

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
MURRAY ALLAN THOMPSON
(045487)

CONSENT ORDER

RESPONDENT: Murray Allan Thompson, representative,
Angell, Hasman & Associates Realty Ltd.,

DATE OF REVIEW MEETING: March 7, 2018

DATE OF CONSENT ORDER: March 7, 2018

CONSENT ORDER REVIEW COMMITTEE: R. Holmes Q.C.
S. Sidhu
L. Lyster

ALSO PRESENT: G. Thiele, Director, Legal Services
Sabinder Sheina, Legal Counsel for the
Real Estate Council

PROCEEDINGS:

On March 7, 2018, the Discipline Committee ("Committee") resolved to accept the Consent Order Proposal ("COP") submitted by Murray Allan Thompson.

WHEREAS the COP, a copy of which is attached hereto, has been executed by Murray Allan Thompson.

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

1. Murray Allan Thompson be reprimanded;
2. Murray Allan Thompson pay a discipline penalty to the Council in the amount of \$2,500.00 within ninety (90) days of the date of this Order; and

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3. Murray Allan Thompson pay enforcement expenses of this Consent Order to the Council in the amount \$1,500.00 within sixty (60) days from the date of this Order.

If Murray Allan Thompson 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 7th day of March, 2018, at the City of Vancouver, British Columbia.

ON BEHALF OF THE DISCIPLINE COMMITTEE



R. Holmes, Q.C., Chair
Consent Order Review Committee

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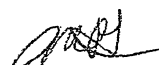
CONSENT ORDER PROPOSAL BY MURRAY ALLAN THOMPSON

BACKGROUND AND FACTS


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

1. Mr. Thompson (045487) has been licensed as a representative since 1983.
2. Mr. Thompson was at all relevant times licensed as a representative with Angell, Hasman & Associates Realty Ltd. ("Brokerage").
3. The complainants were the buyers of a strata lot in Strata Plan LMSXXXX, [REDACTED] ("Strata") located on Whitecap Court, Furry Creek, BC (the "Property"). The complaint raised numerous allegations against Mr. Thompson, the listing agent, including that he published misleading advertising about the Property did not provide full and correct disclosure of the strata documents and did not disclose the lawsuit the strata corporation had filed.
4. At all relevant times, Mr. Thompson was the owner of a unit in the Strata, as well as holding the position of treasurer on the Strata Council.
5. In August 2012, the Strata filed a petition in Supreme Court against the owner/developer, seeking a declaration, *inter alia*, that the recreation centre be identified as a common facility of the Strata. Subsequent Strata Council Meeting Minutes provided updates on the status of the litigation and the course of action being determined.
6. The May 8, 2014 Strata Council Meeting Minutes record that Mr. Thompson was named as secretary/treasurer on the Strata Council.
7. On or about May 30, 2014, the owner of the Property entered into a listing agreement with the Brokerage with Mr. Thompson as the designated agent.



8. The MLS listing sheet for the Property advertised that the *"complex amenities"* included an indoor pool, sauna, hot tub and fitness centre as well as a club house, exercise centre and recreation centre.
9. The Property Disclosure Statement dated May 30, 2014 ("PDS") was marked to indicate that the seller was not *"aware of any pending litigation or claim affecting the Development or the Unit from any person or public body"*. The PDS also stated that special assessments were collected during the last five years to fund legal research and eventual mediation proceedings between the Strata and a developer
10. On or about August 11, 2014, the complainants entered into a Contract of Purchase and Sale for the Property ("Contract") for a purchase price of \$728,000. The subject conditions included strata documents, property disclosure statement, title search and financing.
11. On August 13, 2014, Mr. Thompson sent an email to the complainant's licensee attaching 18 sets of minutes from the Strata Council meetings between August 1, 2012 and June 30, 2014. The email also stated:
 - a. that a review of the minutes would reveal an ongoing and unresolved issue between the Strata and the owner/developer over the recreation centre;
 - b. a brief history of the dispute, including the fact the Strata sought legal counsel and that special assessments had been collected to fund the legal research; and
 - c. he was able to answer any further questions the complainants or she might have regarding the recreation centre since he had been *"involved with this issue since the beginning, as a member of the Community Advisory Committee and now as a member of the Strata Counsel"*.
12. Mr. Thompson did not receive any questions or requests for further information from the complainants or their licensee.
13. On August 18, 2014, the Strata property manager issued a Form B Information Certificate ("Form B") which stated the Strata was not party to any court proceedings or arbitration.
14. It was not until June 2016, that the error in Form B was noted with respect to another, completely separate contract of purchase of sale for a property in the Strata. In July 2016, Mr. Thompson requested a corrected copy of Form B for the Property purchased by the complainants.
15. From the time the complainants entered into the Contract, until completion, there were ongoing discussions between the Strata and the owner/developer to resolve the issue of the recreation centre which were not disclosed to the complainants.
16. The Property transaction completed on October 1, 2014 as per the terms of the Contract.
17. As stated above, Mr. Thompson was actively involved in retaining lawyers and being the Strata's contact person with respect to litigation and ongoing mediation involving the recreation centre.



