

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  
PATRICK SHIU-MING LEUNG  
(030422)

CONSENT ORDER

RESPONDENT: Patrick Shiu-Ming Leung, managing broker, Park Georgia Realty Ltd., while licensed with Pan Pacific Platinum Real Estate Service Inc. dba New Coast Realty

DATE OF REVIEW MEETING: October 19, 2018

DATE OF CONSENT ORDER: October 19, 2018

CONSENT ORDER REVIEW COMMITTEE: E. Mignosa  
S. Heath  
S. Sidhu

ALSO PRESENT: D. Avren, Director, Legal Services  
J. Clee, Legal Counsel for the Real Estate Council  
J. Moore, Legal Counsel for the Real Estate Council

PROCEEDINGS:

On October 19, 2018, the Consent Order Review Committee (“Committee”) resolved to accept the Consent Order Proposal (“COP”) submitted by Patrick Shiu-Ming Leung.

**WHEREAS** the COP, a copy of which is attached hereto, has been executed by Patrick Shiu-Ming Leung.

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

1. Patrick Shiu-Ming Leung have his licence suspended for forty five (45) days;

2. Patrick Shiu-Ming Leung will not act as a managing broker, associate broker or as an unlicensed assistant during the time of his licence suspension;
3. Patrick Shiu-Ming Leung pay a discipline penalty to the Council in the amount of \$5,000.00 within ninety (90) days from the date of this Order;
4. Patrick Shiu-Ming Leung, at his own expense, register for and successfully complete the Broker's 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; and
5. Patrick Shiu-Ming Leung pay enforcement expenses to the Council in the amount of \$4,500.00 within sixty (60) days from the date of this Order.

If Patrick Shiu-Ming Leung 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 19<sup>th</sup> day of October, 2018, at the City of Vancouver, British Columbia.

ON BEHALF OF THE CONSENT ORDER REVIEW COMMITTEE

"E. Mignosa"

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E. Mignosa  
Consent Order Review Committee

Attch.

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

AND

IN THE MATTER OF  
PATRICK SHIU-MING LEUNG  
(030422)

CONSENT ORDER PROPOSAL BY PATRICK SHIU-MING LEUNG

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**BACKGROUND AND FACTS**

This Consent Order Proposal (the "Proposal") is made by Patrick Shiu-Ming Leung ("Mr. Leung") 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. Leung and the Council have agreed upon the following facts:

1. Mr. Leung was licensed as a managing broker with Pan Pacific Platinum Real Estate Services Inc. dba New Coast Realty ("New Coast Realty" or alternatively, the "Brokerage") from August 2012 until March 2015, at which time he downgraded his licence to an associate broker.
2. Mr. Leung was at all relevant times licensed as a Managing Broker with New Coast Realty.

**File 13-258**

3. In October 2013 G.L. transferred his licence to New Coast Realty, where he worked as an associate broker until April 15, 2014, when he upgraded his license to managing broker. In March 2015, G.L. transferred his licence to another brokerage.
4. Between April 2 and 7, 2014, the Council conducted an office and records inspection of the Brokerage.
5. During the inspection the auditor observed breaches of the RESA and the Rules, as follows.

**Rental Property Management Services**

6. Since November 1, 2013, G.L. had been providing property management services to various clients. The Brokerage had no knowledge of these services being provided nor did the Brokerage have any record of any service agreements with respect to property management services.

7. A review by the auditor of copies of five rental property management service agreements provided by G.L. revealed that none of these service agreements contained the required provisions respecting the use and disclosure of personal information or a description of the records to be kept by the Brokerage on behalf of the owner.
8. The service agreements were subsequently amended in accordance with the Rules.
9. No trust monies were collected with respect to these rental properties.
10. Mr. Leung stated to the Council that G.L. had been hired in 2013 to set up the rental property management division. Mr. Leung stated that he was unaware that when G.L. transferred to New Coast Realty he continued to provide rental property management services for clients from his previous brokerage. On April 15, 2014, G.L. upgraded his licence to a managing broker and continued to supervise and manage the rental properties through the Brokerage.

