

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

Sailendra Jainesh (John) Prasad
(159794)

CONSENT ORDER

RESPONDENT: Sailendra Jainesh (John) Prasad, currently unlicensed, while licensed with Triovest Realty Advisors (B.C.) Ltd.

DATE OF REVIEW MEETING: April 11, 2018

DATE OF CONSENT ORDER: April 11, 2018

CONSENT ORDER REVIEW COMMITTEE: R. Holmes Q.C.
A. Leong
E. Mignosa

ALSO PRESENT: G. Thiele, Director, Legal Services
Allison Jackson, Legal Counsel for the Real Estate Council

PROCEEDINGS:

On April 11, 2018, 2017, the Discipline Committee ("Committee") resolved to accept the Consent Order Proposal ("COP") submitted by Sailendra Jainesh (John) Prasad.

WHEREAS the COP, a copy of which is attached hereto, has been executed by Sailendra Jainesh (John) Prasad.

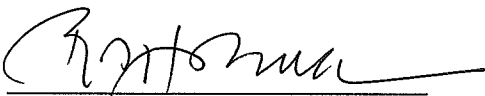
NOW THEREFORE, the Committee having made the findings proposed in the attached COP, and in particular having found that Sailendra Jainesh (John) Prasad committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act*, orders that:

1. Sailendra Jainesh (John) Prasad is prohibited from applying for licensing for five (5) years from the date of this Order;

2. Sailendra Jainesh (John) Prasad pay a discipline penalty to the Council in the amount of \$7,500.00 within ninety (90) days of the date of this Order; and
3. Sailendra Jainesh (John) Prasad pay enforcement expenses of this Consent Order to the Council in the amount \$1,500.00 within sixty (60) days from the date of this Order.

Dated this 11th day of April, 2018, at the City of Vancouver, British Columbia.

ON BEHALF OF THE DISCIPLINE COMMITTEE



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

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

IN THE MATTER OF

**SILENDRA JAINESH (JOHN) PRASAD
(159794)**

CONSENT ORDER PROPOSAL BY SILENDRA JAINESH (JOHN) PRASAD

BACKGROUND AND FACTS

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

1. Mr. Prasad (159794) was licensed as a representative in 2010.
2. Mr. Prasad was at all relevant times licensed as a representative with Triovest Realty Advisors (B.C.) Inc.
3. This matter relates to Mr. Prasad's conduct whereby he created false invoices and submitted them to his related brokerage for payment.
4. On or about July 24, 2015, Mr. Prasad filled out three purchase orders using Triovest's template forms. The purchase orders were drawn in favour of [REDACTED] for fictitious repair work at three construction sites:
 - (i) PO#7709: repairs at [REDACTED] Burnaby for \$3,570.00 + GST;
 - (ii) PO#7710: repairs at [REDACTED] Burnaby for \$1,550.00 + GST;
 - (iii) PO#7711: repairs at [REDACTED] Burnaby for \$1,000.00 + GST.
5. On or about July 30, 2015, Mr. Prasad created two false invoices bearing the logo, name and address of [REDACTED]. The invoices were issued to Triovest in the following amounts for the fictitious repair work referenced in the purchase orders:
 - (i) #03171501: \$3,570 + GST = \$3,748.50 ("Invoice '01");
 - (ii) #03171502: \$1,550 + GST = \$1,627.50 ("Invoice '02").

