

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

**AND**

**IN THE MATTER OF THE QUALIFICATION FOR LICENSING OF**

**[APPLICANT 2]**

**REASONS FOR DECISION**

**[This decision has been redacted before publication]**

DATE AND PLACE OF HEARING:	July 22, 2021 Virtual Qualification Hearing
QUALIFICATION HEARING COMMITTEE:	Yasin Amlani (Chair) Maggie Chan Karen Ameyaw
COUNSEL FOR THE REAL ESTATE COUNCIL OF BRITISH COLUMBIA:	Kristine Mactaggart Wright
APPLICANT:	[the Applicant], appearing on her own behalf
WITNESSES:	[Witness 1] – Applicant’s current employer  [Witness 2]- Applicant’s former colleague  [Witness 3]-Applicant’s proposed Managing Broker
COURT REPORTER:	Roberta Stinson

**INTRODUCTION**

[1] This hearing was conducted pursuant to section 10 of the *Real Estate Services Act*, S.B.C. 2004, CH. 42 (the “RESA” or the “Act”) and section 2-6 of the Rules (the “Rules”) of the Real Estate Council of British Columbia (the “Council”) to determine whether [the Applicant] (the “Applicant”) has satisfied the Council that she is currently of good reputation and is suitable to be licensed provided that she meets all the other requirements for licensing under RESA.

**DECISION**

[2] The Hearing Committee is satisfied that the Applicant is currently of good reputation and suitable to be licensed, subject to conditions and restrictions on her licence as set out in section 15 of the RESA.

[3] Reasons for the Hearing Committee’s decision are set out below.

## **ISSUES**

[4] There were three issues before the Hearing Committee for consideration in this qualification hearing:

- (a) Does the Applicant meet the statutory burden to satisfy the Council that she is “of good reputation and suitable to be licensed”, as a representative for trading services as required by section 10 of the RESA?
- (b) If the Hearing Committee is not satisfied that the Applicant is currently of good reputation or suitable to be licensed, provide guidance on a timeframe before which the Applicant may reapply.
- (c) If the Hearing Committee determines that the Applicant is suitable for licensing, should it impose any conditions or restrictions on her license?

## **PROCEEDINGS**

[5] Qualification hearings proceed under section 10 of the RESA and section 2-6 of the Rules.

[6] Section 2-6 of the Rules provides:

### **Qualification hearings**

2-6 If the council considers that there may be an issue as to whether an applicant is qualified to be licensed

(a) in accordance with section 10 [qualifications for obtaining licence] of the Act,  
or

(b) at the level and in the category for which the applicant is applying,

the council may direct that the matter is to be dealt with by way of a hearing conducted by a hearing committee.

[7] Section 10 of the RESA provides:

### **Qualifications for obtaining licence**

10 An applicant for a new licence or a licence renewal must satisfy the real estate council that they meet the following applicable requirements:

(a) the applicant is of good reputation and suitable to be licensed at the level and in the category for which the applicant is applying;

...

(d) in all cases, the applicant has not

(i) been refused a licence under real estate, insurance, mortgage broker or securities legislation in British Columbia or another jurisdiction,

(ii) held a licence that was suspended or cancelled under real estate, insurance, mortgage broker, or securities legislation in British Columbia or another jurisdiction,

(iii) been disciplined by a professional body, or

(iv) been convicted of an offence

for a reason that reveals the applicant as unfit to be a licensee;

(e) in all cases, the applicant meets any other qualification requirements.

[8] The Notice of Qualification Hearing, dated July 7, 2021, was sent to the Applicant advising her of the issues listed above. The Applicant has the burden to satisfy Council, on a balance of probabilities, that she is qualified.

[9] Section 13 of the RESA states that Council may refuse to issue or renew a license if they are not satisfied that the requirements under section 10 have been met. However, before refusing to issue a licence the Council must provide the applicant with an opportunity to be heard respecting the matter.

[10] If the Hearing Committee determines that the Applicant is of good reputation and suitable to be licensed, it may consider conditions and restrictions to be imposed on the Applicant's licence to protect the public interest.

