

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

AND

IN THE MATTER OF

**TAMARA MICHELLE GRAY
(148413)**

CONSENT ORDER

RESPONDENT: Tamara Michelle Gray, Representative,
Camosun Properties Ltd. dba RE/MAX
Camosun, while licensed with Max
Wright Real Estate Corporation dba
Sotheby's International Realty Canada

DATE OF REVIEW MEETING: May 17, 2017

DATE OF CONSENT ORDER: June 23, 2017

CONSENT ORDER REVIEW COMMITTEE: R. Holmes, Q.C., Chair
E. Mignosa
T. Styffe
M. Leslie

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

PROCEEDINGS:

On May 17, 2017, an Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver ("ASF") submitted by Tamara Michelle Gray was considered by the Consent Order Review Committee (the "Committee") but not accepted. On June 16, 2016, a revised ASF acceptable to the Committee was submitted by Tamara Michelle Gray.

WHEREAS the ASF, a copy of which is attached hereto, has been executed by the Council and Tamara Michelle Gray.

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

1. Tamara Michelle Gray be reprimanded;
2. Tamara Michelle Gray pay a discipline penalty to the Council in the amount of \$5,000 within ninety (90) days of the date of this Order;
3. Tamara Michelle Gray not submit licence renewal applications to the Council without first: 1) completing the requisite Relicensing Education Program ("REP") requirements pursuant to section 2-8.1 of the Rules; 2) attaching evidence of proof of completion of the said REP requirements; and 3) obtaining the signature of her managing broker on such licence renewal applications;
4. Tamara Michelle Gray, within three months from the date of this Order:
 - a. thoroughly review with her managing broker the Professional Ethics chapter of the Real Estate Trading Services Licensing Course as provided by the Real Estate Division, Sauder School of Business at the University of British Columbia;
 - b. submit to the Council a certification signed by her managing broker confirming that she has completed the review of the Professional Ethics chapter with the managing broker; and
 - c. prepare and submit to the Chair of the Council a statement which demonstrates, to the satisfaction of the Chair, that she has learned from this incident and from her review of the Professional Ethics chapter; and
5. Tamara Michelle Gray pay enforcement expenses of this Consent Order to the Council in the amount \$1,500 within sixty (60) days from the date of this Order.

If Tamara Michelle Gray 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 23rd day of June, 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

Attch.

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

IN THE MATTER OF

**TAMARA MICHELLE GRAY
(148413)**

**AGREED STATEMENT OF FACTS,
PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER**

The following agreement has been reached between Tamara Michelle Gray ("Ms. Gray") and the Real Estate Council of British Columbia ("Council").

- A. Ms. Gray hereby consents to an Order to be made pursuant to sections 41 and 43 of the *Real Estate Services Act* (RESA) that:
- a. she be reprimanded;
 - b. she be liable to pay to the Council a discipline penalty in the amount of \$5,000 within ninety (90) days of the date of this Order;
 - c. she will not submit licence renewal applications to the Council without first: 1) completing the requisite Relicensing Education Program ("REP") requirements pursuant to section 2-8.1 of the Rules; 2) attaching evidence of proof of completion of the said REP requirements; and 3) obtaining the signature of her managing broker on such licence renewal applications;
 - d. she shall, within three months from the date of this Order:
 - i. thoroughly review with her managing broker the Professional Ethics chapter of the Real Estate Trading Services Licensing Course as provided by the Real Estate Division, Sauder School of Business at the University of British Columbia;
 - ii. submit to the Council a certification signed by her managing broker confirming that she has completed the review of the Professional Ethics chapter with the managing broker;
 - iii. prepare and submit to the Chair of the Council a statement which demonstrates, to the satisfaction of the Chair, that she has learned from this incident and from her review of the Professional Ethics chapter;
 - e. she 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

AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

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- f. if she fails to comply with any of the terms of the Order as set out above, a Discipline Committee may suspend or cancel her licence without further notice to her pursuant to section 43(3) and 43(4) of the RESA.
- B. As a basis for this Order, the Council and Ms. Gray acknowledge and agree that the facts set forth herein are correct:

1. Ms. Gray was at all relevant times licensed as a representative with Max Wright Real Estate Corporation dba Sotheby's International Realty Canada (Victoria Branch) ("Sotheby's International").
2. Ms. Gray's licensing history is as follows:

Start Date	End Date	Brokerage	Licence Level	Licence Category
19/10/2016	Present	RE/MAX Camosun (X000493)	Representative	Trading
07/04/2016	17/10/2016	Sotheby's International Realty Canada (X028762)Victoria	Representative	Trading
04/04/2014	03/04/2016	Sotheby's International Realty Canada (X028762)Victoria	Representative	Trading
07/01/2014	03/04/2014	Sotheby's International Realty Canada (X028762)Victoria	Representative	Trading
04/04/2012	07/01/2014	Pemberton Holmes Ltd. (X028057)	Representative	Trading
04/04/2010	03/04/2012	Pemberton Holmes Ltd. (X028057)	Representative	Trading
04/04/2008	03/04/2010	Pemberton Holmes Ltd. (X028057)	Representative	Trading
29/06/2007	03/04/2008	Pemberton Holmes Ltd. (X028057)	Representative	Trading
19/06/2006	29/06/2007	Keller Williams Realty West (X028752)	Representative	Trading
04/04/2006	16/06/2006	Kroppmann Realty (X027295)	Representative	Trading

3. On March 29, 2016, Council staff sent an e-mail to Ms. Gray and her managing broker, T.S., advising that Ms. Gray's licence was due for renewal on April 3, 2016.
4. By e-mail dated March 31, 2016 at 1:48 p.m., Ms. Gray submitted to the Council an application to renew her licence ("Licence Renewal Application"). The Licence Renewal Application was not signed by her managing broker and it did not include proof of completion of REP requirements.
5. By e-mail dated March 31, 2016 at 2:18 p.m., Council staff advised Ms. Gray of deficiencies in the Licence Renewal Application, namely that it required her managing broker's signature and proof of completion of the REP legal update course. Ms. Gray did not respond to this e-mail until April 4, 2016, as noted below at paragraph 11 of this Agreed Statement of Facts.
6. On April 3, 2016, Ms. Gray met with her clients, prospective buyers of a property (the "Buyers"), for a tour of a property located at [REDACTED] Dallas Road, Victoria (the "Dallas Road Property").

7. On April 4, 2016, the Buyers made an offer to purchase the Dallas Road Property (the "Contract"). Ms. Gray drew up the Contract as the designated agent for the Buyers, the terms of which included a purchase price of \$1,750,000.00 and a deposit of \$75,000 to be held in trust.
8. L.F. of [REDACTED] (" [REDACTED] Realty") was the designated agent for the sellers of the Property (the "Sellers").
9. Also on April 4, 2016, Council advised Ms. Gray by e-mail (at 2:41 p.m.) and T.S. by fax that Ms. Gray's licence renewal was past due and that immediate attention was required. Council staff requested that the Licence Renewal Application be resubmitted with brokerage signature and proof of completion of REP requirements.
10. On April 4, 2016 at 3:12 p.m., T.S., through his assistant, e-mailed a signed copy of the Licence Renewal Application to the Council and by copy in the e-mail, asked Ms. Gray to submit proof of completion of REP course to the Council.
11. On April 4, 2016 at 5:05 p.m., Ms. Gray replied to Council staff's e-mail dated March 31, 2016 with the following message:

"I am not sure why this went to my junk folder as I have just retrieved it when my brokerage sent me another email today. Gosh, it looks like I haven't taken the Legal update in order to qualify for this period and I missed the course today. SO, how much trouble am I in and what do I do?"

I have sent the Part to be signed by my brokerage now and will submit as soon as I have it back. My apologies. I have left this to the very last minute."
12. According to Ms. Gray, she did not realize until "later that day" on April 4, 2016 that she did not have a valid licence.
13. On April 5, 2016 at 9:07 a.m., Council staff advised Ms. Gray that her licence expired on April 3, 2016 and that upon completion of the REP course, she may apply for re-licensing.
14. T.S. was also notified of same by e-mail on April 5, 2016 at 9:16 a.m.
15. On or about April 5, 2016, T.S. instructed Ms. Gray to immediately cease all real estate services. Ms. Gray said to T.S. that she had client meetings the next day for property viewings but T.S. advised her to transfer all her clients to another agent at the brokerage and focus on completing her mandatory REP course.
16. On April 5, 2016, Ms. Gray enrolled with Real Estate Division, Sauder School of Business, to complete the REP course. She transferred her files to another agent at the brokerage and removed her website as well as her Facebook page.
17. On April 6, 2016, Ms. Gray completed the REP course and received confirmation from the Sauder School of Business regarding same.
18. On April 7, 2016, Ms. Gray's licence was issued.

