

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

XIN BO (ANGELA) GUO
(167457)

AND

ANGELA GUO PERSONAL REAL ESTATE CORPORATION
(167457PC)

CONSENT ORDER

RESPONDENT:	Xin Bo (Angela) Guo, Representative, RE/MAX Crest Realty, while licensed with Metro Edge Holdings Ltd. dba Metro Edge Realty Angela Guo Personal Real Estate Corporation
DATE OF REVIEW MEETING:	December 6, 2017
DATE OF CONSENT ORDER:	December 6, 2017
CONSENT ORDER REVIEW COMMITTEE:	T. O'Grady, Chair L. Hrycan L. Sterritt
ALSO PRESENT:	G. Thiele, Director, Legal Services Jennifer Clee, Legal Counsel for the Real Estate Council

PROCEEDINGS:

On December 6, 2017, the Consent Order Review Committee ("Committee") resolved to accept the Consent Order Proposal ("COP") submitted by Xin Bo (Angela) Guo, on her own behalf and on behalf of Angela Guo Personal Real Estate Corporation.

WHEREAS the COP, a copy of which is attached hereto, has been executed by Xin Bo (Angela) Guo, on her own behalf and on behalf of Angela Guo Personal Real Estate Corporation.

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

1. Xin Bo (Angela) Guo and Angela Guo Personal Real Estate Corporation each be reprimanded;
2. Xin Bo (Angela) Guo and Angela Guo Personal Real Estate Corporation 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. Xin Bo (Angela) Guo, at her 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. Xin Bo (Angela) Guo and Angela Guo Personal Real Estate Corporation be jointly and severally liable to pay enforcement expenses of this Consent Order to the Council in the amount \$3,000.00 within sixty (60) days from the date of this Order.

If Xin Bo (Angela) Guo or Angela Guo 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 6th day of December, 2017, at the City of Vancouver, British Columbia.

ON BEHALF OF THE CONSENT ORDER REVIEW COMMITTEE


T. O'Grady, Chair
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

XIN BO (ANGELA) GUO
(167457)

AND

ANGELA GUO PERSONAL REAL ESTATE CORPORATION
(167457PC)

CONSENT ORDER PROPOSAL BY XIN BO (ANGELA) GUO AND ANGELA GUO PERSONAL REAL ESTATE CORPORATION

BACKGROUND AND FACTS

This Consent Order Proposal (the "Proposal") is made by Xin Bo (Angela) Guo ("Ms. Guo"), on her own behalf and on behalf of Angela Guo 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 purposes of the Proposal, Ms. Guo and Angela Guo Personal Real Estate Corporation and the Council have agreed upon the following facts:

1. Ms. Guo has been licensed as a representative since November 22, 2013.
2. Ms. Guo became licensed as a Personal Real Estate Corporation on October 30, 2014.
3. Ms. Guo and Angela Guo Personal Real Estate Corporation were at all relevant times licensed with Metro Edge Holdings Ltd. dba Metro Edge Realty (the "Brokerage").

File 15-499

4. In 2010, the owner of property located at [REDACTED] Slocan Street, Vancouver, BC (the "Property") constructed a home at that address. The home was subject to the "owner builder" provisions of the *Homeowner Protection Act* (the "HPA").

5. Section 20.1 of the HPA provides that an owner builder must not sell or offer to sell a new home "within the prescribed period of time after the new home has been built" unless permitted by the Registrar under the HPA. The prescribed period of time is 12 months from the date of the date the occupancy permit was issued or the property was first occupied (the "first occupancy date"). The first occupancy date for the Property was June 10, 2011.
6. Section 21(2) of the HPA and Section 19(5) of the Regulation provide that an owner must not sell a home unless the Owner Builder Disclosure Notice has been provided to a "person offering to purchase the home".
7. On January 25, 2016, Ms. Guo listed the Property for sale and the listing was posted for sale on MLS®.
8. At the time of the listing, Ms. Guo did not obtain a copy of the Owner Builder Disclosure Notice or conduct a search of the New Home Registry. Ms. Guo did ask the seller about the Owner Builder Disclosure Notice. The seller told Ms. Guo that he had taken steps to obtain the Owner Builder Disclosure Notice, that it had been sent to him by email, and that he was searching for it in his emails.
9. Ms. Guo made further requests for the Owner Builder Disclosure Notice from the seller. On February 15, 2016, a search of the New Homes Registry disclosed that the Property could not be offered for sale as the seller had not completed an Owner Builder Disclosure Notice.
10. On February 21, 2016, Ms. Guo sent the seller texts including a screen shot of the New Homes Registry Record for the Property which showed that the seller did not have the required Owner Builder Disclosure Notice. Ms. Guo warned the seller that the Property could not be sold unless he could provide a copy of the Owner Builder Disclosure Notice to a prospective buyer.
11. On February 27, 2016, L.J.X. as buyer (the "buyer") and the seller entered into a Contract of Purchase and Sale for the Property (the "Contract"). The relevant details of the Contract were as follows:
 - Price: \$2,000,000
 - Deposit: \$90,000 payable in 1 day upon acceptance
 - Completion: March 30, 2016
 - Possession: March 31, 2016
 - The Seller has an agency relationship with Angela Guo as the designated agent who is licensed with Metro Edge Realty
 - The Buyer has no agency relationship
 - No subject conditions
12. The Contract was entered into before the seller provided the buyer with the Owner Builder Disclosure Notice, contrary to section 21(2) of the HPA and Section 19(5) of the Regulation.



