

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

IN THE MATTER OF

WING WANG TAM

CONSENT ORDER

RESPONDENT: Wing Wang Tam, currently
unlicensed, while licensed as a
representative with Pacific Quorum
Properties Inc.

DATE OF REVIEW MEETING: May 22, 2013

DATE OF CONSENT ORDER: July 9, 2013

CONSENT ORDER REVIEW COMMITTEE: M. Cowe, Chair
S. Ghose
S. McGougan
P. O'Donnell

ALSO PRESENT: R.O. Fawcett, Executive Officer
E. Wredenhagen, Director, Legal
Services
D. Berger, Legal Counsel for the Real
Estate Council

PROCEEDINGS:

On May 22, 2013 the Consent Order Review Committee resolved to accept the Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver executed by Wing Wang Tam as submitted. It is therefore ordered that Wing Wang Tam be reprimanded. As a condition of continued licensing Wing Wang Tam is ordered to successfully complete the Rental Property Management Remedial Education Course as provided by Real Estate Division, Sauder School of Business at the University of British Columbia in the time period as directed by the Council. Further, Wing Wang Tam is ordered 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 this Order.

WHEREAS an Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver was executed by Wing Wang Tam and the Real Estate Council of British Columbia (“Council”), a copy of which is attached hereto.

NOW THEREFORE, the Council has made the following findings and orders the following penalties based on the Agreed Statement of Facts and Proposed Acceptance of Findings:

1. Wing Wang Tam be reprimanded as he committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that he:
 - (a) contravened section 3-3(1)(a) and/or section 3-4 of the Council Rules in that he failed to perform reference checks for the tenant renting the Property commencing September 1, 2010, for a one year fixed term for a monthly rent of \$1,200.00 per month;
 - (b) contravened section 3-3(1)(a) and/or section 3-4 of the Council Rules in that he failed to promptly issue a 10 day notice to end tenancy for "unpaid rent" to the said tenant for the non-payment of November 2010 rent which notice was not issued until December 7, 2010; and
 - (c) contravened section 3-4 of the Council Rules in that he failed to respond to the inquiries of his landlord client in a timely manner.
2. Wing Wang Tam is ordered, as a condition of licensing to successfully complete the Rental Property Management 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.
3. Wing Wang Tam is ordered 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 this Order.

If Wing Wang Tam fails to comply with any of the terms of the Order set out above, 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 9th day of July, 2013 at the City of Vancouver, British Columbia.

ON BEHALF OF THE CONSENT ORDER REVIEW COMMITTEE

"M. Cowe"
M. Cowe, Chair
Consent Order Review Committee

File #11-151

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

**IN THE MATTER OF
WING WANG TAM
(149725)**

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

The following agreement has been reached between Wing Wang Tam (“Mr. Tam”) and the Real Estate Council of British Columbia (the “Council”).

- A. Mr. Tam, whose licence has been inoperative since October 18, 2012, hereby consents to an Order to be made pursuant to sections 41 and 43 of the *Real Estate Services Act* that he be reprimanded. Further, as a condition of continued licensing that he successfully complete the Rental Property Management 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, he 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. Mr. Tam 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 to him pursuant to section 43(3) and 43(4) of the *Real Estate Services Act*.
- B. As a basis for this Order, Mr. Tam acknowledges and agrees that the facts set forth herein are correct:
1. Mr. Tam was at all relevant times licensed as a representative to conduct rental property management.
 2. Mr. Tam’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>
26/03/2008	18/10/2012	Pacific Quorum Properties Inc. (X026846)	Representative	Rental
22/08/2006	26/03/2008	Bonniehon Management Inc. (X022177)	Representative	Rental

