

THE REAL ESTATE COUNCIL OF BRITISH COLUMBIA
IN THE MATTER OF THE *REAL ESTATE SERVICES ACT*
SBC 2004, c 42 as amended

AND

IN THE MATTER OF
SUSAN MARIA GRAINGER
(101752)

CONSENT ORDER

RESPONDENT: Susan Maria Grainger, Representative, Brent Roberts Realty Ltd. dba
Royal Lepage Brent Roberts Realty

DATE OF CONSENT ORDER: 17 September 2020

CONSENT ORDER REVIEW COMMITTEE: Y. Amlani
R. Hanson
N. Nicholson

COUNSEL: Patrick Gilligan-Hackett, Legal Counsel for the Real Estate Council of BC
Scott Twining, Legal Counsel for the Respondent

PROCEEDINGS:

On 17 September 2020, the Consent Order Review Committee (“CORC”) resolved to accept the Consent Order Proposal (the “Proposal”) submitted by Susan Maria Grainger (“Ms. Grainger”).

WHEREAS the Proposal, a copy of which is attached hereto, has been executed by Ms. Grainger.

NOW THEREFORE, having made the findings proposed in the attached Proposal, and found that Ms. Grainger committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* (“RESA”) and section 3-4 of the Rules made under the RESA, pursuant to section 43 of the RESA the CORC orders that:

1. Ms. Grainger pay a discipline penalty to the Council in the amount of \$3,000 within four (4) months from the date of this Order;
2. Ms. Grainger, at her own expense, register for and successfully complete the Real Estate Trading Services Remedial Education Course as provided by the Sauder School of Business at the University of British Columbia in the time period as directed by the Council; and

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3. Ms. Grainger pay enforcement expenses to the Council in the amount of \$1,500 within three (3) months from the date of this Order.

If Ms. Grainger fails to comply with any term of this Order, the Council may suspend or cancel her licence without further notice to her, pursuant to sections 43(3) and 43(4) of the RESA.

Dated this 17 day of September, 2020 at the City of Vancouver, British Columbia.

ON BEHALF OF THE CONSENT ORDER REVIEW COMMITTEE

“Yasin Amlani”

Yasin Amlani
Consent Order Review Committee

Attch.

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**IN THE MATTER OF THE *REAL ESTATE SERVICES ACT*
SBC 2004, c 42 as amended**

AND

IN THE MATTER OF

**SUSAN MARIA GRAINGER
(101752)**

CONSENT ORDER PROPOSAL BY SUSAN MARIA GRAINGER

BACKGROUND AND FACTS

This Consent Order Proposal (“Proposal”) is made by Susan Maria Grainger (“Ms. Grainger”) to the Consent Order Review Committee (“CORC”) of the Real Estate Council of BC (“Council”) pursuant to section 41 of the *Real Estate Services Act* (“RESA”).

For the purposes of the Proposal, Ms. Grainger and the Council have agreed upon the following facts:

1. Ms. Grainger (101752) has been licensed as a representative since 1992.
2. Ms. Grainger was at all relevant times licensed as a representative with Brent Roberts Realty Ltd. (“Brokerage”).
3. On May 30, 2016, the sellers (“Sellers”) of a property located at 1XXXX S. Fuller Crescent, Delta, BC (“Property”) entered into a multiple listing agreement (“MLA”) with the Brokerage. The MLA identified BR as the Sellers’ designated agent. The MLA did not identify Ms. Grainger as the Sellers’ designated agent.
4. On June 20, 2016 the Council received a complaint (“Complaint”) about another licensee, AG, in relation to the representation AG had provided to a prospective buyer of the Property. As a result of that Complaint the Council conducted an investigation. Although Ms. Grainger was not named in the Complaint, the investigation disclosed facts about Ms. Grainger’s representation of another prospective buyer (“Buyer”) of the Property which led to the issuance of a Notice of Discipline Hearing to Ms. Grainger.
5. On June 6, 2016, in connection with her representation of the Buyer, Ms. Grainger provided the Buyer with a Disclosure of Remuneration and asked the Buyer to sign a Limited Dual Agency Agreement (“LDA”), which the Buyer did. The LDA identified Ms. Grainger and BR as limited dual agents in relation to a contract dated June 6, 2016 for the sale and purchase of the Property (“Contract”). The Contract recorded that Ms. Grainger and BR had co-prepared the Contract and that the Buyer and Sellers consented to a limited dual agency relationship with Ms. Grainger. In fact, Ms. Grainger was the Buyer’s agent.
6. On June 7, 2016 the Sellers accepted the Contract.

7. A First Amended (dates only) Notice of Discipline Hearing was issued on 6 March, 2020 and served on Ms. Grainger on 29 April, 2020.
8. Ms. Grainger does not have a discipline history with the Council.
9. The Council's investigation did not disclose facts which suggest Ms. Grainger intended to deceive the Buyer when she identified herself as a limited dual agent.

PROPOSED FINDINGS OF MISCONDUCT

For the sole purposes of the Proposal and based on the facts outlined herein, Ms. Grainger proposes the following finding of misconduct be made by the CORC:

1. Ms. Grainger committed professional misconduct within the meaning of section 35(1)(a) of the RESA in that:
 - a. on behalf of a prospective buyer ("Buyer"), she co-prepared with BR, who was the designated agent for the sellers, a contract dated June 6, 2016 for the sale and purchase of a property located at 1XXXX S. Fuller Crescent, Delta, British Columbia in which Ms. Grainger was identified as a limited dual agent when she was, in fact, the Buyer's agent, contrary to section 3-4 [duty to act with reasonable care and skill] of the Rules.

PROPOSED ORDERS

Based on the facts herein and the Proposed Findings of Misconduct, Ms. Grainger 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. Ms. Grainger pay a discipline penalty to the Council in the amount of \$3,000 within four (4) months from the date of this Order.
2. Ms. Grainger, at her own expense, register for and successfully complete the Real Estate Trading Services Remedial Education Course as provided by the Sauder School of Business at the University of British Columbia in the time period as directed by the Council.
3. Ms. Grainger pay enforcement expenses to Council in the amount of \$1,500 within three (3) months from the date of this Order.
4. If Ms. Grainger fails to comply with any of the terms of this Order, a discipline committee may suspend or cancel Ms. Grainger's licence without further notice to her.

ACKNOWLEDGEMENTS AND WAIVER OF APPEAL RIGHT

1. Ms. Grainger 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. Ms. Grainger acknowledges that she 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 she has obtained independent legal advice or has chosen not to do so, and that she is making the Proposal with full knowledge of the contents and the consequences if the Proposal is accepted.
3. Ms. Grainger 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. Ms. Grainger 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. Ms. Grainger hereby waives her right to appeal pursuant to section 54 of the RESA.
6. If the Proposal is accepted and/or relied upon by the Council, Ms. Grainger will not make any public statement(s) inconsistent with the Proposal and its contents. Nothing in this section is intended to restrict Ms. Grainger from making full answer and defence to any civil or criminal proceeding(s).
7. The Proposal and its contents are made by Ms. Grainger 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 Ms. Grainger in any civil proceeding with respect to the matter.

"Susan Maria Grainger"

SUSAN MARIA GRAINGER

Dated 22 day of July, 2020