

IN THE MATTER OF THE *REAL ESTATE SERVICES ACT*

S.B.C. 2004, c. 42

AND

IN THE MATTER OF

LIN (KELLY) KONG

(151840)

CONSENT ORDER

RESPONDENT: Lin (Kelly) Kong, Representative,
Royal Pacific Realty Corp.

DATE OF REVIEW MEETING: March 10, 2016

DATE OF CONSENT ORDER: May 20, 2016

CONSENT ORDER REVIEW COMMITTEE: D. Fimrite
M. Leslie, Chair
S. Lynch
D. Peerless
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, 2016, an Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver ("ASF") submitted by Lin (Kelly) Kong was considered by the Consent Order Review Committee (the "Committee") and rejected. On May 4, 2016, a revised ASF acceptable to the Committee was submitted by Lin (Kelly) Kong.

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

1. Lin (Kelly) Kong's licence be suspended for ninety (90) days;
2. Lin (Kelly) Kong, at her own expense, register for and successfully complete the Real Estate Trading Services Remedial Education Course, as provided by the Real Estate Division, Sauder School of Business at the University of British Columbia in the time period as directed by the Council;
3. Lin (Kelly) Kong 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 Lin (Kelly) Kong fails to comply with any term of this Order, the Council may suspend or cancel her licence without further notice to her, pursuant to sections 43(3) and 43(4) of the *Real Estate Services Act*.

Dated this 20th day of May, 2016 at the City of Vancouver, British Columbia.

ON BEHALF OF THE CONSENT ORDER REVIEW COMMITTEE



M. Leslie, 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

LIN (KELLY) KONG
(151840)

AGREED STATEMENT OF FACTS,
PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

The following agreement has been reached between Lin (Kelly) Kong ("Ms. Kong") and the Real Estate Council of British Columbia (the "Council").

- A. Ms. Kong hereby consents to an Order to be made pursuant to section 43 of the *Real Estate Services Act* that:
- a. she be suspended for ninety (90) days;
 - b. that she successfully completes the Real Estate Trading Services Remedial Education Course as provided by the Real Estate Division, Sauder School of Business at the University of British Columbia within the time period directed by the Council;
 - c. she must pay enforcement expenses pursuant to section 44 of the Act in the amount of \$1,500 within sixty (60) days from the date of the Consent Order; and
 - d. if she fails to comply with any of the terms of the Order as set out above, a Discipline Committee may suspend or cancel her licence without further notice to her pursuant to section 43(3) and 43(4) of the *Real Estate Services Act*.
- B. As a basis for this Order, the Council and Ms. Kong acknowledge and agree that the facts set forth herein are correct:
1. Ms. Kong was at all relevant times licensed as a representative with Royal Pacific Realty Corporation.
 2. Ms. Kong's licensing history is as follows:

Brokerage	Licence Level	Licence Category	Start Date	End Date
Royal Pacific Realty Corp. (X024262)	Representative	Trading	16/08/2013	Present
Green Team Realty Inc.	Representative	Trading	29/05/2012	16/08/2013

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(X029032)				
Royal Pacific Realty Corp.	Representative	Trading	25/05/2011	29/05/2012
(X024262)				
*** Unlicensed ***			23/05/2011	24/05/2011
Royal Pacific Realty Corp.	Representative	Trading	28/05/2007	22/05/2011
(X024262)				
Legend Real Estate Group Ltd. Db a Coldwell Banker	Representative	Trading	23/05/2007	28/05/2007
Legen Real Estate Group				
(X022962)				

3. On or about May 12, 2014 Ms. Kong listed XXXX Neville Street, Burnaby (the "Property") for sale.
4. On July 19, 2014 A.L. attended an open house for the Property and made an offer to purchase the Property with the following details:

Price: \$1,357,000
Deposit: \$70,000
Completion: September 23, 2014
The Seller has designated agency relationship with Kelly Kong of Royal Pacific Realty
Subject to: Financing, Inspection Report, Title Search, Property Disclosure Statement and Insurance.
5. A.L. informed Ms. Kong that he did not have a real estate licensee representing him as he was hoping to negotiate a lower purchase price in lieu of the Seller having to pay a Buyer's agent.
6. Ms. Kong states that that at the time of meeting A.L., she informed him that she would be acting for both him and the Seller. Ms. Kong states that she explained to A.L. that she would be adding Mr. Yang's name as the Buyer's agent so the Seller would not attempt to negotiate the commission payable.
7. A.L. states that Ms. Kong put her business partner, Mr. Yang, on the Contract of Purchase and Sale as the buyer's agent without his consent or knowledge. A.L. further states that he only dealt with Ms. Kong and that he never met Mr. Yang.
9. On July 31, 2014 all subjects were removed and on September 23, 2014 the transaction completed.
10. Mr. Yang states that he simply agreed to Ms. Kong inserting his name as the Buyer's agent on the documents as a favor to Ms. Kong without realizing the implications of doing so. He also signed the working with a Realtor Brochure and recorded the personal information of the buyer on the CREA Individual

AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

Identification Information Form. Mr. Yang further states that he never met the buyer and did not know any of the details of the transaction.

11. Ms. Kong has no disciplinary history with the Council.

C. Proposed Acceptance of Findings and Waiver

1. Based on the Agreed Statement of Facts herein, and without making any admission of liability, Lin Kong is prepared to accept the following findings if made against her by the Council's Consent Order Review Committee:

(a) Lin Kong committed professional misconduct within the meaning of section 35(1)(c) of RESA in that as the agent for the seller in the contract and purchase of sale of a property located at 5XXX Neville Street, Burnaby BC, she:

i. acted in a deceptive manner when she caused another licensee to insert his name on the contract as providing agency to the buyer when he was not, contrary to section 35(1)(c) of RESA; and

ii. permitted another licensee to sign the Working with a Realtor Brochure, and to record the personal information of the buyer on the CREA Individual Identification Information Record Form dated July 28, 2014, when she knew or ought to have known that that licensee had never met or spoken to the buyer, contrary to section 35(1)(c) of RESA.

2. Ms. Kong hereby waives her right to appeal pursuant to section 54 of the *Real Estate Services Act*.

3. Ms. Kong acknowledges that she has been advised that she has the right to seek independent legal advice before signing this Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver.

4. Ms. Kong 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.

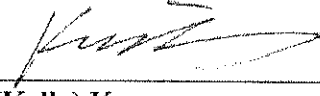
5. Ms. Kong acknowledges and is aware that the Superintendent of Real Estate has the right, pursuant to section 54 of the *Real Estate Services Act*, to appeal any decision of the Council, including this Agreed Statement of Facts, Proposed Acceptance of Findings, and Waiver and Consent Order.

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.



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



Lin (Kelly) Kong

As to Part B only (Agreed Statement of Facts)

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

Dated 6 day of May, 2016

Dated April day of 12, 2016