

File # 14-363

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

**IN THE MATTER OF
UMER FAROOQ BUTT
(159890)**

CONSENT ORDER

RESPONDENT: Umer Farooq Butt, Representative,
OMAX Realty Ltd. dba Coldwell
Banker Universe Realty

DATE OF REVIEW MEETING: February 1, 2016

DATE OF CONSENT ORDER: February 3, 2016

CONSENT ORDER REVIEW COMMITTEE: C. Brown
M. Leslie
S. Lynch, Chair
E. Mignosa

ALSO PRESENT: R.O. Fawcett, Executive Officer
G. Thiele, Director, Legal Services
B. Woolley, Q.C., Legal Counsel for
the Real Estate Council

PROCEEDINGS:

On February 1st, 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 Umer Farooq Butt.

WHEREAS the ASF, a copy of which is attached hereto, has been executed by Umer Farooq Butt and on behalf of the Council;

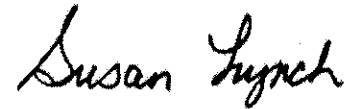
NOW THEREFORE, the Committee having made the findings proposed in the attached ASF, and in particular having found that Umer Farooq Butt committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act*, orders that:

1. Umer Farooq Butt's licence be suspended for seven (7) days; and
2. Umer Farooq Butt pay enforcement expenses of this Consent Order to the Council in the amount \$1,500.00 within sixty (60) days from the date of this Order.

If Umer Farooq Butt 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 3rd day of February, 2016 at the City of Vancouver, British Columbia.

ON BEHALF OF THE CONSENT ORDER REVIEW COMMITTEE



S. Lynch, Chair
Consent Order Review Committee

Atch.

IN THE MATTER OF THE *REAL ESTATE SERVICES ACT*, SBC 2004, c. 42 as amended

REAL ESTATE COUNCIL OF B.C.

AND

UMER FAROOQ BUTT

AGREED STATEMENT OF FACTS,
PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

The following agreement has been reached between Umer Farooq Butt ("Mr. Butt") and the Real Estate Council of British Columbia (the "Council"),

- A. Mr. Butt hereby consents to an Order to be made pursuant to sections 41 and 43 of the *Real Estate Services Act* (the "Act") that his licence be suspended for seven (7) days. Further, he agrees to pay enforcement expenses of this Consent Order to the Council in the amount of \$1,500 within sixty (60) days from the date of the Order herein. Mr. Butt 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 sections 43(3) and 43(4) of the Act.
- B. As a basis for this Order, Mr. Butt acknowledges and agrees that the facts set forth herein are correct:
1. Mr. Butt was at all relevant times licensed as a representative with OMAX Realty Ltd. dba Omaxwell Realty ("OMAX").
 2. Mr. Butt's licensing history is as follows:

Start Date	End Date	Brokerage	Licence Level	Licence Category
01/09/2015	Present	OMAX Realty Ltd. dba Omaxwell Realty (X029063)	Representative	Trading
25/09/2014	01/09/2015	Satnam Real Estate Services Ltd. dba SRS Panorama Realty (X026769)	Representative	Trading

Start Date	End Date	Brokerage	Licence Level	Licence Category
09/08/2013	25/09/2014	OMAX Realty Ltd. dba Omaxwell Realty (X029063)	Representative	Trading
28/02/2012	08/08/2013	Medallion Realty Ltd. dba Sutton Group Medallion Realty (X015504)	Representative	Trading
03/09/2011	27/06/2012	Unlicensed	n/a	n/a
31/08/2010	02/09/2011	Global Force Realty Ltd. dba Royal LePage Global Force Realty (X028911)	Representative	Trading

3. In May, 2014 Panorama Realty had the listing for a property at 1xxx9 R. Road in Surrey, B.C. (the "Property"). Mr. Beesla was the designated agent of Panorama Realty for the sale of the Property.
4. The Property had been purchased by LP (the "Seller") in February 2014.
5. The Seller purchased the Property under a court ordered sale. The house on the Property had a high level of mold content. The listing of the Property disclosed that the roof of the house had been leaking for years and no interior showings were permitted due to unsafe conditions.
6. The Seller had renovated the Property, which renovations included electric and plumbing renovations, a new kitchen and new bathrooms.
7. On May 25, NA, AA & DY (collectively the "Complainants") arranged with Mr. Butt to view the Property.
8. During the viewing Mr. Butt disclosed to the Complainants the previous mold problem. Either during this viewing or within a few days after, Mr. Beesla and Mr. Butt discussed the issue of building permits for the renovations. Both Mr. Beesla and Mr. Butt agree that Mr. Beesla told Mr. Butt that no permits were required as there were no structural changes to the house. Mr. Beesla based his statement to Mr. Butt about permits on information given to him by the Seller.

