

THE REAL ESTATE COUNCIL OF BRITISH COLUMBIA
IN THE MATTER OF THE *REAL ESTATE SERVICES ACT*
S.B.C. 2004, c. 42 as amended

AND

IN THE MATTER OF

CHRISTOPHER RICHARD COCHRANE
(142171)

AND

CHRIS COCHRANE PERSONAL REAL ESTATE CORPORATION
(142171PC)

CONSENT ORDER

RESPONDENT: Christopher Richard Cochrane,
representative, Neal & Associates Realty
Inc. dba RE/MAX Alliance

Chris Cochrane Personal Real Estate
Corporation

DATE OF REVIEW MEETING: October 24, 2018

DATE OF CONSENT ORDER: October 24, 2018

CONSENT ORDER REVIEW COMMITTEE: L. Hrycan
E. Mignosa
R. Wong

ALSO PRESENT: E. Duvall, Chair
E. Seeley, Executive Officer
Kristine Mactaggart Wright, Legal
Counsel for the Real Estate Council

PROCEEDINGS:

On October 24, 2018, the Consent Order Review Committee (“Committee”) resolved to accept the Consent Order Proposal (“COP”) submitted by Christopher Richard Cochrane, on his own behalf and on behalf of Chris Cochrane Personal Real Estate Corporation.

WHEREAS the COP, a copy of which is attached hereto, has been executed by Christopher Richard Cochrane, on his own behalf and on behalf of Chris Cochrane Personal Real Estate Corporation.

NOW THEREFORE, the Committee having made the findings proposed in the attached COP, and in particular having found that Christopher Richard Cochrane and Chris Cochrane Personal Real Estate Corporation committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act*, orders that:

1. Christopher Richard Cochrane and Chris Cochrane Personal Real Estate Corporation each be reprimanded;
2. Christopher Richard Cochrane and Chris Cochrane Personal Real Estate Corporation be jointly and severally liable to pay a discipline penalty to the Council in the amount of \$4,000.00 within ninety (90) days from the date of this Order;
3. Christopher Richard Cochrane, at his own expense, register for and successfully complete the *Real Estate Trading Services* Remedial Education Course, as provided by Sauder School of Business at the University of British Columbia in the time period as directed by the Council;
4. Christopher Richard Cochrane, at his own expense, register for and successfully complete the course *Homeowner Protection Act: Protect Your Sellers and Yourself* offered by the Victoria Real Estate Board, in the time period as directed by the Council; and
5. Christopher Richard Cochrane and Chris Cochrane Personal Real Estate Corporation be jointly and severally liable to pay enforcement expenses to the Council in the amount of \$1,500.00 within sixty (60) days from the date of this Order.

If Christopher Richard Cochrane or Chris Cochrane Personal Real Estate Corporation fails to comply with any term of this Order, the Council may suspend or cancel their licences without further notice to them, pursuant to sections 43(3) and 43(4) of the *Real Estate Services Act*.

Dated this 24th day of October, 2018, at the City of Vancouver, British Columbia.

ON BEHALF OF THE CONSENT ORDER REVIEW COMMITTEE

“L. Hrycan”

Len Hrycan
Consent Order Review Committee

Attch.

**IN THE MATTER OF THE *REAL ESTATE SERVICES ACT*
S.B.C. 2004, c. 42 as amended**

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IN THE MATTER OF

**CHRISTOPHER RICHARD COCHRANE
(142171)**

AND

**CHRIS COCHRANE PERSONAL REAL ESTATE CORPORATION
(142171PC)**

**CONSENT ORDER PROPOSAL BY CHRISTOPHER RICHARD COCHRANE AND
CHRIS COCHRANE PERSONAL REAL ESTATE CORPORATION**

BACKGROUND AND FACTS

This Consent Order Proposal (the "Proposal") is made by Christopher Richard Cochrane and Chris Cochrane Personal Real Estate Corporation ("Chris Cochrane PREC") to the Consent Order Review Committee ("CORC") of the Real Estate Council of British Columbia (the "Council") pursuant to section 41 of the *Real Estate Service Act* ("RESA").

For the purposes of the Proposal, Mr. Cochrane on his own behalf and on behalf of Chris Cochrane PREC and the Council have agreed upon the following facts:

1. Mr. Cochrane (142171) has been licensed as a representative for trading since 2005.
2. Chris Cochrane PREC was licensed from August 2014 until June 2015.
3. Mr. Cochrane was at all relevant times licensed as a representative for trading with Neal & Associates Realty Inc. dba RE/MAX Alliance (the "Brokerage").
4. In December 2014, Mr. and Mrs. D (the Buyers) signed an Exclusive Buyer's Agency Agreement with Mr. Cochrane and Chris Cochrane PREC as their designated agents.
5. On January 27, 2015, Mr. Cochrane prepared a contract of purchase and sale offer for the Buyers to purchase XXXX Eagle Way, North Saanich, BC (the "Property").
6. According to the New Homes Registry on the BC Housing website, the Property is an "owner-built" home, with a first occupancy date of July 21, 2011.
7. Pursuant to the *Homeowner Protection Act*, SBC 1998, c 31 ("HPA"), within the first ten (10) years after initial occupancy, the owner-builder or any subsequent owner is required to

provide a disclosure notice known as an Owner Builder Disclosure Notice (“OBDN”) to any prospective purchasers. The OBDN must be provided prior to entering into a purchase and sale agreement. The OBDN informs prospective purchasers: (1) that the home was built under an “Owner-Builder Authorization”; (2) the date that the 10 year period started; and (3) whether there is a voluntary policy of home warranty insurance in place.

