

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

IN THE MATTER OF

KEIKO NORISUE

CONSENT ORDER

RESPONDENT: Keiko Norisue, Managing Broker,
New Century Real Estate Ltd.

DATE OF REVIEW MEETING: October 20, 2015

DATE OF CONSENT ORDER: November 25, 2015

CONSENT ORDER REVIEW COMMITTEE: H. Exner
D. Fimrite
S. Ghose
M. Leslie, 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 Keiko Norisue was considered by the Consent Order Review Committee (the "Committee") but not accepted. On November 16, 2015, a revised ASF acceptable to the Committee was submitted by Ms. Norisue.

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

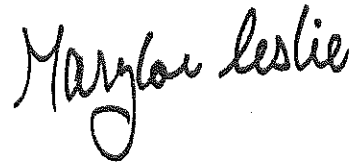
1. be reprimanded;

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2. pay a discipline penalty to the Council in the amount of \$10,000.00 within ninety (90) days of the date of this Order;
 3. at her own expense, register for and successfully complete the Real Estate Trading Services Remedial Education Course and the Broker's 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; and
 3. 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 Keiko Norisue 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 25th day of November, 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

**KEIKO NORISUE
(077372)**

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

The following agreement has been reached between Keiko Norisue (“Ms. Norisue”) and the Real Estate Council of British Columbia (the “Council”).

- A. Ms. Norisue hereby consents to an Order to be made pursuant to sections 41 and 43 of the *Real Estate Services Act* that she be reprimanded, pay a discipline penalty to the Council in the amount of \$10,000.00 within ninety (90) days of the date of the Order, that she, at her own expense, register for and successfully complete the Real Estate Trading Services Remedial Education Course and the Broker’s Remedial Education Course as provided by the Real Estate Division, Sauder School of Business at the University of British Columbia within the time period as directed by the Council. Further, she 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. Ms. Norisue further consents to an Order that if she fails to comply with any of the terms of the Order set out above, a Discipline Hearing 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, Ms. Norisue acknowledges and agrees that the facts set forth herein are correct:
- Ms. Norisue was at all relevant times licensed as managing broker with New Century Real Estate Ltd.
 - Ms. Norisue’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>
2002/05/01	Present	New Century Real Estate Ltd. (X027574)	Managing Broker	Trading, Rental

AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

1991/06/17	2002/04/30	West Second Real Estate Services Inc. (X022028)	Managing Broker	Trading, Rental
1988/11/18	1991/06/17	Goddard & Smith International Realty Inc. (X002993)	Representative	Trading, Rental

3. On June 18th, 2013, Ms. Norisue drafted a Contract of Purchase and Sale for a property located at XX20 Anzio Drive, Vancouver, B.C. (the "Property") between the Sellers and Fatemeh Nouripour ("Ms. Nouripour"), a licensee in Ms. Norisue's brokerage. The contract stated that the Buyer, Ms. Nouripour, had an agency relationship with Ms. Norisue.
4. Ms. Nouripour informed Ms. Norisue that she was looking for a partner in the purchase of the Property as she was unable to complete the transaction on her own. Ms. Norisue mentioned this information to K.H., the daughter of one of her current clients, and K.H. and Ms. Nouripour decided that they would purchase the house together. Both K.H. and Ms. Nouripour would pay half of the purchase price and half of the deposit. K.H. would pay her half of the purchase price in cash, while Ms. Nouripour would finance her half of the purchase price by way of a mortgage.
5. On June, 23rd, 2013 K.H. left the country for approximately one month. Prior to leaving, K.H. provided Ms. Norisue with a cheque for \$10,000 (her half of the deposit) with the date left blank to be filled on the date of subject removal.
6. On June 27th, 2013, Ms. Nouripour sent an e-mail to K.H. informing her that she was having trouble obtaining financing and that, with subject removal being July 4th, 2013, they ran a risk of losing their deposits should the mortgage not be approved and should they not be able find someone to assign the contract to.
7. On June 28th, 2013, K.H. replied that she still wanted to go ahead with the purchase. Ms. Nouripour responded on that same day informing K.H. that she would go through with the subject removal as scheduled.
8. On July 2nd, 2013, Ms. Norisue prepared an Addendum to the Contract of Purchase and Sale for the Property that stated: "*The sellers acknowledge that [K.H.] is added into this contract of purchase and sale dated June 18th, 2013, [K.H.] will provide the required down payment in order to be eligible for mortgage financing. Both buyers will pay the [deposit] upon subject removal...*" This Addendum was signed by the Sellers and Ms. Nouripour, but was not signed by K.H.
9. On July 4th, 2013, an Addendum was created to remove the inspection, title and financing subjects. This Addendum was signed by Ms. Nouripour, but was not signed by K.H.

AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

10. On July 4th, 2013, Ms. Norisue sent an e-mail to K.H. informing her that the subjects had been removed from the Contract of Purchase and Sale for the Property, and that her half of the deposit was now being held in the trust account of New Century Real Estate Ltd.
11. On August 21st, 2013, K.H. informed Ms. Nouripour that she no longer wanted to be involved in the purchase of XX20 Anzio Drive.
12. On August 26th, 2013, Ms. Norisue, Ms. Nouripour and K.H. met to discuss K.H.'s withdrawal from the deal. Ms. Norisue requested that K.H. sign a document to acknowledge that she was aware of the consequences of her withdrawal from the deal; these consequences included a potential claim, by the Sellers, for damages as well as the loss of her deposit.
13. On August 27th, 2013, Ms. Nouripour informed K.H. that she had found a buyer for the Property to whom they could assign the Contract of Sale and Purchase.
14. On August 28th, 2013, Ms. Norisue prepared a new Addendum for the Contract of Purchase and Sale that stated: "*The sellers acknowledge that [K.H.] is removed from the addendum dated July 2, 2013 of this contract of Purchase and Sale dated June 18th, 2013.*" This Addendum was signed by the Sellers, but was not signed by K.H.
15. At no point during K.H.'s involvement in this transaction did Ms. Norisue explain to her what, if any, representation she was providing, nor did she instruct K.H. to obtain independent legal advice regarding the transaction.
16. On August 29th, 2013, Ms. Norisue drafted an Assignment of Contract of Purchase and Sale agreement for the Property. Ms. Nouripour was named as the Assignor and D.C. Ltd. was named as the Assignee. This Assignment agreement stated that a deposit of \$20,000 would be paid in trust by the Assignee to Ms. Nouripour as the "Stakeholder". A cheque from the Assignee for \$20,000 was made out in the name of Ms. Nouripour.
17. An Addendum to the Assignment of Contract of Purchase and Sale agreement stated that, in the case of a default, the Assignee understood and acknowledged that their deposit of \$20,000 would be forfeited to the seller. The Assignee's deposit was not paid to the Seller and was not being held in trust by New Century Real Estate Ltd., as it had been paid directly to Ms. Nouripour.
18. K.H. was repaid her deposit by way of a brokerage cheque dated October 9, 2013.
19. Ms. Norisue has a previous discipline history with the Council.

AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

Previous Discipline History

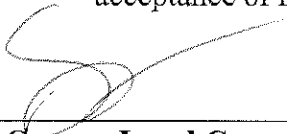
20. On April 20th, 2005, Ms. Norisue had her licence suspended for 14 days and was required to successfully complete chapter 2 of the Brokers Course, as well as to pay enforcement costs of \$500 when she:
- (a) permitted an unlicensed assistant to undertake property management activities for which a licence was required such as showing rental suites to potential tenants, negotiating and signing residential tenancy agreements on behalf of the landlord and/or agent and also signing correspondence in her name on behalf of the agent.

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, Keiko Norisue is prepared to accept the following findings if made against her by the Council's Consent Order Review Committee:
- (a) Ms. Norisue committed professional misconduct within the meaning of section 35(1)(a) and (d) of RESA in that she:
 - (i) contravened section 3-1(1)(b) of the Council Rules in that she, as managing broker, failed to ensure that the business of her brokerage was carried out competently and in accordance with the Act, regulations, rules and bylaws;
 - (ii) contravened section 3-3(a) of the Council in that she failed to act in the best interests of her client, K.H., when she failed to add K.H. to the Contract of Purchase and Sale as a Buyer and failed to have K.H. sign the Contract of Purchase and Sale or its Addendum indicating that she was a party to the transaction;
 - (iii) contravened section 5-10(a) of the Council Rules by failing to disclose to her client, K.H., the nature of the representation that she would provide;
 - (iv) in the alternative to (ii) and (iii), if she was deemed not to be representing K.H. in this transaction, that she failed to advise K.H. to seek independent legal advice or representation concerning her joint venture agreement with Ms. Norisue's client prior to K.H. entering into that agreement;
 - (v) contravened section 27(1) of RESA when she failed to promptly pay the Assignee's deposit money into the brokerage trust account, and

AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

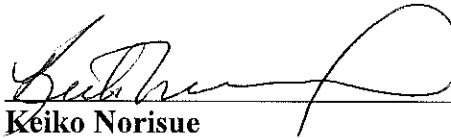
- (vi) contravened section 27(4) of RESA when she failed to secure a separate written agreement stating that all parties to the Assignment of the Purchase and Sale Contract agreed that the deposit from the Assignee would be paid to an account other than the brokerage trust account as required by section 27(4) of RESA, in this case the deposit was paid directly to the Assignor; and
 - (vii) committed professional misconduct within the meaning of section 35(1)(d) of RESA in that she acted incompetently by adding an Addendum to the Assignment of Purchase and Sale Contract stating that, in the event of a default by the Assignee, the Assignee's deposit would be forfeited to the Seller, when she knew or should have known, that the Assignee's deposit had been paid to the Assignor and not to the Seller.
2. Ms. Norisue hereby waives her right to appeal pursuant to section 54 of the *Real Estate Services Act*.
 3. Ms. Norisue acknowledges that she has a right to seek independent legal advice before signing this Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver.
 4. Ms. Norisue 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. Norisue 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.
 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 16 day of Nov, 2015



Keiko Norisue

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

Dated 13 day of November, 2015