

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

STEVEN GORDON CROFT  
(SURRENDERED)

CONSENT ORDER

RESPONDENT: Steven Gordon Croft

DATE OF CONSENT ORDER: March 5, 2020

CONSENT ORDER REVIEW COMMITTEE: S. Heath

PROCEEDINGS:

On March 5, 2020, the Consent Order Review Committee ("CORC") resolved to accept the Consent Order Proposal (the "Proposal") submitted by Steven Gordon Croft ("Mr. Croft").

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

**NOW THEREFORE**, having made the findings proposed in the attached Proposal, and found that committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* ("RESA") and sections 3-2(1)(b), 3-2(2)(a), 3-3(i), 3-3(j), 5-8(1)(a), 5-8(1)(b), 5-9(1)(b), 5-9(4), 5-9(5), 5-9(6)(a), 5-9(6)(b) and 5-9(7) of the Rules made under the RESA, pursuant to section 43 of the RESA the CORC orders that:

1. Mr. Croft pay a discipline penalty to the Council in the amount of \$5,000 within three (3) months from the date of this Order;
2. Mr. Croft pay enforcement expenses to the Council in the amount of \$1,500 within two (2) months from the date of this Order.

**Steven Gordon Croft**

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Dated this 5 day of March 2020 at the City of Vancouver, British Columbia.

ON BEHALF OF THE CONSENT ORDER REVIEW COMMITTEE

“Sandra Heath”

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Sandra Heath  
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**

**STEVEN GORDON CROFT  
(104956)**

**CONSENT ORDER PROPOSAL BY STEVEN GORDON CROFT**

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**BACKGROUND AND FACTS**

This Consent Order Proposal (the "Proposal") is made by Steven Gordon Croft ("Mr. Croft") to the Consent Order Review Committee ("CORC") of the Real Estate Council of BC (the "RECBC") pursuant to section 41 of the *Real Estate Services Act* ("RESA").

For the purposes of the Proposal, Mr. Croft and the RECBC have agreed upon the following facts:

1. Mr. Croft (104956) was licensed as a representative from 1993 to 2011. He was unlicensed between April 19 and 20, 1995; March 20 and October 23, 1996; February 27 and June 10, 1997; and on June 11, 2011.
2. Between 2008 and 2011, Mr. Croft was licensed as a representative with Croft Agencies Ltd (the "Brokerage"), of which he was an owner and a director.
3. On May 25, 26, 27 and 28, 2010, the RECBC's audit department conducted an inspection of the Brokerage's books and records, during which the auditor identified a number of breaches of the RESA and the Rules made under RESA (the "Rules") which gave rise to disciplinary proceedings against various licensees including Mr. Croft (the "May 2010 Audit").
4. Disciplinary matters against the managing broker and another licensee in respect of conduct identified in the May 2010 Audit as well as other conduct were resolved by consent order (*Woolley (Re)*, 2014 CanLII 45097) and following a disciplinary hearing (*Green (Re)*, 2014 CanLII 23896 (BC REC)).
5. With respect to Mr. Croft the following issues were identified during the May 2010 Audit.
6. The following contracts of purchase and sale (the "Contracts") were identified to be under Mr. Croft's supervision and control and did not show evidence that they were reviewed by his managing broker:
  - (a) dated October 16, 2009 between Sxxxxxxxx Gxxx Dxxxxxxxx Cxxx. as the seller and Lxxxx Gxxx as the buyer, for which Mr. Croft represented the seller ("October 16<sup>th</sup> Contract");

- (b) dated October 24, 2009 between Wxxxxxxxx at Sxxxxxxxx Hxxxxxx Cxxxx. as the seller and Sxxxxxxxx Hxxxxxx Cxxxx as the buyer, for which Mr. Croft acted as a limited dual agent for the buyer and the seller (“October 24th Contract”);
  - (c) dated October 26, 2009 between Sxxxxxxxx Hxxxxxx Cxxxx. as the seller and Oxxxxx Bx Lxx. as the buyer, for which Mr. Croft acted as a limited dual agent for the buyer and the seller (“October 26<sup>th</sup> Southpointe Contract”); and
  - (d) dated October 26, 2009 between Sxxxxxxxx Hxxxxxx Cxxxx. as the seller and Croft Agencies Ltd. as the buyer, for which Mr. Croft acted as a limited dual agent for the buyer and the seller (“October 26<sup>th</sup> Croft Agencies Contract”).
7. With respect to the October 24<sup>th</sup> Contract:
- (a) a deposit of \$200,000 was to be paid within 24 hours of acceptance of the offer. The offer was accepted by the seller on October 26, 2009, but the deposit was not received by the brokerage until November 17, 2009;
  - (b) Mr. Croft did not advise his managing brokerage that the deposit would be late; and
  - (c) Mr. Croft stated to the auditor that the parties’ legal counsel were involved in the transaction, and that the parties had understood that the deposit would not be paid until the seller had removed a right of first refusal in respect of the air space parcel (which required a court application).
8. With respect to the October 26<sup>th</sup> Sxxxxxxxx Contract:
- (a) a deposit of \$1,000 was to have been paid within 24 hours of acceptance of the offer;
  - (b) the buyer did not provide the deposit (and the transaction did not complete); and
  - (c) Mr. Croft did not notify his managing broker that the deposit has not been received.
9. With respect to the October 26<sup>th</sup> Croft Agencies Contract:
- (a) Mr. Croft acted as a limited dual agent for the buyer (the Brokerage) and the seller;
  - (b) Mr. Croft stated that he advised the seller that he was a shareholder in the Brokerage; and
  - (c) Mr. Croft did not provide the seller with a Disclosure of Interest in Trade form nor did he advise the client of the potential conflicts of interest.
10. On June 11, 2011, Mr. Croft surrendered his license to the RECBC.
11. On April 27, 2012, Mr. Croft signed a statutory declaration wherein, *inter alia*, he undertook to retire from the practice of real estate, in exchange for a discontinuance of disciplinary proceedings against him.

