

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

IN THE MATTER OF
PENG (SARAH) ZHANG

AND
SARAH ZHANG PERSONAL REAL ESTATE CORPORATION
(153633)

CONSENT ORDER

RESPONDENTS:

Peng (Sarah) Zhang, Representative,
596373 BC Ltd. dba RE/MAX
Westcoast, while licensed with Pan
Pacific Platinum Real Estate Services
Inc. dba New Coast Realty

Sarah Zhang Personal Real Estate
Corporation, 596373 BC Ltd. dba
RE/MAX Westcoast, while licensed
with Pan Pacific Platinum Real Estate
Services Inc. dba New Coast Realty

DATE OF REVIEW MEETING: March 10, 2016

DATE OF CONSENT ORDER: March 17, 2016

CONSENT ORDER REVIEW COMMITTEE:

D. Fimrite
M. Leslie, Chair
S. Lynch
C. Squires

ALSO PRESENT:

R.O. Fawcett, Executive Officer
G. Thiele, Director, Legal Services
J. Millerd, Legal Counsel for the Real
Estate Council

PROCEEDINGS:

On March 10, 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 Peng (Sarah) Zhang and Sarah Zhang Personal Real Estate Corporation.

WHEREAS the ASF, a copy of which is attached hereto, has been executed by Peng (Sarah) Zhang, Sarah Zhang Personal Real Estate Corporation 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 Peng (Sarah) Zhang and Sarah Zhang Personal Real Estate Corporation committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act*, orders that:

1. Peng (Sarah) Zhang and Sarah Zhang Personal Real Estate Corporation each be reprimanded;
2. Peng (Sarah) Zhang and Sarah Zhang Personal Real Estate Corporation be jointly and severally liable to pay a discipline penalty to the Council in the amount of \$2,500.00 within ninety (90) days of the date of this Order;
3. Peng (Sarah) Zhang, 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;
4. Peng (Sarah) Zhang and Sarah Zhang Personal Real Estate Corporation be jointly and severally liable to 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 Peng (Sarah) Zhang or Sarah Zhang Personal Real Estate Corporation fail to comply with any term of this Order, the Council may suspend or cancel their licences without further notice to them, pursuant to sections 43(3) and 43(4) of the *Real Estate Services Act*.

Dated this 17th day of March, 2016 at the City of Vancouver, British Columbia.

ON BEHALF OF THE CONSENT ORDER REVIEW COMMITTEE



M. Leslie, Chair
Consent Order Review Committee

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

IN THE MATTER OF

**PENG (SARAH) ZHANG
(153633)**

AND

**SARAH ZHANG PERSONAL REAL ESTATE CORPORATION
(153633PC)**

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

The following agreement has been reached among Peng (Sarah) Zhang ("Ms. Zhang"), Sarah Zhang Personal Real Estate Corporation, and the Real Estate Council of British Columbia (the "Council").

- A. Ms. Zhang and Sarah Zhang Personal Real Estate Corporation hereby consent to an Order pursuant to sections 41 and 43 of the *Real Estate Services Act* that they:
1. each be reprimanded;
 2. be jointly and severally liable to pay a discipline penalty to the Council in the amount of \$2,500 within ninety (90) days of the date of this Order; and
 3. be jointly and severally liable to 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.
- B. Ms. Zhang consents to an Order that she, 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 within the time period directed by the Council.
- C. Ms. Zhang and Sarah Zhang Personal Real Estate Corporation consent to an Order that if they fail to comply with any of the terms of the Order set out above, a Discipline Hearing Committee may suspend or cancel their licences without further notice to them pursuant to subsections 43(3) and 43(4) of the *Real Estate Services Act*.

AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

D. As a basis for this Order, Ms. Zhang and Sarah Zhang Personal Real Estate Corporation acknowledge and agree that the facts set forth herein are correct:

1. Ms. Zhang was at all relevant times licensed as a representative with Pan Pacific Platinum Real Estate Services Inc. d.b.a. New Coast Realty.
2. Ms. Zhang's licensing history is as follows:

Brokerage	Licence Level	Licence Category	Start Date	End Date
596373 B.C. Ltd. dba RE/MAX Westcoast (X027022)	Representative	Trading	1/5/2016	Present
*** Unlicensed ***			1/2/2016	1/4/2016
596373 B.C. Ltd. dba RE/MAX Westcoast (X027022)	Representative	Trading	12/31/2014	1/1/2016
Pan Pacific Platinum Real Estate Services Inc. dba New Coast Realty (X030113)	Representative	Trading	5/2/2013	12/31/2014
596373 B.C. Ltd. dba RE/MAX Westcoast (X027022)	Representative	Trading	1/2/2008	5/2/2013

