

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
FRANCIS ROBERT BRAAM
(071872)

CONSENT ORDER

RESPONDENT: Francis Robert Braam, Managing Broker
of RLK Realty dba Royal LePage Kelowna

DATE OF REVIEW MEETING: May 24, 2018

DATE OF CONSENT ORDER: May 24, 2018

CONSENT ORDER REVIEW COMMITTEE: R. Holmes, Q.C.
S. Heath
L. Hrycan
E. Mignosa
S. Sidhu

ALSO PRESENT: E. Seeley, Executive Officer
G. Thiele, Director, Legal Services
A. Bjornson, Legal Counsel for the Real
Estate Council

PROCEEDINGS:

On May 24, 2018, the Consent Order Review Committee (“Committee”) resolved to accept the Consent Order Proposal (“COP”) submitted by Francis Robert Braam.

WHEREAS the COP, a copy of which is attached hereto, has been executed by Francis Robert Braam.

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

1. Francis Robert Braam be reprimanded;
2. Francis Robert Braam pay a discipline penalty to the Council in the amount of \$1,000 within ninety (90) days from the date of this Order;
3. Francis Robert Braam pay enforcement expenses to the Council in the amount \$1,500 within sixty (60) days from the date of this Order.

If Francis Robert Braam 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 *Real Estate Services Act*.

Dated this 11th day of June, 2018, at the City of Vancouver, British Columbia.

ON BEHALF OF THE CONSENT ORDER REVIEW COMMITTEE



R. Holmes, Q.C., Chair
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

**FRANCIS ROBERT BRAAM
(071872)**

CONSENT ORDER PROPOSAL BY MR. BRAAM

BACKGROUND AND FACTS

This Consent Order Proposal (the "Proposal") is made by Mr. Braam 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. Braam and the Council have agreed upon the following facts:

1. Mr. Braam was, at all material times, licensed as a managing broker of RLK Realty Ltd. dba Royal LePage Kelowna (X026688)(the "Brokerage").
2. At all material times, Mr. Yetman (155125) was licensed as a representative with the Brokerage and was under the supervision of Mr. Braam.
3. This matter relates to a property on Philpott Road, Kelowna, British Columbia (the "Property").
4. On August 16, 2016, the buyers and sellers entered into a Contract of Purchase and Sale (the "Contract"). The buyers were represented by Mr. Yetman.
5. Pursuant to the Contract, a deposit of \$10,000 (the "Deposit") was to be paid by the buyers within 24 hours of subject removal.
6. On or before September 10, 2016, all subjects were removed.
7. Following removal of the subjects, Mr. Yetman forgot to request the Deposit from the Buyers. The Deposit was not paid by the buyers within 24 hours of subject removal.
8. On September 20, 2016, the Brokerage realized that the Brokerage was not in receipt of the Deposit. The Brokerage contacted Mr. Yetman and informed him that the Deposit had not been received.

9. On September 21, 2016, the buyers provided the Deposit to the Brokerage. The buyers and sellers also executed a late deposit acknowledgement form.
10. On September 23, 2016, the transaction completed.
11. On October 7, 2016, Mr. Braam self-reported to Council the late payment of the Deposit. In his self-reported complaint, Mr. Braam acknowledged that Brokerage staff did not follow office procedure and did not initially report the late deposit to Mr. Braam or Mr. Yetman.
12. On October 11, 2016, one of the sellers filed a complaint with the Council regarding, *inter alia*, the late payment of the Deposit.
13. A Notice of Discipline Hearing was issued on April 9, 2018 and served on Mr. Braam.

PROPOSED FINDINGS OF MISCONDUCT

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

1. Mr. Braam committed professional misconduct within the meaning of section 35(1)(a) of RESA in that, while licensed as a managing broker with Royal LePage Kelowna, he failed to provide adequate supervision by ensuring that staff and licensees of the brokerage effectively implemented procedures to ensure the timely collection of deposits after acceptance and in accordance with the terms of the Contract of Purchase and Sale, specifically with respect to the transaction of a property on Philpott Road, Kelowna, BC, contrary to sections 3-1(1)(a) and (c) of the Rules and section 6-2(b) of RESA.

PROPOSED ORDERS

Based on the facts herein and the Proposed Findings of Misconduct, Mr. Braam 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. Braam be reprimanded.
2. Mr. Braam is liable to pay a discipline penalty to the Council in the amount of \$1,000 within ninety (90) days of the date of this Order.
3. Mr. Braam is liable to pay enforcement costs in the amount of \$1,500 within sixty (60) days from the date of this Consent Order.
4. If Mr. Braam fails to comply with any of the terms of this Order, a Discipline Committee may suspend or cancel his licence without further notice.

ACKNOWLEDGEMENTS AND WAIVER OF APPEAL RIGHT

1. Mr. Braam 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.

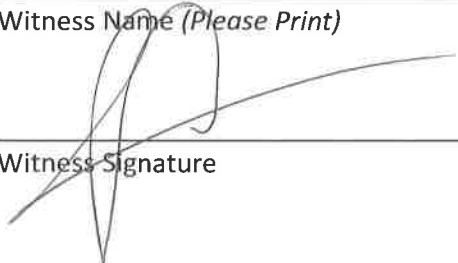
2. Mr. Braam acknowledges that he has been urged and given the opportunity to seek and obtain independent legal advice with respect to the disciplinary process, the allegations contained in the Notice of Discipline Hearing, and the execution and submission of the Proposal to the CORC; and, that he has 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. Braam 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. Braam 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. Braam hereby waives his right to appeal pursuant to section 54 of the RESA.
6. The Proposal and its contents are made by Mr. Braam 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. Braam in any civil proceeding with respect to the matter.


FRANCIS ROBERT BRAAM

Dated 5th day of June, 2018

Signature of Mr. Braam witnessed on the above date by

John Wetman
Witness Name (Please Print)


Witness Signature