#### **Unlicensed Activity**

11. Y.W., the director of New Coast Realty, and two of the Brokerage's unlicensed support staff - R.H. and O.H. - were engaged in activities which required a license under the RESA. In particular:
  - (a) Y.W. signed a separate commission agreement with respect to the sale of 3XXX West 39<sup>th</sup> Avenue. This separate commission agreement was found in the Brokerage's records. Y.W. also offered free rental services to the owner of 8XXX Lucas Road.
  - (b) R.H. provided real estate services by answering phone calls from the public, which related to enquiries about rental properties and property listings. R.H. provided information to the caller directly instead of directing them to the licensee themselves and also made comments about the properties. It was also noted that during the inspection R.H. dealt with a client on behalf of one of the Brokerage's licensees.
  - (c) O.H. conducted showings of properties and was instructed by R.H. to conduct a rental showing to a prospective tenant to a property on Lucas Road.
12. Y.W., R.H., and O.H. had never been licensed, and were not exempt from the licensing requirements under the Rules and regulations.
13. Y.W.'s image was shown on the Brokerage's website as a "Real Estate Investment Marketing Director" without indicating that he was unlicensed. A copy of the advertising print out at Home & Realty Weekly dated March 27, 2014 indicated Y.W.'s image and a group of unlicensed staff images as part of the "New Coast Realty In-house Sales Support Team". This team name was not registered with the Council and the unlicensed staff members were not identified as unlicensed.

#### **3XXX West 39th Avenue, Vancouver, BC**

14. The Brokerage was unable to provide the auditor with copy of the listing agreement or locate one in the Brokerage file. A copy later provided to the auditor was different from a copy of the

listing agreement provided by the licensee, in that the listing brokerage's remuneration portion of the two listings did not agree with each other.

15. The Brokerage was unable to provide to the auditor a copy of agency disclosures regarding representation by the licensee.

#### **Deficiency in Trust Liability and Asset Reconciliations**

16. On June 21, 2013, a licensee provided the Brokerage with a bank draft in the amount of \$50,000.00. It was to be deposited into the Brokerage's real estate trust account for the pending sale of a property located at 6XXX Maple Road, Richmond, BC; however, it was deposited into the Brokerage's general account by mistake. The sale completed on August 8, 2013. This error caused the trust liability and asset reconciliations to be overstated by \$50,000.00 between the months of June 2013 to September 2013. However, this deficiency was not recognized until October 11, 2013, at which time a cheque in the amount of \$50,000.00 was deposited into the real estate trust account from the Brokerage's general account to account for the deficiency.
17. Mr. Leung stated to the Council that he had managed fewer staff and a smaller volume of business at his previous brokerage. He did not anticipate that the Brokerage would grow so quickly or that it would remain understaffed for as long as it did. The Brokerage subsequently hired additional administrative staff and managing brokers.
18. In July 2015, Mr. Leung terminated his licence, and in August 2015 became relicensed as an associate broker with another brokerage.
19. A Notice of Disciplinary Hearing was issued on January 26, 2016 and served upon Mr. Leung.

#### **File 13-306**

20. On or about May 2012, H.Y. became licensed and on December 19, 2013, H.Y. began working as an assistant to M.Y., another licensee at the Brokerage.
21. Mr. Leung was H.Y.'s and M.Y.'s managing broker.
22. On or about January 20, 2014, H.Y. and M.Y. entered into a Cooperation Agreement, which stipulated various provisions regarding a working relationship between H.Y., the Brokerage, and M.Y., including commission sharing arrangements.
23. After signing the Cooperation Agreement, H.Y. became a member of M.Y.'s team, which was called "Team M.Y.".
24. In correspondence to the Council, Mr. Leung stated that he was unaware that H.Y. became a member of M.Y.'s team and thought that H.Y. was M.Y.'s licensed assistant.
25. The team name "Team M.Y." had not been approved by the Council, and was not approved by the Council until March 6, 2015.

26. This matter was discovered during the investigation of a complaint submitted by K.C., a buyer of a residential property located at 8XXX Rideau Place, Richmond, BC (the "Property").

27. On or about April 8, 2014, M.Y. obtained the listing for the Property.

28. H.Y. stated that on April 11, 2014, M.Y. contacted her and told her that a potential buyer had made an appointment to view the Property. M.Y. directed H.Y. to show the Property to the buyer the next day and encouraged her to try and obtain an offer from the prospective buyer.