3. Ms. Zhang became licensed as Sarah Zhang Personal Real Estate Corporation on January 28, 2010.
4. This matter concerns Ms. Zhang's conduct while acting as representative for the prospective buyers (the "Buyers") of a bare lot located on 199th Street in Langley, British Columbia (the "Property").
5. On or about July 26, 2014, the Buyers and the seller (the "Seller") entered into a Contract of Purchase and Sale (the "Contract") pursuant to which the Buyers agreed to purchase the Property for \$895,000.00. The Contract was silent as to whether GST would be payable in the transaction, and if so, by which party.
6. On August 8, 2014, the Buyers removed all subjects in accordance with the Contract.
7. The original completion date in the Contract was subsequently extended to September 5, 2014.
8. On September 5, 2015, the Seller went to its notary's office to sign closing documents. The Seller's notary confirmed that GST was applicable to the transaction and advised the Buyers' lawyers of same.
9. The transaction collapsed as the Buyers and Seller were unable to reach an agreement on who would be responsible for payment of the GST.

AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

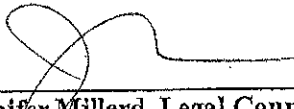
10. At present, the \$45,000 deposit paid by the Buyers is in trust pending the outcome of a civil proceeding.
11. According to Ms. Zhang, she discussed GST with the Seller's representative prior to presenting an offer on the Property. Ms. Zhang says the Seller's representative assured her that GST would not be applicable to the transaction.
12. Ms. Zhang says that after her clients' offer was accepted on or about July 26, 2014, she contacted her own tax advisor to ask whether GST would be applicable to the transaction, and advised the Buyers to do the same. According to Ms. Zhang, her tax advisor stated that if the sale was completed by a GST registrant company, the company would be able to claim a GST input credit which would effectively make the GST zero. Ms. Zhang says that as she was advised by the Buyers that they intended to assign the Contract to a GST registrant company, she was satisfied there would be no GST owing on the transaction. Ms. Zhang says she passed on the advice she received from her tax advisor to the Buyers, and that she is "in no position to know whether [the Buyers] took this to mean GST did not apply".
13. According to the Buyers, they repeatedly asked Ms. Zhang prior to completion whether GST would be applicable to the transaction, and she assured them it would not be. The Buyers say they asked Ms. Zhang if she had anything in writing from the Sellers with respect to the parties' obligations regarding GST, and if not, whether she could add a clause dealing with GST in the Contract. The Buyers say Ms. Zhang ignored their requests and told them she was certain the transaction would be GST exempt.
14. Ms. Zhang and Sarah Zhang Personal Real Estate Corporation have no previous disciplinary history.

E. Proposed Acceptance of Findings and Waiver

1. Based on the Agreed Statement of Facts as outlined herein, and without making any admissions of liability, Ms. Zhang and Sarah Zhang Personal Real Estate Corporation are prepared to accept the following findings if made against them by the Council's Consent Order Review Committee:
 - (a) Ms. Zhang and Sarah Zhang Personal Real Estate Corporation committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that they:
 - (i) failed to act with reasonable care and skill, failed to act in the best interest of her clients, and acted outside of her area of expertise when she neglected to include a clause in the Contract of Purchase and Sale for the buyers to receive and approve information or obtain independent professional advice with respect to whether GST was applicable to the transaction, contrary to sections 3-4 and 3-3(a) and (d) of the Council Rules.

AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

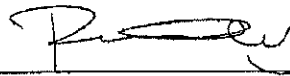
2. Ms. Zhang and Sarah Zhang Personal Real Estate Corporation hereby waive their right to appeal pursuant to section 54 of the *Real Estate Services Act*.
3. Ms. Zhang and Sarah Zhang Personal Real Estate Corporation acknowledge that they have a right to seek independent legal advice before signing this Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver.
4. Ms. Zhang and Sarah Zhang Personal Real Estate Corporation acknowledge and are 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. Zhang and Sarah Zhang Personal Real Estate Corporation acknowledge and are 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.
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.



Jennifer Millerd, Legal Counsel
Real Estate Council of British Columbia

As to Part D only (Agreed Statement of Facts)

Dated 2nd day of March, 2016



Peng (Sarah) Zhang on her behalf and on behalf of Sarah Zhang Personal Real Estate Corporation

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

Dated 1st day of March, 2016