

File # 14-039

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

**IN THE MATTER OF**  
**ALEXANDER OGHOGHO MOSES**  
**(109210)**

**CONSENT ORDER**

RESPONDENT: Alexander Oghogho Moses, managing  
broker, OMAX Realty Ltd. dba City 2  
City Real Estate Services Inc.

DATE OF REVIEW MEETING: September 29, 2016

DATE OF CONSENT ORDER: September 29, 2016

CONSENT ORDER REVIEW COMMITTEE: H. Exner  
M. Leslie  
G. Martin  
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 Alexander Oghogho Moses.

**WHEREAS** the ASF, a copy of which is attached hereto, has been executed by Alexander Oghogho Moses 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 Alexander Oghogho Moses committed

*\*Please note the dba in the consent order is incorrect.*

professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act*, orders that Alexander Oghogho Moses:

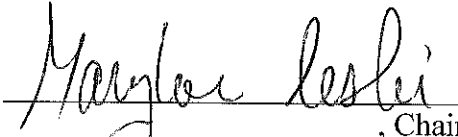
1. be reprimanded;
2. pay a discipline penalty to the Council in the amount of \$1,500.00 within ninety (90) days of the date of this Order; and
3. pay enforcement expenses of this Consent Order to the Council in the amount of \$1,500.00 within sixty (60) days from the date of this Order.

If Alexander Oghogho Moses 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

Atch.

  
\_\_\_\_\_, Chair  
Consent Order Review Committee  
MARYLOU LESLIE

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

**AND**

**IN THE MATTER OF  
ALEXANDER OGHOGHO MOSES  
(149311)**

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

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The following agreement has been reached between Alexander Oghogho Moses ("Mr. Moses") and the Real Estate Council of British Columbia (the "Council").

- A. Mr. Moses hereby consents to an Order to be made pursuant to sections 41 and 43 of the *Real Estate Services Act* ("RESA") that he:
1. be reprimanded;
  2. pay a discipline penalty to the Council in the amount of \$1,500.00 within ninety(90) days from the date of the Order herein; and
  3. and 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. Moses further consent to an Order that if he fails to comply with any of the terms of the Order, 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. Moses acknowledges and agrees that the facts set forth herein are correct:
1. Mr. Moses was at all relevant times licensed as a managing broker with Omax Realty and his 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>
2014/06/14	To Present	City to City Real Estate Services Inc. (X032757)	Managing Broker	Trading, Rental Strata

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

2012/12/05	2014/06/14	OMAX Realty Ltd. (X029063)	Managing Broker	Trading, Rental, Strata
2011/12/13	2012/12/05	OMAX Realty Ltd. (X029063)	Managing Broker	Trading, Strata
2011/04/01	2011/12/13	OMAX Realty Ltd. (X029063)	Managing Broker	Trading
2011/03/02	2011/04/01	OMAX Realty Ltd. (X029063)	Associate Broker	Trading
2010/11/20	2011/03/02	Mazuma Star Realty Ltd. (X029254)	Associate Broker	Trading
2009/03/17	2010/11/20	Mazuma Star Realty Ltd. (X029254)	Managing Broker	Trading
2007/10/23	2009/03/17	Royal Pacific Realty Corp. (X024262)	Representative	Trading
2006/07/19	2007/10/23	ABF Realty Ltd. (X028758)	Representative	Trading
Secondary License (-1)				
<u>Start Date</u>	<u>End Date</u>	<u>Licensing History</u>	<u>Licence Level</u>	<u>Licence Category</u>
2013/05/30	2016/06/14	OMAX Realty Ltd. (Kel) (X030074)	Managing Broker	Trading, Rental, Strata
2011/05/30	2013/05/29	OMAX Realty Ltd. (Kel) (X030074)	Managing Broker	Trading
Secondary License (-2)				
<u>Start Date</u>	<u>End Date</u>	<u>Licensing History</u>	<u>Licence Level</u>	<u>Licence Category</u>

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

2013/10/15	2016/06/11	OMAX Realty Ltd. (Sur1) (X030530)	Managing Broker	Trading, Rental, Strata
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2012/06/12	2013/10/15	OMAX Realty Ltd. (Sur1) (X030530)	Managing Broker	Trading, Strata
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Secondary License (-3)