[11] Section 15 of the RESA provides:

**Conditions and restrictions in relation to a specific licence**

15 (1) Subject to this section, the real estate council may, as it considers necessary or desirable in relation to a specific licence,

- (a) impose conditions and restrictions on the licence,
- (b) vary a condition or restriction applicable to the licence, or
- (c) remove a condition or restriction applicable to the licence.

(2) The powers under subsection (1) (a) or (b) to impose or vary a condition or restriction are exercisable only

- (a) on or before the date on which the licence is issued, with effect on and after that date, or
- (b) on the written application or with the written consent of the licensee.

(3) Before imposing or varying a condition or restriction as referred to in subsection (2) (a), the real estate council must give notice to the applicant and provide the applicant with an opportunity to be heard respecting the matter.

(4) If the real estate council imposes or varies a condition or restriction as referred to in subsection (2) (a), it must

- (a) provide the applicant with written notice of the condition or restriction and the reasons for it, and
- (b) advise the applicant of the right to appeal under Division 4 [Appeals to Financial Services Tribunal] of Part 4.

(5) The power under subsection (1) (c) to remove a condition or restriction is exercisable at any time on the real estate council's own initiative or on the written application of the licensee.

**EVIDENCE**

[12] The documentary evidence before the Hearing Committee consisted of three exhibits as listed in the List of Exhibits, the sworn oral testimony of [Witness 1] (current employer for whom the Applicant provides property management services), [Witness 2] (former colleague and a licensed strata manager), [Witness 3] (proposed managing broker with [the Brokerage]) and the Applicant. The Applicant was unrepresented.

[13] Counsel for the Council advised that she took no position on the Applicant's re-licensing application, and she presented the underlying facts and the relevant authorities for the Hearing Committee's consideration.

## **BACKGROUND**

[14] The Council received an application for re-licensing in the category of representative for trading services from the Applicant, dated April 6, 2021, and received in April 2021 (the "Application"). (*Exhibit 1 Book of Documents – Tab 2*)

[15] The Applicant was licensed with the Council from 2008 to 2014 and from 2014 to 2016, with a period of being unlicensed from May 26, 2014 to November 13, 2014. In 2008, the Applicant was first licensed with the Council as a representative for rental property management services. In 2009, the Applicant added the category of trading services. (*Exhibit 1 Book of Documents – Tab 3*)

[16] The Applicant has a discipline history with the Council. In June 2016, the Applicant entered into a consent order with the Council (the "Consent Order"), based on misconduct that included providing rental property management services outside of her related brokerage and disclosure, that started in or around 2013. Pursuant to the 2016 Consent Order, the Applicant agreed to pay enforcement expenses, take a remedial course, and to be suspended for 30 days. (*Exhibit 1 Book of Documents – Tab 5*)

[17] In July 2016, during the 30-day suspension period, the Council received a complaint that the Applicant continued to provide rental property management services while suspended. On August 3, 2016, the Council issued a cancellation order under section 43(4) of the RESA ("Cancellation Order") against the Applicant for the breach of the Consent Order with immediate effect. The Cancellation Order also stated that the Applicant was not permitted to apply for re-licensing for a period of at least one year. The Cancellation Order required the Applicant to pay the enforcement expenses and successfully complete the remedial Rental Property Management Education Course. (*Exhibit 1 Book of Documents – Tabs 6 and 7*)

[18] In February 2018, the Applicant applied for re-licensing as a representative in the rental property management services category. In August 2018, a qualification hearing was held pursuant to section 10 of the RESA and section 2-6 of the Rules to determine if the Applicant met the requirements to be licensed. In the reasons for decision (the "Decision"), the qualification hearing committee was not satisfied that the Applicant was of good reputation and suitable for a license. The Decision ordered that the Applicant not apply for re-licensing for at least two years and stipulated that the Applicant appear before a qualification hearing committee for future re-licensing applications. (*Exhibit 1 Book of Documents – Tab 1*)

[19] The Decision referenced several examples of the Applicant's conduct that contributed to the determination by that qualification hearing committee that the Applicant was not of good reputation or suitable to be licensed.

