

File # 13-258

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

IN THE MATTER OF
PAN PACIFIC PLATINUM REAL ESTATE SERVICES INC. DBA
NEW COAST REALTY
(030113)

CONSENT ORDER

RESPONDENT: Pan Pacific Platinum Real Estate
Services Inc. dba New Coast Realty,
Brokerage

DATE OF REVIEW MEETING: August 31, 2016

DATE OF CONSENT ORDER: September 9, 2016

CONSENT ORDER REVIEW COMMITTEE: D. Fimrite
M. Leslie
S. Lynch, Chair
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 August 31, 2016, an Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver ("ASF") submitted by Pan Pacific Real Estate Services Inc. dba New Coast Realty ("New Coast Realty") was considered by the Consent Order Review Committee (the "Committee") but rejected. On September 1, 2016, a revised ASF acceptable to the Committee was submitted by New Coast Realty.

WHEREAS the ASF, a copy of which is attached hereto, has been executed by New Coast Realty and on behalf of the Council;

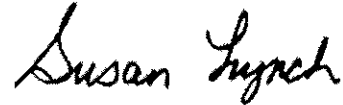
NOW THEREFORE, the Committee having made the findings proposed in the attached ASF, and in particular having found that New Coast Realty committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act*, orders that New Coast Realty:

1. be reprimanded;
2. pay a discipline penalty to the Council in the amount of \$7,500.00 within ninety (90) days of the date of this Order; and
3. 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 New Coast Realty fails to comply with any term of this Order, the Council may suspend or cancel its licence without further notice to it, pursuant to sections 43(3) and 43(4) of the *Real Estate Services Act*.

Dated this 9th day of September, 2016 at the City of Vancouver, British Columbia.

ON BEHALF OF THE CONSENT ORDER REVIEW COMMITTEE



S. Lynch, 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
PAN PACIFIC PLATINUM REAL ESTATE SERVICES INC.
dba NEW COAST REALTY
(030113)**

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

The following agreement has been reached between Pan Pacific Platinum Real Estate Services Inc. dba New Coast Realty (the "New Coast Realty", or alternatively the "Brokerage") and the Real Estate Council of British Columbia (the "Council").

- A. New Coast Realty hereby consents to an Order to be made pursuant to sections 41 and 43 of the *Real Estate Services Act* ("RESA") that it:
1. be reprimanded;
 2. pay a discipline penalty in the amount of \$7,500.00 to the Council within (ninety) 90 days from the date of the Order herein; and
 3. 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 the Order herein.
- B. The Brokerage further consents to an Order that if it fails to comply with any of the terms of the Order set out above, a Discipline Hearing Committee may suspend or cancel its licence without further notice to him pursuant to section 43(3) and 43(4) of the RESA.
- C. As a basis for this Order, the Brokerage acknowledges and agrees that the facts set forth herein are correct:
1. The Brokerage's licensing history is as follows:

<u>Start Date</u>	<u>End Date</u>	<u>Licence Level</u>	<u>Licence Category</u>
2011/08/24	Present	Brokerage	Trading, Rental

2. Between April 2 and 7, 2014, the Council conducted an office and records inspection of the Brokerage. During the inspection the auditor observed breaches of the RESA and the Council Rules as follows.

Deficiency in Trust Liability and Asset Reconciliations

3. On June 21, 2013, a licensee provided the Brokerage with a bank draft in the amount of \$50,000.00. It was to be deposited into the Brokerage's real estate trust account for the pending sale of a property located at [REDACTED] Maple Road, Richmond, BC; however, it was deposited into the Brokerage's general account by mistake. The sale completed on August 8, 2013. This error caused the trust liability and asset reconciliations to be overstated by \$50,000.00 between the months of June to September 2013. However, this deficiency was not recognized until October 11, 2013, at which time a cheque in the amount of \$50,000.00 was deposited into the real estate trust account from the Brokerage's general account to account for the deficiency.

Unlicensed Activity

4. Y.W. the director of New Coast Realty and two of the Brokerage's unlicensed support staff - R.H. and O.H. - were engaged in activities which required a license under the RESA. In particular:
 - (a) Y.W. signed a separate commission agreement with respect to the sale of [REDACTED] West 39th Avenue. This separate commission agreement was found in the Brokerage's records. YW also offered free rental services to the owner of [REDACTED] Lucas Road.
 - (b) R.H. provided real estate services by answering phone calls from the public which relate to enquiries about rental properties and property listings. R.H. provided information to the caller directly instead of directing them to the licensee themselves and also made comments about the properties. It was also noted that R.H. dealt with a client on behalf of one of the Brokerage's licensees during the time the inspection was taking place.
 - (c) O.H. conducted showings of properties and was instructed by R.H. to conduct a rental showing to a prospective tenant to a property on Lucas Road.
5. Y.W., R.H., and O.H. had never been licensed, and were not exempt from the licensing requirements under the Council Rules and regulations.
6. Y.W.'s image was shown on the Brokerage's website as a "Real Estate Investment Marketing Director" without indicating that he was unlicensed. A copy of the advertising print out at Home & Realty Weekly dated March 27, 2014 indicated Y.W.'s image and a group of unlicensed staff images as part of the "New Coast Realty In-house Sales Support Team". This team name was not registered with the

Council and the unlicensed staff members were not identified as unlicensed. These images effectively held these unlicensed staff members out as people who provide real estate services, which falls within the meaning of "providing real estate services" under the RESA.

7. The Brokerage has no prior discipline history with the Council.

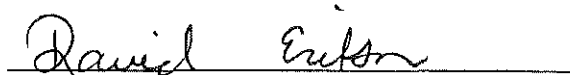
D. Proposed Acceptance of Findings and Waiver

1. Based on the Agreed Statement of Facts as outlined herein, and without making any admissions of liability, New Coast Realty is prepared to accept the following findings if made against it by the Council's Consent Order Review Committee that :
 - (a) New Coast Realty committed professional misconduct within the meaning of section 35(1)(a) of the RESA when it allowed:
 - (i) a deposit cheque in the amount of \$50,000.00 with respect to the purchase of property located at [REDACTED] Maple Road, Richmond, BC, to be deposited into the Brokerage's general account and not the trust account, thereby incurring a negative balance in the Brokerage's trust account and records, and did not notify the Council about the negative balance, or take immediate steps to eliminate the negative balance in the trust account until four months later, contrary to section 7-5 of the Council Rules; and
 - (ii) unlicensed individuals to be paid by the Brokerage for providing real estate services on behalf of the Brokerage when they were not licensed to do so, contrary to section 6-1 of the Council Rules.
2. New Coast Realty hereby waives its right to appeal pursuant to section 54 of the RESA.
3. New Coast Realty acknowledges that it has a right to seek independent legal advice before signing this Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver.
4. New Coast Realty 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. New Coast Realty 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.



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



**David Louis Erickson, on behalf of Pan
Pacific Platinum Real Estate Services Inc.
dba New Coast Realty**

As to Part C only (Agreed Statement of Facts)

Dated 1st day of Sept, 2016

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

Dated 1 day of September, 2016