

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

IN THE MATTER OF
AHMAD MAZHARI

CONSENT ORDER

RESPONDENT: Ahmad Mazhari, Representative,
Little Oak Realty Ltd. (Sur) dba
RE/MAX Little Oak Realty (Sur),
while licensed as a Representative
with Walnut Grove Realty Ltd. dba
RE/MAX Lifestyles Realty (Langley)

DATE OF REVIEW MEETING: December 7, 2015

DATE OF CONSENT ORDER: December 10, 2015

CONSENT ORDER REVIEW COMMITTEE: M. Leslie, Chair
S. McGougan
C. Squire

ALSO PRESENT: R.O. Fawcett, Executive Officer
G. Thiele, Director, Legal Services
J. Moore, Legal Counsel for the Real
Estate Council

PROCEEDINGS:

On December 7, 2015 the Consent Order Review Committee (the "Committee") resolved to accept the Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver ("ASF") submitted by Ahmad Mazhari.

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

1. Ahmad Mazhari's licence be suspended for thirty (30) days;
2. at his own expense, Ahmad Mazhari register for and successfully complete the Real Estate Trading Services Remedial Education Course in the time period as directed by the Council; and
3. Ahmad Mazhari 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 Ahmad Mazhari 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 10th 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

**AHMAD MAZHARI
(160453)**

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

The following agreement has been reached between Ahmad Mazhari ("Mr. Mazhari") and the Real Estate Council of British Columbia (the "Council").

- A. Mr. Mazhari hereby consents to an Order to be made pursuant to sections 41 and 43 of the *Real Estate Services Act* (the "RESA") that he be suspended for thirty (30) days.
- B. Mr. Mazhari 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.
- C. Mr. Mazhari agrees to 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 as directed by the Council.
- D. Mr. Mazhari 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 pursuant to section 43(3) and 43(4) of the RESA.
- E. As a basis for this Order, Mr. Mazhari acknowledges and agrees that the following facts set forth herein are correct:
 - 1. Mr. Mazhari was at all relevant times licensed as a representative with Walnut Grove Realty Ltd. dba RE/MAX Lifestyles Realty (Langley) ("Re/Max Lifestyles Realty").
 - 2. Mr. Mazhari'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>
2013/03/14	Present	Little Oak Realty Ltd. (Sur) dba RE/MAX Little Oak Realty (Sur). (X029360)	Representative	Trading

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2010/11/18 2013/03/08 Walnut Grove Realty Ltd. Representative Trading
dba RE/MAX Lifestyles
Realty (Langley) (X028700)

3. Mr. Mazhari has no previous discipline history with the Council.

F. File #11-327 – Facts

1. Mr. Mazhari represented a buyer who wished to purchase a residential property located at ■■■ Homer Street, in Vancouver, BC. (the "Property"). D.K. represented the seller.
2. On February 3, 2012, the buyer submitted an offer for the Property that was subject to financing, and provided for a deposit of \$50,000.00, payable 24 hours after the removal of all subjects. The offer was accepted by the seller the following day.
3. Mr. Mazhari stated that on February 14, 2012, the buyer sent him a signed subject removal addendum and a copy of the deposit cheque by email. Mr. Mazhari then sent an e-mail to D.K. that attached the signed subject removal addendum and a copy of the buyer's deposit cheque.
4. At that time Mr. Mazhari did not have the actual deposit cheque in hand as the buyer had told him to attend at his residence later that evening to pick it up. When Mr. Mazhari arrived at the buyer's residence that evening he was informed by the buyer that he did not wish to proceed with the purchase as they could not obtain the necessary financing.
5. Mr. Mazhari did not inform D.K. that neither he nor the brokerage had received the actual deposit cheque or that the buyer may not proceed with the purchase.
6. On February 16th, 2012, the buyer sent an e-mail to D.K. informing him that he was unable to obtain financing and as a result would not be proceeding with the purchase of the Property.
7. D.K. stated to Council that Mr. Mazhari had given him the impression that the brokerage was in possession of the deposit.
8. On February 17, 2012, D.K.'s managing broker received an e-mail from Mr. Mazhari's managing broker, informing him that Re/Max Lifestyles Realty did not have the deposit. Until then, Mr. Mazhari had not spoken with his managing broker about the transaction.
9. The transaction did not complete. The seller subsequently sold the Property to another buyer.

