

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 ANTHONY UY
(148389)

AND

MICHAEL UY PERSONAL REAL ESTATE CORPORATION
(148389PC)

CONSENT ORDER

RESPONDENT: Michael Anthony Uy, representative,
Oakwyn Realty Ltd. while licensed with
Westmar Realty Ltd.

Michael Uy Personal Real Estate
Corporation

DATE OF REVIEW MEETING: May 24, 2018

DATE OF CONSENT ORDER: July 4, 2018

CONSENT ORDER REVIEW COMMITTEE: R. Holmes, QC
S. Sidhu
E. Mignosa

ALSO PRESENT: E. Seeley, Executive Officer
G. Thiele, Director, Legal Services
Patrick Gilligan-Hackett, Legal Counsel
for the Real Estate Council

PROCEEDINGS:

On May 24, 2018, a Consent Order Proposal (“COP”) submitted by Michael Anthony Uy on his own behalf and on behalf of Michael Uy Personal Real Estate Corporation was considered by the Consent Order Review Committee (the “Committee”) but not accepted. On June 21, 2018, a revised COP acceptable to the Committee was submitted by Michael Anthony Uy on his own behalf and on behalf of Michael Uy Personal Real Estate Corporation.

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

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

1. Michael Anthony Uy and Michael Uy Personal Real Estate Corporation each be reprimanded;
2. Michael Anthony Uy and Michael Uy Personal Real Estate Corporation be jointly and severally liable to pay a discipline penalty to the Council in the amount of \$5,000 within ninety (90) days from the date of this Order;
3. Michael Anthony Uy 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
4. Michael Anthony Uy and Michael Uy Personal Real Estate Corporation be jointly and severally liable to pay enforcement expenses to the Council in the amount \$1,500 within sixty (60) days from the date of this Order.

If Michael Anthony Uy or Michael Uy 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 4th day of July, 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
S.B.C. 2004, c. 42

AND:

IN THE MATTER OF
MICHAEL ANTHONY UY
(148389)

AND

MICHAEL UY PERSONAL REAL ESTATE CORPORATION
(148389PC)

CONSENT ORDER PROPOSAL BY MICHAEL ANTHONY UY AND MICHAEL UY
PERSONAL REAL ESTATE CORPORATION

Background and Facts

This Consent Order Proposal (“Proposal”) is made by Michael Anthony Uy (“Mr. Uy”), on his own behalf and on behalf of Michael Uy Personal Real Estate Corporation, to the Consent Order Review Committee (“CORC”) of the Real Estate Council of British Columbia (“Council”) pursuant to section 41 of the *Real Estate Services Act* (“RESA”).

For the purposes of this Proposal, Mr. Uy on his own behalf and on behalf of Michael Uy Personal Real Estate Corporation and the Council have agreed upon the following facts:

1. Mr. Uy has been licensed as a Representative, Trading since April, 2006.
2. Michael Uy Personal Real Estate Corporation became licensed in April, 2008.
3. Mr. Uy was at all relevant times licensed as a Representative, Trading with Westmar Realty Ltd.
4. On September 10, 2009 Mr. Uy and another licensee (“Second Licensee”) entered into an MLS Listing Contract (“Listing Contract”) with “[REDACTED]” with respect to property located at 2XX – 9XX West 10th Avenue, Vancouver, B.C. (“Property”). The “[REDACTED]” referred to in the Listing Contract was

██████████ (“Ms. ██████████”). Mr. Uy and the Second Licensee were identified as designated agents in the Listing Contract.

5. At all material times, the registered owner of the Property was ██████████ (“Mr. ██████████”). Mr. ██████████ was Ms. ██████████’s ex-husband.
6. The FINTRAC Client Information Record Form associated with the Listing Agreement and prepared by Mr. Uy and the Second Licensee recorded Ms. ██████████’s driver’s licence number as the source of client identification accepted by Mr. Uy.
7. Mr. Uy says that at the time of entering into the Listing Agreement Ms. ██████████ told him that:
 - (a) she was the beneficial owner of the Property and that Mr. ██████████ held the Property in trust for her; and
 - (b) she was granted a power of attorney by Mr. ██████████ to deal with the sale of the Property.
8. On September 10, 2009 Mr. Uy published a real estate advertisement for the Property on the MLS (“Advertisement”).
9. On September 17, 2009 Ms. ██████████, as seller, entered into a contract of purchase and sale with SLD, as buyer, with a completion date of December 1, 2009 (“Contract”).
10. When Mr. Uy entered into the Listing Agreement, published the Advertisement, and acted as Ms. ██████████’s designated agent in connection with the sale of the Property to SLD, he had not obtained the consent of Mr. ██████████ to the sale of the Property.
11. On September 24, 2009 Mr. ██████████ executed a power of attorney in favour of Ms. ██████████ whereby Ms. ██████████ was granted the power to execute any contracts of purchase and sale, any addendum thereto, and any other such documents conducive and incidental to the sale of the Property (“POA”).
12. On November 12, 2009 Mr. ██████████ executed a Trust Agreement made effective May 31, 2005 which confirmed that he was holding the title to the Property in trust for Ms. ██████████ (“Trust Agreement”).
13. The Trust Agreement acknowledged and confirmed that Ms. ██████████ had entered into the Contract to sell the Property with a completion date of December 1, 2009.
14. On November 27, 2009 the POA was registered on the title to the Property.

