

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
SHIFEN (SUSAN) SU
(167934)

CONSENT ORDER

RESPONDENT: Shifen (Susan) Su, representative, Team
3000 Realty Ltd., while licensed with
0928539 B.C. Ltd. dba Royal Pacific Tri-
Cities Realty

DATE OF REVIEW MEETING: October 18, 2017

DATE OF CONSENT ORDER: October 18, 2017

CONSENT ORDER REVIEW COMMITTEE: R. Holmes, Q.C., Chair
S. Heath
K. Lonsdale

ALSO PRESENT: G. Thiele, Director, Legal Services
Jessica S. Gossen, 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 Shifen (Susan) Su.

WHEREAS the ASF, a copy of which is attached hereto, has been executed on behalf of the Council and by Shifen (Susan) Su;

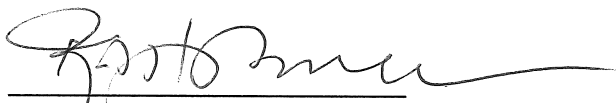
NOW THEREFORE, the Committee having made the findings proposed in the attached ASF, and in particular having found that Shifen (Susan) Su committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act*, orders that that:

1. Shifen (Susan) Su's have her licence suspended for one hundred and twenty (120) days;
2. Shifen (Susan) Su will not act as an unlicensed assistant during the time of her licence suspension;
3. Shifen (Susan) Su be under the direct supervision of a managing broker for a period of one year following the end of the suspension period as more particularly described in the terms of the Enhanced Supervision Agreement attached as Schedule 1 to this Consent Order and the terms of the Enhanced Supervision Agreement shall form part of any Order made pursuant to s. 41 of the RESA;
4. Shifen (Susan) Su, 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. Shifen (Susan) Su 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 Shifen (Susan) Su fails to comply with any term of this Order, the Council may suspend or cancel her licence without further notice to her, pursuant to sections 43(3) and 43(4) of the *Real Estate Services Act*.

Dated this 18 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

Attch.

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

IN THE MATTER OF

**SHIFEN (SUSAN) SU
(167934)**

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

The following agreement has been reached between Shifen (Susan) Su ("Ms. Su") and the Real Estate Council of British Columbia ("Council").

- A. Ms. Su hereby consents to an Order to be made pursuant to sections 41 and 43 of the *Real Estate Services Act* ("RESA") that:
- (i) her licence be suspended for one hundred and twenty days (120), and that she is prohibited from acting as an unlicensed assistant during the period of the suspension;
 - (ii) she will be under the direct supervision of a managing broker for a period of one year following the end of the suspension period as more particularly described in the terms of the Enhanced Supervision agreement attached as Schedule 1 to this Consent Order and the terms of the Enhanced Supervision agreement shall form part of any Order made pursuant to s. 41 of the RESA;
 - (iii) 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;
 - (iv) she 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 Consent Order; and
 - (v) if she fails to comply with any of the terms of the Order as set out above, a Discipline Committee may suspend or cancel her licence without further notice to her pursuant to section 43(3) and 43(4) of the RESA.
- B. As a basis for this Order, the Council and Ms. Su acknowledge and agree that the facts set forth herein are correct:



AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

1. Ms. Su was at all relevant times licensed as a representative with 0928539 B.C. Ltd. dba Royal Pacific Tri-Cities Realty.

2. Ms. Su's licensing history is as follows:

Start Date	End Date	Brokerage	Branch	Licence Level	Category
03/03/2016	Present	Team 3000 Realty Ltd. (X030537)	Vancouver	Representative	Trading
19/02/2016	02/03/2016	*** Unlicensed ***			
29/10/2014	18/02/2016	Little Mountain Realty Ltd. (X029727)		Representative	Trading
28/10/2014	28/10/2014	*** Unlicensed ***			
20/02/2014	27/10/2014	0928539 B.C. Ltd. (X030366)		Representative	Trading

3. On or about October 23, 2014, Council received information that Susan Su, who was licensed with 0928539 B.C. Ltd. dba Royal Pacific Tri-Cities Realty ("Brokerage") had her license terminated by A.P., the managing broker of the Brokerage.

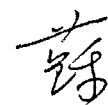
4. The cause for termination was a complaint concerning Ms. Su to the Real Estate Board of Greater Vancouver from M.Y. and A.G., both licensed at that time with [REDACTED], and the listing agents of a property located at XXXXX Altona Place, Richmond (the "Property").