a. At paragraph 60:

"...Instead, they accentuate her primary problem – she refuses to accept her wrongdoing, the punishment meted out, and that she must be accountable for her conduct and for compliance with the rules and with Council's regulatory role."

b. At paragraph 62:

"[The Applicant] offered a series of excuses for her misconduct in violating her suspension. Her excuses, some of which are set out here, shows that she still does not appreciate the gravity."

c. At paragraph 87:

“What that leaves is the conclusion that [the Applicant] knew what she was doing in violating the Consent Order during her suspension, thought she could get away with it, and still refuses to acknowledge that and own up to her wrongdoing.” (*Exhibit 1 Book of Documents – Tab 1*)

[20] In the Application, the Applicant responded “yes” to Question 2 about being subject to bankruptcy, insolvency or receivership proceedings and “yes” to Question 6 about refusal, suspension, cancellation of a license and or being subject to discipline by a professional body. (*Exhibit 1 Book of Documents – Tab 2*)

[21] The Applicant attached a certificate of discharge from bankruptcy dated May 25, 2017 to the Application. (*Exhibit 1 Book of Documents – Tab 4*)

[22] A Notice of Qualification Hearing, dated July 7, 2021, was sent to the Applicant and she was given notice that the Application had been set down for a hearing. (*Exhibit 1 Book of Documents – Tab 19*)

[23] The Applicant produced thirteen character-reference letters (the “Reference Letters”) from family, friends, business and volunteer colleagues, and former co-workers. (*Exhibit 1 Book of Documents – Tab 10 a-m*)

- (a) Letter of reference from [redacted], dated June 19, 2018
- (b) Letter of reference from [redacted], [redacted], dated April 22, 2021
- (c) Letter of reference from [redacted], [redacted] dated April 27, 2021
- (d) Letter of reference from [redacted], dated June 8, 2021
- (e) Letter of reference from [redacted], dated July 5, 2021
- (f) Letter of reference from [redacted], dated July 5, 2021
- (g) Letter of reference from [redacted], dated July 5, 2021
- (h) Letter of reference from [redacted], dated July 5, 2021
- (i) Letter of reference from [redacted], dated July 5, 2021
- (j) Letter of reference from [redacted], dated July 5, 2021
- (k) Letter of reference from [redacted], dated July 5, 2021
- (l) Letter of reference from [redacted], undated
- (m) Letter of reference from [redacted], dated July 10, 2021

#### **WITNESS TESTIMONY**

[24] The Applicant called three witnesses to testify on her behalf in addition to the written evidence that she submitted.

[25] [Witness 1] testified orally in support of the Applicant. [Witness 1], a principal of [redacted] Ltd., engaged the Applicant to provide property management services for four properties owned by his company. He testified that he has known the Applicant for over ten years, and that her role consists of finding tenants and completing background checks. He confirmed that she has been in the role for three years. [Witness 1] testified that the Applicant advised him about her past issues with the Council and that she specifically told him that she provided services that were not in a contract. [Witness 1] testified about some of the personal circumstances of the Applicant in the past including [redacted], [her] marital

breakdown and a divorce. He advised that she was a different person now and praised her work ethic and performance with his company.

[26] [Witness 2] testified orally in support of the Applicant. [Witness 2] was a former colleague of the Applicant at [redacted] from 2014 to shortly before Applicant had her license cancelled in 2016. [Witness 2] testified that she initially had intended to assist the Applicant during her one-month suspension but was dismissed from Haven Properties after not obtaining her property management license. [Witness 2] testified that she was aware that the Applicant violated the terms of her suspension and was aware of her discipline history. [Witness 2] testified that the Applicant was remorseful and has tried to make amends for her errors. [Witness 2] commented on the difficult family situation the Applicant was dealing with and that she had learned from her mistakes. [Witness 2], currently a licensed strata manager, indicated that she would provide support to the Applicant when needed.