3. On or about June 11, 2010 JY and LZ, who reside in Prince George, entered into a written service agreement with Pacific Quorum Properties Inc. ("Pacific Quorum") to manage rental property owned by them (the "Owners") in Burnaby, B.C. in a strata building. Mr. Tam, a licensee with Pacific Quorum, was the rental property manager.
4. Pacific Quorum entered into a tenancy agreement with BB (the "Tenant") with respect to the subject property which commenced on September 1, 2010 for a one year fixed term for a monthly rent of \$1,200.00 and collected a security deposit from the tenant in the amount of \$600.00.
5. The tenant vacated the property on or about February 28, 2011.
6. The Owners of the subject property stated that Mr. Tam failed to perform reference checks on the said tenant prior to renting the property to him.
7. Mr. Tam submits that the tenant in question was recommended to him by the building manager who stated that the tenant was a personal friend and a dependable person.
8. Mr. Tam submits that as there was no other interest in the rental property he felt that the building manager's recommendation was sufficient to proceed with the tenancy and he did not conduct credit checks or seek any references.
9. The said tenant did not pay rent for October and November 2010 and Mr. Tam states that he sent a letter to the tenant dated November 3, 2010 indicating that the tenant was in arrears for the months of October and November 2010 in the amount of \$1,200.00 per month for a total of \$2,400.00. On November 18, 2010 the October rent was received and deposited by the brokerage.
10. The said tenant had not paid rent for November 2010, and Mr. Tam admits that he did not deliver a 10 day notice to "End Tenancy for Unpaid Rent" to the tenant until December 7, 2010.
11. However, Mr. Tam states that he did actively pursue the tenant for collection of the outstanding October rent and did receive verbal commitments from the tenant that the rent would be paid and he did collect the October rent.
12. The owners sent emails during the month of December 2010 to Mr. Tam inquiring as to the status of their property and the tenant.
13. On January 4, 2011 Mr. Tam sent an email to the owners stating that he had filed for arbitration against the said tenant for non-payment of rent.

14. On January 11, 2011, the Residential Tenancy Branch ordered that the owners were entitled to possession of the property and also made an order for unpaid rent for November and December 2010 in the amount of \$2,400.00.
15. On January 19, 2011 the tenant applied to the Residential Tenancy Branch for a review of the dispute resolution decision.
16. On January 20, 2011 the tenant's application for review was dismissed.
17. On January 31, 2011 Mr. Tam advised the owners that he would have to remove the tenant by obtaining a court order.
18. On February 28, 2011 the tenant vacated the property.
19. On May 23, 2011 the owners informed Mr. Tam that they would not be renewing the management contract.
20. On January 15, 2012 the security deposit in the amount of \$600.00 was returned to the owners as the tenant had not provided a forwarding address.
21. Mr. Tam has no disciplinary record with the Council.

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, Wing Wang Tam is prepared to accept the following findings if made against him by the Council's Consent Order Review Committee:
 - (a) Wing Wang Tam committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* [contravention of Act, Regulation or Council Rules] in that he:
 - (i) contravened section 3-3(1)(a) and/or section 3-4 of the Council Rules in that he failed to perform reference checks for the tenant renting the Property commencing September 1, 2010, for a one year fixed term for a monthly rent of \$1,200.00 per month;
 - (ii) contravened section 3-3(1)(a) and/or section 3-4 of the Council Rules in that he failed to promptly issue a 10 day notice to end tenancy for "unpaid rent" to the said tenant for the non-payment of November 2010 rent which notice was not issued until December 7, 2010; and
 - (iii) contravened section 3-4 of the Council Rules in that he failed to respond to the inquiries of his landlord client in a timely manner.

2. Mr. Tam hereby waives his right to appeal pursuant to section 54 of the *Real Estate Services Act*.
3. Mr. Tam acknowledges that he has a right to seek independent legal advice before signing this Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver.
4. Mr. Tam 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. Mr. Tam 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.

"David P. Berger"

**David P. Berger, Senior Legal Counsel
Real Estate Council of British Columbia**

**As to Part B only (Agreed Statement
of Facts)**

Dated 22nd day of April, 2013

"Wing Wang Tam"

Wing Wang Tam

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

Dated 16th day of April, 2013