

File # 13-084

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

IN THE MATTER OF

CHIUW MIN KUAN
(157701)

CONSENT ORDER

RESPONDENT: Chiow Min Kuan, Representative,
West Coast Realty Ltd. dba Sutton
Group – West Coast Realty (Van49),
while licensed with MVP Realty Ltd.
dba RE/MAX Metro Realty

DATE OF REVIEW MEETING: March 10, 2016

DATE OF CONSENT ORDER: May 24, 2016

CONSENT ORDER REVIEW COMMITTEE: D. Fimrite
S. Lynch
D. Peerless, Chair
C. Squires

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

PROCEEDINGS:

On March 10, 2-16, an Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver (“ASF”) submitted by Chiow Min Kuan was considered by the Consent Order Review Committee (the “Committee”) and was rejected. On March 29, 2016, a revised ASF acceptable to the Committee was submitted by Mr. Kuan.

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

1. Chiew Min Kuan's licence be suspended for sixty (60) days;
2. Chiew Min Kuan will not provide services as an unlicensed assistant during the time of his licence suspension; and
3. Chiew Min Kuan pay enforcement expenses of this Consent Order to the Council in the amount of \$1,250.00 within sixty (60) days from the date of this Order.

If Chiew Min Kuan 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 24th day of May, 2016 at the City of Vancouver, British Columbia.

ON BEHALF OF THE CONSENT ORDER REVIEW COMMITTEE



D. Peerless, 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

**CHIUW MIN KUAN
(157701)**

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

The following agreement has been reached between Chiow Min Kuan (“Mr. Kuan”) and the Real Estate Council of British Columbia (the “Council”).

- A. Mr. Kuan hereby consents to an Order to be made pursuant to sections 41 and 43 of the *Real Estate Services Act* that his licence and the licence of Min Kuan Personal Real Estate Corporation be suspended for sixty (60) days, from the date of the Order herein. Mr. Kuan further consents to an Order that he will not provide services as an unlicensed assistant during the time of his licence suspension. Further, he agrees to pay enforcement expenses of this Consent Order to the Council in the amount of \$1,250.00 within sixty (60) days from the date of the Order herein. Mr. Kuan 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 *Real Estate Services Act*.
- B. As a basis for this Order, Mr. Kuan acknowledges and agrees that the facts set forth herein are correct:
1. Mr. Kuan was at all relevant times licensed as a representative with M V P Realty Ltd. dba RE/MAX Metro Realty.
 2. Mr. Kuan’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>
2013/12/17	Present	West Coast Realty Ltd. (Van49) dba Sutton Group-West Coast Realty (X029213)	Representative	Trading
2012/02/15	2013/12/17	M V P Realty Ltd. dba RE/MAX Metro Realty (X030292)	Representative	Trading

mc

AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

2009/11/19 15/02/2012 Local Venture Corp. Representative Trading
dba Homeland Realty
(X028993)

3. As a result of a Consent Order dated August 20, 2013, Min Kuan, of Re/Max Metro Realty, was suspended as a licensee from August 28, 2013 to September 17, 2013. Mr. Kuan was a licensed assistant to Licensee, Ken Chan.
4. On September 3, 2013, Council staff did an internet search for Mr. Kuan, as a standard procedure after a suspension. The search revealed that Mr. Kuan was referred to as a licensed assistant and had email and telephone contacts for three listings on the brokerage website at www.remaxmetorproperties.com.
5. On September 23, 2013, a licensee, J. E. reported to the Council that on September 13, 2013, he had communications with Mr. Kuan with regard to scheduling a showing of a property on east 7th in Vancouver for Mr. Kuan's client on September 14, 2013.
6. J.E. produced the recording on his phone of the date and time of a text message which was sent by Mr. Kuan informing J.E. that Mr. Kuan would like to show the property to his client on September 14, 2013. The text to J.E. reads "MIN REMAX METRO [REDACTED] HE'D LIKE TO SHOW THE PROPERTY ABOVE TOMORROW TO A CLINET(sic) AT 10:50AM TOMORROW. PLS CALL AND CONFIRM. THANK YOU."
7. J. E. stated that on September 13, 2013 at 6:28 P.M. he called Mr. Kuan to confirm this appointment. Mr. Kuan has confirmed that his cell number is [REDACTED].
8. J.E. stated that Mr. Kuan and his client and the client's mother arrived at the subject property at 11:20 a.m., September 14, 2013. J.E. recalled that Mr. Kuan spent 20 minutes showing the suite and building facilities to his client and his mother. J. E. indicated that during this time Mr. Kuan was actively asking questions and answering the buyer's questions.
9. Mr. Kuan later advised J.E. that the buyer had not mentioned interest in the suite and was still looking.
10. J.E. stated that he did not know that Mr. Kuan was suspended until he read about it on RealtorLink on September 17, 2013.
11. In his statement to Council, Mr. Kuan contends that there was an administrative miscommunication at the brokerage that caused his contact information to appear on the brokerage's website while he was under suspension.

