

File # 13-336

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

IN THE MATTER OF
GUY JOSEPH DONAT BEZEAU
(072347)

CONSENT ORDER

RESPONDENT: Guy Joseph Donat Bezeau, Associate
Broker, Island Pacific Realty Ltd.
while licensed as Managing Broker
with Ocean Pointe Realty Ltd. (Ldy)
dba RE/MAX Ocean Pointe Realty
(Ldy)

DATE OF REVIEW MEETING: September 29, 2016

DATE OF CONSENT ORDER: September 29, 2016

CONSENT ORDER REVIEW COMMITTEE: H. Exner
M. Leslie
G. Martin
J. Pearson
T. O'Grady

ALSO PRESENT: R.O. Fawcett, Executive Officer
G. Thiele, Director, Legal Services
J. Moore, Legal Counsel for the Real
Estate Council

PROCEEDINGS:

On September 29, 2016 the Consent Order Review Committee (the "Committee") resolved to accept the Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver ("ASF") submitted by Guy Joseph Donat Bezeau.

WHEREAS the ASF, a copy of which is attached hereto, has been executed by Guy Joseph Donat Bezeau and on behalf of the Council;

WHEREAS the ASF, a copy of which is attached hereto, has been executed by Guy Joseph Donat Bezeau 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 Guy Joseph Donat Bezeau committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act*, orders that Guy Joseph Donat Bezeau:

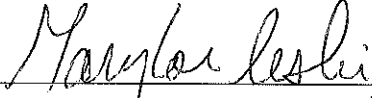
1. be reprimanded;
2. pay a discipline penalty to the Council in the amount of \$2,500.00 within ninety (90) days of the date of this Order; and
3. shall pay enforcement expenses of this Consent Order to the Council in the amount of \$1,500.00 within sixty (60) days from the date of this Order.

If Guy Joseph Donat Bezeau 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 29 day of September, 2016 at the City of Vancouver, British Columbia.

ON BEHALF OF THE CONSENT ORDER REVIEW COMMITTEE

Attch.


_____, Chair
Consent Order Review Committee
MARYLOU LESLIE

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

IN THE MATTER OF

GUY JOSEPH DONAT BEZEAU
(072347)

AGREED STATEMENT OF FACTS,
PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

The following agreement has been reached between Guy Joseph Donat Bezeau ("Mr. Bezeau") and the Real Estate Council of British Columbia (the "Council").

- A. Mr. Bezeau hereby consents to an Order to be made pursuant to sections 41 and 43 of the *Real Estate Services Act* ("RESA") that he:
- (a) be reprimanded;
 - (b) pay a discipline penalty to the Council in the amount of \$2,500.00 within ninety (90) days from the date of the Order herein; and
 - (c) pay enforcement expenses to the Council in the amount of \$1,500.00 within sixty (60) days from the date of the Order herein.
- B. Mr. Bezeau further consents to an Order that if he fails to comply with any of the terms of the Order set out above, a Discipline Hearing Committee may suspend or cancel his licence without further notice to him pursuant to section 43(3) and 43(4) of the RESA.
- C. As a basis for this Order, Mr. Bezeau acknowledges and agrees that the facts set forth herein are correct:
1. Mr. Bezeau was at all relevant times licensed with Re/Max Ocean Pointe Realty (Ldy) ("Ocean Pointe Realty") and his licensing history is as follows:

Start Date	End Date	Brokerage	Licence Level	Licence Category
30/12/2014	To Present	Island Pacific Realty Ltd, (X031458)	Associate Broker	Trading
24/07/2014	30/12/2014	1004227 B.C. Ltd. Db a Re/Max	Associate	Trading

AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

		Ocean Pointe Realty (X031238)	Broker	
27/07/2006	24/07/2014	Ocean Pointe Realty Ltd. (Ldy) dba Re/Max Ocean Pointe Realty (Ldy)(X023978)	Managing Broker	Trading, Rental
12/06/2003	27/07/2006	Ocean Pointe Realty Ltd. (Ldy) dba Re/Max Ocean Pointe Realty (Ldy) (X023978)	Associate Broker	Trading, Rental
30/04/1995	12/06/2003	Ocean Pointe Realty Ltd. (Ldy) dba Re/Max Ocean Pointe Realty (Ldy) (X023978)	Managing Broker	Trading, Rental
13/07/1994	30/04/1995	Ocean Pointe Realty Ltd. (Ldy) dba Re/Max Ocean Pointe Realty (Ldy) (X023978)	Associate Broker	Trading, Rental
03/02/1994	13/07/1994	Ocean Pointe Realty Ltd. (Ldy) dba Re/Max Ocean Pointe Realty (X023978)	Managing Broker	Trading, Rental
01/10/1993	03/02/1994	Ocean Pointe Realty Ltd. Db a Re/Max Ocean Pointe Realty(X020653)	Associate Broker	Trading, Rental
10/04/1992	01/10/1993	Bowen Realty Woodgrove Ltd. Db a Re/Max of Nanaimo (X014782)	Associate Broker	Trading, Rental
09/02/1990	10/04/1992	Bowen Realty Woodgrove Ltd. Db a Re/Max of Nanaimo (X014782)	Representative	Trading, Rental
11/02/1988	09/02/1990	Kelly Real Estate Ltd. dba Homelife Nanaimo (X015614)	Representative	Trading, Rental

2. Mr. Bezeau was one of the owners, directors and managing brokers of the brokerage.
3. The brokerage was sold in July 2014.
4. Mr. Bezeau is now licensed with another brokerage as an associate broker.
5. In March 2014, a cheque drawn on the brokerage's operating account and issued to

AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

the Council for payment of an administrative penalty was returned by the brokerage's bank due to insufficient funds.

