

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

XINWEI (SYLVIE) ZHAO
(167631)

AND

SYLVIE ZHAO PERSONAL REAL ESTATE CORPORATION
(167631PC)

CONSENT ORDER

RESPONDENT:	Xinwei (Sylvie) Zhao, representative, Pan Pacific Platinum Real Estate Services Inc. dba New Coast Realty
	Sylvie Zhao Personal Real Estate Corporation
DATE OF REVIEW MEETING:	March 7, 2018
DATE OF CONSENT ORDER:	March 7, 2018
CONSENT ORDER REVIEW COMMITTEE:	R. Holmes S. Sidhu L. Lyster
ALSO PRESENT:	G. Thiele, Director, Legal Services J. Clee, Legal Counsel for the Real Estate Council

PROCEEDINGS:

On March 7, 2018, the Discipline Committee ("Committee") resolved to accept the Consent Order Proposal ("COP") submitted by Xinwei (Sylvie) Zhao, on her own behalf and on behalf of Sylvie Zhao Personal Real Estate Corporation.

WHEREAS the COP, a copy of which is attached hereto, has been executed by Xinwei (Sylvie) Zhao, on her own behalf and on behalf of Sylvie Zhao Personal Real Estate Corporation.

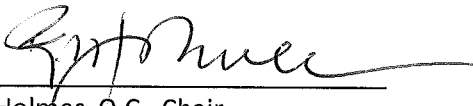
NOW THEREFORE, the Committee having made the findings proposed in the attached COP, and in particular having found that Xinwei (Sylvie) Zhao and Sylvie Zhao Personal Real Estate Corporation committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act*, orders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

1. Xinwei (Sylvie) Zhao and Sylvie Zhao Personal Real Estate Corporation each be reprimanded;
2. Xinwei (Sylvie) Zhao and Sylvie Zhao Personal Real Estate Corporation be jointly and severally liable to pay a discipline penalty to the Council in the amount of \$2,000 within ninety (90) days of the date of this Order;
3. Xinwei (Sylvie) Zhao and Sylvie Zhao Personal Real Estate Corporation be jointly and severally liable to pay enforcement expenses of this Consent Order to the Council in the amount \$1,500 within sixty (60) days from the date of this Order;
4. Xinwei (Sylvie) Zhao, within three months from the date of this Order:
 - a) Review with her managing broker section 3-4, 3-3(a) and 5-10(a) of the Rules;
 - b) Submit to the Council a certification signed by her managing broker that she has completed this review; and
 - c) Prepare and submit to the Chair of the Council a statement which demonstrates, to the satisfaction of the Chair, what she has learned from this incident and from the review and how it will guide her practice in the future.

If Xinwei (Sylvie) Zhao or Sylvie Zhao Personal Real Estate Corporation fails to comply with any term of this Order, the Council may suspend or cancel their licenses without further notice to them, pursuant to sections 43(3) and 43(4) of the *Real Estate Services Act*.

Dated this 7th day of March, 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*
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**XINWEI (SYLVIE) ZHAO
(167631)**

AND

**SYLVIE ZHAO PERSONAL REAL ESTATE CORPORATION
(167631PC)**

**CONSENT ORDER PROPOSAL BY XINWEI (SYLVIE) ZHAO AND SYLVIE ZHAO PERSONAL REAL ESTATE
CORPORATION**

BACKGROUND AND FACTS

This Consent Order Proposal (the "Proposal") is made by Xinwei (Sylvie) Zhao and Sylvie Zhao Personal Real Estate Corporation to the Consent Order Review Committee (the "CORA") 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 this Proposal Ms. Zhao, on her own behalf and on behalf of Sylvie Zhao Personal Real Estate Corporation, and the Council have agreed upon the following facts:

1. Ms. Zhao has been licensed as a representative since January 7, 2014.
2. Ms. Zhao became licensed as Sylvie Zhao Personal Real Estate Corporation on December 16, 2015.
3. Ms. Zhao was at all relevant times licensed as a representative with Pan Pacific Platinum Real Estate Services Inc. dba New Coast Realty (the "Brokerage").
4. Ms. Zhao was a member of the W.Y. Team. W.Y. was her team leader and licensed as a representative of the Brokerage.

