

THE REAL ESTATE COUNCIL OF BRITISH COLUMBIA
IN THE MATTER OF THE *REAL ESTATE SERVICES ACT*
S.B.C. 2004, c. 42 as amended

AND

IN THE MATTER OF
HARJINDER (JOE) WALIA
(124786)

CONSENT ORDER

RESPONDENT: Harjinder (Joe) Walia, representative,
OMAX Realty Ltd.

DATE OF REVIEW MEETING: October 10, 2018

DATE OF CONSENT ORDER: October 10, 2018

CONSENT ORDER REVIEW COMMITTEE: J. Daly
L. Hrycan
R. Wong

ALSO PRESENT: E. Seeley, Executive Officer
D. Avren, Director, Legal Services
D. McKnight, Legal Counsel for the Real
Estate Council

PROCEEDINGS:

On October 10, 2018, the Consent Order Review Committee (“Committee”) resolved to accept the Consent Order Proposal (“COP”) submitted by Harjinder (Joe) Walia.

WHEREAS the COP, a copy of which is attached hereto, has been executed by Harjinder (Joe) Walia.

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

1. Harjinder (Joe) Walia be reprimanded;

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2. Harjinder (Joe) Walia pay a discipline penalty to the Council in the amount of \$3,000.00 within ninety (90) days from the date of this Order;
 3. Harjinder (Joe) Walia , at his own expense, register for and successfully complete the Real Estate Trading Services Remedial Education Course, as provided by Sauder School of Business at the University of British Columbia in the time period as directed by the Council;
 4. Harjinder (Joe) Walia pay enforcement expenses to the Council in the amount of \$1,500.00 within sixty (60) days from the date of this Order.

If Harjinder (Joe) Walia 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 October, 2018, at the City of Vancouver, British Columbia.

ON BEHALF OF THE CONSENT ORDER REVIEW COMMITTEE

“J. Daly”

John Daly
Consent Order Review Committee

Atch.

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

AND

**IN THE MATTER OF
HARJINDER (JOE) WALIA
(124786)**

CONSENT ORDER PROPOSAL BY HARJINDER (JOE) WALIA

BACKGROUND AND FACTS

This Consent Order Proposal (the "Proposal") is made by Harjinder (Joe) Walia to the Consent Order Review Committee ("CORC") of the Real Estate Council of British Columbia (the "Council") pursuant to section 41 of the *Real Estate Service Act* ("RESA").

For the purposes of the Proposal, Mr. Walia and the Council have agreed upon the following facts:

1. Mr. Walia has been licensed as a real estate trading representative since 1996 and has been continuously licensed with the exception of a few days in 2010 and from November 1, 2016 to May 30, 2017 when he was unlicensed.
2. Mr. Walia was at all relevant times licensed as a representative with OMAX Realty Ltd. doing business as Coldwell Banker Universe Realty ("Coldwell").
3. At all relevant times, Mr. Walia was acting as the co-listing agent for the seller (the "Seller") of a property located on 82 Avenue in Delta, B.C. (the "Property").
4. The Seller entered into a Multiple Listing Contract with Coldwell and its designated agents, Mr. Walia and M.K., for the sale of the Property on March 18, 2016. Pursuant to the Multiple Listing Contract, the Property would be listed for \$799,888 and the Seller agreed to pay the listing brokerage 7% on \$100,000 and 2.5% on the remainder.
5. On March 21, 2016, the Seller entered into a Contract of Purchase and Sale for the Property for \$880,000.
6. On April 21, 2016, the Seller signed a Contract of Purchase and Sale Addendum indicating he would receive \$825,000 from the proceeds of the sale of the Property and the remainder would be given as a bonus to Mr. Walia and M.K. The addendum was witnessed by Mr. Walia and M.K.
7. The transaction completed without incident.
8. The Council received a complaint from the Seller concerning the bonus on August 16, 2016.

9. Mr. Walia submits that the Seller offered the bonus to him and M.K.
10. On January 26, 2017, the Seller wrote to the Council indicating that he had “settled” the matter with Mr. Walia and M.K. and was withdrawing his complaint.
11. A Notice of Disciplinary Hearing was issued on July 19, 2018 and served on Mr. Walia.
12. Mr. Walia has no prior discipline history with the Council.

PROPOSED FINDINGS OF MISCONDUCT

For the sole purposes of the Proposal and based on the Facts outlined herein, Mr. Walia proposes the following findings of misconduct be made by the CORC:

1. Mr. Walia committed professional misconduct within the meaning of section 35(1)(a) of the RESA in that while licensed as a representative with OMAX Realty Ltd. dba Coldwell Banker Universe Realty and acting as the agent for Seller of the Property between March and July 2016
 - a. he failed to act in the best interests of his client when he prepared and had the Seller sign an addendum to the Contract of Purchase and Sale stating that the Seller would receive net proceeds from the sale and Mr. Walia would receive the remainder of the sale proceeds as a bonus, contrary to sections 3-3(a), 5-14(1) and 5-14(2) of the Rules; and
 - b. he acted in a potential conflict of interest and failed to advise the Seller to seek independent professional advice in relation to the remainder of the sale proceeds that Mr. Walia would receive as a bonus contrary to sections 3-3(d), 3-3(i) and 3-3(j) of the Rules.

PROPOSED ORDERS

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

1. Mr. Walia be reprimanded.
2. Mr. Walia pay a discipline penalty to the Council in the amount of \$3,000 within ninety (90) days of the date of this Order.
3. Mr. Walia, at his own expense, register for and 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 directed by the Council.
4. Mr. Walia pay enforcement expenses in the amount of \$1,500 within sixty (60) days from the date of this Consent Order.

5. If Mr. Walia fails to comply with any of the terms of this Order, the Council may suspend or cancel his license without further notice to her.

ACKNOWLEDGEMENTS AND WAIVER OF APPEAL RIGHT

1. Mr. Walia acknowledges and understands that the Council may refer or decline to refer the Proposal to the CORC. If the Proposal is referred to the CORC, it may be accepted or rejected by the CORC. If the Proposal is rejected by the CORC, the matter may be referred to a disciplinary hearing.
2. Mr. Walia acknowledges he has 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 CORC; and that he has obtained independent legal advice or has chosen not to do so, and that he is making the Proposal with full knowledge of the contents and the consequences if the Proposal is accepted.
3. Mr. Walia acknowledges and is aware that the Council will publish the Proposal and the Consent Order or summaries thereof in its Report from the Council newsletter, on the Council's website, on CanLII, a website for legal research and in such other places and by such other means as the Council in its sole discretion deems appropriate.
4. Mr. Walia 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 any Consent Order made by the Council in relation to this matter.
5. Mr. Walia hereby waives his right to appeal pursuant to section 54 of the RESA.
6. The Proposal and its contents are made by Mr. Walia 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. Walia in any civil proceeding with respect to the matter.

"J. Walia"

Harjinder (Joe) Walia

Dated_19th_, day of __September__, 2018

Signature of Mr. Walia witnessed on the above date by

"P. Walia"

Witness Name *(Please Print)*

"P. Walia"

Witness Signature