9. On May 27, 2014 NA made an offer to purchase the Property (the "Offer") pursuant to a contract of purchase and sale (the "May Contract"). The Offer in the May Contract was modified by the Seller adding to the May Contract 'The Property is to be sold 'as is where is' ". NA accepted the modification. The May Contract had "subject to" clauses relating to, among other matters, an inspection report, an Air Test Report, and the Buyer's approval of the latest Property Disclosure Statement (the "PDS").
10. The Seller provided a PDS dated May 19, 2014 which disclosed, among other matters, that the Seller was not aware of:
 - (a) any material latent defects;
 - (b) any additions or alterations made without a required permit;
 - (c) any additions or alterations made in the last sixty days; or
 - (d) any moisture and/or water problems in the walls, basement or crawl space.
11. The Seller had obtained in April 2014 an air quality test report (the "Report") for the period April 4 to April 10, 2014. A copy of the Report was given to the Complainants on June 3, 2014. The Report disclosed unacceptable levels of particles which could include dust, mold, spores, dust mites, pet dander and bacteria.
12. The dates in the May Contract for subject removal and for possession and completion were changed a number of times, and NA wished to add AA and DY as buyers, so the Seller and the Complainants entered into a replacement contract for the May Contract, which replacement contract was dated July 1, 2014 (the "July Contract"). The July Contract contained no "subject to" clauses but contained the "as is where is" clause as set out in the May Contract.
13. After the completion of the purchase and sale in mid July 2014, the Complainants discovered, among other things, a strange odor from the master bedroom. On investigation and inquiries with the City of Surrey the Complainants discovered that no permits had been obtained from the City of Surrey regarding any of the renovations.
14. The odor problem persisted and the Complainants had their own air quality test performed. The report by JMB disclosed a high concentration of airborne mold in the master bedroom and a high concentration of volatile organic compounds directly adjacent to the exterior sewer vent from the master bedroom.
15. The City of Surrey has adopted Rule 2-016 of the BC Electrical Code which provides that:

"Except as provided in Rule 2-018, no reconnection, installation, alteration, or addition shall be connected to any service or other source of electric energy by a supply authority, electrical contractor, or other person, until a current-permit authorizing the supply of electric energy has been obtained from the inspection department."

16. The City of Surrey By-Law No. 6569 provides that, with respect to plumbing:


"No connection shall be made with any sewer and no construction, reconstruction, renewal, repair, replacement, alteration or extension of any plumbing system or any part thereof shall be started until a permit to do so had been obtained."
17. Neither the Seller nor anyone acting on his behalf obtained the permits referred to in paragraphs 15 and 16 above.
18. Mr. Butt asserts that after the Complainants purchased the Property they conducted garage renovations which included new electrical and drywall installations as well as structural changes for which he believes no permits were obtained and therefore Mr. Butt believes that the issue of obtaining permits was not important to the Complainants.

C. Proposed Acceptance of Findings and Waiver

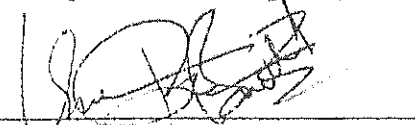
1. Based on the Agreed Statement of Facts as outlined herein, and without making any admissions of liability, Mr. Butt is prepared to accept the following findings if made against him by the Council's Consent Order Review Committee:
 - (a) That Mr. Butt committed professional misconduct within the meaning of section 35(1)(a) of the Act in that, with respect to the provision of real estate services respecting the sale of the Property in which transaction Mr. Beesla had an agency relationship with the Seller and Mr. Butt had an agency relationship with the Buyer;
 - (i) contrary to section 3-3(a) of the Council Rules, Section 3-3(h) of the Council Rules and section 3-4 of the Council Rules, he failed to act in the best interest of the client, he failed to use reasonable efforts to discover relevant facts respecting real estate a client was considering acquiring, and he failed to use reasonable care and skill, in that he failed to make appropriate inquiries and investigations as to whether the Seller or anyone acting on the Seller's behalf had obtained relevant permits from the local municipality for renovations undertaken by the Seller on the Property.
2. Mr. Butt hereby waives his right to appeal pursuant to section 54 of the Act.

3. Mr. Butt 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. Butt acknowledges and is aware that the Council will publish the Consent Order and penalty herein in its Report from Council and on the Council's website.
5. Mr. Butt acknowledges and is aware that the Superintendent of Real Estate has the right, pursuant to section 54 of the 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. The Agreed Statement of Facts and Proposed Acceptance of Findings cannot be used in any civil proceedings.

This Agreed Statement of Facts and Proposed Acceptance of Findings may be signed in counterparts.



Bruce Woolley, Q.C.
Legal Counsel
Real Estate Council of British Columbia
As to Part B only (Agreed Statement of Facts)



Umer Farooq Butt
As to Parts A, B and C (Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver)

Dated Dec 1 2015

Dated 11/30/ 2015