

**DECISION OF  
THE SASKATCHEWAN REAL ESTATE COMMISSION  
AND CONSENT ORDER**

*Liang (Re)*, 2017 SKREC 13

Date: November 1, 2017  
Commission File: 2015-76

**IN THE MATTER OF  
THE REAL ESTATE ACT, C. R-1.3 AND  
IN THE MATTER OF JIA MEI (MAY) LIANG**

Before: A Saskatchewan Real Estate Commission Hearing Committee  
comprised of the following:

Randy Touet - Chairperson  
David Chow  
Al Myers

**CHARGE and ADMISSION OF MISCONDUCT:**

[1] The registrant is charged with and is admitting to professional misconduct as follows:

**Count 1:**

That, contrary to section 39(1)(a) of *The Real Estate Act*, Ms. Jia Mei (May) Liang engaged in conduct that is harmful to the best interests of the public, the registrants or the Commission, namely sharing her clients' personal information for a purpose unrelated to a trade in real estate without their knowledge or consent.

**LEGISLATION:**

[2] Section 39(1)(a) of *The Real Estate Act* states: "Professional misconduct is a question of fact, but any matter, conduct or thing, whether or not disgraceful or dishonourable, is professional misconduct within the meaning of this Act, if...it is harmful to the best interests of the public, the registrants or the Commission."

## FACTS:

- [3] In accordance with subsection 9(4) of *The Real Estate Regulations* (“the Regulations”), the Hearing Committee accepts Jia Mei (May) Liang’s Statement of Facts and Admissions, which includes the following relevant points:
- [4] Ms. Liang has been continuously registered as a salesperson under the provisions of *The Real Estate Act* in the Province of Saskatchewan with the Saskatchewan Real Estate Commission since August 29, 2011.
- [5] Ms. Liang has taken the following real estate courses:
  - Real Estate as a Professional Career;
  - Residential Real Estate as a Professional Career; and
  - Commercial Real Estate as a Professional Career.
- [6] Ms. Liang has completed the continuing professional development seminars each registration year since 2011-2012.
- [7] Ms. Liang is presently registered under the provisions of *The Real Estate Act* as a salesperson with 100% Realty Associates Ltd. O/A Re/Max Saskatoon.
- [8] In the summer of 2015, the Buyer contacted Ms. Liang to talk about her representing the Buyer in the purchase of a property.
- [9] On or about August 28, 2015, Ms. Liang took the Buyer to see the Property.
- [10] On or about August 28, 2015, Ms. Liang wrote an offer to purchase the Property on behalf of the Buyer.
- [11] On or about August 29, 2015, the Buyer’s offer to purchase the Property was accepted.
- [12] During Ms. Liang’s representation of the Buyer, they developed a strong buyer-agent relationship.
- [13] The Buyer had shown an interest in some personal care products from an online multilevel marketing company (the “Company”), so Ms. Liang decided to purchase some of these products as a surprise gift for the Buyer that Ms. Liang would give to her when she took possession of the Property.
- [14] Ms. Liang registered the Buyer’s name and cell phone number and an email address belonging to the Buyer’s daughter at the Company’s website and used this information to place the order.

- [15] Ms. Liang did not tell the Buyer that she would be registering her name and cell phone number at the website or that she would be using this information to place an order.
- [16] Ms. Liang did not tell the Buyer's daughter that she would be registering her email address at the website or that she would be using this information to place an order.
- [17] Neither the Buyer nor the Buyer's daughter consented to have this information used to place an order through the website.
- [18] Ms. Liang did not know whether the Buyer's daughter or the Buyer had set up a customer account on the website and she did not think much about it. She just wanted to buy them a gift.
- [19] Ms. Liang is advised and believes it to be true that, on or about September 24, 2015, the Buyer's daughter received an email from the Company. The email said that the Buyer had successfully created a customer account. The email address registered to the customer account was the Buyer's daughter's personal email.
- [20] Ms. Liang is advised and believes it to be true that, later that day, the Buyer's daughter received another email from the Company saying that the Buyer's purchasing order was confirmed and had been processed. The email contained the Buyer's full name and cell phone number. The order confirmation named Ms. Liang as the recipient and the shipping address belonged to Ms. Liang.
- [21] Ms. Liang is advised and believes it to be true that, shortly thereafter, the Buyer's daughter received a third email from the Company saying that payment for the purchasing order had been approved. Ms. Liang paid for the order with her credit card.
- [22] Ms. Liang is advised and believes it to be true that, on or about September 25, 2015, the Buyer's daughter received a fourth email from the Company advising that the order had been shipped.
- [23] Ms. Liang is advised and believes it to be true that, since the Buyer's daughter's email address and the Buyer's name and cell phone number were used to place the order on the website, they have been receiving frequent promotional emails and phone calls from the Company. Ms. Liang did not think about this when she ordered the gift for the Buyer. She just knew the Buyer loved the product.
- [24] When Ms. Liang found out that the Buyer and the Buyer's daughter were upset by her use of their personal information, Ms. Liang went to their home to deliver the gift and explain her actions. The Buyer refused to see her.

- [25] The Buyer's daughter's husband called Ms. Liang's broker to make a complaint against her.
- [26] A few weeks after removing conditions, the Buyer told Ms. Liang that she no longer wanted to purchase the Property.
- [27] Ms. Liang will never again use a client's information without notifying them first.