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19. In the meantime, on April 5, 2016 and April 6, 2016, Ms. Gray continued to negotiate with the Sellers' agent in respect of at least three counter-offers before the deal was ratified. One of the counter-offers was signed by the Buyers on April 5, 2016 shortly after 3:00 p.m.
20. Ms. Gray did not disclose to T.S. that she drafted and submitted an offer on behalf of the Buyers on April 4, 2016 in respect of the Property. Further, when T.S. instructed her to cease all real estate activities, Ms. Gray did not advise him that she was continuing with negotiations in respect of the Contract.
21. According to T.S., it was not until April 6, 2016 that Ms. Gray disclosed to him that she had been working on the Contract since April 4, 2016. T.S. intervened immediately, instructed Ms. Gray to cease all her real estate services and spoke to the Buyers and the managing broker of [REDACTED] Realty about Ms. Gray's licensing status.
22. On or about April 6, 2016 or April 7, 2016, with the informed consent of the Sellers and the Buyers, it was agreed that Ms. Gray and Sotheby's International would not be involved any further in the transaction, and that Ms. Gray would not be entitled to any remuneration. It was agreed that the Sellers and the Buyers would be represented by L.F. as a limited dual agent for the remainder of the transaction.
23. On or about June 30, 2016, the transaction completed without incident.
24. According to Ms. Gray, she continued to work on the Contract despite the expiry of her licence because she wanted to *"continue the negotiations and keep the relationship and transaction together"*. Ms. Gray explained to the Council: *"[p]rior to speaking with my Broker, I did finish the transaction. I felt that I had things in motion already and wanted to complete them. I did not realize the seriousness of what I was doing and how it would affect my commission"*. Ms. Gray expressed regret for the *"costly mistake"* and stated that it will never happen again.
25. Ms. Gray does not have a prior 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, Ms. Gray is prepared to accept the following findings if made against her by the Council's Consent Order Review Committee:
 - (a) Ms. Gray, while acting as a representative with Sotheby's International, committed professional misconduct within the meaning of section 35(1)(a) of the RESA, in that:
 - (i) contrary to section 3(1)(a) of the RESA, she provided real estate services to the Buyers when she was not licensed to do so and was not exempted under section 9-1 of the Rules from the application of the RESA and the Rules to those services;
 - (ii) contrary to section 3-2(2)(a) of the Rules, she failed to keep her managing broker informed of the real estate services being provided on behalf of the

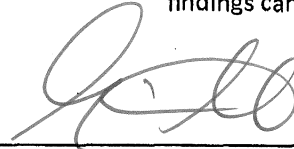
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brokerage, in particular by failing to inform T.S. that she was negotiating a deal on behalf of the Buyers when she did not have a licence;

- (iii) contrary to section 35(1)(g) of the RESA, she made a false or misleading statement to the Council on her Licence Renewal Application by indicating that she had completed the REP requirements before the expiry of her licence on April 3, 2016, when in fact she had not completed the REP requirements; and
- (iv) contrary to section 2-8.1(2) of the Rules, she failed to complete the REP requirements prior to the deadline of her licence renewal.

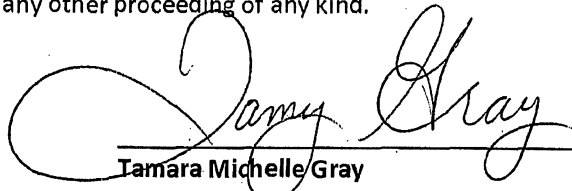
- 2. Ms. Gray hereby waives her right to appeal pursuant to section 54 of the RESA.
- 3. Ms. Gray acknowledges that she has been advised that she has the right to seek independent legal advice before signing this Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver.
- 4. Ms. Gray acknowledges 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. Ms. Gray 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.



Esther Jeon, Legal Counsel
Real Estate Council of British Columbia

As to Part B only (Agreed Statement
of Facts)

Dated 16 day of June, 2017



Tamara Michelle Gray

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

Dated 8 day of June, 2017