5. The complaint was that, although the Sellers were represented by M.Y. and A.G. and there was an accepted offer on the property in place, Ms. Su went directly to the Sellers without the knowledge or consent of M.Y. and A.G., on the eve of the subject removal date and attempted to negotiate a Contract of Purchase and Sale for herself, as the buyer directly with the Sellers at approximately midnight on August 29, 2014 despite the fact that the Sellers were elderly, 75 and 71 and one of the Sellers had retired for the night.

Background

6. On July 17, 2014, the Sellers of the Property entered into a Multiple Listing Contract with M.Y. and A.G. of [REDACTED]

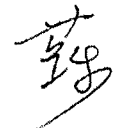
7. On August 24, 2014, Ms. Su texted A.G. requesting to be shown the Property. On August 25 at around 8:00 p.m., A.G. advised Ms. Su that there was an accepted offer on the Property and that the subject removal date was August 29, 2014. Ms. Su still wanted to view the Property and as the time was inconvenient for both



AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

listing agents, A.G. obtained the Sellers' consent for Ms. Su to be given access to the Property without M.Y. or A.G. being present.

8. On or about August 29, 2014 at 11:40 pm M.Y. and A.G. received a subject removal documents via email.
9. On or about August 30, 2014 at 12:18 a.m., A.G. received a call from Ms. Su, informing her that Ms. Su was at the Property to present an offer to the Sellers on behalf of herself, as the buyer.
10. Ms. Su stated that she had presented the offer directly to the Sellers instead of submitting it to the listing agents because she *"didn't trust them since they are in one team"* to present her offer. Details of the offer were as follows:
 - Price: \$597,000
 - Deposit \$20,000 to be held with Royal Pacific within 24 hours of acceptance
 - Completion: December 8, 2014
 - Agency: Designated agent for the Sellers – M.Y. and A.G.
Designated agent for Ms. Su – Ms. Su
 - Acceptance: 12:10 a.m. August 30, 2014
 - Subjects: Financing, building inspection – to be removed by September 12, 2014
11. M.Y. and A.G. stated that when they went to deliver the subject removal document at 10:00 a.m. on August 30, 2014, they discovered that Ms. Su was inside the Property with the Sellers.
12. M.Y. and A.G. further stated that the Sellers informed them that Ms. Su had visited the Property at least three additional times after her initial viewing without M.Y.'s or A.G.'s knowledge or consent.
13. Ms. Su's offer was signed by only one of the Sellers and contained no subject clause ensuring that the Sellers ceased to be obligated from the first offer.
14. Ms. Su stated that she didn't get the Disclosure of Interest in Trade form signed when she presented her offer as it was too late and one of the Sellers had gone to bed.
15. A.P., managing broker at the date of transaction for Ms. Su, stated that once he was made aware of her conduct he sent an apology letter to the listing agents, surrendered her licence to Council, and notified Council via email of her conduct.
16. Upon inquiry by the Council, Ms. Su admitted that she thought *"as a buyer I have the right to contact the seller because the seller have their right to sell their house to anyone they want"*. [sic] She misunderstood the role of a buyer and realtor and



AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

believed her role as a buyer allowed her to contact the Sellers. She expressed remorse for her ignorance as a new licensee.

17. Ms. Su has no prior discipline record 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, Ms. Su is prepared to accept the following findings if made against her by the Council's Consent Order Review Committee:

(a) Ms. Su, while acting as a representative for herself in the prospective purchase of the Property, committed professional misconduct within the meaning of section 35(1)(a) and/or (d) of the RESA in that:

- (i) contrary to section 5-9 of the Rules she failed to provide a Disclosure of Interest in Trade to the Sellers of the Property;
- (ii) she demonstrated incompetence when, knowing that the sellers were represented, she presented her own offer directly to the Sellers without the knowledge the listing representatives and without ensuring that the sellers were not obligated under another contract;
- (iii) contrary to sections 3-3(i) and 3-3(j) of the Rules she failed to take reasonable steps to avoid a conflict of interest; and further, failed to promptly and fully disclose the existence of a conflict of interest to the Sellers when she presented them with her own offer without the listing representatives' knowledge or consent; and
- (iv) contrary to section 7(3) of the RESA and section 3-2(2) of the Rules, provided real estate services outside of her brokerage and failed to keep her managing broker fully informed of the real estate services she was providing.