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G. File #12-176 – Facts

1. Mr. Mazhari and Balvir (Robbie) Singh Johal (“Mr. Johal”) worked together as the Robbie Johal Team. The Team was not registered with the Council at the time and is no longer in existence.
2. On or about March 18, 2012, L.W. and K.G., (the “Buyers”) contacted Mr. Mazhari about an advertisement he had posted on Craigslist indicating that a residential property located on 192nd Street, Surrey, BC (the “Property”) was for sale.
3. The Buyers also noticed that the same property was listed on the Multiple Listing Service and the listing agent was Mr. Johal. The Buyers contacted Mr. Johal who referred them to Mr. Mazhari.
4. Although Mr. Johal had spoken with the Buyers on the phone, Mr. Mazhari was the only licensee who dealt directly with the Buyers. He showed the Property to and discussed potential offers with, the Buyers.
5. Mr. Mazhari prepared an agency agreement, disclosure of remuneration and a contract of purchase and sale for the Property. The agency agreement and contract indicated that Mr. Johal was a limited dual agent. Mr. Mazhari’s name did not appear on any of these documents.
6. The Buyers signed all three documents in front of Mr. Mazhari.
7. The disclosure of remuneration provided for a commission of 3.22% for the first \$100,000.00 and 1.15% for the balance to be paid to RE/MAX Lifestyles Realty.
8. Mr. Mazhari then met with Mr. Johal to review the documents that he had prepared. The Buyers were not present. Mr. Johal noticed that the commission was not correct. He crossed out the incorrect figures and inserted figures that reflected 7% for the first \$100,000 and 2.5% for the balance.
9. Mr. Johal then signed the disclosure of remuneration, and signed and witnessed the Buyers’ signatures on the agency agreement and the contract of purchase and sale. Mr. Johal had not seen the Buyers sign any of these documents nor was he present when they did.
10. Mr. Mazhari witnessed the sellers’ signatures.
11. Mr. Mazhari stated that he explained the changes in the commission to the Buyers but failed to have them initial those changes.
12. The transaction completed without incident.
13. Mr. Mazhari mistakenly believed that because Mr. Johal was the “lead” licensee, his name had to appear on all the documents and he had to witness the Buyers’ signatures.

AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

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14. Mr. Mazhari stated to the Council that G.M. was his unlicensed assistant who was paid \$13,275.00 for the services he provided for Mr. Mazhari. Mr. Mazhari stated that had had not intended to deceive anyone; he was unaware that he had to disclose to the Buyers and the seller that a payment from his commission had been made to G.M.

H. File #12-217 – Facts

1. On January 19, 2012, Mr. Mazhari listed for sale residential property located on 58th Ave, Surrey, BC owned by R.J. and D.J. (the "Sellers"). The list price was \$614,900.00. The commission was set at 12% for the first \$100,000.00 and 2.5% on the balance, with a buyer's commission of 4.22% on the first \$100,000.00 and 1.15% on the balance.
2. The Sellers indicated to Mr. Mazhari that they wanted to net \$585,000.00 after the sale of the Property.
3. On February 21, 2012, Mr. Mazhari met with the Sellers to discuss reducing the sale price. The Sellers were worried about reducing the price and reiterated to Mr. Mazhari that they still wanted to net \$585,000.00. The Sellers stated that Mr. Mazhari suggested that when the Sellers received an offer he could adjust his commission and attempt to have the buyer's agent do the same. This offer of a commission reduction was not put in writing.
4. The Sellers signed an amendment to the listing agreement to reduce the selling price to \$599,900.00. The Sellers commission was reduced to 7% on the first \$100,000.00 and 2.5% on the balance, and the buyer's commission was reduced to 3.22% on the first \$100,000.00 and 1.15% on the balance.
5. On March 6, 2012, the Sellers received an offer which they accepted the following day.
6. On March 7, 2012, the Sellers entered into a contract of purchase and sale to purchase a residential property. The Sellers stated that they used Mr. Mazhari in that transaction so that he would recoup the shortfall in commission on the sale of their Property.
7. Several days before the sale of their property completed, the Sellers told Mr. Mazhari that their lawyer had advised them that they would not be receiving net proceeds of \$585,000.00. As a result, the Sellers believed that Mr. Mazhari owed them \$4,600.00 to make up for the shortfall. Mr. Mazhari believed that the Sellers had misunderstood the commission structure and the discussions he had with them concerning the net proceeds.
8. Mr. Mazhari offered to pay the Sellers' legal fees. The Sellers felt that wasn't enough and Mr. Mazhari agreed to reduce his commission by \$2,300.00. An offer

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was made to donate the remaining \$2,300.00 to a charity of the Sellers' choice, but the Sellers declined that offer.

9. Both transactions completed without further incident. Mr. Mazhari stated that the Sellers thanked him for his hard work.

I. File #11-327 – 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. Mazhari is prepared to accept the following findings if made against him by the Council's Consent Order Review Committee:
 - (a) Mr. Mazhari committed professional misconduct within the meaning of section 35(1)(a) of the RESA in that he:
 - (i) contrary to section 3-4 of the Council Rules, sent D.K., the seller's agent, an e-mail that attached a signed subject removal and a copy of the buyer's deposit cheque, which led D.K. to believe, as he was not advised otherwise, that Mr. Mazhari had received the actual deposit cheque, when in fact neither he nor the brokerage, had received, and never did receive, the deposit cheque.

