

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
DIANE MARILYN COBER
080818

CONSENT ORDER

RESPONDENT:	Diane Marilyn Cober, representative, RE/MAX 100, while licensed at Royal LePage 100 Mile Realty
DATE OF REVIEW MEETING:	September 14, 2018
DATE OF CONSENT ORDER:	October 10, 2018
CONSENT ORDER REVIEW COMMITTEE:	R. Holmes, QC E. Mignosa J. Lynch
ALSO PRESENT:	E. Seeley, Executive Officer D. Avren, Director, Legal Services G. Thiele, Acting Manager, Legal Services L. Fong, Independent Legal Counsel C. Davies, Legal Counsel for the Real Estate Council

PROCEEDINGS:

On September 14, 2018, the Consent Order Proposal (the "COP") submitted by Diane Marilyn Cober was considered by the Consent Order Review Committee (the "Committee"), but not accepted. On October 1, 2018, a revised COP acceptable to the Committee was submitted by Diane Marilyn Cober.

WHEREAS the COP, a copy of which is attached hereto, has been executed by Diane Marilyn Cober.

NOW THEREFORE, the Committee having made the findings proposed in the attached COP, and in particular having found that Diane Marilyn Cober committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act*, orders that:

1. Diane Marilyn Cober be reprimanded;
2. Diane Marilyn Cober pay enforcement expenses to the Council in the amount of \$1,500 within sixty (60) days from the date of this Order; and
3. Diane Marilyn Cober, at her own expense, register for and successfully complete the Manufactured Homes: What REALTORS® Need to Know Course, as provided by Sauder School of Business at the University of British Columbia in the time period as directed by the Council.

If Diane Marilyn Cober 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 *Real Estate Services Act*.

Dated this 10th day of October, 2018, at the City of Vancouver, British Columbia.

ON BEHALF OF THE CONSENT ORDER REVIEW COMMITTEE

“E. Mignosa”

E. Mignosa
Consent Order Review Committee

Atch.

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

AND

IN THE MATTER OF

**DIANE MARILYN COBER
080818**

CONSENT ORDER PROPOSAL BY DIANE MARILYN COBER

BACKGROUND AND FACTS

This Consent Order Proposal (the "Proposal") is made by Diane Marilyn Cober ("Ms. Cober") 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, Ms. Cober and the Council have agreed upon the following facts:

1. Ms. Cober has been licensed as a representative since 1989.
2. Ms. Cober was at all relevant times licensed as a representative with 100 Mile Realty Ltd.
3. Ms. Cober has been licensed to provide trading services since 1989.
4. This matter concerns the listing of a manufactured home which failed to have a valid CSA approval sticker or silver label.
5. Pursuant to section 21 of the *Electrical Safety Regulation* of the *Safety Standards Act*, a licensee may not offer for sale a manufactured home that does not have a valid CSA sticker, or, in the case of an electrical alteration, a silver label. A person who fails to comply with the *Electrical Safety Regulation* may be issued a compliance order pursuant to section 38 of the *Safety Standards Act*, which, if not complied with, may lead to a monetary penalty imposed under section 40 of the *Safety Standards Act*.
6. In July 2016, Ms. Cober acted as buyer's agent respecting the purchase of a manufactured home located at XXXX Fawn Creek Rd., Horse Lake, BC (the "Property").
7. In the feature sheet, the Property was represented as a manufactured home with CSA number CSA47XXXX.
8. Ms. Cober states that she inquired of the listing agent, KV, about the existence of a valid CSA approval sticker or silver label on the Property and was advised that one was not necessary due to the nature of its building structure.

9. Ms. Cober did not independently verify the existence of a valid CSA approval sticker or silver label on the Property.
10. On July 20, 2016, Ms. Cober wrote an offer for purchase and sale of the Property on behalf of prospective buyers, including in the legal description of the Property CSA number CSA47XXXX.
11. The offer was subject to a number of conditions, and was accepted by the seller on July 22, 2016.
12. For a variety of unrelated reasons, the buyers did not remove the subjects, and the deal collapsed in early August 2016.
13. In or about late August 2016, the seller discovered that the Property did not have a valid CSA approval sticker or silver label.
14. A Notice of Discipline Hearing was issued on May 23, 2018 and served on Ms. Cober.
15. Ms. Cober has no prior discipline with the Council.

PROPOSED FINDINGS OF MISCONDUCT

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

1. She committed professional misconduct within the meaning of section 35(1)(a) of RESA:
 - a. when she acted as buyer's agent with to an offer of purchase and sale of a manufactured home located at XXXX Fawn Creek Rd, Horse Lake, BC in 2016, and she failed to ascertain whether the property had a valid CSA approval sticker or silver label as required by section 21 of the *Electrical Safety Regulation* of the *BC Safety Standards Act*, contrary to:
 - i. section 3-3(a) (best interests of the client);
 - ii. section 3-3(h)(reasonable efforts to discover relevant facts respecting any real estate that the client is considering acquiring); and
 - iii. section 3-4 (reasonable care and skill)
- of the Rules.

PROPOSED ORDERS

Based on the facts herein and the Proposed Findings of Misconduct, Ms. Cober 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. Cober be reprimanded.
2. Ms. Cober pay enforcement in the amount of \$1,500 within sixty (60) days from the date of this Consent Order.
3. Ms. Cober, at her own expense, register for and successfully complete the Manufactured Homes: What REALTORS® Need to Know Course, as provided by the Real Estate Division, Sauder School of Business at the University of British Columbia within the time period directed by the Council.

4. If Ms. Cober fails to comply with any of the terms of this Order, a Discipline Committee may suspend or cancel Ms. Cober's licence without further notice to her.

ACKNOWLEDGEMENTS AND WAIVER OF APPEAL RIGHT

1. Ms. Cober 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. Cober 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 they are making the Proposal with full knowledge of the contents and the consequences if the Proposal is accepted.
3. Ms. Cober 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. Cober 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. Cober hereby waives her right to appeal pursuant to section 54 of the RESA.
6. The Proposal and its contents are made by Ms. Cober 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. Cober in any civil proceeding with respect to the matter.

"Diane Marilyn Cober"

DIANE MARILYN COBER

Dated 1st day of October, 2018

Signature of Diane Marilyn Cober witnessed on the
above date by

David Jurek

Witness Name *(Please Print)*

"David Jurek"

Witness Signature