

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

MI NA ZHANG
(158679)

AND

MINA ZHANG PERSONAL REAL ESTATE CORPORATION
(158679PC)

CONSENT ORDER

RESPONDENT:	Mi Na Zhang, Representative, Magsen Realty Inc. Mina Zhang Personal Real Estate Corporation
DATE OF REVIEW MEETING:	September 13, 2017
DATE OF CONSENT ORDER:	October 25, 2017
CONSENT ORDER REVIEW COMMITTEE:	R. Holmes, Q.C., Chair G. Martin
ALSO PRESENT:	E. Seeley, Executive Officer G. Thiele, Director, Legal Services Patrick Gilligan-Hackett, Legal Counsel for the Real Estate Council

PROCEEDINGS:

On September 13, 2017, the Consent Order Review Committee ("Committee") resolved to accept the Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver ("ASF") submitted by Mi Na Zhang, on her own behalf and on behalf of Mina Zhang Personal Real Estate Corporation.

WHEREAS the ASF, a copy of which is attached hereto, has been executed on behalf of the Council and by Mi Na Zhang, on her own behalf and on behalf of Mina Zhang Personal Real Estate Corporation.

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

1. Mi Na Zhang and Mina Zhang Personal Real Estate Corporation each be reprimanded;
2. Mi Na Zhang and Mina Zhang Personal Real Estate Corporation be jointly and severally liable to pay a discipline penalty to the Council in the amount of \$2,500.00 within ninety (90) days of the date of this Order;
3. Mi Na Zhang and Mina Zhang Personal Real Estate Corporation, within ninety (90) days from the date of this Order:
 - (a) review with her managing the use of unlicensed assistants under the *Real Estate Services Act* and what services an unlicensed assistant can provide to the public;
 - (b) submit to the Council a certification signed by her managing broker confirming that she has completed the review;
 - (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.
4. Mi Na Zhang, 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
5. Mi Na Zhang and Mina Zhang 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 Mi Na Zhang or Mina Zhang 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 25th day of October, 2017, at the city of Vancouver, British Columbia.

ON BEHALF OF THE CONSENT ORDER REVIEW COMMITTEE

A handwritten signature in black ink, appearing to read "R. Holmes", with a long horizontal flourish extending to the right.

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

Mi Na Zhang
158679

AND

Mina Zhang Personal Real Estate Corporation
158679C

AGREED STATEMENT OF FACTS,
PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

The following agreement has been reached between Mi Na Zhang ("Ms. Zhang"), Mina Zhang Personal Real Estate Corporation ("MZ PREC"), and the Real Estate Council of British Columbia ("Council").

- A. Ms. Zhang on her own behalf and on behalf of MZ PREC hereby consents to an Order to be made pursuant to sections 41 and 43 of the *Real Estate Services Act* (RESA) that:
- a. they each be reprimanded;
 - b. they be jointly and severally liable to pay a discipline penalty to the Council in the amount of \$2,500.00 within ninety (90) days of the date of the Order herein;
 - c. at her own expense, Ms. Zhang shall register for and successfully complete the 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 as directed by the Council;
 - d. they be jointly and severally liable to pay enforcement expenses pursuant to section 44 of the RESA in the amount of \$1,500.00 within sixty (60) days from the date of the Order herein;
 - e. Mi Na Zhang and Mina Zhang Personal Real Estate Corporation, within three months from the date of this Order:
 - (i) review with her managing the use of unlicensed assistants under the Real Estate Services Act and what services an unlicensed assistant can provide to the public;
 - (ii) submit to the Council a certification signed by her managing broker confirming that she has completed the review; and

AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

- (ii) 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.
 - f. if they fail to comply with any of the terms of the Order set out above, a Discipline Hearing 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, Ms. Zhang and MZ PREC acknowledge and agree that the facts set forth herein are correct. For convenience, Ms. Zhang and MZ PREC are referred to collectively in the following Agreed Statement of Facts as Ms. Zhang.
- 1. Ms. Zhang was at all relevant times licensed as a representative with Magsen Realty Inc.
 - 2. Ms. Zhang's licensing history is as follows:
 - 158679**

2016/04/07 – present	Representative, Trading Magsen Realty Inc.
2014/04/07 – 2016/04/16	Representative, Trading Magsen Realty Inc.
2012/04/07 – 2014/04/06	Representative, Trading Magsen Realty Inc.
2011/07/18 – 2012/04/06	Representative, Trading Magsen Realty Inc.
2010/04/07 – 2011/07/18	Representative, Trading Magsen Realty Inc.
 - 158679PC**