15. On December 1, 2009 the sale of the Property completed and title to the Property was transferred to SLD.
16. Mr. Uy admits that when he determined that Ms. [REDACTED] was not the registered owner of the Property he failed to take reasonable steps to verify that Ms. [REDACTED] had the legal authority to sell the Property.
17. Mr. Uy has no prior disciplinary history.

Proposed Findings of Misconduct

For the sole purposes of the Proposal and based on the Facts outlined herein Mr. Uy, on his own behalf and on behalf of Michael Uy Personal Real Estate Corporation, proposes the following findings of misconduct be made by the CORC:

Mr. Uy committed professional misconduct within the meaning of section 35(1)(a) of the RESA, when, in his capacity as the seller's agent in the sale of the residential property located at 2XX – 9XX West 10th Avenue, Vancouver, B.C. ("Property"), he:

1. contravened section 3-4 of the Rules by failing to take sufficient steps to ensure he was dealing with either the registered owner of the Property or a person who, despite not being the registered owner of the Property, had the legal authority to sell the Property; and
2. contravened section 4-8 of the Rules when he published real estate advertising, being the listing for the Property on MLS, which indicated the Property was being offered for sale or other disposition without obtaining consent of the registered owner of the Property or an authorized agent of the registered owner of the Property to the advertising.

Proposed Orders

Based on the Facts herein and the Proposed Findings of Misconduct, Mr. Uy on his own behalf and on behalf of Michael Uy Personal Real Estate Corporation proposes that the Notice of Discipline Hearing and the Amended Notice of Discipline Hearing in this matter be resolved through the following Orders made by the CORC, pursuant to section 43 of the RESA:

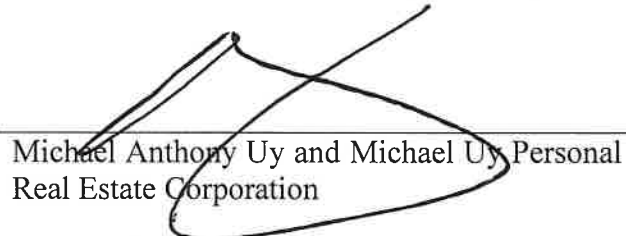
1. Mr. Uy and Michael Uy Personal Real Estate Corporation be reprimanded.

2. Mr. Uy and Michael Uy Personal Real Estate Corporation shall be jointly and severally liable to pay a discipline penalty to the Council in the amount of \$5,000.00 within ninety (90) days of the date of this Order.
3. At his own expense, Mr. Uy 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. Uy and Michael Uy Personal Real Estate Corporation be jointly and severally liable to pay enforcement expenses pursuant to section 44 of RESA in the amount of \$1,500.00 within sixty (60) days from the date of the Order herein.
5. If Mr. Uy and Michael Uy Personal Real Estate Corporation fail to comply with any of the terms of the Order set out above, a Discipline Hearing Committee may suspend or cancel their licenses without further notice to them pursuant to section 43(3) and 43(4) of the RESA.

Acknowledgements and Waiver of Appeal Rights

1. Mr. Uy, on his own behalf and on behalf of Michael Uy Personal Real Estate Corporation, 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. Uy, on his own behalf and on behalf of Michael Uy Personal Real Estate Corporation, 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 in his own right and on behalf of with full knowledge of the contents and the consequences if the Proposal is accepted.
3. Mr. Uy, on his own behalf and on behalf of Michael Uy Personal Real Estate Corporation, 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. Uy, on his own behalf and on behalf of Michael Uy Personal Real Estate Corporation, 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. Uy, on his own behalf and on behalf of Michael Uy Personal Real Estate Corporation, hereby waives the right to appeal pursuant to section 54 of the RESA.
6. The Proposal and its contents are made by Mr. Uy, on his own behalf and on behalf of Michael Uy 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. Uy, on his own behalf and on behalf of Michael Uy Personal Real Estate Corporation, in any civil proceeding with respect to the matter.



Michael Anthony Uy and Michael Uy Personal
Real Estate Corporation

Dated 21st day of June, 2018