[27] [Witness 3], the proposed managing broker for the Applicant from [the Brokerage], participated in the entirety of the Qualification Hearing, including his listening to the testimony, the cross examinations and the redirect examinations of the other witnesses. [Witness 3] testified orally in support of the Applicant:

- a. He testified that he believed he was a good fit to be the managing broker for the Applicant for numerous reasons including his experience managing new licensees (and past roles in positions of trust).
- b. He testified that he develops close relationships with the licensees he mentors. [Witness 3] testified that he was aware of the Applicant's prior discipline history and that the Applicant was forthcoming about her history, including the bankruptcy.
- c. He confirmed that he had reviewed and was fully willing to adhere to the requirements of Council's proposed enhanced supervision conditions (the "Enhanced Supervision Conditions"), as he was provided with a copy of in advance of the hearing. He also indicated that he would recommend additional courses that the Applicant may take during the enhanced supervision period, and a willingness to conduct meetings in person as well as remotely with the Applicant.
- d. [Witness 3] was confident in his ability to meet all of the supervision requirements and provide information on the onboarding, coaching, mentorship and supplemental training at his brokerage. He added that the Applicant would be required to keep detailed journal notes on trading service activities, that he would review every document before a client sees it, attend weekly meetings, and not permit the Applicant to take any actions without consulting him.
- e. [Witness 3] testified that while he had not supervised a licensee with enhanced supervision requirements before, he has turned in the licenses of agents that were not compliant and had no concerns about doing the same if the situation with the Applicant warranted.
- f. [Witness 3] stated that he firmly believes the Applicant had learned a serious lesson. [Witness 3] stated he believes the Applicant is earnest and capable and looks forward to a positive working relationship with the Applicant if the Council approves the Application.

[28] The Applicant appeared on her own behalf and testified orally at the hearing:

- a. The Applicant began her testimony advising that she had reflected on her behaviour since the cancellation of her license in 2016. The Applicant apologized for the disrespect she showed in deliberately contravening the Consent Order and for neglecting to take responsibility for her actions including providing services outside of her license. She apologized for putting the owners and tenants at risk engaging in services without a signed property management agreement. She stated that she reviewed the Decision carefully and learned a valuable lesson. She testified to

personal circumstances that have changed since 2016 including the breakdown of her marriage [redacted].

- b. The Applicant addressed the bankruptcy she disclosed in the Application and advised that it arose shortly after her license was cancelled and that it was related to [redacted]. The Applicant testified that she was discharged shortly afterwards and provided a certificate of discharge.
- c. The Applicant testified about courses that she has taken, including the legal update and ethics. The Applicant described the professional roles she held in the years after her license was cancelled including working at [redacted] assisting with administrative matters at the firm and property management for [redacted] Ltd. The Applicant provided email correspondence in October 2018 between herself and the Council inquiring if the property management role required licensing and she did not commence the role until she received a response (Exhibit 1 Book of Documents – Tab 14). She testified that she waited three years before submitting the Application to show the Council that she is of good reputation by being employed and volunteering in roles that required professionalism.
- d. The Applicant explained the circumstances that led to her contravention of the Consent Order and expressed regret for her actions. She acknowledged the impact to clients and spoke to steps she took to explain to her former clients that she failed them in her professional capacity.
- e. The Applicant spoke to the benefits of working with [Witness 3], her proposed managing broker, including the ability to work in a supervised brokerage with strong systems, resources, policies and procedures and the ability to ask questions and to be mentored.
- f. The Applicant cited the decisions of *Lehal*, *Donaldson* and *Bhatti* in support of her Application.

## **REASONS FOR DECISION**

[29] The Council's mandate includes protecting the public interest by enforcing standards of conduct for real estate professionals including the enforcement of the licensing requirements of the RESA and determining the suitability of all licensing applicants.

[30] Sections 10(a) and (d) of the RESA requires an applicant to satisfy the Council that they are of good reputation, suitable to be licensed at the level and the category for which they are applying, and fit to be a licensee.