2016/04/07 – present	Personal Real Estate Corporation, Trading Mina Zhang Personal Real Estate Corporation
2014/04/07 – 2016/04/06	Personal Real Estate Corporation, Trading Mina Zhang Personal Real Estate Corporation
2012/04/07 – 2014/04/16	Personal Real Estate Corporation, Trading Mina Zhang Personal Real Estate Corporation
2011/07/18 – 2012/04/06	Personal Real Estate Corporation, Trading Mina Zhang Personal Real Estate Corporation
 - 3. On October 15, 2015 the Complainant ("BF") entered into a contract of purchase and sale ("Contract") for a residential property located on East 21st Avenue, Vancouver, British Columbia ("Property").
 - 4. BF was the buyer under the Contract.
 - 5. Ms. Zhang had agreed to act as the Buyer's representative in connection with BF's purchase of the Property.

6. The seller of the property was represented by another licensee, VV.
7. On October 11, 2015 Ms. Zhang contacted VV to tell VV that she was going on vacation but that she would be writing an offer on the Property for BF.
8. At this time, Ms. Zhang also told VV that her assistant, GL, who is unlicensed, would be handling the offer in Ms. Zhang's absence and that VV should therefore deal with GL.
9. At the time Ms. Zhang prepared the offer, tenants were residing at the Property. Ms. Zhang knew or ought to have known that this was the case.
10. Despite the presence of tenants at the Property, Ms. Zhang failed to include in the offer she prepared for BF the "Confirmation of Tenancy Details Clause" that is recommended in the Professional Standards Manual.
11. While Ms. Zhang was away on vacation, BF and the seller, represented by VV, negotiated the purchase of the Property including the price and associated terms and conditions.
12. During these negotiations, VV dealt exclusively with GL about the purchase of the Property because Ms. Zhang was not available.
13. After BF's offer to purchase the Property was accepted, BF contacted VV directly about viewing the property. He told VV that Ms. Zhang was still away and that GL was too busy to attend the Property with him.
14. After learning this, VV contacted GL while he was on his way to meet BF at the Property. He asked GL if anyone from her brokerage could go to the Property to give the keys to the Property to BF. GL told VV that no one from the brokerage would be going to the Property and that VV should give the keys to BF.
15. Throughout the purchase process for the Property, and most notably during the offer and acceptance, subject removal, and completion phases of the purchase process, Ms. Zhang allowed GL to perform real estate duties on her behalf including allowing GL to deal with VV while performing such duties and at all times without adequate supervision.
16. Ms. Zhang does not have any disciplinary record with the Council.

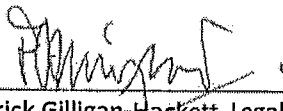
C. Proposed Acceptance of Findings and Waiver

1. Based on the Agreed Statement of Facts as outlined herein, and without making any admissions of liability, Ms. Zhang, on her own behalf and on behalf of MZ PREC, is prepared to accept the following findings if made against her by the Council's Consent Order Review Committee:
 - (a) Mi Na Zhang and Mina Zhang Personal Real Estate Corporation committed professional misconduct within the meaning of section 35(1)(a) of the RESA in that:

AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

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- (i) contrary to section 3-2(4) of the Council Rules, they failed to ensure there was an adequate level of supervision for their unlicensed assistant, GL, when they permitted GL to perform real estate duties in connection with their client BF's offer to purchase and subsequent purchase of a residential property while MI Na Zhang was on vacation; and
 - (ii) contrary to section 3-4 of the Council Rules, they failed to act with reasonable care and skill when they failed to include in the offer to purchase a residential property which they prepared for their client, BF, when they knew or ought to have known that tenants were residing at the property, the Confirmation of Tenancy Details clause that is recommended by the Council in its Professional Standards Manual.
2. Mi Na Zhang and Mina Zhang Personal Real Estate Corporation hereby waive their right to appeal pursuant to section 54 of the RESA.
 3. Mi Na Zhang and Mina Zhang Personal Real Estate Corporation acknowledge that they have a right to seek independent legal advice before signing this Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver.
 4. Mi Na Zhang and Mina Zhang 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. Mi Na Zhang and Mina Zhang 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.



Patrick Gilligan-Hackett, Legal Counsel
Real Estate Council of British Columbia



Mi Na Zhang on her own behalf and on behalf of
Mina Zhang Personal Real Estate Corporation

As to Part B (Agreed Statement
of Facts) only

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

Dated 24th day of October, 2017

Dated 24 day of October, 2017