18. During communications with lawyers, Mr. Thompson sent emails on three occasions where his signature line included the name and address of his Brokerage.
19. The Professional Standards Manual states that a licensee may stand for the Strata Council if the licensee discloses in writing to the strata corporation and to his brokerage that he is licensed but is not acting as a licensee and is not regulated by the RESA and that the strata corporation is not entitled to the same protections under RESA.
20. Mr. Thompson's managing broker informed Council staff, that on February 21, 2016, Mr. Thompson sent him an email attaching a Disclosure of Management form to disclose he was a member of the strata council where he resided. At the time Mr. Thompson took office on the strata council, he was unaware, that as a licensee he was required to provide a signed Disclosure of Management, but as soon as he learned he was required to provide it, he did.
21. In reply to the Council's investigation, Mr. Thompson provided Council staff with a written response dated January 6, 2017, ("Response") in which he submitted that *"due to the complexities associated with the recreation centre, I implemented a policy in 2012 of sitting down with purchasers, and their agents where applicable, for full discussion of the following facts, either prior to the buyers submitting an offer or shortly thereafter"*:
 - a. The Strata does not own the recreation centre.
 - b. the reasons why the Strata Corporation does not have ownership
 - c. history of negotiations with the owner/developer.
 - d. the fact that two special levies had been collected from the owners to fund legal research, mediation and eventual legal action taken against the owner/developer.
 - e. owner's strata fees may increase depending on the outcome of negotiations with the owner/developer.
22. Mr. Thompson attached to his Response:
 - a. letters from purchasers of five other properties in the Strata that attest the disclosure mentioned above took place.; and
 - b. letters from purchasers of five properties in the Strata who asked Mr. Thompson for information about the recreation centre issue, either directly or through their licensees and received the above disclosure.
23. Mr. Thompson stated in his Response that he was not able to meet the complainants because they were residing in the United States and not available. However, he made disclosure of the information outlined in the above paragraph to their licensee in an email dated August 13, 2014 and in subsequent conversations
24. Mr. Thompson further stated that in addition to the disclosure in the email dated August 13, 2014, he provided copies of minutes from eight Strata Council Meetings, a Special General Meeting and an Annual General Meeting that contain reference to the legal action against the owner/developer, that would have referenced the ongoing litigation in some format or the other.



25. A Notice of Discipline Hearing was issued on January 29, 2018 and served on Mr. Thompson.
26. Mr. Thompson does not have a prior discipline history with the Council.

PROPOSED FINDINGS OF MISCONDUCT

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

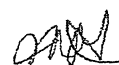
1. Mr. Thompson committed professional misconduct within the meaning of section 35(1)(a) of the RESA in that while licensed as a representative with Angell, Hasman & Associates Realty Ltd., and acting as the listing agent for a strata lot in Strata Plan LMSXXXX, located on Whitecap Court, Furry Creek, BC (the "Property"), he committed professional misconduct within the meaning of section 35(1)(a) of RESA in that:
 - a. he published real estate advertising for the Property that he knew or reasonably ought to have known contained a false or misleading statement or misrepresentation, when he advertised the strata corporation's amenities included a recreation centre, when in fact the recreation centre was owned by another entity, contrary to section 4-7 of the Rules, and
 - b. he did not act in the best interests of his client, disclose to his client all known material information respecting the Property and failed to act honestly and with reasonable care and skill, when he failed to correct the Property Disclosure Statement, which his client incorrectly completed by indicating the strata corporation was not involved in litigation, when in fact he knew that the strata corporation had filed a lawsuit,

contrary to sections 3-3(i), (f) and 3-4 of the Rules;
2. before providing strata management services to or on behalf of the strata corporation of which he was an owner, he failed to make a written disclosure to the strata corporation and to the managing broker of his brokerage as required by section 9-3(b) and (c) of the Rules.

PROPOSED ORDERS

Based on the facts herein and the Proposed Findings of Misconduct, Mr. Thompson 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. Thompson be reprimanded.
2. Mr. Thompson pay a discipline penalty to the Council in the amount of \$2,500 within ninety (90) days of the date of this Order.



3. Mr. Thompson pay enforcement in the amount of \$1,500 within sixty (60) days from the date of this Consent Order.
4. If Mr. Thompson fails to comply with any of the terms of this Order, a Discipline Committee may suspend or cancel Mr. Thompson's licence without further notice to him.

ACKNOWLEDGEMENTS AND WAIVER OF APPEAL RIGHT

1. Mr. Thompson 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. Thompson 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. Thompson 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.

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4. Mr. Thompson 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. Thompson hereby waives his right to appeal pursuant to section 54 of the RESA.
6. The Proposal and its contents are made by Mr. Thompson 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. Thompson in any civil proceeding with respect to the matter.



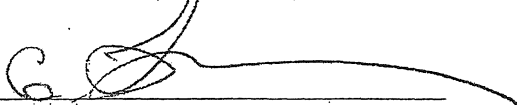
MURRAY ALLAN THOMPSON

Dated 1 day of MARCH, 2018

Signature of Mr. Thompson witnessed on the above date by

Christina Laurson

Witness Name (Please Print)



Witness Signature