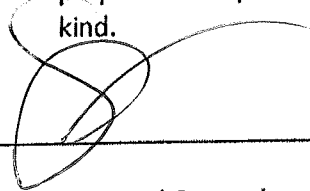
(b) Contrary to section 35(2) of the RESA, Ms. Su committed conduct unbecoming when attending the elderly Sellers' Property at 12:18 am on August 30, 2014, in order to present her own offer on the Property when she knew or ought to have known that the Sellers were represented by other licensees, and further, that they had already entered into a firm contract.

2. Ms. Su hereby waives her right to appeal pursuant to section 54 of the RESA.
3. Ms. Su acknowledges that she has been advised that she has the right to seek independent legal advice before signing this Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver.



AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

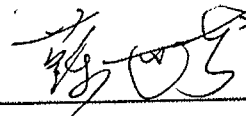
4. Ms. Su acknowledges and is aware that the Council will publish the Consent Order and penalty herein in its Report from Council newsletter, on the Council's website, and on CanLII, a website for legal research.
5. Ms. Su acknowledges and is aware that the Superintendent of Real Estate has the right, pursuant to section 54 of the RESA, to appeal any decision of the Council, including 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.



Jessica S. Gossen, Legal Counsel
Real Estate Council of British Columbia

As to Part B only (Agreed Statement of Facts)

Dated 19, day of Sept, 2017



Shifen (Susan) Su

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

Dated 20, day of July, 2017

SCHEDULE 1

- 1) Ms. Su will be subject to enhanced supervision by her managing broker, as set out in these conditions, for a period of not less than one year following completion of her licence suspension (the "Enhanced Supervision Period").
- 2) Ms. Su must keep her Managing Broker informed on a timely basis of the real estate services that she is providing either on her own behalf or another's and other activities she is engaging in and must consult with the Managing Broker in advance of taking any action regarding any questions or concerns you may have regarding compliance with the RESA, the Regulations, the Bylaws, the Rules and all other applicable legislation and the Brokerage's policies and procedures.
- 3) Ms. Su must report all her transactions to the Brokerage promptly, and ensure that no such transactions are conducted outside the Brokerage.
- 4) Ms. Su must ensure that all documents relevant to each transaction are provided to the Brokerage and contained in the deal file, including the contract of purchase and sale, all offers received for the listing, assignment agreements, addendums, trade records sheets, disclosure statements, releases and other pertinent information.
- 5) The Managing Broker must provide monthly reports to the Council confirming:
 - a. that Ms. Su's real estate services have been conducted under their direct supervision;
 - b. that Ms. Su's activities have been carried out competently and in compliance with the RESA, the Regulations, the Bylaws, the Rules and all other applicable legislation, and in accordance with Brokerage's policies and procedures;
 - c. that they have reviewed all documents signed by Ms. Su's clients and that all documents relevant to the transaction have been provided to the client and are contained in the trade records file; and
 - d. the number of real estate transactions that Ms. Su has conducted and details regarding the client(s), the agency offered; and any customer relationships.
- 6) The Managing Broker must immediately report to the Council anything of an adverse nature with respect to Ms. Su's real estate services, including failure on her part to observe the requirements of the RESA, the Regulations, the Bylaws, the Rules and all other applicable legislation, complaints received by the Brokerage, the nature of the complaint and the parties, and how it was resolved.
- 7) The Managing Broker must be provided with a copy of these conditions and, prior to the commencement of the Enhanced Supervision Period, must confirm in writing to the Council that they have read these conditions, are aware of their duties under these

SCHEDULE 1

conditions, and agree to accept those duties. Any successor managing broker will also be provided with a copy of these conditions and must provide the same confirmation within 14 days of assuming the Managing Broker's duties.

- 8) If for any reason the Managing Broker is unable to perform any of the duties imposed herein, they must immediately advise Council of this inability.
- 9) If the Managing Broker is unable to perform any of these duties and/or fails to meet their obligations under these conditions, Ms. Su's licence is suspended and will remain suspended until all conditions herein are met or a further order is made by Council under section 43(4) or (5) of the RESA. Any suspension of Ms. Su's licence under this paragraph does not limit the Council's ability to take further disciplinary action for breach of the conditions or of the RESA, the Regulations, the Bylaws, the Rules and all other applicable legislation.