6. Both Invoice '01 and Invoice '02 bear Mr. Prasad's name, signature and a notation indicating that Mr. Prasad was the property manager who approved the said invoices. [REDACTED] was noted on Invoice '01 as "new vendor".
7. On or about July 31, 2015, Mr. Prasad submitted Invoice '01 and Invoice '02 to Triovest for payment.
8. On or about August 10, 2015, Triovest issued a cheque to [REDACTED] in the amount of \$5,376.00 to satisfy Invoice '01 and Invoice '02.
9. On or about August 18, 2015, Mr. Prasad created a third false invoice in the name of [REDACTED] and issued to Triovest for the following amount:
 - (i) #03171510: \$1,000 + GST = \$1,050.00 ("Invoice '10").
10. On or about August 19, 2015, Mr. Prasad submitted Invoice '10 to Triovest for payment.
11. On or about August 24, 2015, Triovest issued a cheque to [REDACTED] in the amount of \$1,050.00 to satisfy Invoice '10.
12. On November 20, 2015, the owner of [REDACTED] Z.K., reported the false invoices to Triovest's accounting department. The managing broker of Triovest, S.C., was notified immediately.
13. On November 20, 2015, the Vice President of Triovest, G.L., attended the three work sites referenced in the false invoices and confirmed that there was no evidence of the invoiced work at the three sites. G.L. also confirmed that the brokerage was not familiar with the contractor, [REDACTED].
14. That afternoon, S.C. and G.L. phoned Mr. Prasad to discuss the matter. S.C. says that initially, Mr. Prasad denied the allegations but subsequently confirmed that he had in fact created the false invoices and made the payments to Z.K. to cover the cost of renovations at Mr. Prasad's parents' home.
15. On November 23, 2015, Mr. Prasad met with S.C. and G.L. at the offices of Triovest and repaid the monies in full: \$5,376.00 in bank draft and \$1,050.00 in cash, for a total of \$6,426.00. The funds were deposited into the brokerage account.
16. At the meeting with S.C. and G.L., Mr. Prasad admitted his wrong-doing and expressed remorse.
17. On November 23, 2015, Mr. Prasad's employment with Triovest was terminated.
18. On November 26, 2015, Mr. Prasad's licence was returned to the Council.
19. Following Mr. Prasad's termination, S.C. held a meeting with managerial staff at both the main office and the branch office of Triovest to discuss Mr. Prasad's termination.

20. Mr. Prasad admitted to creating the false invoices and submitting them to his brokerage for payment. It appears that Mr. Prasad intercepted the cheques from the brokerage in order to provide them to Z.K., although the exact way in which he did so is unknown to the Council.
21. According to Mr. Prasad, Z.K. was retained by his parents to do renovation work on their house. Before the completion of the said renovations, there was a conflict and Z.K. allegedly demanded of Mr. Prasad that he get work from Triovest. To appease Z.K., Mr. Prasad created false invoices and caused the brokerage to make payments to [REDACTED], in the hopes that Z.K. would be satisfied and motivated to complete the renovation work on his parents' house. Mr. Prasad says he had intended to pay the money back to the brokerage, although he had no plan as to how that would occur.
22. Mr. Prasad's licence with the Council was terminated on November 26, 2015, and it expired on August 18, 2016.
23. A Notice of Disciplinary Hearing was issued on February 16, 2017, and served on Mr. Prasad.
24. Mr. Prasad 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, Mr. Prasad proposes the following findings of misconduct be made by the CORC:

1. Mr. Prasad, as a representative licensed for rental property management services with Triovest committed professional misconduct within the meaning of section 35(1)(a) of the RESA in that:
 - a. contrary to section 35(1)(c) of the RESA, he engaged in conduct that constitutes deceptive dealing. In particular, Mr. Prasad deceived his employer, Triovest, by creating false purchase orders and invoices, and caused Triovest to make payments to a third party contractor to satisfy the false invoices; and
2. Mr. Prasad committed conduct unbecoming a licensee within the meaning of section 35(2) of the RESA. In particular, he committed fraud by knowingly creating and submitting false invoices with the intent to defraud his employer, which conduct is contrary to the best interests of the public, undermines the public confidence in the real estate industry and brings the real estate industry into disrepute.

PROPOSED ORDERS

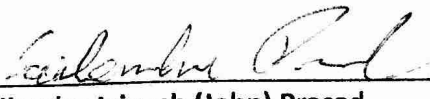
Based on the Facts herein and the Proposed Findings of Misconduct, Mr. Prasad proposes that the Notice of Discipline Hearing in this matter be resolved through the following Orders being made by the CORC, pursuant to section 43 of the RESA:

1. Mr. Prasad is prohibited from applying for licensing with the Council for five (5) years from the date of this Consent Order.
2. Mr. Prasad pay a discipline penalty to the Council in the amount of \$7,500.00 within ninety (90) days of the date of this Order.
3. Mr. Prasad pay enforcement expenses in the amount of \$1,500.00 within sixty (60) days from the date of this Consent Order.

ACKNOWLEDGEMENTS AND WAIVER OF APPEAL RIGHT

1. Mr. Prasad 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. Prasad has been advised of and understands his right to obtain independent legal advice regarding the disciplinary process, including with respect to the execution and submission of the Proposal.
3. Mr. Prasad 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. Prasad 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. Prasad hereby waives their right to appeal pursuant to section 54 of the RESA.

6. The Proposal and its contents are made by Mr. Prasad 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. Prasad in any civil proceeding with respect to the matter.


Sailendra Jainesh (John) Prasad

Dated 2, day of MARCH, 2018

Signature of Mr. Prasad witnessed on the above date by


Witness Name (Please Print)


Witness Signature