29. On April 12, 2014, H.Y. prepared a contract of purchase and sale (the "Offer") for K.C. which provided the following:

Purchase Price:	\$870,000.00
Deposit:	\$44,000.00 within 24 hours of subject removal date by bank draft
Buyer's Agent:	M.Y. PREC and H.Y. New Coast Realty
Seller's Agent:	M.Y. PREC and F. K. C., New Coast Realty
Subject to:	Mortgage, Property Disclosure Statement, insurance, title search, and an inspection – all to be removed by April 22, 2014

30. Accompanying the Offer was a "Working with a REALTOR®" brochure dated April 12, 2014 that designated M.Y. PREC and H.Y. as K.C.'s agents. The brochure was signed by H.Y. and K.C., but not by M.Y.

31. After a series of counter offers, the Offer collapsed.

32. On April 18, 2014 H.Y. drafted a new offer for K.C. (the "Second Offer") which provided the following:

Purchase Price:	\$938,000.00
Deposit:	\$47,000.00 within 24 hours of subject removal date by bank draft
Buyer's Agent:	H.Y., New Coast Realty
Seller's Agent:	M.Y. PREC and F.K.C., New Coast Realty
Subject to:	Mortgage, Property Disclosure Statement, insurance, title search, and an inspection – all to be removed by April 30, 2014

33. Accompanying the Second Offer was a “Working with a REALTOR®” brochure dated April 12, 2014 and signed by K.C., designating H.Y. as his agent.
34. M.Y. provided H.Y. with the seller’s counter–offer (the “Counter-Offer”), dated and signed by the seller on April 18, 2014, wherein the mortgage and inspection subjects had been crossed out and initialled by the seller. The Counter-Offer provided the following:

Purchase Price:	\$938,000.00
Deposit:	\$47,000.00 within 24 hours of subject removal date by bank draft
Buyer’s Agent:	H.Y., New Coast Realty
Seller’s Agent:	M.Y. PREC and F. K. C., New Coast Realty
Subject to:	Property Disclosure Statement, insurance and title search – all to be removed by April 24, 2014

35. H.Y. did not provide K.C. with a Disclosure of Remuneration Form disclosing the amount of remuneration she anticipated receiving or the source of that remuneration, nor with a copy of the Contract.
36. H.Y. did not provide K.C. with a copy of the Contract until April 24, 2014.
37. As a courtesy to the buyer, the seller allowed the buyer access to the Property for mortgage purposes and to have the home inspected by a home inspector and fengshui master, although the seller had refused to accept subject conditions relating to financing or inspection. On April 24, 2014, K.C. had the home inspected by a home inspector and a fengshui master, after which K.C. refused to remove subjects and proceed with the purchase. H.Y. relayed the buyer’s decision to M.Y., who told H.Y. to warn K.C. that the seller could sue him if he did not proceed with subject removal and provide the deposit.
38. M.Y. also called K.C. directly to inform him that he could not cancel the deal because the offer was, in effect, a cash deal without subject to financing and inspection conditions and that he faced a lawsuit by the seller and be found liable for damages if the seller sold the Property for an amount less than the Contract price, if K.C. refused to proceed.
39. H.Y. stated that she called K.C. many times and eventually went to his residence where she knocked on his door without receiving a response. She stated that she had attempted to contact her managing broker, Mr. Leung, to ask what she should do but was unable to reach him. H.Y. did speak to G.L., one of the Brokerage’s other managing brokers, who instructed her to leave a copy of the Contract at K.C.’s door, but in a “secured boundary inside the property door”. In accordance with G.L.’s instructions, H.Y. left a copy of the Contract on K.C.’s doorstep.
40. Upon reviewing the documents associated with this complaint, Council staff noted K.C.’s apparent confusion as to the nature of his relationship with H.Y. given his numerous references

to her as the seller's agent despite the fact that he signed two "Working with a REALTOR" brochures that indicated that H.Y. was his representative, and the fact the Offer, the Second Offer and the Contract signed by K.C. indicated that H.Y. was his agent.

41. H.Y. failed to promptly provide to Mr. Leung with the original or a copy of the trading records in her possession, but rather left all copies of the trading records in M.Y.'s office.
42. In September 2014, H.Y. transferred her license to another brokerage.
43. A Notice of Discipline Hearing was issued to on August 19, 2016 and served upon Mr. Leung.