MK

AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

12. Mr. Kuan provided a statement from one of his clients which indicated that he had viewed the subject property and booked a 2nd showing but the client statement omitted did not indicate the dates or who had shown him the property.
13. Charles Wheeler, Mr Kuan's managing broker at the time of the events stated that there appeared to have been a data entry error by the Real Estate Board or an internal administrative mistake with respect to Mr. Kuan's contact information being advertised on the office web-site while he was under suspension.

Discipline History

14. On August 20, 2013 Mr. Kuan entered into a Consent Order in which he acknowledged committing professional misconduct within the meaning of section 35(1)(d) of the *Real Estate Services Act* in that he demonstrated incompetence when he:

File 10-455

- (a) altered documents after the client had signed them and without the knowledge and/or written authority of the client to make those alterations, contrary to sections 3-3(c) and 3-4 of the Council Rules.

File 11-407

- (a) while acting on behalf of the seller in relation to a property on Rupert Street, Vancouver, B.C. on June 1, 2011, contrary to sections 3-4, 5-1(3) and 5-1(6) of the Council Rules:
 - (i) copied the listing agreement that the sellers had signed on February 27, 2011;
 - (ii) whited-out the dates for the term of the agreement and the date upon which the agreement had been signed and inserted new dates;
 - (iii) then submitted the altered agreement to the brokerage for processing as a new listing, without having the new agreement signed by the sellers or the existing agreement amended and signed by the sellers.
- (b) while acting on behalf of the seller in relation a property on Rupert Street, Vancouver, B.C. on February 2, 2012, contrary to sections 3-4, 5-1(3) and 5-1(6) of the Council Rules:
 - (i) copied a signed listing agreement;
 - (ii) whited-out the dates for the term of the agreement and the date upon which the agreement had been signed and inserted new dates.

mk

AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

- (iii) then submitted the altered agreement to the brokerage for processing as a new listing, without having the new agreement signed by the sellers or the existing agreement amended and signed by the sellers.
15. Mr. Kuan was suspended for 21 days and ordered to complete the Real Estate Trading Services Remedial Education Course as provided by Real Estate Division, Sauder School of Business at the University of British Columbia in the time period directed by the Real Estate Council of British Columbia ("Council") as well as pay enforcement expenses of \$1250.00.
16. Mr. Kuan was suspended from August 28 2013 to September 17, 2013.

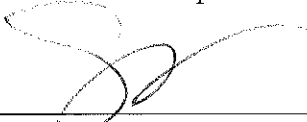
C. Proposed Acceptance of Findings and Waiver

1. Based on the Agreed Statement of Facts as outlined herein, and without making any admissions of liability, Chiow Min Kuan is prepared to accept the following findings if made against him by the Council's Consent Order Review Committee:
- (a) Chiow Min Kuan committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* [contravention of Act, Regulation or Council Rules] in that he contravened sections 35(1)(f), 20 and 21(a) of RESA when he provided real estate services and held himself out as a licensee at the time his license was suspended when:
 - (i) on September 3, 2013, he was referred to as a licensed assistant and had email and telephone contacts for three listings on the brokerage's website www.remaxmetroproperties.com; and
 - (ii) on September 14, 2013, he showed a property located at [REDACTED] 7th Avenue, Vancouver, B.C. to a client of the brokerage.
2. Mr. Kuan hereby waives his right to appeal pursuant to section 54 of the *Real Estate Services Act*.
3. Mr. Kuan 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. Kuan 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. Kuan 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.

MK

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 civil proceedings.



Jessica S. Gossen, Legal Counsel
Real Estate Council of British Columbia

As to Part B only (Agreed Statement of Facts)

Dated 24 day of May, 2016



Chiow Min Kuan

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

Dated 29 day of Apr, 2016

REAL ESTATE COUNCIL OF BRITISH COLUMBIA

**In The Matter of the *Real Estate Services Act*
S.B.C. 2004, c. 42
And
In the Matter of**

Chio Min Kuan

**CORRIGENDUM
TO CONSENT ORDER ISSUED May 24th, 2016**

The Consent Order Review Committee further ordered that:

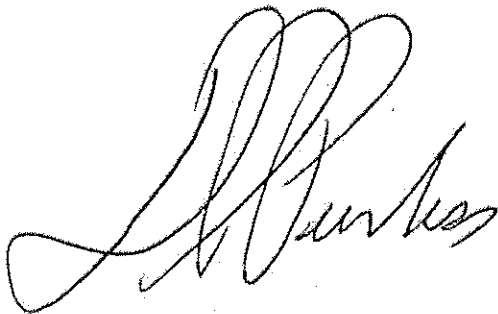
1. Chio Min Kuan's licence be suspended for sixty (60) days;

It should read:

1. Chio Min Kuan and Min Kuan Personal Real Estate Corporation's licence be suspended for sixty (60) days;

Dated this 24th day of May, 2016

For the Real Estate Council of British Columbia



D. Peerless
CHAIR