<u>Start Date</u>	<u>End Date</u>	<u>Licensing History</u>	<u>Licence Level</u>	<u>Licence Category</u>
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2012/12/19	2014/12/18	OMAX Realty Ltd. (Sur) (X030712)	Managing Broker	Trading, Rental, Strata
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2. In January 2013, the Council conducted an Office and Records Inspection at the brokerage as a follow-up to the recent suspension of one of the brokerage's licensees. The inspection also included a general examination of the brokerage's financial records.
3. The auditor was advised by Mr. Moses that during December 2012 the brokerage underwent a conversion to Lone Wolfe software.
4. The auditor observed that three amounts in the commission trust account ledger were not reconciled or identified.
5. Subsequent to the audit, Mr. Moses was asked to provide to the Council the particulars about the unidentified amounts and to provide a commission trust liability listing for February and March 2013.
6. On July 3, 2013, Mr. Moses submitted to the Council commission trust liability listings for February and March 2013, but did not provide details about the unidentified amounts in the commission trust account ledger.
7. On October 28, 2014 Mr. Moses provided Council staff with a September 2014 reconciled commission trust account ledger with the three unidentified amounts removed from it.
8. Mr. Moses stated to the Council that the unidentified amounts did not affect the books of the company and were figures wrongly entered into the system during a training session when the brokerage converted its manual accounting system to Lone Wolfe. Mr. Moses stated that neither he, his conveyancer nor his accountant was able to fix the problem, so he contacted Lone Wolf for assistance. The Lone Wolf sales representative was not able to assist him and referred the matter to the forensic accounting department which after sometime rectified the problem.
9. In November 2014, during a follow-up inspection of the brokerage's books and records, the auditor observed that the brokerage had not:

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

- (a) prepared a detailed breakdown of the trust liability listing for the commission trust account for the months February, 2013 through to September, 2013; and
  - (b) reconciled the brokerage trust and commission trust accounts for the months May 2014 through to August 2014, until October 13, 2014.
10. The auditor also observed several posting errors and noted that several trade record sheets were not retained in trade files.
11. As a result of ongoing deficiencies in the trust accounting, the Council requested that the brokerage provide the Council with monthly reconciliations in their entirety for the trading services and commission trust accounts for the period of October 2014 to March 2015, which it did to the Council's satisfaction.

**Previous Discipline History**

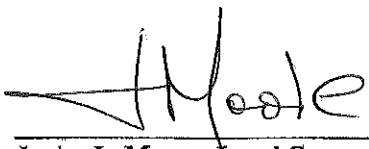
12. On January 23, 2013 Mr. Moses entered into a Consent Order with the Council wherein he accepted the findings by the Council's Consent Order Review Committee that he committed professional misconduct within the meaning of section 35(1) of the RESA when contrary to section 6(2) of the RESA and sections 3-1(1) and 3-1(3) of the Council Rules he failed in his managing broker duties to ensure that the business of the brokerage was carried out competently and in accordance with the Act, Regulations, and Council Rules in that he:
- (a) permitted the brokerage to contravene sections 7-5(1) and (2) of the Council Rules, when the brokerage made a payment from a trust account, payable to himself, which cleared the trust account on March 4, 2010, putting the trust account in an overdraft position, which amount was not replenished until March 17, 2010;
  - (b) failed to notify the Council within 10 days that the trust account was in a negative balance, contrary to section 7-5(3) of the Council Rules; and
  - (c) permitted the brokerage to contravene section 25 of the RESA and sections 8-2 and 8-3 of the Council Rules, when, despite the agreement of the brokerage indicated in a January 19, 2010 letter to the Council that the brokerage would follow through with the recommendations contained in the Office and Records Inspection Report dated December 7, 2009, the October 2011 Office and Records Inspection Report indicated that the brokerage trust and general bank accounts had not been reconciled since February 28, 2010.
13. Mr. Moses was reprimanded and ordered to pay enforcement expenses to 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, Alexander Oghogho Moses is prepared to accept the following findings if made against him by the Council's Consent Order Review Committee:

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

- (a) Mr. Moses committed professional misconduct within the meaning of section 35(1)(a) of the RESA when, contrary to sections 3-1(1) and 3-1(3)(a)(b) of the Council Rules, he failed to ensure that the brokerage:
  - (i) prepared and maintained financial records in accordance with the RESA and the Council Rules in that he allowed three unidentified amounts to be recorded in the brokerage commission trust ledger;
  - (ii) prepared a detailed breakdown of the trust liability listing for the commission trust account for the months February, 2013 through to September, 2013; and
  - (iii) reconciled the trust and commission trust accounts for the months May 2014 through to August 2014.
- 2. Mr. Moses hereby waives his right to appeal pursuant to section 54 of the RESA.
- 3. Mr. Moses 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. Mr. Moses 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. Moses acknowledges and is 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 L. Moore, Legal Counsel  
Real Estate Council of British Columbia

As to Part C only (Agreed Statement  
of Facts)

Dated 27 day of Sept, 2016



Alexander Oghogho Moses

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

Dated 27<sup>th</sup> day of September, 2016