

**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**  
**BRENT STEPHEN ROBERTS**  
**(083309)**

**CONSENT ORDER**

RESPONDENT: Brent Stephen Roberts, Managing Broker, 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 Brent Stephen Roberts (“Mr. Roberts”).

**WHEREAS** the Proposal, a copy of which is attached hereto, has been executed by Mr. Roberts.

**NOW THEREFORE**, having made the findings proposed in the attached Proposal, and found that Mr. Roberts committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* (“RESA”) and sections 3-4 and 4-7 of the Rules made under the RESA, pursuant to section 43 of the RESA the CORC orders that:

1. Mr. Roberts pay a discipline penalty to the Council in the amount of \$10,000.00 within three (3) months from the date of this Order;
2. Mr. Roberts, at his 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

3. Mr. Roberts pay enforcement expenses to the Council in the amount of \$1,500.00 within two (2) months from the date of this Order.

If Mr. Roberts 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 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”

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Yasin Amlani  
Consent Order Review Committee

Attch.

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

**AND**

**IN THE MATTER OF**

**BRENT STEPHEN ROBERTS  
(083309)**

**CONSENT ORDER PROPOSAL BY BRENT STEPHEN ROBERTS**

**BACKGROUND AND FACTS**

This Consent Order Proposal (“Proposal”) is made by Brent Stephen Roberts (“Mr. Roberts”) 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”).

This Proposal addresses two separate files.

For the purposes of this Proposal, Mr. Roberts and the Council have agreed upon the following facts:

1. Mr. Roberts was licensed as a representative between 1989 and 1994.
2. Mr. Roberts has been licensed as a managing broker since 1994 with the exception of a period of two weeks in 2013 when he was licensed as an associate broker.
3. Mr. Roberts was at all relevant times licensed as a managing broker with Royal LePage Brent Roberts Realty (“Brokerage”).
4. Amended Notices of Discipline Hearing (dates only) were issued on April 29, 2020 on both File # 15-645 and File # 15-824 and served on Mr. Roberts.

**15 - 645**

5. Around March 21, 2016 Mr. Roberts’ Brokerage entered into a listing agreement for a property located at XXX – XXXX Fleetwood Way, Surrey, BC (“Property”). The listing agreement identified Mr. Roberts as the designated agent for the seller.
6. In his capacity as the designated agent for the seller, Mr. Roberts prepared an MLS listing and associated promotional material for the Property. The MLS listing and the associated

promotional material contained representations about the attributes of the Property including the square footage, the amount of the monthly fees to be paid to the relevant strata corporation, and the number and type of parking spaces allocated to the Property. The MLS listing and the promotional material did not record any rental restriction for the property.

7. The representations in the MLS listing and associated promotional material about the square footage, the amount of the monthly fees to be paid to the relevant strata corporation, and the number and type of parking spaces allocated to the Property were inaccurate. In addition, the Property was subject to a rental restriction.
8. Mr. Roberts told the Council he had taken the information about the attributes of the Property from a previous listing for the Property and had not checked whether the information about the attributes was accurate. The previous listing was prepared by the deceased owner of the Property, who had been a related licensee of the Brokerage.
9. The Property sold under a contract for the sale and purchase of the Property dated March 31, 2016 with a completion date of May 31, 2016.
10. On April 11, 2016, after the buyers had discovered the square footage, the amount of the monthly fees to be paid to the relevant strata corporation, and the number and type of parking spaces allocated to the Property were not as had been represented in the MLS listing and the associated promotional material, and that the Property was subject to a rental restriction, the managing broker for the buyers' representative notified Mr. Roberts' managing broker that the buyers would not be proceeding with the sale. On the same day, Mr. Roberts took steps to correct the inaccurate representations which had been included in the MLS listing and the associated promotional material.
11. Around April 20, 2016 the seller and the buyers entered into a mutual release from the contract of sale and purchase dated March 31, 2016.
12. Around May 5, 2016, the seller of the property informed Mr. Roberts that a Surrey/North Delta newspaper contained an advertisement, which had been placed under Mr. Roberts' direction, which contained an inaccurate representation about the square footage of the Property despite Mr. Roberts knowing the correct square footage by this time. Mr. Roberts took steps to correct the inaccurate representation in the advertisement.
13. The Council's investigation did not disclose evidence that Mr. Roberts had a deceptive purpose in connection with the events described above.

**File 15-824**

14. Around May 30, 2016 Mr. Roberts' Brokerage entered into a listing agreement for a property located at XXXXXX South Fuller Crescent, Delta, BC. The listing agreement identified Mr. Roberts as the designated agent for the seller.
15. Around June 6, 2016 Mr. Roberts and AG, a related licensee of Mr. Roberts' Brokerage, drew up a proposed contract for the sale and purchase of the Property. The contract incorrectly identified AG as a limited dual agent when he was not named on the listing agreement as an agent for the sellers and was not acting in any way as a representative for the sellers.