[31] The "Good Reputation, Suitability and Fitness Guidelines" (the "Guidelines") provide guidance to applicants, and to qualification committees, about what may be taken into consideration by a hearing committee when assessing an applicant's reputation, suitability and fitness. The Guidelines provide under part 1(a):

### **Good Reputation and Suitability**

When determining an applicant's good reputation and suitability, RECBC will review an applicant's general business and personal reputation, and consider whether there is reason to believe that an applicant is liable to act

- in such a way that puts the public interest at risk,
- in such a way that their licensing would undermine public confidence in the profession,
- in such a way that indicates an unwillingness to act in accordance with the standards of the profession, and/or
- in a dishonest manner.

[32] The Guidelines also provide that a past licence refusal/suspension/cancellation, disciplinary sanction, or criminal conviction will not necessarily be a bar to licensing but may be a relevant consideration of whether the Applicant currently meets the good reputation, suitability and fit for licensing standard. The Guidelines are instructive but cannot restrict the Hearing Committee's jurisdiction to consider whether the Applicant has met the requirements for a licence under section 10 of the RESA.

[33] The burden of proving qualifications lies on each applicant, as stated in *MacKay (Re)*, Decision and Reasons, May 31, 2017 (BC REC) at paragraph 93:

The onus is on the Applicant to demonstrate that she is, on a balance of probabilities, currently of good reputation and suitable to be licensed. Evidence must be scrutinized with care and must always be sufficiently clear, convincing and cogent to satisfy the balance of probabilities test. The Committee may consider what conditions and restrictions, if any, it feels are necessary or desirable to be imposed on the applicant's licence to protect the public interest.

[34] The Hearing Committee found the precedents of *Lehal (Re)*, Decision and Reasons, November 15, 2010 (BC REC) and *Donaldson (Re)*, Decision and Reasons, June 29, 2010 (BC REC), to be relevant and instructive. In both matters, the qualification hearing committees found the applicants to be suitable to be licensed with the support of a reputable managing broker despite significant disciplinary histories.

[35] The Hearing Committee carefully reviewed and considered the RESA, the Rules, the Guidelines, the Applicant's evidence, witness testimony, submissions, and authorities to decide on the three issues for consideration in this qualification hearing. The Hearing Committee is satisfied, on a balance of probabilities, that the Applicant is presently of good reputation and suitable to be licensed as a representative for trading services in accordance with section 10 of the RESA and section 2-6 of the Rules, subject to the Enhanced Supervision Conditions and additional requirements, and subject to any administrative changes thereto as may be necessitated by forthcoming amendments to the RESA pursuant to the *Finance Statutes Amendment Act, 2021*, S.B.C. 2021, ch. 2 (the "Amendment Act", which statute received Royal Assent on March 25, 2021). Pursuant to the amendments, the Real Estate Council shall be replaced by the BC Financial Services Authority (the "FSA"), which must appoint a Superintendent of Real Estate (the "Superintendent").

[36] In reaching its conclusion of good reputation and suitability, the Hearing Committee took into consideration the general and rehabilitation factors in the Guidelines that may be considered by a hearing committee when determining whether an applicant has fully rehabilitated himself or herself and is currently of good reputation and suitable to be licensed within section 10 of the RESA.

[37] A sufficient amount of time has passed from the Applicant's misconduct that resulted in the Consent Order (seven years) and the Cancellation Order (five years). The Applicant's acceptance of responsibility and expression of remorse was reflected throughout her testimony and in the evidence. The Applicant's change in attitude is a marked departure from observations referenced by the hearing committee in the Decision. The Applicant's testimony demonstrated that she understood that she was accountable for her past mistakes and responsible for her actions. She testified to apologizing to the clients impacted by her actions. The Applicant paid the enforcement expenses and did complete the remedial course resulting from the Consent Order and the Decision. The Applicant clearly articulated her failings and learnings, including the need to make informed, ethical decisions and the need for documentation to protect herself and her clients. The Applicant appeared to be more resilient and equipped with personal and professional supports to deal with any future adverse life events in a more conscientious and effective manner.