5. On July 13, 2015, W.Y. listed for sale residential property located at [REDACTED] Harrison Avenue, Richmond, BC (the "Property"). Ms. Zhao assisted W.Y. with the showings and the sale of the Property.
6. On August 17, 2015, J.L., a representative licensed with [REDACTED] emailed an offer for the Property on behalf of her buyer clients to Ms. Zhao and W.Y.
7. According to J.L., Ms. Zhao mentioned to her that the seller would accept her clients' offer at their price if they agreed with W.Y.'s request to put a New Coast Realty Sold Sign on the Property for a period of one year starting from the possession date (the "sign agreement").
8. J.L. advised that she relayed Ms. Zhao's comments to her clients (the "buyers"), who subsequently instructed her to make an offer on the Property in the amount of \$1,050,000, and to agree to W.Y.'s request regarding the sign agreement.
9. On August 18, 2015, the seller accepted the buyers' offer (the "Contract"). Ms. Zhao failed to ensure that the Contract identified all members of the W.Y. team as designated agents for the seller.
10. Also on August 18, 2015, the buyers signed an Addendum to the Contract of Purchase and Sale dated August 18, 2015, prepared by Ms. Zhao on W.Y.'s instructions, in regard to the sign agreement (the "Addendum").
11. Ms. Zhao advised the Council that she verbally advised the seller of the sign agreement, but did not advise the sellers to obtain legal advice because she believed the Addendum did not form part of the Contract and for that reason, she did not have the seller sign the Addendum.
12. Ms. Zhao's managing broker, J.R. advised the Council that upon seeing the Addendum he informed W.Y. that it was not appropriate to use an Addendum to the Contract to document an agreement between her and the buyers.
13. This matter came to the attention of the Council on February 25, 2016 during its investigation into a telephone complaint to the Council, made by neighbours of the Property, about W.Y.'s "Sold" sign being left on the Property for 8 months.
14. Neither the buyers nor the seller have made a complaint against Ms. Zhao or W.Y. regarding the sign agreement.
15. A Notice of Discipline Hearing was issued on July 12, 2017 and served on Ms. Zhao and Sylvie Zhao Personal Real Estate Corporation.
16. Ms. Zhao and Sylvie Zhao 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, Ms. Zhao, on her own behalf and on behalf of Sylvie Zhao Personal Real Estate Corporation, proposes the following findings of misconduct be made by the CORC:

Ms. Zhao committed professional misconduct within the meaning of section 35(1)(a) of the RESA, when in her capacity as the sellers' agent in the listing and sale of residential property located at [REDACTED] Harrison Avenue, Richmond, BC (the "Property"), and as a member of the [REDACTED] Team:

1. contrary to sections 3-4 [duty to act with reasonable care and skill] and 5-10(a) [disclosure of representation] of the Rules, she failed to disclose the nature of the representation she and the [REDACTED] Team were providing to the seller, by not identifying all members of the team as designated agents for the seller on the contract of purchase and sale for the Property (the "Contract");
2. contrary to sections 3-3(a) [act in the best interest of the client], 3-3 (c) [acting outside the scope of the client's authority] and 3-4 of the Rules, without the seller's consent or knowledge, and on the instructions of her team leader W.Y., informed the buyer's agent that the buyer's offer would only be presented to, and accepted by, the seller if the buyer agreed to put a New Coast Realty Sold sign on the Property for a period of one year from the possession date; and
3. contrary to section 3-4 of the Rules,
 - (a) on the instructions of W.Y., she prepared an addendum (between the buyer and the seller) to the Contract in an effort to document what should have been a separate agreement between her, W.Y. and the buyer, which addendum stated that the buyer agreed to have the New Coast Realty Sold sign placed on the Property for a period of one year from the possession dated; and
 - (b) irrespective of this being an improper way of documenting this agreement between her, W.Y. and the buyer, she obtained the signature of the buyer only on the addendum despite it forming part of the Contract.

PROPOSED ORDERS

Based on the Facts herein and the Proposed Findings of Misconduct, Ms. Zhao, on her own behalf and on behalf of Sylvie Zhao Personal Real Estate Corporation, 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:

- a. Ms. Zhao and Sylvie Zhao Personal Real Estate Corporation be reprimanded;

- b. Ms. Zhao and Sylvie Zhao Personal Real Estate Corporation be jointly and severally liable to pay a discipline penalty to the Council in the amount of \$2,000 within ninety (90) days of the date of the Order herein;
- c. Ms. Zhao and Sylvie Zhao Personal Real Estate Corporation be jointly and severally liable to pay enforcement expenses pursuant to section 44 of the RESA in the amount of \$1,500 within sixty (60) days from the date of the Order herein;
- d. Ms. Zhao, within three months from the date of this Order:
 - i. review with her managing broker sections 3-4, 3-3(a) and 5-10(a) of the Rules;
 - ii. submit to the Council a certification signed by her managing broker that she has completed this review; and
 - iii. prepared and submit to the Chair of the Council a statement which demonstrates, to the satisfaction of the Chair, what she has learned from this incident and from the review and how it will guide her practice in the future; and
- e. if Ms. Zhao and Sylvie Zhao 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 RIGHT

1. Ms. Zhao and Sylvie Zhao 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. Ms. Zhao and Sylvie Zhao Personal Real Estate Corporation acknowledge that they have 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 they have 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. Ms. Zhao and Sylvie Zhao 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. Ms. Zhao and Sylvie Zhao 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. Ms. Zhao and Sylvie Zhao 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 Ms. Zhao and Sylvie Zhao 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 Ms. Zhao and Sylvie Zhao Personal Real Estate Corporation in any civil proceeding with respect to the matter.



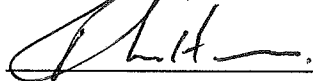
Xinwei (Sylvie) Zhao and Sylvie Zhao Personal Real Estate Corporation

Amended Consent Order dated 17, day of
March, 2018

Signature of Ms. Zhao and Sylvie Zhao Personal Real Estate Corporation witnessed on the above date by



Witness Name (Please Print)



Witness Signature