**File 15-732**

44. During an inspection at the Brokerage, the auditor reviewed a file relating to the sale of property located at 7XXX Parry Street, Richmond, BC (the "Parry Property").
45. On April 10, 2013, S.L. listed the Parry Property for sale. The Parry Property was owned by Z.W., the owner and a director of the Brokerage.
46. On June 8, 2013, a contract of purchase and sale was entered into in regard to the Parry Property between P.H., as buyer and Z.W. as seller (the "Contract"). The pertinent details of the Contract were as follows:

Price:	\$1,050,000.00
Deposit:	\$50,000.00 to be held in trust by AXXX-SXXXXX Realty
Completion:	September 2, 2013
Agency:	Buyer: designated agent: A.W. /AXXX-SXXXXX Realty Seller: designated agent: Ms. Li/New Coast Realty
Conditions:	Unconditional offer

47. S.L. advised the Council that she did not provide the buyer's agent, A.W., or the buyer with a Disclosure of Interest in Trade form disclosing that Z.W. was an associate (director) of the Brokerage with whom she was licensed. S.L. claims she asked Mr. Leung who told her she did not have to provide a Disclosure of Interest in Trade. Mr. Leung denies being asked this question.
48. Mr. Leung admits that the Office Memo he provided to licensees on Disclosure of Interest in Trade and the Brokerage's Policy Manual did not include both definitions of "associate" as set out in Section 5-7 of the Rules, and particularly, did not warn licensees that directors and shareholders of the brokerage were "associates" and would require Disclosures of Interest in Trade forms. He admits that such information ought to have been provided to the Brokerage's licensees.
49. A Notice of Disciplinary Hearing was issued on November 25, 2016 and served on Mr. Leung.



## **Prior Disciplinary History**

50. In July 2012, the Council's Consent Order Review Committee found that Mr. Leung had committed professional misconduct within the meaning of section 35(1)(a) of the RESA, when, in relation to rental property management services he provided to the owner of property, as requested by the owner of the property, from approximately September 2006 until approximately December 2009, he:

- (a) contravened section 7(3)(a) of the RESA in that he provided rental property management services to the owner of the property directly and not through or on behalf of the brokerage;
- (b) contravened section 7(3)(b) of the RESA by receiving remuneration in respect of rental property management services he provided to the owner of the property directly, and apart from the brokerage; and
- (c) contravened section 27(1) of the RESA by failing to promptly pay or deliver to the brokerage money he received from, for or on behalf of a principal in relation to rental property management services he provided to the owner of the property.

51. Mr. Leung was reprimanded, ordered to pay a discipline penalty to the Council in the amount of \$2,500.00, to successfully complete the Real Estate Trading Services Remedial Education Course, and to pay enforcement expenses to the Council in the amount of \$1,000.00.

## **PROPOSED FINDINGS OF MISCONDUCT**

For the sole purposes of the Proposal and based on the Facts outlined herein, Patrick Shiu-Ming Leung proposes the following findings of misconduct be made by the CORC:

### **File 13-258**

1. Mr. Leung committed professional misconduct within the meaning of section 35(1)(a) of the RESA, when he:
  - (a) permitted unlicensed individuals to provide real estate services on behalf of the Brokerage, when they were not licensed to do so, and permitted G.L. to provide rental property management outside the Brokerage between November 2013 until December 2014, contrary to section 6(2) of the RESA and sections 3-1(1) and 3-1(2) of the Rules;
  - (b) permitted unlicensed individuals to be paid by the Brokerage for providing real estate services on behalf of the Brokerage, when they were not licensed to do so, contrary to section 6-1 of the Rules;
  - (c) with respect to 3XXX West 39<sup>th</sup> Avenue, Vancouver, BC:
    - (i) failed to maintain proper books and records, contrary to sections 3-1(3)(a) and (b) of the Rules;

- (ii) failed to keep copies of all written disclosures and their related acknowledgements, contrary to section 8-4 of the Rules; and
- (iii) failed to keep copies of the agency disclosures regarding representation, contrary to section 5-10 of the Rules; and
- (d) allowed a deposit cheque in the amount of \$50,000.00 with respect to the purchase of a property located at 6XXX Maple Road, Richmond, BC, to be deposited into the Brokerage's general account and not the trust account, thereby incurring a negative balance in the Brokerage's trust account and records, and did not notify the Council about the negative balance or ensure that immediate steps were taken to eliminate the negative balance in the trust account until four months later, contrary to sections 3-1(3)(a) and 7-5 of the Rules.

