

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

BENJAMIN NG
(163409)

AND

BEN NG PERSONAL REAL ESTATE CORPORATION
(163409PC)

CONSENT ORDER

RESPONDENT:	Benjamin Ng, Representative, Team 3000 Realty Ltd. Ben Ng Personal Real Estate Corporation
DATE OF REVIEW MEETING:	October 18, 2017
DATE OF CONSENT ORDER:	October 18, 2017
CONSENT ORDER REVIEW COMMITTEE:	R. Homes, Q.C., Chair K. Lonsdale S. Heath
ALSO PRESENT:	G. Thiele, Director, Legal Services Sabinder Sheina, Legal Counsel for the Real Estate Council
PROCEEDINGS:	

On October 18, 2017, the Consent Order Review Committee ("Committee") resolved to accept the Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver ("ASF") submitted by Benjamin Ng, on his own behalf and on behalf of Ben Ng Personal Real Estate Corporation.

WHEREAS the ASF, a copy of which is attached hereto, has been executed on behalf of the Council and by Benjamin Ng, on his own behalf and on behalf of Ben Ng Personal Real Estate Corporation.

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

1. Benjamin Ng and Ben Ng Personal Real Estate Corporation each be reprimanded;
2. Benjamin Ng and Ben Ng Personal Real Estate Corporation be jointly and severally 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. Benjamin Ng, 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. Benjamin Ng and Ben Ng Personal Real Estate Corporation be jointly and severally liable to pay enforcement expenses of this Consent Order to the Council in the amount \$1,500.00 within sixty (60) days from the date of this Order.

If Benjamin Ng or Ben Ng 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 18th day of October, 2017, at the City of Vancouver, British Columbia.

ON BEHALF OF THE CONSENT ORDER REVIEW COMMITTEE



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

Atch.

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

IN THE MATTER OF

**BENJAMIN NG
(163409)**

AND

**BEN NG PERSONAL REAL ESTATE CORPORATION
(163409PC)**

**AGREED STATEMENT OF FACTS,
PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER**

The following agreement has been reached between Benjamin Ng ("Mr. Ng"), Ben Ng Personal Real Estate Corporation and the Real Estate Council of British Columbia ("Council").

- A. Mr. Ng on his own behalf and on behalf of Ben Ng Personal Real Estate Corporation hereby consents to an Order to be made pursuant to sections 41 and 43 of the *Real Estate Services Act* (the "RESA") that:
- a. they each be reprimanded;
 - b. they are jointly and severally liable to pay a discipline penalty to the Council in the amount of \$3,000 within ninety (90) days from the date of this Consent Order;
 - c. Mr. Ng, at his 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;
 - d. they are jointly and severally liable to pay enforcement expenses pursuant to section 44 of the Act in the amount of \$1,500 within sixty (60) days from the date of the Consent Order; and
 - e. if Mr. Ng or Ben Ng Personal Real Estate Corporation fail to comply with any of the terms of the Order as set out above, a Discipline Committee may suspend or cancel their licences without further notice to them pursuant to section 43(3) and 43(4) of the RESA.
- B. As a basis for this Order, the Council, Mr. Ng and Ben Ng Personal Real Estate Corporation acknowledge and agree that the facts set forth herein are correct:
- 1. Mr. Ng was at all relevant times licensed as a representative with Team 3000 Realty Ltd.

AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

2. Mr. Ng's licensing history is as follows:

Start Date	End Date	Brokerage	Licence Level	Licence Category
10/01/2016	Present	Team 3000 Realty Ltd. (X030537)	Representative	Trading
10/01/2014	09/01/2016	Team 3000 Realty Ltd. (X030537)	Representative	Trading
10/12/2013	09/01/2014	Team 3000 Realty Ltd. (X030537)	Representative	Trading
31/07/2012	10/12/2013	Team 3000 Realty Ltd. (X030537)	Representative	Trading
10/01/2012	31/07/2012	Sutton Group-West Coast Realty (X029213)	Representative	Trading

3. Mr. Ng became licensed as Ben Ng Personal Real Estate Corporation on December 10, 2013.

4. On January 13, 2016, the complainant/seller of a property located on West 2nd Avenue, Vancouver, BC ("Property"), filed a complaint against JY, his rental manager. The allegations made against the rental manager were unsubstantiated.