J. File #12-176 – Proposed Acceptance of Findings and Waiver

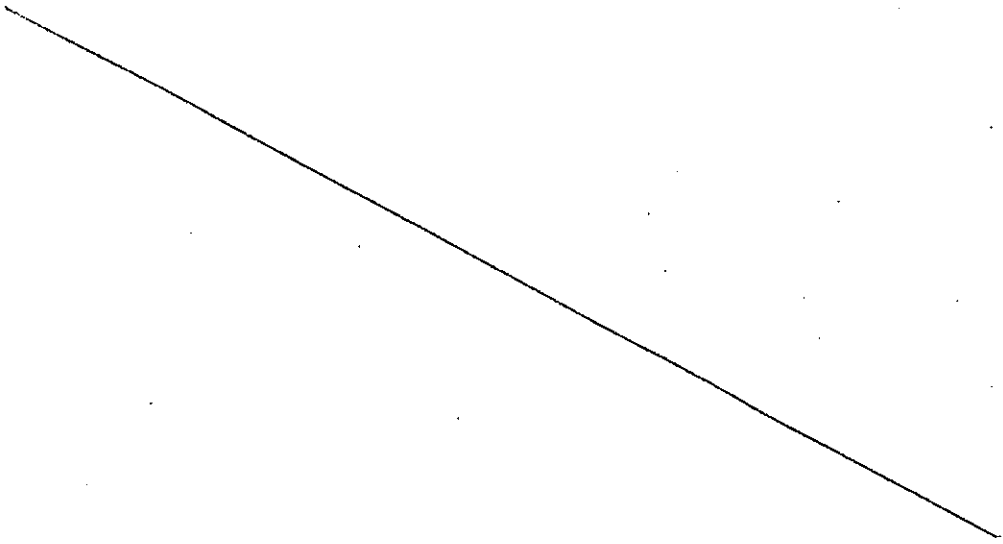
1. Based on the Agreed Statement of Facts as outlined herein, and without making any admissions of liability, Mr. Mazhari is prepared to accept the following findings if made against him by the Council's Consent Order Review Committee:
 - (a) Mr. Mazhari committed professional misconduct within the meaning of section 35(1)(a) of the RESA in that he:
 - (i) contrary to sections 3-4 and 5-10(a) of the Council Rules, prepared and presented an agency agreement, disclosure of remuneration, and contract of purchase and sale which indicated that his team leader Balvir (Robbie) Singh Johal was the limited dual agent when only he, and not Mr. Johal, provided real estate services to the buyers and the seller;
 - (ii) contrary to section 5-11(2)(a) of the Council Rules, failed to disclose the amount of remuneration that he was expecting to receive, in that he changed the amount of commission expected to be received on the disclosure of remuneration, and did not inform the buyers prior to making that change nor did he obtain the buyers initials acknowledging that change; and
 - (iii) contrary to section 3-3(f) of the Council Rules, failed to disclose to the buyers and the seller, that \$13,275.00 from his commission would be paid to G.M.

AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

K. File #12-217 – 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. Mazhari is prepared to accept the following findings if made against him by the Council's Consent Order Review Committee:
 - (a) Mr. Mazhari committed professional misconduct within the meaning of section 35(1)(a) of the RESA in that he:
 - (i) contrary to sections 3-4 of the Council Rules, verbally agreed to reduce his commission on the sale of the Property in order to allow the sellers to realize a certain net amount on the proceeds of their sale, but failed to put that agreement in writing.

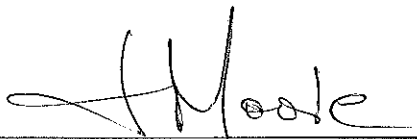
L. Waivers and Acknowledgments

1. Mr. Mazhari hereby waives his right to appeal pursuant to section 54 of the RESA.
 2. Mr. Mazhari acknowledges that he has a right to seek independent legal advice before he signs this Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver.
 3. Mr. Mazhari 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.
 4. Mr. Mazhari acknowledges and is aware that the Superintendent of Real Estate has the right, pursuant to section 54 of the RESA, to appeal any decision of the Council, including this Agreed Statement of Facts, Proposed Acceptance of Findings, and Waiver and Consent Order.
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AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

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5. 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.



Janice L. Moore, Legal Counsel
Real Estate Council of British Columbia

As to Part E, F, G and H only (Agreed Statement of Facts)

Dated 25th day of November 2015



Ahmad Mazhari

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

Dated 25th day of November, 2015