

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
ANDREW BRIAN LAITY
(138185)

CONSENT ORDER

RESPONDENT: Andrew Brian Laity, Managing Broker,
List Assist Mere Postings Ltd. dba List
Assist Mere Postings

DATE OF REVIEW MEETING: October 18, 2017

DATE OF CONSENT ORDER: October 18, 2017

CONSENT ORDER REVIEW COMMITTEE: R. Holmes, Q.C., Chair
K. Lonsdale
S. Heath

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

PROCEEDINGS:

On October 18, 2017, the Consent Order Review Committee ("Committee") resolved to accept the Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver ("ASF") submitted by Andrew Brian Laity.

WHEREAS the ASF, a copy of which is attached hereto, has been executed on behalf of the Council and by Andrew Brian Laity.

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

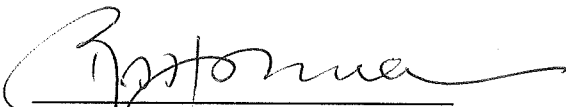
1. Andrew Brian Laity be reprimanded;

2. Andrew Brian Laity, 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; and
3. Andrew Brian Laity 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 Andrew Brian Laity 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 18th day of October, 2017, at the City of Vancouver, British Columbia.

ON BEHALF OF THE CONSENT ORDER REVIEW COMMITTEE



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

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

IN THE MATTER OF
ANDREW BRIAN LAITY
(138185)

AGREED STATEMENT OF FACTS,
PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

The following agreement has been reached between Andrew Brian Laity ("Mr. Laity") and the Real Estate Council of British Columbia ("Council").

- A. Mr. Laity hereby consents to an Order to be made pursuant to sections 41 and 43 of the *Real Estate Services Act* ("RESA") that:
- a. he be reprimanded;
 - b. at his own expense, register for and successfully complete the Real Estate Trading Services Remedial Education 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;
 - c. he pay enforcement expenses pursuant to section 44 of the Act in the amount of \$1,500 within sixty (60) days from the date of the Consent Order; and
 - d. if he fails to comply with any of the terms of the Order as set out above, a Discipline Committee may suspend or cancel his licence without further notice to him pursuant to section 43(3) and 43(4) of the RESA.
- B. As a basis for this Order, the Council and Mr. Laity acknowledge and agree that the facts set forth herein are correct:
- 1. Mr. Laity was at all relevant times licensed as a Managing Broker with List Assist Mere Postings Ltd.
 - 2. Mr. Laity's licensing history is as follows:

Brokerage	Licence Level	Licence Category	Start Date	End Date
List Assist Mere Postings Ltd. (X030355)	Managing Broker	Trading, Rental, Strata	09/08/2013	Present

AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

List Assist Mere Postings Ltd. (X030355)	Managing Broker	Trading, Rental	09/01/2012	09/08/2013
One Percent Realty Ltd. (X028401)	Representative	Trading	17/02/2010	09/01/2012
Unlicensed	N/A	N/A	13/11/2008	16/02/2010
Results Realty Ltd. dba RE/MAX Results Realty (X028738)	Representative	Trading	05/09/2007	12/11/2008
Unlicensed	N/A	N/A	04/09/2007	04/09/2007
Results Realty Ltd. dba RE/MAX Results Realty (X028738)	Representative	Trading	18/04/2006	03/09/2007
Homelife Classic Realty Ltd. (X000748)	Representative	Trading	04/10/2005	18/04/2006
Ridge-Meadows Realty Ltd. dba RE/MAX Lifestyles Realty (X025564)	Representative	Trading	04/09/2003	03/10/2005

3. On or about September 14, 2014 the Seller entered into a Multiple Listing Contract with Mr. Laity for the sale of her property located at XXX Johnston Street in New Westminster (the "Property"). Mr. Laity was the designated Seller's Agent.
4. On February 18, 2015 the Buyer entered into an Agreement to purchase the Property. The relevant details of the Contract of Purchase and Sale were as follows:

Price: \$755,000
Deposit: \$37,250 within 24 hours of all subject removal
Completion: July 2, 2015
Possession: July 7, 2015 vacant possession

The Seller has an agency relationship with Mr. Laity as the designated agent licensed with List Assist Realty Ltd.

The Buyer has an agency relationship with Ms. T. as the designated agent licensed with [REDACTED]

Subject to: Financing, Inspection, Title Search, Property Disclosure Statement, Insurance; all to be removed by February 26, 2015.

AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

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5. As part of the negotiations, the Seller was asked to provide vacant possession of the Property. The Seller emailed Mr. Laity to arrange a letter from the Buyer confirming that they or a close family member of the Buyer intended to occupy the rental unit.
6. On February 25, 2015 an addendum was signed, with the Seller agreeing to complete repair deficiencies found in the Property inspection by July 2, 2015.
7. On February 26, 2015 subjects were removed and the deposit was provided.
8. On March 30, 2015 the Seller emailed Mr. Laity, following up that she required a letter from the Buyer to allow them to provide an End of Tenancy Notice to the tenants, in compliance with the *Residential Tenancy Act*.
9. On May 8, 2015 Mr. Laity had not responded to the Seller, so she emailed him again, following up on the letter she required.
10. On May 20, 2015 Mr. Laity emailed the Seller that he had not followed up with Ms. T., the Buyer's agent, about the letter the Seller required. Mr. Laity asked the Seller if she had given notice to the tenants yet. The Seller responded that she had not, and would not act contrary to the *Residential Tenancy Act*.
11. On May 22, 2015 Mr. Laity emailed the Seller, asking her to speak to the tenant and let them know that an End of Tenancy Notice would be forthcoming. Mr. Laity suggested the Seller offer the tenant a monetary incentive to move out before completion. Mr. Laity stated that "Even though I do not have an Agency Relationship with you I was advised to suggest to you to obtain legal advice."
12. On May 26 and 27, 2015 emails were exchanged between and Mr. Laity and the Seller, trying to arrange for an appraiser to access the Property, and to set up a time for a contractor to address the plumbing deficiency.
13. On June 2, 2015 Ms. T. emailed Mr. Laity that she had now obtained a signed letter from her Buyer that acknowledged that they would be, or a close family member would be, moving into the basement suite. Mr. Laity emailed Ms. T. that the Seller was being uncooperative in arranging for the second appraiser to inspect the Property.
14. On June 4, 2015 Mr. Laity emailed the Buyer's letter to the Seller.
15. On June 15, 2015 Ms. T. obtained the Seller's contact information from Mr. Laity and called the Seller directly to arrange access to the Property for the Buyer's appraiser.
15. On June 30, 2015 the tenants moved out of the Property and on July 2, 2015 the transaction completed.

AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

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16. Ms. T. submitted that during the negotiations, the Buyer decided they wanted vacant possession of the Property. Ms. T. stated that Mr. Laity told her that the Seller would have no issue providing vacant possession and would provide notice to the tenants. Both Buyer and Seller initialed the Contract of Purchase and Sale with the change of "vacant possession".
17. Ms. T. acknowledged that she did not include a Notice to Tenants clause in the contract but only made a notation on the possession date that vacant possession would be required. Ms. T. stated that Mr. Laity did not communicate with her that the Seller needed a written letter from her Buyer in relation to vacant possession until May 22, 2015.

Previous Discipline History

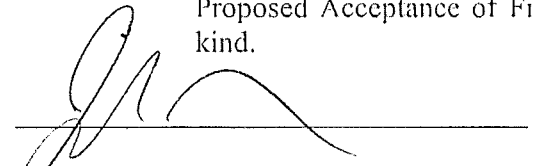
18. Mr. Laity has no previous discipline history with the Council.

C. Proposed Acceptance of Findings and Waiver

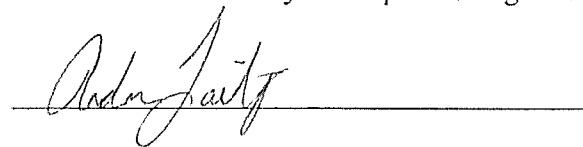
1. Based on the Agreed Statement of Facts herein, and without making any admission of liability, Mr. Laity is prepared to accept the following findings if made against him by the Council's Consent Order Review Committee:
 - (a) Mr. Laity, while acting as a designated agent, committed professional misconduct within the meaning of section 35(1)(a) of the RESA in that:
 - (i) contrary to sections 3-3(a) and 3-4 of the Rules, he failed to act in the best interests of his client and with reasonable care and skill when he e-mailed the representative for the Buyer that his client was being uncooperative in arranging access to the Property;
 - (ii) contrary to sections 3-3(a) and 3-3(b) of the Rules, he failed to act in the best interests of his client and in accordance with the lawful instructions of his client when he failed to obtain written confirmation from the Buyer that the Buyer wished to reside in the Property;
 - (iii) contrary to sections 3-3(e) and 3-4 of the Rules, he failed to maintain the confidentiality of information respecting his client and failed to act with reasonable care and skill when he provided his client's contact information to the representative for the Buyer of the Property; and
 - (iv) contrary to section 5-10 of the Rules, he failed to disclose the nature of his representation to the client when his client entered into a Multiple Listing contract that named him the designated agent for the Seller with respect to the Property.
2. Mr. Laity hereby waives his right to appeal pursuant to section 54 of the RESA.

AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

3. Mr. Laity acknowledges that he has been advised that he has the right to seek independent legal advice before signing this Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver.
4. Mr. Laity acknowledges and is aware that the Council will publish the Consent Order and penalty herein in its Report from Council newsletter, on the Council's website, and on CanLII, a website for legal research.
5. Mr. Laity 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 this Agreed Statement of Facts, Proposed Acceptance of Findings, and Waiver and Consent Order.
6. The Agreed Statement of Facts and Proposed Acceptance of Findings contained herein are made for the sole purpose of resolving a complaint being considered by the Council and for that purpose only. Such Agreed Statement of Facts and Proposed Acceptance of Findings cannot be used in any other proceeding of any kind.



John McLachlan, Legal Counsel
Real Estate Council of British Columbia



Andrew Brian Laity

As to Part B only (Agreed Statement of Facts)

As to Parts A, B, and C, (Proposed penalty, Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver)

Dated 31, day of July, 2017

Dated 12, day of July, 2017