninety (90) days of the date of this Order.
5. Mr. Xu, 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.
6. Mr. Xu and Tony Xu Personal Real Estate Corporation be jointly and severally liable to pay enforcement expenses in the amount of \$1,500 within sixty (60) days from the date of this Consent Order.
7. If Mr. Xu and Tony Xu Personal Real Estate Corporation fail to comply with any of the terms of this Order, a Discipline Committee may suspend or cancel Mr. Xu and Tony Xu Personal Real Estate Corporation's licences without further notice to them.

ACKNOWLEDGEMENTS AND WAIVER OF APPEAL RIGHT

1. Mr. Xu and Tony Xu 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. Mr. Xu and Tony Xu 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. Mr. Xu and Tony Xu 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. Mr. Xu and Tony Xu 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. Mr. Xu and Tony Xu 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 Mr. Xu and Tony Xu 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

Mr. Xu and Tony Xu Personal Real Estate Corporation in any civil proceeding with respect to the matter.

"D. Xu"

**DI (TONY) XU on his own behalf and on behalf of
TONY XU PERSONAL REAL ESTATE CORPORATION**

Dated 25th day of September, 2018

**Signature of DI (TONY) XU on his own behalf and
on behalf of TONY XU PERSONAL REAL ESTATE
CORPORATION witnessed on the above date by:**

"O. Ahmed"

Witness Name *(Please Print)*

"O. Ahmed"

Witness Signature