16. Around June 6, 2016 Mr. Roberts and SG, a related licensee of Mr. Roberts' Brokerage, drew up a proposed contract for the sale and purchase of the Property. The contract incorrectly identified SG as a limited dual agent when she was not named on the listing agreement as an agent for the sellers and was not acting in any way as a representative for the sellers.
17. The Council's investigation did not disclose evidence that Mr. Roberts had a deceptive purpose in connection with the events described above.

### **Prior Discipline**

18. Mr. Roberts' record with the Council includes prior discipline:
  - a. On 22 January, 2013 a Discipline Hearing Committee issued a decision after a penalty hearing based on an agreed statement of facts and a proposed acceptance of findings.

An extract from the decision containing the proposed acceptance of findings is Appendix A to this Proposal.

The discipline Hearing Committee suspended Mr. Roberts as a managing broker for 14 days with immediate eligibility to be licensed as an associate broker during the suspension, required him to complete a remedial education program successfully, required him to pay a \$2,000 discipline penalty, and required him to pay enforcement expenses of \$3,683.80.
  - b. On November 7, 2013 the CORC issued a Consent Order suspending Mr. Roberts for 14 days, requiring him to pay a discipline penalty of \$5,000.00, and requiring him to pay enforcement expenses of \$1,250.00. The penalty was imposed in response to Mr. Roberts' failure to disclose information related to a material latent defect and his failure to make appropriate further inquiries.

### **PROPOSED FINDINGS OF MISCONDUCT**

For the sole purposes of this Proposal and based on the facts outlined herein, Mr. Roberts proposes the following findings of misconduct be made by the CORC:

#### **15 - 645**

1. Mr. Roberts committed professional misconduct within the meaning of section 35(1)(a) of the RESA in that while acting as the designated agent under the listing agreement for a property located at XXX – XXXX Fleetwood Way, Surrey, BC ("Property") he:
  - a. did not take reasonable and sufficient steps to determine:
    - i. the actual square footage of the Property,
    - ii. the actual amount of the monthly fees to be paid by the owner of the Property to the relevant strata corporation,

- iii. the number and type of parking spaces allocated to the Property, and
- iv. that there was a rental restriction on the Property,

contrary to section 3-4 of the Rules;

- b. published advertising about the Property which contained misleading statements about:
  - i. the square footage of the Property,
  - ii. the amount of the monthly fees to be paid by the owner of the Property to the relevant strata corporation,
  - iii. the number and type of parking spaces which were allocated to the Property, and
  - iv. which did not refer to a rental restriction on the Property when there was such a restriction,

contrary to section 4-7 of the Rules; and

- c. continued to publish advertising about the Property which contained a misleading statement about the square footage of the Property despite having received accurate information about the square footage of the Property,

contrary to section 4-7 of the Rules.

#### **15 – 824**

- 1. Mr. Roberts committed professional misconduct within the meaning of section 35(1)(a) of the RESA in that while acting as the designated agent under the listing agreement for a property located at XXXXXX South Fuller Crescent, Delta, British Columbia (“Property”):
  - a. he and another licensee, SG, drew up on behalf of RD a proposed contract dated June 6, 2016 for the sale and purchase of the Property in which SG was identified as a limited dual agent when SG, who was not named as an agent for the sellers of the Property in the listing agreement, was not a limited dual agent; and
  - b. he and another licensee, AG, drew up on behalf of RV a proposed contract dated June 6, 2016 for the sale and purchase of the Property in which AG was identified as a limited dual agent when AG, who was not named as an agent for the sellers of the Property in the listing agreement, was not a limited dual agent;

contrary to section 3-4 of the Rules.

## **PROPOSED ORDERS**

Based on the facts herein and the Proposed Findings of Misconduct, Mr. Roberts 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. Mr. Roberts pay a discipline penalty to the Council in the amount of \$10,000.00 within three (3) months from the date of this Order.
2. Mr. Roberts, at his 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. Mr. Roberts pay enforcement expenses to the Council in the amount of \$1,500.00 within two (2) months from the date of this Order.
4. If Mr. Roberts fails to comply with any of the terms of this Order, a discipline committee may suspend or cancel Mr. Roberts' licence without further notice to him.

## **ACKNOWLEDGEMENTS AND WAIVER OF APPEAL RIGHT**

1. Mr. Roberts 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. Mr. Roberts 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 he is making the Proposal with full knowledge of the contents and the consequences if the Proposal is accepted.
3. Mr. Roberts 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. Mr. Roberts 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. Mr. Roberts hereby waives his right to appeal pursuant to section 54 of the RESA.
6. If the Proposal is accepted and/or relied upon by the Council, Mr. Roberts will not make any public statement(s) inconsistent with the Proposal and its contents. Nothing in this section is intended to restrict Mr. Roberts from making full answer and defence to any civil or criminal proceeding(s).

7. The Proposal and its contents are made by Mr. Roberts 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 Mr. Roberts in any civil proceeding with respect to the matter.

"Brent Stephen Roberts"

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**BRENT STEPHEN ROBERTS**

Dated 31 day of August, 2020