8. As the Property was listed for sale within the 10 year period, the seller was required to provide an OBDN to a prospective purchaser prior to entering into a contract of purchase and sale.
9. In the Property Disclosure Statement (“PDS”) for the Property, dated January 20, 2015, the seller answered “yes” to question 3S (Were these Premises constructed by an “owner builder”, as defined in the *Homeowner Protection Act*, with construction commencing, or a building permit applied for, after July 1, 1999? (If so, attach required Owner Builder Declaration and Disclosure Notice)). There was no OBDN attached to the PDS.
10. The seller answered “no” to question 3T in the PDS (Are these Premises covered by home warranty insurance under the *Homeowner Protection Act*?).
11. The accepted contract of purchase and sale for the Property from the Buyers (the “Contract”) had a price of \$885,000, required a deposit of \$50,000 on February 16, 2015 (the “Deposit”) paid into trust, and had a completion date of May 4, 2015.
12. Although the Buyer’s personal cheque for the Deposit is dated February 14, 2015, Mr. Cochrane acknowledged receipt of the cheque, and provided the Deposit to his Brokerage, on February 18, 2015.
13. On May 4, 2015, the purchase of the Property completed and title changed.
14. In October 2015, the Buyers contacted Mr. Cochrane about concerns with the Property and its status as an “owner-built” home. Mr. Cochrane followed up with the agent for the seller of the Property, who in turn followed up with the seller of the Property.
15. By January 2016, the Buyers obtained a copy of the OBDN for the Property.
16. A Notice of Discipline Hearing was issued on July 5, 2018, and served on Mr. Cochrane on his own behalf and on behalf of Chris Cochrane PREC.
17. Neither Mr. Cochrane nor Chris Cochrane PREC has any discipline history with the Council.

PROPOSED FINDINGS OF MISCONDUCT

For the sole purposes of the Proposal and based on the Facts outlined herein, Mr. Cochrane and Chris Cochrane PREC propose the following findings of misconduct be made by the CORC:

1. Mr. Cochrane and Chris Cochrane PREC committed professional misconduct within the meaning of section 35(1)(a) of the RESA when acting as the Buyers’ agent in the purchase of the Property, a new home built by an owner-builder under the provisions of the HPA. In particular they:

- a. failed to act with reasonable care and skill when they did not ensure that the Buyers received a copy of a disclosure notice prior to the Buyers making an offer of purchase and sale, as required by section 21(2) of the HPA, that stated whether the Property was built under an Owner Builder Authorization and whether the Property was covered by a policy of home warranty insurance, contrary to Rule 3-4; and
- b. failed to immediately notify their managing broker that the Deposit was not received into the Brokerage's trust account on February 16, 2015, as set out in the Contract, contrary to Rule 3-2(2)(b).

PROPOSED ORDERS

Based on the Facts herein and the Proposed Findings of Misconduct Mr. Cochrane and Chris Cochrane PREC propose 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. Cochrane and Chris Cochrane PREC be reprimanded.
2. Mr. Cochrane and Chris Cochrane PREC be jointly and severally liable to pay a discipline penalty to the Council in the amount of \$4,000 within ninety (90) days from the date of this Order.
3. Mr. Cochrane, at his own expense, register for and successfully complete the Real Estate Trading Services Remedial Course, as provided by Sauder School of Business at the University of British Columbia, in the time period as directed by the Council.
4. Mr. Cochrane, at his own expense, register for and successfully complete the course *Homeowner Protection Act: Protect Your Sellers and Yourself* offered by the Victoria Real Estate Board, in the time period as directed by the Council.
5. Mr. Cochrane and Chris Cochrane PREC be jointly and severally liable to pay enforcement expenses in the amount of \$1,500 within sixty (60) days from the date of this Consent Order.
6. If Mr. Cochrane or Chris Cochrane PREC fails to comply with any of the terms of this Order, a Discipline Committee may suspend or cancel Mr. Cochrane's licence without further notice to him.

ACKNOWLEDGEMENTS AND WAIVER OF APPEAL RIGHT

1. Mr. Cochrane and Chris Cochrane PREC acknowledge and understand 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. Cochrane and Chris Cochrane PREC have been advised of and understand their right to obtain independent legal advice regarding the disciplinary process, including with respect to the execution and submission of the Proposal.
3. Mr. Cochrane and Chris Cochrane PREC acknowledge and are 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. Cochrane and Chris Cochrane PREC acknowledge and are 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. Cochrane and Chris Cochrane PREC hereby waive their right to appeal pursuant to section 54 of the RESA.
6. The Proposal and its contents are made by Mr. Cochrane and Chris Cochrane PREC 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. Cochrane and Chris Cochrane PREC in any civil proceeding with respect to the matter.

"C. R. Cochrane"

**CHRISTOPHER RICHARD COCHRANE on his own
behalf and on behalf of Chris Cochrane PREC**

Dated 18 day of October, 2018

Signature of Christopher Richard Cochrane on his
own behalf and on behalf of Chris Cochrane PREC
witnessed on the above date by:

"D. Cochrane"

Witness Name *(Please Print)*

"D. Cochrane"

Witness Signature