13. Prior to the completion date for the sale the seller did attend at the Homeowner Protection Office to take the steps to meet his obligation to provide the Owner Builder Disclosure Notice.
14. The seller offered an extension of time for the completion of the sale to accommodate the provision of the Owner Builder Disclosure Notice which the buyer declined to accept.
15. The sale of the Property subsequently collapsed.
16. The seller obtained an Owner Builder Disclosure Notice shortly after the completion date had passed.
17. A Notice of Discipline Hearing was issued on May 9, 2017 and served upon Ms. Guo.

File 15-615

18. On December 15, 2015, the owner of residential property located at [REDACTED] Shepherd Drive, Richmond, BC (the "Property") listed the Property for sale with Pacific Place-Arch Realty at the price of \$1,098,000.
19. On December 22, 2015, Z.W.Y., a buyer represented by P.Z. and W.P. of Nu Stream Realty, entered into a contract of purchase of sale for the Property. The sale price was \$1,265,000 (the "Contract").
20. On January 7, 2016, Z.W.Y. entered into an Exclusive Listing Contract with Ms. Guo, for the purpose of assigning the Contract. The list price was \$1,388,000.
21. After listing the Property for sale, Ms. Guo decided that the Property would be suitable for her family and prepared an offer for her daughter, W.T.Y. (the "Offer").
22. The pertinent details of the Offer were as follows:

Assignor:	Z.W.Y.
Assignee:	W.T.Y.
Price	\$1,285,000
Agency:	Designated agent for Assignor – Angela Guo Designated agent for Assignee Angela Guo

23. Also, on January 9, 2016, Ms. Guo prepared:
 - a. an Assignment of Contract of Purchase and Sale addendum indicating that X.W.Y. agreed to change the name on title at completion to W.T.Y.;
 - b. a Limited Dual Agency Agreement which Z.W.Y., W.T.Y. and Ms. Guo signed; and

- c. a Fee Agreement Seller Pays (Buyer and Seller not Represented) indicating that the seller will pay the brokerage a fee of \$0 dollars and that neither the Brokerage nor Ms. Guo were providing agency representation to Z.W.Y. or W.T.Y despite Z.W.Y., W.T.Y. and Ms. Guo having entered a Limited Dual Agency Agreement.
24. Prior to preparing the Offer, Ms. Guo did not disclose in writing to Z.W.Y., that W.T.Y. was her daughter.
25. On January 11, 2016, Ms. Guo prepared a Disclosure of Interest in Trade Form and provided it to Z.W.Y. disclosing that W.T.Y., was her daughter. Z.W.Y. signed the Disclosure of Interest in Trade on January 11, 2016.
26. On January 11, 2016, Z.W.Y. accepted the Offer and consequently, an Assignment of Contract of Purchase and Sale was entered into between Z.W.Y. as assignor, and W.T.Y. as assignee (the "Assignment Contract").
27. This matter was discovered during an audit at the Brokerage conducted on March 14, 2016.
28. A Notice of Discipline Hearing was issued on April 6, 2017 and served upon Ms. Guo.
29. Ms. Guo does not have a prior discipline history with the Council.
30. No complaint was made against Ms. Guo by the assignor, nor by any other member of the public.

