

**BC FINANCIAL SERVICES AUTHORITY**

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

**IN THE MATTER OF**

**PHILIP JOHN DANYLUK  
(140420)**

**AND**

**VENTURE WEST REAL ESTATE SERVICES LTD.  
(X033117)**

**CONSENT ORDER**

**[This Order has been redacted before publication.]**

RESPONDENTS: Philip John Danyluk and Venture West Real Estate Services Ltd.

DATE OF CONSENT ORDER: February 17, 2023

**PROCEEDINGS:**

On February 17, 2023, the Superintendent of Real Estate (the "Superintendent") of the BC Financial Services Authority ("BCFSA") resolved to accept the Consent Order Proposal (the "Proposal") submitted by Philip John Danyluk ("Mr. Danyluk") and Venture West Real Estate Services Ltd. (the "Brokerage").

WHEREAS the Proposal, a copy of which is attached hereto, has been executed by Mr. Danyluk on his own behalf and as authorized signatory for the Brokerage.

NOW THEREFORE, having made the findings proposed in the attached Proposal, and found that Mr. Danyluk committed professional misconduct within the meaning of section 35(1)(a) and (d) of the Real Estate Services Act ("RESA"), and the Brokerage committed professional misconduct within the meaning of section 31(a) of the RESA, pursuant to Section 43 of the RESA, the Superintendent orders that:

1. Mr. Danyluk on behalf of himself and the Brokerage pay a discipline penalty to BCFSA in the amount of \$30,000 within 60 days of the date of the of this order.
2. Mr. Danyluk, at his own expense, register for and successfully complete the Rental Property Management Licensing Course as provided by the Sauder School of Business at the University of British Columbia prior to being eligible for re-licensing.
3. Mr. Danyluk, on behalf of himself and the Brokerage, pay enforcement expenses to in the amount of \$1,500 within 60 days of the date of this order.
4. If either Mr. Danyluk or the Brokerage fails to comply with any of the terms of the consent order set out above, BCFSA may suspend or cancel their license without further notice to them.

An amount ordered to be paid under section 43 of the RESA is a debt owing to the BCFSA and may be recovered as such.

Dated this 17th day of February, 2023 at City of Victoria, British Columbia.

BC FINANCIAL SERVICES AUTHORITY

“JONATHAN VANDALL”

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Jonathan Vandall

Delegate of the Superintendent of Real Estate

Attachment – Consent Order Proposal submitted by Philip John Danyluk and Venture West Real Estate Services Ltd.

**BC FINANCIAL SERVICES AUTHORITY**

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

**IN THE MATTER OF**

**PHILIP JOHN DANYLUK  
(140420)**

**AND**

**VENTURE WEST REAL ESTATE SERVICES LTD.  
(X033117)**

**CONSENT ORDER PROPOSAL BY PHILIP JOHN DANYLUK  
AND VENTURE WEST REAL ESTATE SERVICES LTD.**

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**BACKGROUND AND FACTS**

This Consent Order Proposal (the “Proposal”) is made by Philip John Danyluk (“Mr. Danyluk”) and Venture West Real Estate Services Ltd. (the “Brokerage”) to the Superintendent of Real Estate (the “Superintendent”) of the BC Financial Services Authority (“BCFSA”) pursuant to section 41 of the *Real Estate Services Act* (“RESA”).

For the purposes of the Proposal, Mr. Danyluk, the Brokerage and the Superintendent have agreed upon the following facts:

1. Mr. Danyluk (140420) was licensed with BCFSA (formerly the Real Estate Council of BC) as a representative for trading services from 2004 to 2007. In 2007, Mr. Danyluk also became licensed in the category of rental property management services. Mr. Danyluk was unlicensed at times from September 2008 to August 2010, and from August 2014 to July 2016. In 2016, Mr. Danyluk attained licensing as an Associate Broker and later as a Managing Broker.
2. Mr. Danyluk became licensed as a Managing Broker at the Brokerage in September 2016.
3. The Brokerage (X033117) (formerly known as Team 3000 Property Management Ltd. between 2016 and August 11, 2020) was licensed from September 2016 until September 2020 and was licensed to provide trading services and rental property management services, although its primary business was to provide rental property management services.
4. Mr. Danyluk was licensed as a Managing Broker for trading services and for rental property management services with the Brokerage from August 1, 2019, to June 30, 2020 (the “Relevant Period”).

