

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

**IN THE MATTER OF
KIRANDIP SINGH DHALIWAL
(142210)**

CONSENT ORDER

RESPONDENT: Kirandip Singh Dhaliwal,
Representative, Royal Pacific Realty
Corp.

DATE OF REVIEW MEETING: December 8, 2016

DATE OF CONSENT ORDER: January 23, 2017

CONSENT ORDER REVIEW COMMITTEE: R. Holmes Q.C., Chair
S. Heath
K. Khoo
M. Leslie
G. Martin

ALSO PRESENT: G. Thiele, Director, Legal Services
Jessica Gossen appearing on behalf of
Jean P. Whittow Q.C., Legal Counsel
for the Real Estate Council

PROCEEDINGS:

On December 8, 2016, an Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver ("ASF") submitted by Kirandip Singh Dhaliwal was considered by the Consent Order Review Committee (the "Committee") but not accepted. On January 17, 2017, a revised ASF acceptable to the Committee was submitted by Mr. Dhaliwal.

WHEREAS the ASF, a copy of which is attached hereto, has been executed by Kirandip Singh Dhaliwal and on behalf of the Council;

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

1. be suspended for sixty (60) days and that he is prohibited from acting as an unlicensed assistant during the period of the suspension;
2. be under the direct supervision of a managing broker for a period of not less than one year following the end of the suspension period as more particularly described in the terms of the Enhanced Supervision attached as Schedule 1 to this Consent Order, and agrees that the terms of Enhanced Supervision form a part of this Consent Order pursuant to s. 41 of the *Real Estate Services Act*;
3. 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. shall 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 Kirandip Singh Dhaliwal fails to comply with any term of this Order, the Council may suspend or cancel his licence without further notice to him, pursuant to sections 43(3) and 43(4) of the *Real Estate Services Act*.

Dated this 23rd day of January, 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
KIRANDIP SINGH DHALIWAL**

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

The following agreement has been reached between Kirandip Singh Dhaliwal ("Mr. Dhaliwal") and the Real Estate Council of British Columbia (the "Council"):

- A. Mr. Dhaliwal hereby consents to an Order to be made pursuant to section 43 of the *Real Estate Services Act* that he be suspended for sixty (60) days and that he is prohibited from acting as an unlicensed assistant during the period of the suspension.

Mr. Dhaliwal further consents to an Order that he will be under the direct supervision of a managing broker for a period of not less than one year following the end of the suspension period as more particularly described in the terms of Enhanced Supervision attached as Schedule 1 to this Consent Order Proposal, and agrees that the terms of Enhanced Supervision form a part of any Order made pursuant to s. 41 of the *Real Estate Services Act*.

Mr. Dhaliwal further consents to an Order that he, 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.

Mr. Dhaliwal further agrees to pay enforcement expenses of this Consent Order to the Council in the amount of \$1500.00, to be paid within sixty (60) days from the date of the Order herein.

Mr. Dhaliwal further consents to an Order that if he fails comply with any of the terms of the Order, a Discipline Hearing Committee may suspend or cancel his licence without further notice pursuant to section 43(3) and 43(4) of the *Real Estate Services Act*.

- B. As a basis for this Order, Mr. Dhaliwal agrees that the facts set forth herein are correct:

1. At all material times, Mr. Dhaliwal was licensed as representative with Royal Pacific Realty Corp.

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

<u>Start Date</u>	<u>End Date</u>	<u>Licensing History</u>	<u>Licence Level</u>	<u>Licence Category</u>
2011/07/21		Royal Pacific Realty Corp. (X024262)	Representative	Trading
2011/07/16	2011/07/20	Unlicensed	N/A	N/A
2009/07/16	2011/07/15	Royal Pacific Realty Corp. (X024262)	Representative	Trading
2009/06/21	2009/07/15	Unlicensed	N/A	N/A
2009/03/31	2009/06/20	Royal Pacific Realty Corp. (X024262)	Representative	Trading
2008/10/03	2009/03/30	Unlicensed	N/A	N/A
2005/06/21	2008/10/02	Par Excellence Management Inc. (X024987)	Representative	Trading

3. On about March 22, 2015, Mr. X., a person who Mr. Dhaliwal knew as a real estate developer, informed Mr. Dhaliwal that he was going to buy property located at [REDACTED] Avenue (the "Property") and that he would be prepared to assign the contract for the purchase of the Property (the "Contract") for a \$25,000 assignment fee.

