REAL ESTATE BOARD
OF GREATER VANCOUVER

PROFESSIONAL CONDUCT COMMITTEE
REPORT OF CONSENT TO DISCIPLINE
C16-33

The Professional Conduct Committee reports the following decision, where a Consent to Discipline was entered into between members and the Committee.

Members are reminded that reports of disciplinary action taken by the Board are for the information of members only. This information is not of a public nature, and any member found to have shared this information with the public will be severely dealt with by the Professional Conduct Committee.

The Respondent Jonathan Low, TRG The Residential Group Realty, listed the subject property on June 16, 2016. The listing contract's Schedule A contained the statement "THE LISTING AGENT JONATHAN LOW AGREES TO REBATE 50% OF THE COMMISSION BACK TO SELLER IF THERE IS NO OTHER BUYERS AGENT INVOLVED IN THE TRANSACTION." Mr. Low failed to inform all members, via the REALTOR® Remarks, of the contingency.

On June 17th, Mr. Low changed the REALTOR® and Public Remarks of the listing to include instructions that the first showing was delayed to June 23rd and offer presentation was delayed to June 27th. Mr. Low failed to obtain written instructions from the Seller to delay showings or offer presentation.

The Complainant Buyer's Agent sent an email to Mr. Low on June 20th at 11:34 a.m. advising that she had an interested client and asking to be advised if the timing of offer presentation was to be changed from what was published. The Complainant subsequently spoke with Mr. Low and arranged to preview the property for her clients at 12:45 p.m. At the end of the showing, the Complainant reiterated to Mr. Low that her clients would be very interested and again asked to be informed of any change to the timing of offers.

At approximately 1:30 p.m., Mr. Low received an offer through another Buyer's Agent. Mr. Low proceeded to arrange for presentation of the offer that afternoon without first receiving written instructions from the Seller to act contrary to the published "delayed presentation" instruction and without removing that instruction from the published listing. Mr. Low failed to notify the Complainant that an offer was being presented that afternoon, being a full week prior to the published instructions.

The offer was accepted by the Seller, and at 7:58 p.m., Mr. Low removed from the published listing all references to delayed showings or offers and replaced them with "open house cancelled". The Complainant checked the published listing on the morning of June 21st and sent an email and text to Mr. Low asking about the changed Remarks, at which point Mr. Low advised the property was sold.

Jonathan Low and TRG The Residential Group Realty executed a Consent to Discipline acknowledging breach of **Articles 3 and 5 of the REALTOR® Code and Sections 3.14, 3.19, 3.21, and 6.08(a) of the Rules of Cooperation:**

REALTOR® Code:

Article 3. Primary Duty to Client
A REALTOR® shall protect and promote the interests of his or her client. This primary obligation

does not relieve the REALTOR® of the responsibility of dealing fairly with all parties to the transaction.

Article 5. Written Service Agreements
A REALTOR® shall ensure that all Service Agreements with consumers with the exception of Service Agreements with Buyers are in writing in clear and understandable language, expressing the specific terms, conditions, obligations and commitments of the parties to the agreement.

Rules of Cooperation:

Section 3.14 Changes to Listing Information
…Any changes to MLS® listing information must be communicated by the Listing Brokerage to any Cooperating Brokerage or potential buyer that shows interest in the property, from the time the change was made and until such change has been published on the MLS® and such period of time thereafter as is reasonable in the circumstances. …

Section 3.19 Contingent Listings
Contingent listings will be processed by MLS® when such contingency is stated in the listing contract and noted in the REALTOR® Remarks. The responsibility for submitting details of a contingency or unusual condition on any listing shall be the responsibility of the Listing Brokerage.

Section 3.21 Member Access to Listed Properties
Access to listings accepted and processed by the MLS® shall be made available to all Members subject to these Rules of Cooperation.

(a) A new listing that cannot be shown for a defined period of up to seven (7) calendar days from the effective date of the listing will be accepted as a contingent listing, and such contingency, including the specific date on which showings and/or offers will be accommodated, must be stated on Schedule "A" and noted in the REALTOR® Remarks. …

(c) In the event the Listing Brokerage receives a written offer during a "no show" period, the Listing Brokerage shall, prior to presenting the offer, inform all Cooperating Brokerages that have requested a viewing appointment that an offer is scheduled for presentation.

Section 6.08 Professional Conduct

(a) A Member shall not conduct himself nor permit his employees to conduct themselves in such a manner as to prejudice his reputation or the reputation of the Board.

Jonathan Low consented to and has completed the following discipline:

- Payment of a fine in the amount of $4,000.00;
- Attendance at and successful completion, at his cost, of the following seminars, and payment of any outstanding costs of the Board of course delivery:
  - (i) "Avoiding Complaints: Understanding the Rules of Cooperation",
  - (ii) "Ethics: Unlocking the REALTOR® Code", and
  - (iii) "Risk Management: Protecting Yourself, Your Client, Your Business";
- Agreement that the Consent to Discipline, including the above Agreed Statement of Facts, be published and circulated to all Board members; and
- Agreement that this Consent to Discipline be placed in his permanent file at the Board.

The Committee advises all Members that it considers any breach of the By-laws to be serious and that these decisions are kept as a permanent part of the Member's record.

The Committee considers each published incident to be a warning to all members, and cautions that members performing the same infraction thereafter are subject to increased penalty.