5. The July 31, 2019, fiscal year end Accountant's Report ("AR") for the Brokerage (filed in November 2019) indicated the Brokerage had five (5) related licensees, including Mr. Danyluk. The Brokerage Activity Report included in the AR indicated that the Brokerage was then managing 96 rental units for 70 clients.
6. That AR for the Brokerage did not identify any exceptions.
7. The Brokerage's trust account was a pooled trust account where trust monies related to both trading and rental property management services would be deposited. According to Mr. Danyluk, the brokerage did not engage in any trading services during the 2019 fiscal year.
8. Signatories on the trust account included Mr. Danyluk and the brokerage's bookkeeper (the "Bookkeeper"). Withdrawals from the trust account required two signatories.
9. In May 2020, the Audit Department staff of the BCFSA ("Staff") conducted outreach to the Brokerage. Based on information provided by Mr. Danyluk, Staff identified the Brokerage as high risk and requiring auditing:
  - a. Mr. Danyluk did not review any monthly account reconciliations as they were all prepared and retained by the Bookkeeper.
  - b. Mr. Danyluk delegated the task of reviewing banking activities to the Bookkeeper.
  - c. The Bookkeeper was able to transfer money out of the trust account without Mr. Danyluk's approval.
  - d. The Bookkeeper was responsible for depositing rents collected via e-mail money transfer (EMT) and rent cheques.
  - e. Tenant and owner files related to rental property management were kept by licensees at their own home offices. The Brokerage did not retain a copy of these records.
  - f. Mr. Danyluk advised licensees that they need to provide a Disclosure for Residential Tenancies form; however, Mr. Danyluk did not perform spot checks on licensees' rental files to ensure they were presented to prospective tenants as required.
10. Based on the May 2020 interview, Staff conducted a more detailed audit review for the Brokerage in respect of the Relevant Period and determined that:
  - a. a shortage of \$10,000 in the Brokerage' trust account existed since at least April 2020.
  - b. There were at least nine (9) unsupported transfers between the trust and general accounts of the Brokerage. These transfers appear to be related to borrowing from the trust account to the general account, whether the general account was overdrawn or not. Notations in the Brokerage ledgers indicate Mr. Danyluk directed the transfers.
  - c. There were eighteen (18) e-transfers to [Company 1] ("[Company 1]") totaling \$10,499.22. The transfers were either made directly from the trust account to [Company 1] or to the general account.

11. [Company 1] is the operating name used by Mr. Danyluk for [Holding Company 1], a British Columbia company of which Mr. Danyluk is the sole director and officer, and which provided services to some of the rental properties managed by the Brokerage.
12. On July 3, 2020, Mr. Danyluk eliminated the \$10,000 shortage in the Brokerage Trust account by replacing that money from various sources.
13. On August 10, 2020, Mr. Danyluk submitted a Brokerage Winding Up Report to Staff and the Brokerage license was terminated on September 18, 2020.
14. On August 15, 2020, Mr. Danyluk's license expired.
15. By letter of August 20, 2021, legal counsel for BCFSa, [BCFSa Counsel 1] informed Mr. Danyluk and the Brokerage that BCFSa was concerned about potential professional misconduct between August 1, 2019, and June 30, 2020, but considering the Brokerage was wound up between August and September 2020, and that neither Mr. Danyluk nor the Brokerage were currently licensed, BCFSa decided to take no further action against them (the "Reconsideration Letter").
16. In the Reconsideration Letter, BCFSa also informed Mr. Danyluk and the Brokerage that if they reapplied for licensing in the future, BCFSa may conduct a qualification hearing to determine their suitability for licensing and/or a discipline hearing or take any other available steps/outcomes under the RESA.
17. On June 28, 2022, Mr. Danyluk submitted an application for re-licensing (for rental property management services) to BCFSa under managing broker, [Licencee 1] of [Brokerage 1].
18. A Notice of Discipline Hearing was issued on August 16, 2022, and served on Mr. Danyluk and the Brokerage.
19. Mr. Danyluk has a discipline history with BCFSa, reported at 2014 CanLII 80954 (BC REC).
20. The Brokerage has no discipline history with BCFSa.

### **PROPOSED FINDINGS OF MISCONDUCT**

For the sole purpose of the Proposal and based on the Facts outlined herein, Mr. Danyluk and the Brokerage propose the following findings of misconduct be made by the Superintendent:

1. Mr. Danyluk committed professional misconduct within the meaning of section 35(1)(a) and (d) [Misconduct by licensee] of the RESA and conduct unbecoming a licensee, within the meaning of section 35(2) [Misconduct by licensee] of the RESA in that, in the Relevant Period, Mr. Danyluk:
  - a. failed to disclose benefits he anticipated receiving directly or indirectly, or that his associate [Company 1] would receive, through providing rental property management services through the Brokerage, contrary to section 5-12 [Benefits in relation to rental property management services and strata management services] of the rules made under the RESA (the "Rules");
  - b. failed to review monthly trust account reconciliation as required by section 7-4(2) [Other trust account requirements] of the Rules; and
  - c. failed to ensure that the Brokerage:

