

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

IN THE MATTER OF
ZHOU (FRANK) ZHU

AND

FRANK ZHU PERSONAL REAL ESTATE CORPORATION

CONSENT ORDER

RESPONDENTS:

Zhou (Frank) Zhu, Representative,
Multiple Realty Ltd. (Rhmd)

Frank Zhu Personal Real Estate
Corporation, Multiple Realty Ltd.
(Rhmd)

DATE OF REVIEW MEETING:

October 20, 2015

DATE OF CONSENT ORDER:

December 4, 2015

CONSENT ORDER REVIEW COMMITTEE:

D. Fimrite
S. Ghose, Chair
S. Lynch

ALSO PRESENT:

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

PROCEEDINGS:

On October 20, 2015, an Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver ("ASF") submitted by Zhou (Frank) Zhu and Frank Zhu Personal Real Estate Corporation was considered by the Consent Order Review Committee (the "Committee") but not accepted. On November 17, 2015, a revised ASF acceptable to the Committee was submitted by Mr. Zhu and Frank Zhu Personal Real Estate Corporation.

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

1. Zhou (Frank) Zhu and Frank Zhu Personal Real Estate Corporation each be reprimanded;
2. Zhou (Frank) Zhu and Frank Zhu 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 from the date of this Order; and
3. Zhou (Frank) Zhu and Frank Zhu Personal Real Estate Corporation be jointly and severally liable to pay enforcement expenses of this Consent Order to the Council in the amount \$1,250.00 within sixty (60) days from the date of this Order.

If Zhou (Frank) Zhu and Frank Zhu 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 4th day of December, 2015 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

ZHOU (FRANK) ZHU
(147657)

And

FRANK ZHU PERSONAL REAL ESTATE CORPORATION
(147657PC)

AGREED STATEMENT OF FACTS,
PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

The following agreement has been reached between Zhou (Frank) Zhu ("Mr. Zhu"), Frank Zhu Personal Real Estate Corporation and the Real Estate Council of British Columbia (the "Council").

- A. Mr. Zhu and Frank Zhu Personal Real Estate Corporation hereby consent to an Order to be made pursuant to sections 41 and 43 of the *Real Estate Services Act* that they be reprimanded. Further, they agree to 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 and be jointly and severally liable 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. Zhu and Frank Zhu Personal Real Estate Corporation further 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 section 43(3) and 43(4) of the *Real Estate Services Act*.
- B. As a basis for this Order, Mr. Zhu and Frank Zhu Personal Real Estate Corporation acknowledges and agrees that the facts set forth herein are correct:

1. ~~Mr. Zhu was at all relevant times licensed as a representative with Multiple Realty Ltd. (Rhmd).~~
2. Mr. Zhu'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>
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AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

04/01/2006 Present Multiple Realty Ltd. (Rhmd) Representative Trading (X015783)

3. Frank Zhu Personal Real Estate Corporation's licensing history is as follows:

Personal Real Estate Corporation Licensing History

04/01/2012 To Present Frank Zhu Personal Real Estate Corporation

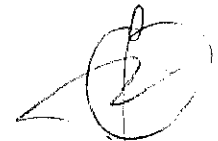
4. On June 27, 2012, Council received a complaint from Z.H., the buyer of the property located at 63XX Riverdale Drive, Richmond, B.C. (the "Property") asserting that he was unaware the two suites in the house were unauthorized when he purchased the property.
5. Zhou (Frank) Zhu, licensed as a representative and personal real estate corporation with Multiple Realty Ltd. (Rhmd) (the "Brokerage").
6. Mr. Zhu represented the buyers of the above referenced property through a contract of purchase and sale ("CPS") entered into September 23, 2011.
7. The property was listed through a MLS listing contract, which was entered into July 13, 2011. A property disclosure statement dated July 13, 2011 was provided but not completed by the sellers.
8. On September 23, 2011, CPS was entered into between V.H. and L.L., the sellers and Z.H. and L.L. the buyers. Details of the CPS were as follows:

Price: \$1,086,000
Deposit: \$80,000 within 24 hours of acceptance
Completion: October 28, 2011
Agency: The sellers had an agency relationship with Re/Max W. and S.L.
The buyers had an agency relationship with Multiple Realty and Frank Zhu PREC
PDS: Signed but not completed by the seller
Subjects: Offer was unconditional

9. The listing licensees knew that the Property contained an unauthorized accommodation (the "Suite"), which had been converted from a garage. The Suite had not received the permits required by the City of Richmond.

AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

10. The MLS features sheet did not clearly set out that the Suite was unauthorized although the MLS sheet did state "Suite: None, Unauthorized Suite".
11. In September, 2011, when the listing licensees showed the Property to Z.H., the buyer and Mr. Zhu, they stated that they verbally informed the buyer and Mr. Zhu that the Suite was unauthorized.
12. Mr. Zhu stated that he noted the remarks on the MLS sheet and he told the buyer that the Suite was not authorized by the "Government".
13. On or around September 25, 2011, the buyer entered into an unconditional agreement to purchase the Property, and the sale completed on October 28, 2011.
14. The CPS did not contain the Disclosure of Material Latent Defects Clause that is recommended by the Real Estate Council's Professional Standards Manual. While a property disclosure statement was also provided to the buyer it was not completed by the sellers as if they had not resided in the property and it did not indicate that there was unauthorized accommodation on the property.
15. The listing licensees stated that it was their practice to verbally disclose any unauthorized accommodations when asked by a buyer or licensee acting for a buyer and they believed that the MLS data sheet is sufficient for disclosure of unauthorized accommodations.
16. Mr. Zhu believed that the information in the MLS features sheet was that there was an unauthorized suite and believed that and his further verbal disclosure to the buyer was sufficient disclosure. He did not make any further inquiries of the City of Richmond concerning the property as he knew the suites in the property were unauthorized and he believed that the buyer was well aware of this as well.
17. On April 28, 2010 Mr. Zhu suspended for 45 days, ordered to pay a discipline penalty of \$1,000, complete the Remedial Education Course and enforcement expenses in the sum of \$1,000. when he entered into a Consent Order with the Council where he admitted that he committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act*
 - (i) in that he provided real estate services separate from his brokerage; accepted remuneration related to real estate services from someone other than his brokerage; failed to disclose to his client, the buyer, that he was receiving remuneration from the seller, failed to provide the seller with a disclosure of interest in trade prior to presenting an offer to purchase the said property; and failed to deliver remuneration received for real estate services to his brokerage.

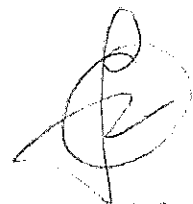


AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

- (ii) changed the amount of commission to be paid by the seller on the said listing contracts from 1.1625% on the balance over and above the first \$100,000 on 2.5% on the said balance without the initials of the said seller to this change before delivering the said contracts to the brokerage; and omitted to inform his brokerage that he held 2% of the shares of the said seller, Ariston Developments Ltd.

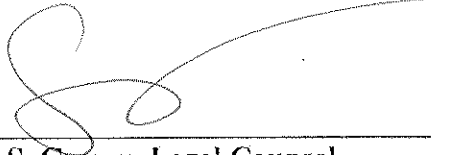
C. Proposed Acceptance of Findings and Waiver

1. Based on the Agreed Statement of Facts as outlined herein, and without making any admissions of liability, Zhou (Frank) Zhu and Frank Zhu Personal Real Estate Corporation are prepared to accept the following findings if made against them by the Council's Consent Order Review Committee:
 - (a) Zhou (Frank) Zhu and Frank Zhu Personal Real Estate Corporation committed professional misconduct Zhu within the meaning of section 35(1)(a) of the RESA in that, while acting for a buyer, V.H., for the property located on River Road, Richmond (the "Property"), he failed to use reasonable efforts to ascertain whether or not the Property contained unauthorized accommodation, contrary to section 3-4 of the Council Rules.
2. Mr. Zhu and Frank Zhu Personal Real Estate Corporation hereby waives their right to appeal pursuant to section 54 of the *Real Estate Services Act*.
3. Mr. Zhu and Frank Zhu Personal Real Estate Corporation acknowledges that they has a right to seek independent legal advice before signing this Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver.
4. Mr. Zhu and Frank Zhu 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. Mr. Zhu and Frank Zhu 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.

A handwritten signature in black ink, appearing to be 'F. Zhu', is written over a faint circular stamp or watermark.

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

As to Part B only (Agreed Statement of Facts)

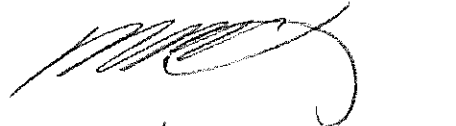
Dated 17 day of Nov, 2014



Zhou (Frank) Zhu on his behalf and on behalf of Frank Zhou Personal Real Estate Corporation

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

Dated _____ day of _____, 2014



Nov. 13, 2015