5. On November 14, 2014, the complainant/seller entered into a Property Management Agreement with JY, *"exclusively to rent, lease, operate and manage the Property"* on the terms set forth, *"effective November 15, 2014 for a fixed term of 12 months. After the fixed term, the agreement will continue on a month to month basis."*

6. On November 28, 2014, JY entered into a Residential Tenancy Agreement for the Property with two tenants. The tenancy was for a fixed length of 12 months that was to start on December 16, 2014 and end on December 31, 2015, with the tenancy continuing on a month to month basis or another fixed length of time.

7. On September 4, 2015, the complainant/seller entered into a Multiple Listing Service Contract ("MLS contract") for the sale of the Property with Ben Ng Personal Real Estate Corporation as his designated agent and representative.

8. In an email dated April 26, 2016, Mr. Ng stated to Council staff that:

- (i) the complainant/seller told him that the Property had a tenant; and
- (ii) he was provided with a copy of the Residential Tenancy Agreement before the complainant/seller signed the MLS contract.

9. Mr. Ng stated it was his understanding that the tenancy was for a fixed one year term ending in *"mid December 2015"*. Mr. Ng also stated he advised the complainant/seller the Property could be sold either with the tenancy, if a buyer was willing to take on the tenancy, or as vacant after the tenancy ended.

10. On September 19, 2015 a buyer entered into a Contract of Purchase and Sale Agreement ("Contract") for the Property. The designated agent for the complainant/seller was listed as Ben Ng Personal Real Estate Corporation. The Contract stated that the buyer was to have vacant possession of the Property on January 5, 2016. The clause that stated *"subject to the following existing tenancies, if any"* was completed with the typed word *"NONE"*.

AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

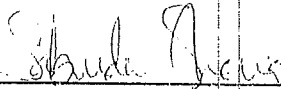
11. On September 26, 2015, the subjects were removed. At this time, the complainant/seller informed JY, his property manager that the Property had sold.
12. On April 18, 2016, the complainant/seller told Council staff that he and Mr. Ng did not discuss the tenancy and he asked Mr. Ng to speak with JY about the tenancy. The complainant/seller also stated that Mr. Ng did not provide him with any advice regarding vacant possession of the Property.
13. Mr. Ng did not speak with JY about the tenancy. By December 31, 2015, the tenants moved out of the Property and on January 5, 2016, the buyers took possession of the Property.
14. Mr. Ng does not have a prior discipline history with the Council.

C. Proposed Acceptance of Findings and Waiver

1. Based on the Agreed Statement of Facts herein, and without making any admission of liability, Mr. Ng and Ben Ng Personal Real Estate Corporation are prepared to accept the following findings if made against them by the Council's Consent Order Review Committee:
 - (a) Mr. Ng committed professional misconduct within the meaning of section 35(1)(a) of the RESA while acting as the seller's agent for a property located on West 2nd Avenue, Vancouver, BC in that he failed to act with reasonable care and did not act in the best interests of his client when he:
 - (i) failed to include a clause in the Contract of Purchase and Sale with respect to the existing tenant occupancy;
 - (ii) failed to advise the seller of the requirements of the *Residential Tenancy Act* to enable the seller to provide vacant possession; and
 - (iii) did not provide notice to the existing tenants to end the tenancy,contrary to sections 3-3(a) and 3-4 of the Rules.
2. Mr. Ng and Ben Ng Personal Real Estate Corporation hereby waive their right to appeal pursuant to section 54 of the RESA.

AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

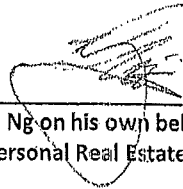
3. Mr. Ng and Ben Ng Personal Real Estate Corporation acknowledge that they have been advised that they have the right to seek independent legal advice before signing this Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver.
4. Mr. Ng and Ben Ng Personal Real Estate Corporation acknowledge and are aware that the Council will publish the Consent Order and penalty herein in its Report from Council newsletter, on the Council's website, and on CanLII, a website for legal research.
5. Mr. Ng and Ben Ng 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 this Agreed Statement of Facts, Proposed Acceptance of Findings, and Waiver and Consent Order.
6. The Agreed Statement of Facts and Proposed Acceptance of Findings contained herein are made for the sole purpose of resolving a complaint being considered by the Council and for that purpose only. Such agreed statement of facts and proposed acceptance of findings cannot be used in any other proceeding of any kind.



Sabinder Sheina, Legal Counsel
Real Estate Council of British Columbia

As to Part B only (Agreed Statement
of Facts)

Dated 10th day of October, 2017



Benjamin Ng on his own behalf and on behalf of
Ben Ng Personal Real Estate Corporation

As to Parts A, B, and C, (proposed penalty, Agreed
Statement of Facts, Proposed Acceptance of
Findings and Waiver)

Dated 16th day of AUG, 2017