[38] The Applicant, in the intervening years since her license was cancelled, has been employed in roles connected to the real estate industry with [redacted] LLP and [redacted] Ltd. and was highly recommended by her respective supervisors in these roles. Of note was the evidence that the Applicant consulted with the Council in 2018 before taking the [redacted] Ltd. position to ensure that it was permitted. The Applicant submitted a substantial number of reference letters from family, friends, business and volunteer colleagues, and former co-workers. The vast majority of the authors of the Reference Letters stated that they were aware of the Applicant's prior discipline history. The three witnesses called by the Applicant were also aware of her discipline history. The Reference Letters and the witness testimonies reinforce that the Applicant has maintained long term personal and professional relationships and has the ongoing support of colleagues, friends and family. The Hearing Committee found the Applicant and witnesses to be credible and forthright.

[39] The Guidelines provide that when assessing an applicant's good reputation or suitability, a personal bankruptcy or a consumer proposal does not reflect adversely unless there is evidence of misconduct. The Applicant was candid about the challenging personal circumstances she experienced and the evidence showed that the bankruptcy was resolved in a straightforward and timely manner, and was discharged within ten months of the bankruptcy application. The Hearing Committee also noted the timing of the bankruptcy application, and it was consistent with the Applicant's evidence and testimony relating to the challenges that she was facing at the time.

[40] The Hearing Committee placed significant reliance on the evidence of [Witness 3], the Applicant's proposed managing broker who has been involved in the real estate industry since 1991. [Witness 3] was fully aware of the Applicant's prior discipline history and aware of his obligations under the proposed Enhanced Supervision Conditions. [Witness 3] testified about the supervision the Applicant would receive to ensure that she adhered to any restrictions or conditions imposed on her licence.

[41] Counsel for the Council advised the Hearing Committee that due the removal of the pre-screening requirement, the Applicant has not met all other requirements as required for licensing. In addition to the Applicant being subject to the licensing conditions noted in Schedule A in the event of licensure, the Hearing Committee also confirms that the Applicant must meet any and all other requirements for a licence, including any educational and any other licensing pre-requisites or requirements that apply.

[42] Counsel for the Council requested that in the event the Hearing Committee found the Applicant to be of good reputation and suitable to be licensed, that the Hearing Committee instruct the Council, or its successor entity, to deal with any future application by the Applicant in the ordinary course. The Hearing Committee hereby determines, on behalf of the Real Estate Council, that the Applicant is of good reputation and suitable to be licensed in the category of representative for trading services, such that the FSA or the Superintendent may deal with future applications by the Applicant in the ordinary course, without referring her application to a qualification hearing unless it has new grounds for questioning her good character or suitability. Section 126 of the Amendment Act, when it takes effect, will provide that "(1) the real estate council is dissolved and discontinued", and also that "(5) A ruling, order or judgment in favour of or against the real estate council may be enforced by or against the Authority."

DATED at VANCOUVER, BRITISH COLUMBIA this 30th day of July 2021

"YASIN AMLANI"

Yasin Amlani, Chair  
Qualification Hearing Committee

“MAGGIE CHAN”

Maggie Chan  
Qualification Hearing Committee

“KAREN AMEYAW”