## **REASONS:**

- [28] The Investigation Committee and Ms. Liang considered the following as relevant in agreeing to the within consent order:

### Mitigating Factors

- [29] Ms. Liang has no previous sanction history.
- [30] Ms. Liang was co-operative with the investigation.
- [31] There is no evidence to show that Ms. Liang intended to cause harm or upset to her clients.

### Aggravating Factors

- [32] Ms. Liang's clients were upset by her use of their personal information.
- [33] Since she shared their personal information with the Company's website, Ms. Liang's clients have been receiving frequent promotional emails and phone calls from the Company.

### Prior Decisions & Other Considerations

- [34] In May of 2012, the Appeals Committee of the Real Estate Council of Ontario rendered a decision [\*In the Matter of Suzette Thompson\*](#) ("*Thompson*"). The Appeals Committee in *Thompson* set out a series of factors to be considered when determining the appropriate sanction for a registrant found in breach of the legislation. The factors are as follows:
1. The nature and gravity of the breaches of the Code of Ethics.
  2. The role of the offending member in the breaches.
  3. Whether the offending member suffered or gained as a result of the breaches.
  4. The impact of the breaches on complainants or others.
  5. The need for specific deterrence to protect the public.
  6. The need for general deterrence to protect the public.

7. The need to maintain the public's confidence in the integrity of the profession.
8. The degree to which the breaches are regarded as being outside the range of acceptable conduct.
9. The range of sanction in similar cases.

[35] These factors are reasonable considerations and can offer guidance to members of a Hearing Committee tasked with crafting an appropriate sanction for a registrant found to have committed professional misconduct.

*1. The nature and gravity of the breaches of the Code of Ethics.*

[36] Ms. Liang received personal contact information from her client and her client's daughter in the course of a trade in real estate. Without the knowledge or consent of her client, Ms. Liang registered her client's name and phone number and an email address belonging to the client's daughter with a website and used the information to place an order for products she intended to deliver to her client as a gift.

*2. The role of the offending member in the breaches.*

[37] Ms. Liang was the sole perpetrator of this breach of the legislation.

*3. Whether the offending member suffered or gained as a result of the breaches.*

[38] There is no evidence to suggest that Ms. Liang benefitted from her actions, nor is there evidence that she suffered any losses.

*4. The impact of the breaches on complainants or others.*

[39] Ms. Liang's client and the client's daughter were upset when they discovered Ms. Liang's use of their contact information.

*5. The need for specific deterrence to protect the public.*

[40] Ms. Liang must be reminded that, as a registrant, clients entrust her with their personal information. This information must only be used for purposes approved by the clients.

*6. The need for general deterrence to protect the public.*

[41] General deterrence is needed to remind all registrants that the personal information they receive from their clients is only to be used for purposes approved by the clients.

*7. The need to maintain the public's confidence in the integrity of the profession.*

[42] The public must be reassured that the personal information they give to registrants is being used properly and only for approved purposes.

8. *The degree to which the breaches are regarded as being outside the range of acceptable conduct.*

[43] Ms. Liang's conduct falls below the standard expected of registrants, but it was not egregious.

9. *The range of sanction in similar cases.*

**A. What is an appropriate sanction for Ms. Liang's breach of Section 39(1)(a)?**

[44] There are no other decisions under section 39(1)(a) that deal with a registrant using a client's personal information for purposes that have not been authorized by the client.

[45] As the facts involved in the decisions under section 39(1)(a) vary considerably, the sanctions ordered against registrants found to be in breach of this section has varied from an order of reprimand to an order of reprimand and a \$4,000 fine with partial hearing costs.

[46] A decision that deals with a registrant sharing a client's information without first obtaining the client's permission exists, although the registrant in that case was not charged under section 39(1)(a).

[47] In *Fenske (Re)* (file #1998-29) ("*Fenske*"), the registrant was issued an order of reprimand and ordered to pay a \$500 fine for breaching Bylaw 702 by providing a copy of a conditional mortgage approval letter to the seller's brokerage without receiving authorization from the buyers.

[48] The decision in *Fenske* was rendered in 1998. Inflation and increasing property values must be taken into account when using older decisions as precedents.

[49] Given the above, an order of reprimand and a \$1,000 fine are appropriate sanctions for Ms. Liang's breach of section 39(1)(a).

[50] As Ms. Liang has agreed to sign this consent order, there will be no order as to costs.

**CONSENT ORDER:**

[51] In accordance with *The Real Estate Act*, its Regulations, and the Commission Bylaws, and with the consent of the Salesperson, Jia Mei (May) Liang, and the Investigation Committee of the Saskatchewan Real Estate Commission, the Hearing Committee hereby orders:

[52] With respect to Count 1, the charge of professional misconduct contrary to section 39(1)(a) of *The Real Estate Act*.

- a. Jia Mei (May) Liang shall receive an order of reprimand for the violation of Section 39(1)(a);
- b. Jia Mei (May) Liang shall, within 30 days of the date of this order, pay to the Saskatchewan Real Estate Commission a \$1,000.00 fine for the said violation of the *Act*; and
- c. Jia Mei (May) Liang's registration shall be suspended if she fails to make payment as set out above.

[53] There shall be no order as to costs.

Dated at Saskatoon, Saskatchewan this 1<sup>st</sup> day of November, 2017.

"Randy Touet"  
Randy Touet,  
Hearing Committee Chairperson