

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

IN THE MATTER OF

**ARMANDO JR. BALANE GONZAGA
(159551)**

AND

**ARMANDO GONZAGA, JR. PERSONAL REAL ESTATE CORPORATION
(159551PC)**

CONSENT ORDER

RESPONDENT: Armando Jr. Balane Gonzaga,
Representative, City Realty Ltd. dba
RE/MAX City Realty, Armando Gonzaga,
Jr. Personal Real Estate Corporation

DATE OF REVIEW MEETING: June 28, 2017

DATE OF CONSENT ORDER: June 28, 2017

CONSENT ORDER REVIEW COMMITTEE: R. Holmes, Q.C., Chair
C. Geurts
L. Hrycan
K. Khoo
S. Sidhu
T. Styffe

ALSO PRESENT: E. Seeley, Acting Executive Officer
G. Thiele, Director, Legal Services
Sabinder Sheina, Legal Counsel for the
Real Estate Council

PROCEEDINGS:

On June 28, 2017, the Consent Order Review Committee ("Committee") resolved to accept the Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver ("ASF") submitted by Armando Jr. Balane Gonzaga, on his own behalf and on behalf of Armando Gonzaga, Jr. Personal Real Estate Corporation.

WHEREAS the ASF, a copy of which is attached hereto, has been executed by the Council and by Armando Jr. Balane Gonzaga, on his own behalf and on behalf of Armando Gonzaga, Jr. Personal Real Estate Corporation.


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

1. Armando Jr. Balane Gonzaga and Armando Gonzaga, Jr. Personal Real Estate Corporation each be reprimanded;
2. Armando Jr. Balane Gonzaga and Armando Gonzaga, Jr. 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. Armando Jr. Balane Gonzaga, 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. Armando Jr. Balane Gonzaga and Armando Gonzaga, Jr. 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 Armando Jr. Balane Gonzaga or Armando Gonzaga, Jr. 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 28th day of June, 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

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

IN THE MATTER OF

ARMANDO JR. BALANE GONZAGA
(159551)

AND

ARMANDO GONZAGA, JR. PERSONAL REAL ESTATE CORPORATION
(159551PC)

AGREED STATEMENT OF FACTS,
PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

The following agreement has been reached between Armando Jr. Balane Gonzaga ("Mr. Gonzaga"), Armando Gonzaga, Jr. Personal Real Estate Corporation and the Real Estate Council of British Columbia ("Council").

- A. Mr. Gonzaga on his own behalf and on behalf of Armando Gonzaga Jr. Personal Real Estate Corporation hereby consent 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 within ninety (90) days of the date of the Order herein;
 - c. at his own expense, Mr. Gonzaga shall 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 as directed by the Council;
 - d. they be 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 Order herein; and
 - e. 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, Mr. Gonzaga and Armando Gonzaga Jr. Personal Real Estate Corporation acknowledge and agree that the facts set forth herein are correct:

AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

1. Mr. Gonzaga was at all relevant times licensed as a representative with City Realty Ltd. dba RE/MAX City Realty.

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

Brokerage	Branch Name	Licence Level	Licence Category	Start Date	End Date
City Realty Ltd. dba RE/MAX City Realty (X027906)		Representative	Trading	31/12/2013	Present
West Coast Realty Ltd. dba Sutton Group West Coast Realty (X028975)	Vancouver Cambie Street	Representative	Trading	20/07/2010	30/12/2013

3. Mr. Gonzaga became licensed as Armando Gonzaga Jr. Personal Real Estate Corporation on August 27, 2015.
4. Mr. Gonzaga represented the buyer in the purchase of a property located on Canada Way, Burnaby, BC (the "Property"). Details of the Contract of Purchase and Sale ("Contract") were as follows:

Contract date:	July 3, 2014
Purchase price:	\$777,000
Completion:	September 15, 2014
Subjects included:	Financing, inspection, approving title, insurance, and approving the Property Disclosure Statement

In addition, the Contract stated that a deposit of \$25,000 was required to be paid within 24 hours or two working days upon removal of final subjects on July 16, 2014.

5. The seller/complainant accepted the offer on July 7, 2014.
6. On July 15, 2014, the parties to the Contract executed an addendum agreeing to change the subject removal date from July 16, 2014 to July 18, 2014. All other terms and conditions remained the same.
6. On July 18, 2014, all subjects were removed by the Buyer. In his response to Council staff, Mr. Gonzaga stated that he reminded his client that the deposit was payable the next day.
7. Mr. Gonzaga did not receive the deposit from his client within the time period contemplated in the Contract.
8. Mr. Gonzaga immediately informed the listing agent that his client had not provided the deposit in accordance with the Contract. Between July 23, 2014 and August 2, 2014, Mr.

AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

Gonzaga communicated several times with the listing agent to keep her apprised of his efforts to collect the deposit from his client.

9. Mr. Gonzaga did not inform his managing broker that the deposit on the Property had not been received in accordance with the terms of the Contract.
10. On January 14, 2015, the seller completed the sale of the Property to another buyer.
11. Mr. Gonzaga stated that he did not give a copy of the Contract to the Brokerage when it was signed. This was contrary to the office policy for contracts stated in the Brokerage's Policy and Procedures Manual.
12. Mr. Gonzaga acknowledged that he should have immediately informed his managing broker that the deposit had not been received and apologized for his failure to do so.
13. Mr. Gonzaga and Armando Gonzaga Jr. Personal Real Estate Corporation have no previous discipline history 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, between Armando Jr. Balane Gonzaga, on his own behalf and on behalf of Armando Gonzaga, Jr. Personal Real Estate Corporation, is prepared to accept the following findings if made against him by the Council's Consent Order Review Committee:
 - a) he committed professional misconduct within the meaning of section 35(1)(a) of the RESA, in that while licensed as a representative with RE/MAX City Realty and acting as the buyer's agent for a property located on Canada Way, Burnaby BC (the "Property"), you failed to:
 - i) promptly provide to your managing broker, the original or a copy of the accepted offer for the Property, contrary to section 3-2(1)(b) of the Rules; and
 - ii) immediately inform your managing broker that a deposit of \$25,000 had not been received in accordance with the Contract of Purchase and Sale, contrary to section 3-2(2)(b) of the Rules.
2. Mr. Gonzaga and Armando Gonzaga Jr. Personal Real Estate Corporation hereby waive their right to appeal pursuant to section 54 of the RESA.
3. Mr. Gonzaga and Armando Gonzaga Jr. 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.

AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER


4. Mr. Gonzaga and Armando Gonzaga Jr. 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. Gonzaga and Armando Gonzaga Jr. 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 9 day of May, 2017



Armando Jr. Balane Gonzaga on his own behalf
and on behalf of Armando Gonzaga Jr. Personal
Real Estate Corporation

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

Dated 9/10 day of May, 2017