Karen Ameyaw  
Qualification Hearing Committee

## **SCHEDULE A**

### **LICENSING CONDITIONS FOR [APPLICANT 2]**

- [1] [The Applicant]’s licence will be restricted to [the Brokerage] or another brokerage acceptable to the Council (the “Brokerage”) for a period of not less than one year following her re-licensing (the “Conditional Licence Period”).
- [2] During the Conditional Licence Period, [the Applicant] must remain under the direct supervision of a managing broker of the Brokerage who is acceptable to the Council, and who has confirmed in writing to the Council that they have read these conditions, are aware of their duties under these conditions, and agree to accept these duties (the “Managing Broker”).
- [3] These conditions are in addition to [the Applicant]’s and the Managing Broker’s obligations under the Real Estate Services Act (“RESA”), and the Regulations, Rules and Bylaws made under the RESA (together, the “Legislation”). The Council and [the Applicant] have agreed upon these additional conditions of supervision. The Managing Broker may impose their own additional conditions to ensure that [the Applicant] meets her obligations under the Legislation.
- [4] [The Applicant] must keep the Managing Broker informed weekly, or more frequently as required, of the real estate services that she is providing and other real estate-related activities that she is engaging in by providing written status reports (the “Status Reports”) to the Managing Broker that include, for each matter, as applicable:
- a. the names of the principals and their agents;
  - b. the locations of the properties;
  - c. a description of services provided;
  - d. the status of the matter;
  - e. scheduled dates (e.g. closing dates and dates for waiver or satisfaction of conditions precedent);
  - f. funds paid and received; and
  - g. any other information relevant to the matter.
- [5] To ensure that [the Applicant] meets her obligations under these conditions and the Legislation, the Managing Broker must meet with [the Applicant] on a weekly basis, or more frequently as required, to discuss the following:
- a. the most recent Status Report;
  - b. any practice issues identified by the Managing Broker or [the Applicant];

- c. the appropriate course of action for addressing any identified practice issues and/or whether appropriate steps have been taken to address previously identified practice issues; and
  - d. confirm [the Applicant]’s attendance at or completion of any educational or training opportunities recommended by the Managing Broker.
- [6] The Managing Broker must meet [the Applicant] in person at least once a month, with all other meetings as noted hereunder permitted to be via one-on-one video conference.
- [7] [The Applicant] must consult with the Managing Broker in advance of taking any action on matters in respect of which there are questions or concerns regarding compliance with the Legislation, other applicable legislation, or the Brokerage’s policies and procedures.
- [8] In addition to providing the Brokerage with all records required under the Legislation, [the Applicant] must provide the Brokerage with all records created in connection with the provision of real estate services regardless of whether such records are associated with a specific transaction, including records of listing presentations, appraisals, competitive market analyses, correspondence, and referrals.
- [9] [The Applicant] must obtain the Managing Broker’s approval before presenting documents prepared by [the Applicant] to principals or their agents for execution.
- [10] [The Applicant] must provide to the Managing Broker all documents signed by [the Applicant]’s principals and Managing Broker must review all such documents.
- [11] Within 14 days after the end of each calendar quarter, the Managing Broker will provide a report to the Council (each, an “Interim Report”) confirming in relation to that calendar quarter (the “Reporting Period”):
  - a. that [the Applicant] has provided real estate services under their direct supervision;
  - b. that [the Applicant]’s activities have been carried out competently and in compliance with these conditions, the Legislation, all other applicable legislation (to the best of the Managing Broker’s knowledge having made reasonable inquiries), and in accordance with Brokerage’s policies and procedures, or alternatively, providing details of non-compliance;
  - c. that they have reviewed all transactions in which [the Applicant] has provided real estate services, and that all documents relevant to the transactions are contained in the appropriate deal file and kept at the Brokerage;
  - d. they have met with [the Applicant] on a weekly basis, or more frequently as required, to discuss the matters specified under these conditions; and
  - e. the number of real estate transactions that [the Applicant] has conducted and details regarding the principal(s), the agency offered, and any dealings with unrepresented parties.
- [12] Each Interim Report will be reviewed by the Council, who will determine if [the Applicant] has been providing real estate services in accordance with the Legislation and these conditions during the Reporting Period and if not, will so advise the Managing Broker and [the Applicant].
- [13] Within 30 days before the end of the Conditional Licence Period, or within 14 days after the Managing Broker ceases to be the Managing Broker, whichever is earlier, the Managing Broker must provide a final report (the “Report”) to the Council confirming in relation to the

Conditional Licence Period, or during the period in which Managing Broker acted as Managing Broker under these conditions, as applicable:

- a. that [the Applicant] has provided real estate services under their direct supervision;
- b. that [the Applicant]'s activities have been carried out competently and in compliance with these conditions, the Legislation, all other applicable legislation (to the best of the Managing Broker's knowledge having made reasonable inquiries), and in accordance with Brokerage's policies and procedures, or alternatively, providing details of non-compliance;
- c. that they have reviewed all transactions in which [the Applicant] has provided real estate services, and that all documents relevant to the transactions are contained in the appropriate deal file and kept at the Brokerage;
- d. they have met with [the Applicant] on a weekly basis, or more frequently as required, to discuss the matters specified under these conditions; and
- e. the number of real estate transactions that [the Applicant] has conducted and details regarding the principal(s), the agency offered, and any dealings with unrepresented parties.