6. On May 26, 2014, a Council auditor conducted an office and records inspection of the brokerage. During the audit Mr. Bezeau disclosed that the Canada Revenue Agency had garnished and frozen the brokerage's operating account in relation to an ongoing dispute it had with the brokerage. Mr. Bezeau stated that he had been unable to open another operating account, so he continued to manage the brokerage expenses through his personal and shareholder's accounts.
7. Mr. Bezeau stated to the auditor that the brokerage had been without a bookkeeper for several months. There were no plans to employ another one as the brokerage was in the midst of being sold to a buyer who had its own centralized accounting/conveyancing department and did not require a bookkeeper. He was under the impression that all of the bookkeeping was up to date.
8. During the course of the inspection, the following were noted by the auditor:
 - (a) The brokerage had not performed monthly bank reconciliations. The most recent bank reconciliation for the trading trust account was dated December 31, 2013. The commission trust account had been reconciled up to November 30, 2013.
 - (b) Deposits to the brokerage trust account from January 1, 2014 until April 30, 2014 were incorrectly recorded in the general ledger. The amounts received were correct but the date of receipt was entered incorrectly which created timing errors between the bank statements and the general ledger. The auditor determined that there appeared to be sufficient funds to discharge the public trust liabilities as at that date.
 - (c) The May 31, 2014 commission trust bank reconciliation reported 46 miscellaneous outstanding transactions that had not yet been recorded to the general ledger.
 - (d) The brokerage received cheques from its licensees and then deposited those cheques into the brokerage trust account. The amounts were then transferred to the commission trust account and from there applied against Mr. Bezeau's shareholders loan account. Previously these cheques were deposited directly into the brokerage operating account, but since the operating account had been frozen the brokerage had been depositing these non-trust funds into a brokerage trust account.
 - (e) Monies payable on behalf of licensees (specifically monies payable to factoring agents) were being paid out of the brokerage general operating account. On completion of a deal, the brokerage transferred its share of commissions earned as well as the fees payable on behalf of the licensee to factoring agents into the

AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

Page 4

brokerage general account. Due to ongoing issues with the CRA, the brokerage had not maintained an operating account so these amounts were being deposited into, and paid from, Mr. Bezeau's personal account.

9. Mr. Bezeau stated that because of an oversight he had failed to deposit monies into his personal account to cover the cheque he had issued to the Council. Once he was notified by the bank about the overdraft he immediately contacted the Council and issued a new cheque.
10. The auditor found no evidence of a shortage of public funds in the brokerage trust account.
11. Subsequent to the inspection, the previous bookkeeper returned to the brokerage and brought the brokerage's records up to date.
12. At the request of the Council, the brokerage provided the Council with copies of trust account reconciliations, bank statements, list of outstanding cheques and deposits and general ledgers for the trust accounts until it was sold.

DISCIPLINE HISTORY

13. Mr. Bezeau entered into a Consent Order with the Council in September 2015, in which he, while licensed with Ocean Pointe Realty, committed professional misconduct within the meaning of section 35(1)(a) of the RESA, when he failed to:
 - (a) promptly notify the Council, in writing, that he had made an assignment bankruptcy, contrary to section 2-21(2)(e) and 2-21(3) of the Council Rules; and
 - (b) provide his managing broker with a copy of that notice, contrary to section 2-21(4) of the Council Rules.

Mr. Bezeau was reprimanded and ordered to pay enforcement expenses to the Council in the amount of \$1,500.00.

D. Proposed Acceptance of Findings and Waiver

Based on the Agreed Statement of Facts as outlined herein, and without making any admissions of liability, Guy Donat Bezeau is prepared to accept the following findings if made against him by the Council's Consent Order Review Committee:

1. Guy Donat Bezeau committed professional misconduct within the meaning of section 35(1)(a) of RESA and sections 3-1(1)(b) and 3-1(3) of the Council Rules when, in his capacity as managing broker of Ocean Pointe Realty Ltd. (Ldy) dba Re/Max Ocean Pointe Realty (Ldy) he:

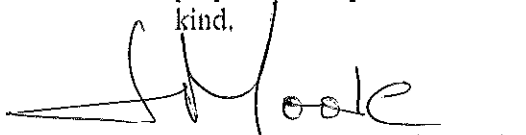
AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

Page 5

- (a) failed to ensure that the brokerage, in accordance with section 25 of the RESA and sections 8-2(c) and 8-3 of the Council Rules :
 - (i) maintained proper books, accounts and other records;
 - (ii) prepared and retained bank reconciliations for the pooled trading trust account, for the months of January 2014 through to April 2014 ;
 - (iii) prepared and retained bank reconciliations for the commission trust account for the months of December 2013 through to April 2014; and
 - (iv) correctly recorded deposits in the general ledger for entries between the months of January 2014 through to April 2014; and
 - (b) failed to ensure that the brokerage made payments on behalf of licensees from a commission trust account, in accordance with section 31 of the RESA; and
 - (c) allowed the brokerage to deposit non-trust monies into the brokerage's trust account, contrary to sections 27(2)(a) and (b) and 27(5) of the RESA.
2. Mr. Bezeau hereby waives his right to appeal pursuant to section 54 of the RESA.
 3. Mr. Bezeau acknowledges that he has the right to seek independent legal advice before signing this Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver.
 4. Mr. Bezeau 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. Mr. Bezeau 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.

AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

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.



**Janice L. Moore, Legal Counsel
Real Estate Council of British Columbia**

As to Part C only (Agreed Statement of Facts)

Dated 12 day of Sept, 2016



Guy Joseph Donat Bezeau

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

Dated 12 day of September, 2016