4. Mr. Dhaliwal told his friend, a builder, H.D., what Mr. X. had said. H.D. said he was not interested in buying the Property.

5. On March 28, 2015, Mr. Dhaliwal received a telephone call from H.D., who said that he was with people who were interested in purchasing the Property as assignee and that H.D. would be acting as a contractor in a "build to suit". H.D. asked if Mr. Dhaliwal could obtain the Contract from Mr. X. and prepare an assignment.

6. Mr. Dhaliwal called Mr. X. and requested the Contract. A short time later and also on March 28, 2015, Mr. Dhaliwal received from M.B., another licensee, a copy of the Contract. The Contract was dated March 28, 2015, and was made between M.B. and sellers [REDACTED] and [REDACTED] and [REDACTED] the owners of the Property. It provided that the sellers had "no agency", that M.B. was the buyer and that M.B. was in an agency relationship with herself as a licensee. The Contract provided for a price of \$970,000, with a deposit of \$40,000 and a completion date of August 31, 2015. Mr. Dhaliwal also received from M.B. a copy of the Disclosure of Interest in Trade that M.B. had prepared, which was incomplete, a copy of an oil tank removal certificate and a copy of the \$40,000 deposit cheque.

7. Mr. Dhaliwal printed a blank form for assignment of contract of purchase and sale (the "Assignment") and inserted M.B.'s name in it. Mr. Dhaliwal took the Assignment and the documents that had been sent to him by M.B. to a local restaurant where he met up with H.D. and the proposed assignees.

8. In the presence of these three parties, Mr. Dhaliwal then completed the Assignment. He filled in the name of the assignee, the details of the original Contract, and the assignment amount of \$25,000 (the "Assignment Amount"), which he knew to be the amount sought by Mr. X. He wrote "\$40,000 deposit direct to the assignor" and wrote in the new purchase price of \$995,000.

9. At the meeting at the restaurant, there was no conversation regarding Mr. Dhaliwal acting as the agent for the assignees. On the Assignment, Mr. Dhaliwal did not indicate that he was agent for anyone. No Working with a Realtor Form was prepared.

10. Mr. Dhaliwal left the restaurant shortly thereafter while the parties were discussing the matter. At the time he departed, the Assignment had not been signed.

11. About an hour later, H.D. called Mr. Dhaliwal and came to Mr. Dhaliwal's home with the signed Assignment containing the terms described above and two bank drafts, one for \$40,000 and one for \$25,000, the Assignment Amount, both payable to M.B.

12. Mr. Dhaliwal immediately contacted Mr. X. Mr. X came to Mr. Dhaliwal's home and picked up the Assignment and the two bank drafts.

13. Mr. Dhaliwal did not turn the Assignment in to his Brokerage, did not remit the Assignment Amount to the Brokerage and did not inform his managing broker of his real estate activities in relation to this transaction.

14. About a week later, the assignee placed a construction sign on the Property. The owner of the Property contacted the assignee and said he had never sold the Property.

15. The bank drafts for the deposit and the Assignment Amount were deposited and the proceeds disbursed before it was determined that the Contract was a fraud. Mr. Dhaliwal had no knowledge of this.

16. The assignee and the owner both complained to the Council and to police. The assignee also filed a claim to the Real Estate Compensation Fund.

17. Mr. Dhaliwal failed to appreciate that he was providing real estate services to the assignee and that his actions enabled the misappropriation of the assignee's funds to occur.