[14] The Report will be reviewed by the Council, who will determine if the Conditional Licence Period has provided an adequate opportunity for Council to make a determination that [the Applicant] is providing real estate services in accordance with the Legislation and these conditions and if not, will so advise the Managing Broker and [the Applicant].

[15] The Managing Broker must immediately report to the Council anything of an adverse nature with respect to [the Applicant]'s real estate services, including

- a. failure of [the Applicant] to observe these conditions, the requirements of the Legislation or all other applicable legislation; and
- b. complaints received by the Brokerage, including the nature of the complaint, the parties involved, and how the complaint was resolved.

[16] [The Applicant] may have no unlicensed assistant(s) during the Conditional Licence Period.

[17] If the Managing Broker is absent from the Brokerage:

- a. for more than one week but less than one month, the Managing Broker may delegate their duties to another managing broker or an associate broker who confirms their agreement to accept the supervision duties under these conditions to the Council in writing; or
- b. for more than one month, [the Applicant] must notify Council immediately and approval from the Council for a successor managing broker to supervise [the Applicant] must be sought as set out in paragraph 17-18 of these conditions.

[18] If for any reason the Managing Broker is unable to perform any of the duties imposed herein, they must immediately advise Council.

[19] If there is a change in the managing broker of the Brokerage, the former managing broker and [the Applicant] must immediately notify Council in writing. If Council determines that the successor managing broker is acceptable as a managing broker for the purposes of these conditions, they will be provided with a copy of these conditions and will be asked to confirm in writing to the Council that they have read these conditions, are aware of their duties under

these conditions, and agree to accept these duties. If that managing broker fails to provide such confirmation within 14 days of becoming a managing broker at the Brokerage, they will be deemed to be unable or unwilling to perform the duties set out in these conditions.

- [20] Failure by [the Applicant] to adhere to one or more of the conditions may constitute professional misconduct and the Council retains the discretion to investigate this and any other matter, including matters set out in the Interim and Final Reports reviewed by the Council, pursuant to section 37 or the RESA.
- [21] In the event the Council being dissolved pursuant to the *Finance Statutes Amendment Act, 2021*, S.B.C. 2021, ch. 2, references herein to the Council shall be deemed to refer to the BC Financial Services Authority.

## LIST OF EXHIBITS

Exhibits from the Qualification Hearing on July 22, 2021:

Exhibit 1	Book of Documents
Exhibit 2	Transcript for Licensee
Exhibit 3	Licensee History for [Witness 2]

## AUTHORITIES CITED BY THE PARTIES

1. Real Estate Council of BC Good Reputation, Suitability and Fitness Guidelines
2. Excerpts from the *Real Estate Services Act*
3. Excerpts from the Real Estate Rules
4. Excerpts from the Real Estate Services Regulation
5. *Welder (Re)*, Decision and Reasons, January 25, 2018 (BC REC)
6. *MacKay (Re)*, Decision and Reasons, May 31, 2017 (BC REC)
7. *Lehal (Re)*, Decision and Reasons, November 15, 2010 (BC REC)
8. *Donaldson (Re)*, Decision and Reasons, June 29, 2010 (BC REC)
9. *Bhatti (Re)*, Decision and Reasons, November 15, 2011 (BC REC)
10. *Hammond (Re)*, Decision and Reasons, June 14, 2012 (BC REC)
11. *Atwal (Re)*, Decision and Reasons, January 31, 2014 (BC REC)
12. *Ehmann (Re)*, Decision and Reasons, February 4, 2019 (BC REC)
13. *Singh (Re)*, Decision and Reasons, November 24, 2020 (BC REC)
14. *Khosla v RECBC*, Decision, September 13, 2000 (CAC)