

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
JOHN KIYOSHI YETMAN
(155125)

CONSENT ORDER

RESPONDENT:	John Kiyoshi Yetman representative with RLK Realty dba Royal LePage Kelowna
DATE OF REVIEW MEETING:	May 24, 2018
DATE OF CONSENT ORDER:	June 21, 2018
CONSENT ORDER REVIEW COMMITTEE:	R. Holmes, Q.C. S. Heath L. Hrycan E. Mignosa S. Sidhu
ALSO PRESENT:	E. Seeley, Executive Officer G. Thiele, Director, Legal Services A. Bjornson, Legal Counsel for the Real Estate Council

PROCEEDINGS:

On May 24, 2018, a Consent Order Proposal (“COP”) submitted by John Kiyoshi Yetman was considered by the Consent Order Review Committee (the “Committee”) but not accepted. On June 5, 2018, a revised COP acceptable to the Committee was submitted by John Kiyoshi Yetman.

WHEREAS the COP, a copy of which is attached hereto, has been executed by John Kiyoshi Yetman.

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

1. John Kiyoshi Yetman be reprimanded;

2. John Kiyoshi Yetman pay a discipline penalty to the Council in the amount of \$3,000 within ninety (90) days from the date of this Order;
3. John Kiyoshi Yetman 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. John Kiyoshi Yetman pay enforcement expenses to the Council in the amount \$1,500 within sixty (60) days from the date of this Order.

If John Kiyoshi Yetman 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 June, 2018, at the City of Vancouver, British Columbia.

ON BEHALF OF THE CONSENT ORDER REVIEW COMMITTEE



R. Holmes, Q.C., Chair
Consent Order Review Committee

Attch.

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

IN THE MATTER OF

**JOHN KIYOSHI YETMAN
(155125)**

CONSENT ORDER PROPOSAL BY MR. YETMAN

BACKGROUND AND FACTS

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

1. Mr. Yetman was, at all material times, licensed as a representative with RLK Realty Ltd. dba Royal LePage Kelowna (X026688)(the "Brokerage").
2. Mr. Yetman (155125) has been licensed as a representative since 2008.
3. This matter relates to a property on Philpott Road, Kelowna, British Columbia (the "Property").
4. On August 16, 2016, the buyers and sellers entered into a Contract of Purchase and Sale (the "Contract"). The buyers were represented by Mr. Yetman.
5. Pursuant to the Contract, a deposit of \$10,000 (the "Deposit") was to be paid by the buyers within 24 hours of subject removal.
6. On or before September 10, 2016, all subjects were removed.
7. Following removal of the subjects, Mr. Yetman forgot to request the Deposit from the Buyers. The Deposit was not paid by the buyers within 24 hours of subject removal.
8. On September 20, 2016, the Brokerage realized that the Brokerage was not in receipt of the Deposit. The Brokerage contacted Mr. Yetman and informed him that the Deposit had not been received.
9. On September 21, 2016, the buyers provided the Deposit to the Brokerage. The buyers and sellers also executed a late deposit acknowledgement form.

10. On September 23, 2016, the transaction completed.
11. On October 7, 2016, the Brokerage's managing broker self-reported to Council the late payment of the Deposit. The managing broker acknowledged that Brokerage staff did not follow office procedure and did not initially report the late deposit to the managing broker.
12. On October 11, 2016, one of the sellers filed a complaint with the Council regarding, *inter alia*, the late payment of the Deposit.
13. A Notice of Discipline Hearing was issued on April 9, 2018 and served on Mr. Yetman.

PROPOSED FINDINGS OF MISCONDUCT

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

1. Mr. Yetman committed professional misconduct within the meaning of section 35(1)(a) of RESA in that, while licensed as a representative with Royal LePage Kelowna and acting as an agent for the buyers in the purchase and sale of a property located on Philpott Road, Kelowna, BC:
 - a. he failed to act in the best interests of his clients and without reasonable care and skill when he did not ensure that his clients delivered their deposit in accordance with the timeline required under the Contract of Purchase and Sale, and contrary to sections 3-3(a) and 3-4 of the Rules.

PROPOSED ORDERS

Based on the facts herein and the Proposed Findings of Misconduct, Mr. Yetman 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. Yetman be reprimanded.
2. Mr. Yetman is liable to pay a discipline penalty to the Council in the amount of \$3,000 within ninety (90) days of the date of this Order.
3. Mr. Yetman, at his own expense, shall 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.
4. Mr. Yetman is liable to pay enforcement in the amount of \$1,500 within sixty (60) days from the date of this Consent Order.
5. If Mr. Yetman fails to comply with any of the terms of this Order, a Discipline Committee may suspend or cancel his licence without further notice.

ACKNOWLEDGEMENTS AND WAIVER OF APPEAL RIGHT

1. Mr. Yetman 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. Yetman 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 he is making the Proposal with full knowledge of the contents and the consequences if the Proposal is accepted.
3. Mr. Yetman 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. Yetman 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. Yetman hereby waives his right to appeal pursuant to section 54 of the RESA.
6. The Proposal and its contents are made by Mr. Yetman 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. Yetman in any civil proceeding with respect to the matter.



JOHN KIYOSHI YETMAN

Dated 5 day of JUNE, 2018

Signature of Mr. Yetman witnessed on the above
date by

FRANCIS BRAAM

Witness Name (Please Print)



Witness Signature