18. Mr. Dhaliwal has no prior disciplinary 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, Mr. Dhaliwal is prepared to accept the following findings by the Council's Consent Order Review Committee:

- (a) he prepared the form of Assignment, received the executed Assignment and Assignment Amount and provided it to Mr. X, which constitutes professional misconduct under section 35(1) of RESA as an act or acts of wrongful taking or deceptive dealing (RESA section 35(1)(c)) and a contravention of section 7(3) of RESA and section 3-4 of the Council Rules and constitutes conduct unbecoming under section 35(2) of RESA;
 - (b) he failed to promptly deliver the Assignment Amount to the brokerage in relation to which he was licensed, which constitutes professional misconduct under section 35(1)(a) of RESA as a contravention of section 27(1)(a) and/or 27(1)(b) of RESA, as an act or acts of wrongful taking or deceptive dealing (RESA section 35(1)(c)), and incompetence (RESA section 35(1)(d)) and constitutes conduct unbecoming under section 35(2) of RESA;
 - (c) he failed to promptly provide his managing broker with the records in relation to real estate services, which constitutes professional misconduct under section 35(1)(a) of RESA as a contravention of section 3-2(1)(b) and section 3-4 of the Council Rules and incompetence (RESA section 35(1)(d)) and constitutes conduct unbecoming under section 35(2) of RESA; and,
 - (d) he failed to keep his managing broker informed of the real estate services being provided and other activities performed, which constitutes professional misconduct under section 35(1)(a) of RESA as a contravention of section 3-2(2)(a) and section 3-4 of the Council Rules and incompetence (RESA section 35(1)(d)) and constitutes conduct unbecoming under section 35(2) of RESA.
2. Mr. Dhaliwal waives his right to appeal pursuant to section 54 of the *Real Estate Services Act*.
3. Mr. Dhaliwal acknowledges that he has a right to seek independent legal advice before signing this Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver.
4. Mr. Dhaliwal acknowledges that the Council will publish the Consent Order and penalty herein in its Report from Council and on the Council's website.
5. Mr. Dhaliwal acknowledges and is aware that the Superintendent of Real Estate has the right, pursuant to section 54 of the *Real Estate Services Act*, 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.

"Jean P. Whittow"

Jean P. Whittow, Q.C., Legal Counsel
for the Real Estate Council
of British Columbia

As to Part B only (Agreed Statement of
Facts)

Dated this 19th day of January,
2017.



Kirandip Singh Dhaliwal

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

Dated this 17 day of January,
2017.

Schedule "1" – Terms of Enhanced Supervision

- 1) Your licence will be restricted to Royal Pacific Realty Corp., or another brokerage acceptable to Council, (the "Brokerage") for a period of not less than one year following completion of your licence suspension.**
- 2) You will be subject to enhanced supervision by your managing broker, as set out in these conditions, for a period of not less than one year following completion of your licence suspension (the "Enhanced Supervision Period").**
- 3) You must remain under the direct supervision of Andrew Peck, the managing broker of the Brokerage, or a successor managing broker acceptable to the Council (the "Managing Broker"), during the Enhanced Supervision Period.**
- 4) You must keep the Managing Broker informed on a timely basis of the real estate services that you are providing and other activities you are 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 RESA, the Regulations, the Bylaws, the Rules and all other applicable legislation and the Brokerage's policies and procedures.**
- 5) You must report all your transactions to the Brokerage promptly, and ensure that no such transactions are conducted outside the Brokerage.**
- 6) You 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.**
- 7) The Managing Broker must provide monthly reports to the Council confirming:**
 - a. that your real estate services have been conducted under their direct supervision;**
 - b. that your 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 your clients and that all documents relevant to the transaction have been provided to the client and are contained in the deal file; and**
 - d. the number of real estate transactions that you have conducted and details regarding the client(s), the agency offered; and any customer relationships.**

- 8) The Managing Broker must immediately report to the Council anything of an adverse nature with respect to your real estate services, including failure on your 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.
- 9) The Managing Broker must ensure that you and your unlicensed or licensed assistants, if any, receive adequate, appropriate and ongoing training with respect to their obligations under the RESA, Regulations, Bylaws, and Rules, and in accordance with the Brokerage's policies and procedures.
- 10) 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 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.
- 11) 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.
- 12) If the Managing Broker is unable to perform any of these duties due to your conduct, the Managing Broker fails to perform their duties, you no longer have an acceptable managing broker or you fail to meet your obligations under these conditions, your licence is suspended and will remain suspended until all conditions herein are met. Any suspension of your 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.