PROPOSED FINDINGS OF MISCONDUCT

For the sole purposes of the Proposal and based on the Facts outlined herein, Ms. Guo and Angela Guo Personal Real Estate Corporation proposes the following findings of misconduct be made by the CORC:

File 15-499

Ms. Guo committed professional misconduct within the meaning of section 35(1)(a) of the RESA and acted contrary to section 3-4 [duty to act with reasonable care and skill] of the Rules when, in her capacity as the listing agent for the property located at [REDACTED] Slocan Street, Vancouver, BC (the "Property"), which was a new home built by an owner builder under the provisions of the *Homeowner Protection Act* (the "HPA"), she failed to ensure that prior to any offer being made the seller had provided the prospective buyer with a BC Housing Owner Builder Disclosure Notice as he was required to do under section 21(2) of the HPA, that stated whether the Property was built under an Owner Builder Authorization, and whether the Property was covered by a policy of home warranty insurance.



Ms. Guo committed professional misconduct within the meaning of section 35(1)(a) of the RESA when, in her capacity as the exclusive listing agent in regard to the assignment of the Contract of Purchase and Sale for [REDACTED] Shepherd Drive, Richmond, B.C. (the "Property") and subsequently, in her capacity as a limited dual agent in the assignment of the Contract of Purchase and Sale for the Property to her daughter, she acted:

1. contrary to sections 3-4 [duty to act honestly with reasonable care and skill] and 5-10 of the Rules, by failing to properly disclose the nature of the representation she was providing to the Assignor and the Assignee by:
 - a) completing the Assignment of Contract of Purchase and Sale to indicate that she was acting as the designated agent for the Assignor and as the designated agent for the Assignee, despite having entered into a Limited Dual Agency Agreement with the Assignor and the Assignee; and
 - b) drafting a Fee Agreement - Seller Pays (Buyer and Seller Not Represented) indicating that neither the buyer (Assignee) nor the seller (Assignor) were represented, despite having entered a Limited Dual Agency Agreement with the Assignee and the Assignor;
2. contrary to sections 3-4 of the Rules, by drafting an Addendum to the Assignment of Contract of Purchase and Sale indicating that the original buyer and the Assignor, Z.W.Y., agreed to change the name on title at completion to the Assignee, W.T.Y., when the Addendum was not necessary in light the Assignment of Contract of Purchase and Sale; and
3. contrary to one or more of sections 3-4, 3-3(a), 3-3(i) [duty to avoid conflicts of interest] and 3-3(j) [duty to disclose conflicts] of the Rules by:
 - a) failing to take reasonable steps to avoid a conflict of interest by writing an Assignment of Contract of Purchase and Sale on behalf of the Assignee, her daughter; and
 - b) failing to promptly and fully disclose her conflict of interest to the Assignor by not disclosing to the Assignor that she was related to and acting on behalf of the Assignee, her daughter.

PROPOSED ORDERS

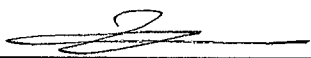
Based on the Facts herein and the Proposed Findings of Misconduct, Ms. Guo on her own behalf and on behalf of Angela Guo Personal Real Estate Corporation, propose that the Notice of Discipline Hearing in this matter be resolved through the following Orders being made by the CORC, pursuant to section 43 of the RESA:

1. Ms. Guo and Angela Guo Personal Real Estate Corporation be reprimanded.
2. Ms. Guo and Angela Guo Personal Real Estate Corporation pay a discipline penalty to the Council in the amount of \$5,000 within ninety (90) days of the date of this Order.
3. Ms. Guo, at her 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.
4. Ms. Guo and Angela Guo Personal Real Estate Corporation pay enforcement expenses in the amount of \$3,000 within sixty (60) days from the date of this Consent Order.
5. If Ms. Guo and Angela Guo Personal Real Estate Corporation fail to comply with any of the terms of this Order, a Discipline Committee may suspend or cancel Ms. Guo and Angela Guo Personal Real Estate Corporations' licences without further notice to Ms. Guo and Angela Guo Personal Real Estate Corporation.

ACKNOWLEDGEMENTS AND WAIVER OF APPEAL RIGHT

1. Ms. Guo and Angela Guo 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. Guo and Angela Guo 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 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. Guo and Angela Guo 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. Guo and Angela Guo 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. Guo and Angela Guo 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. Guo and Angela Guo 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. Guo and Angela Guo Personal Real Estate Corporation in any civil proceeding with respect to the matter.



Xin Bo (Angela) Guo on her own behalf and on behalf of Angela Guo Personal Real Estate Corporation

Dated 8, day of Nov, 2017

Signature of Ms. Guo and Angela Guo Personal Real Estate Corporation witnessed on the above date by

zhang, Li

Witness Name (Please Print)

LI ZHANG

Witness Signature