- i. prepared and maintained trust liability listings and separate trust ledgers for the pooled rental trust account;
- ii. did not maintain negative balances (shortages and overdrafts) in the pooled rental trust accounts;
- iii. notified BCFSa about any of the negative balance(s) no later than 10 days after the day on which the negative balance(s) arose, or if at all,

all contrary to section 6(2) [Brokerage must have a managing broker] of the RESA and sections 3-1(1) and 3-1(3) [Managing broker responsibilities] and 7-5 [Negative balances in trust accounts and trust records] of the Rules;

2. The Brokerage committed professional misconduct within the meaning of section 35(1)(a) [Misconduct by licensee] of the RESA in the Relevant Period in that the Brokerage:
  - a. failed to prepare and maintain proper books and records contrary to section 25 [Brokerage records] of the RESA;
  - b. failed to take immediate steps to eliminate negative balance (shortages) in the pooled rental trust account, contrary to section 7-5(2) [Negative balances in trust accounts and trust records] of the Rules;
  - c. failed to take immediate steps to eliminate negative balances (overdrafts) in the rental trust bank account, contrary to section 7-5(2) [Negative balances in trust accounts and trust records] of the Rules;
  - d. failed to notify BCFSa about any of the negative balances as set out above, no later than 10 days after the day on which the negative balance(s) arose, contrary to section 7-5(3)(b) [Negative balances in trust accounts and trust records] of the Rules; and
  - e. permitted trust monies to be withdrawn from a trust account, without the consent, authorization or knowledge of the client, contrary to section 30 [Withdrawals from trust account] of the RESA.

### **PROPOSED ORDERS**

Based on the Facts herein and the Proposed Findings of Misconduct, Mr. Danyluk and the Brokerage propose that the Notice of Discipline Hearing in this matter be resolved through the following Orders being made by the Superintendent, pursuant to section 43 of the RESA:

1. Mr. Danyluk on behalf of himself and the Brokerage is liable to pay a discipline penalty to BCFSa in the amount of \$30,000 within 60 days of the date of the signed consent order.
2. Mr. Danyluk, at his own expense, register for and successfully complete the Rental Property Management Licensing Course as provided by the Sauder School of Business at the University of British Columbia prior to being eligible for re-licensing.
3. Mr. Danyluk on behalf of himself and the Brokerage is liable to pay enforcement expenses to BCFSa in the amount of \$1,500 within 60 days of the date of the signed consent order.
4. If either Mr. Danyluk or the Brokerage fails to comply with any of the terms of the consent order set out above, BCFSa may suspend or cancel their license without further notice to them.

**ACKNOWLEDGEMENTS AND WAIVER OF APPEAL RIGHT**

1. Mr. Danyluk and the Brokerage acknowledge and understand that the Superintendent may accept or reject the Proposal. If the Proposal is rejected by the Superintendent, the matter may be referred to a disciplinary hearing.
2. Mr. Danyluk and the Brokerage acknowledge that they have been urged and given the opportunity to seek and obtain independent legal advice with respect to the disciplinary process, the allegations contained in the Notice of Discipline Hearing, and the execution and submission of the Proposal to the Superintendent; and, that they have obtained independent legal advice or have chosen not to do so, and that they are making the Proposal with full knowledge of the contents and the consequences if the Proposal is accepted.
3. Mr. Danyluk and the Brokerage acknowledge and are aware that BCFSa will publish the Proposal and the Consent Order or summaries thereof on BCFSa’s website, on CanLII, a website for legal research and in such other places and by such other means as BCFSa in its sole discretion deems appropriate.
4. Mr. Danyluk and the Brokerage hereby waive their right to appeal pursuant to section 54 of the RESA.
5. If the Proposal is accepted and/or relied upon by the Superintendent, Mr. Danyluk and the Brokerage will not make any public statement(s) inconsistent with the Proposal and its contents. Nothing in this section is intended to restrict Mr. Danyluk or the Brokerage from making full answer and defense to any civil or criminal proceeding(s).
6. Mr. Danyluk and the Brokerage acknowledge and are aware that the Superintendent is not bound to accept any application for relicensing or renewal of either of their licenses. Mr. Danyluk and the Brokerage must always satisfy the Superintendent that each of them meets the requirements for a license in section 10 of the RESA, and any Rules, regulations, bylaws or other instruments made pursuant to the RESA.
7. The Proposal and its contents are made by Mr. Danyluk and the Brokerage for the sole purpose of resolving the Notice of Discipline Hearing in this matter and do not constitute an admission of civil liability. Pursuant to section 41(5) of the RESA, the Proposal and its contents may not be used without the consent of Mr. Danyluk and the Brokerage in any civil proceeding with respect to the matter.

“PHILIP DANYLUK”

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**PHILIP JOHN DANYLUK**

**Dated 13th day of December, 2022**

“PHILIP DANYLUK”

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**PHILIP JOHN DANYLUK, Authorized Signatory  
for VENTURE WEST REAL ESTATE SERVICES  
LTD.**

**Dated 13th day of December, 2022**