12. Mr. Croft currently resides in Saskatchewan. In 2019, he submitted an application for licensure with the Saskatchewan Real Estate Commission (the "Commission"). During its review of Mr. Croft's application, the Commission became aware of the publication of Mr. Croft's surrender of licence in B.C. The Commission advised Mr. Croft that he would need to resolve any outstanding disciplinary issues with the RECBC prior to the Commission moving forward with his licensure in Saskatchewan.
13. Mr. Croft has advised that he does not intend to re-apply for licensure with the RECBC. However, he would like to resolve this outstanding disciplinary matter so that the Commission can proceed with his application for licensure in Saskatchewan.
14. A Notice of Discipline Hearing was issued on February 12, 2020.
15. Mr. Croft has no prior disciplinary history.

### **PROPOSED FINDINGS OF MISCONDUCT**

For the sole purposes of the Proposal and based on the facts outlined herein, Mr. Croft proposes that findings be made by the CORC that he committed professional misconduct within the meaning of section 35(1)(a) of the RESA, when he,

1. in relation to the October 16<sup>th</sup> Contract; the October 24<sup>th</sup> Contract; the October 26<sup>th</sup> Sxxxxxxxxxx Contract; and the October 26<sup>th</sup> Croft Agencies Contract:
  - (i) failed to promptly provide to his managing broker with the original or copies of all trade records, contrary to section 3-2(1)(b) of the Rules; and
  - (ii) failed to keep his managing broker informed of the trading services that he performed on behalf of the Brokerage, contrary to section 3-2(2)(a) of the Rules;
2. in relation to the October 24<sup>th</sup> Contract and the October 26<sup>th</sup> Sxxxxxxxxxx Contract, failed to immediately notify his managing broker when deposits were not received as contemplated in the contracts, contrary to section 3-2(2)(b) of the Rules; and
3. in relation to the October 26<sup>th</sup> Croft Agencies Contract:
  - (a) failed to:
    - i. take reasonable steps to avoid a conflict of interest, in that he acted as a limited dual agent for the Brokerage and the seller, when he was also a shareholder of the Brokerage ( an "associate" as defined under section 5-7 of the Rules), contrary to section 3-3(i) of the Rules; and
    - ii. promptly and fully disclose this conflict of interest to the seller, contrary to section 3-3(j) of the Rules; and
  - (b) failed to make a disclosure to the seller:

- i. in which he disclosed that he was an “associate” of the buyer and had an interest in trade;
- ii. promptly and before any agreement for the acquisition or disposition of the real estate was entered into; and
- iii. in writing and in a form approved by the Council, contrary to sections 5-8 (1)(a) and (b); 5-9(1)(b), (4), (5), (6)(a) and (b), and (7) of the Rules.

### **PROPOSED ORDERS**

Based on the facts herein and the Proposed Findings of Misconduct, Mr. Croft 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. Croft pay a discipline penalty to the RECBC in the amount of \$5,000 within three (3) months from the date of this Order.
2. Mr. Croft pay enforcement expenses to RECBC in the amount of \$1,500 within two (2) months from the date of this Order.

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

1. Mr. Croft acknowledges and understands that the RECBC 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. Croft 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. Croft acknowledges and is aware that the RECBC will publish the Proposal and the Consent Order or summaries thereof in its Report from RECBC newsletter, on the RECBC’s website, on CanLII, a website for legal research and in such other places and by such other means as the RECBC in its sole discretion deems appropriate.
4. Mr. Croft 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 RECBC, including any Consent Order made by the RECBC in relation to this matter.
5. Mr. Croft 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 RECBC, Mr. Croft will not make any public statement(s) inconsistent with the Proposal and its contents. Nothing in this section is intended to restrict Mr. Croft from making full answer and defence to any civil or criminal proceeding(s).
  
7. The Proposal and its contents are made by Mr. Croft 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. Croft in any civil proceeding with respect to the matter.

“Steven Gordon Croft”

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**STEVEN GORDON CROFT**

**Dated 18 day of FEBRUARY 2020**