**File 13-306**

Mr. Leung committed professional misconduct within the meaning of section 35(1)(a) of the RESA, and acted contrary to section 6(2) of the RESA and section 3-1(1) of the Rules, when he failed to fulfill his responsibilities with respect to the performance of the duties imposed upon New Coast Realty by its license, when:

1. Between September 2013 and July 2015, he failed to be actively engaged in the management of New Coast Realty and to supervise employees and the representatives who were licensed in relation to, and who performed duties on behalf of New Coast Realty in that he:
  - (a) believed H.Y. to be a licensed assistant only, and was unaware that she was holding herself out as a member of M.Y.'s team;
  - (b) between September 2013 and July 2015 permitted M.Y. to advertise and operate under "Team M.Y.", when he knew or should have known that that team name had not been approved by the Council;
  - (c) between December 2013 and September 2014, permitted H.Y. to advertise and operate under "Team M.Y.", when he knew or should have known that that team name had not been approved by the Council;
2. Between September 2013 and September 2014, he failed to ensure that the business of New Coast Realty was carried out competently and in accordance with the RESA, regulations, the Rules, and bylaws, and failed to have control and conduct of New Coast Realty's real estate business, when in relation to the purchase and sale of 8XXX Rideau Place, Richmond, BC, he was unaware of the transaction that M.Y. and H.Y. were engaged in on behalf of New Coast Realty, the nature of representation that either or both were providing to the buyer, or about the documents that they were preparing on behalf of, and the communications they were having with, the seller and buyer.

## **File 15-732**

Mr. Leung committed professional misconduct within the meaning of section 35(1)(a) of the RESA, and acted contrary to section 6(2) of the RESA and section 3-1(1) of the Rules when, between April 2013 and August 2013, he failed to be actively engaged in the management of New Coast Realty, and to supervise its representatives, employees and others who performed duties on behalf of the brokerage, in that he:

1. failed to provide adequately fulsome information on the definition of associate to licensees at the brokerage with respect to when and under what circumstances the disclosure of interest in trade form should be provided to a party to a transaction; and
2. was unaware of:
  - (a) the nature of the transaction that S.L. was engaged in on behalf of New Coast Realty, in relation to the purchase and sale of 7XXX Parry Street, Richmond, BC;
  - (b) the nature of representation that S.L. was providing to Z.W., the director of New Coast Realty, in relation to that transaction;
  - (c) the documents that S.L. was preparing or neglecting to prepare on behalf of Z.W. and the brokerage; and
  - (d) the trading service records for the transaction that were provided to the brokerage's conveyancing department or in the deal file.

## **PROPOSED ORDERS**

Based on the Facts herein and the Proposed Findings of Misconduct, Patrick Shiu-Ming Leung 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. Patrick Shiu-Ming Leung's licence be suspended for forty five (45) days.
2. Patrick Shiu-Ming Leung be prohibited from acting as a managing broker, associate broker or as an unlicensed employee for any brokerage during the licence suspension period.
3. Patrick Shiu-Ming Leung pay a discipline penalty to the Council in the amount of \$5,000 within ninety (90) days of the date of this Order.
4. Patrick Shiu-Ming Leung, at his own expense, register for and successfully complete the Broker's 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.
5. Patrick Shiu-Ming Leung pay enforcement in the amount of \$4,500 within sixty (60) days from the date of this Consent Order.

If Patrick Shiu-Ming Leung fails to comply with any of the terms of this Order, a Discipline Committee may suspend or cancel Patrick Shiu-Ming Leung's licence without further notice to Patrick Shiu-Ming Leung.

**ACKNOWLEDGEMENTS AND WAIVER OF APPEAL RIGHT**

1. Patrick Shiu-Ming Leung 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. Patrick Shiu-Ming Leung acknowledges that 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 they are making the Proposal with full knowledge of the contents and the consequences if the Proposal is accepted.
3. Patrick Shiu-Ming Leung acknowledges and is aware that the Council will publish the Proposal and the Consent Order or summaries thereof in its Report from 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. Patrick Shiu-Ming Leung 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. Patrick Shiu-Ming Leung hereby waives their right to appeal pursuant to section 54 of the RESA.
6. The Proposal and its contents are made by Patrick Shiu-Ming Leung 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 Patrick Shiu-Ming Leung in any civil proceeding with respect to the matter.

"Patrick Shiu-Ming Leung"

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**Patrick Shiu-Ming Leung**

**Dated 25<sup>th</sup> day of October, 2018**