

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

**IN THE MATTER OF
WILLIAM ROBERT RAINE
(154835)**

CONSENT ORDER

RESPONDENT: William Robert Raine,
Representative, Horizon Realty Ltd.
dba Coldwell Banker Horizon Realty
(Westbank)

DATE OF REVIEW MEETING: December 8, 2016

DATE OF CONSENT ORDER: January 17, 2017

CONSENT ORDER REVIEW COMMITTEE: R. Holmes Q.C., Chair
S. Heath
G. Martin
M. Leslie
K. Khoo

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

PROCEEDINGS:

On December 8, 2016, an Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver ("ASF") submitted by William Robert Raine was considered by the Consent Order Review Committee (the "Committee") and rejected. On January 4, 2017, a revised ASF acceptable to the Committee was submitted by Mr. Raine.

WHEREAS the ASF, a copy of which is attached hereto, has been executed by William Robert Raine and on behalf of the Council;


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

1. be reprimanded;
2. shall pay a discipline penalty to the Council in the amount of \$2,500.00 within ninety (90) days of the date of this Order;
3. shall 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; and
4. at his own expense, shall 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 in the time period as directed by the Council.

If William Robert Raine 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 17th day of January, 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

IN THE MATTER OF
WILLIAM ROBERT RAINE
(154835)

AGREED STATEMENT OF FACTS,
PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

The following agreement has been reached between William Robert Raine ("Mr. Raine") and the Real Estate Council of British Columbia (the "Council").

- A. Mr. Raine hereby consents to an Order to be made pursuant to sections 41 and 43 of the *Real Estate Services Act* that he be reprimanded.
- B. Mr. Raine agrees to pay a discipline penalty to the Council the amount of \$2,500.00 within ninety (90) days of the date of the Order herein.
- C. Mr. Raine agrees to pay enforcement expenses of this Consent Order to the Council in the amount of \$1,500.00 within sixty (60) days from the date of the Order herein.
- D. Mr. Raine, 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 in the time period as directed by the Council.
- E. Mr. Raine further consents to an Order that if he fails to comply with any of the terms of the Order set out above, a Discipline Hearing Committee may suspend or cancel his licence without further notice to him pursuant to section 43(3) and 43(4) of the *Real Estate Services Act*.
- F. As a basis for this Order, Mr. Raine acknowledges and agrees that the facts set forth herein are correct:
 - 1. Mr. Raine was at all relevant times licensed as a trading representative with Horizon Realty Ltd.
 - 2. Mr. Raine's licensing history is as follows:

<u>Start Date</u>	<u>End Date</u>	<u>Licensing History</u>	<u>Licence Level</u>	<u>Licence Category</u>
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AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

2008/05/28	Present	Horizon Realty Ltd. (X029008)	Representative	Trading
2008/05/21	2008/05/28	Horizon Realty Ltd. (X021319)	Representative	Trading

3. This matter relates to the conduct of Mr. Raine while acting as a representative for the seller of a property located at XXXX Margaret Road, Kelowna (the "Property").
4. On March 29, 2015, the seller of the Property entered into a Contract of Purchase and Sale with BH and VH (the "Buyers"). The Buyers were represented by C.K.
5. A clause in the contract stated that "the Buyers are satisfied with the area of the property as viewed by the Buyers and acknowledge that the dimensions and any room measurements, as advertised or provided, are approximate only."
6. The MLS® listing for the Property represented that the total square footage of the Property was 1375 square feet. Further, page two of the MLS® listing stated "Information deemed reliable but cannot be guaranteed".
7. On April 29, 2015, the Buyers completed the purchase of the Property.
8. On or about May 24, 2015, the Buyers were advised by their insurance company that the Property was only approximately 1,000 square feet, not 1,375 square feet as represented on the listing. Having been advised of this, C.K. measured the Property on May 24, 2015 and determined that the Property was indeed 1,032 square feet.
9. Mr. Raine stated that the perimeter which he had on file for the Property was 22x47, which yields a square footage of 1,034 square feet. C.K. was unsure how this error occurred but surmised that when the Property was listed on the MLS®, the perimeter was entered in error as 22x67 which, less the staircase which is approximately 99 square feet, would equal 1,375 square feet.
10. Mr. Raine has no prior discipline history with the Council.

G. Proposed Acceptance of Findings and Waiver

1. Based on the Agreed Statement of Facts as outlined herein, and without making any admissions of liability, William Robert Raine is prepared to accept the following findings if made against him by the Council's Consent Order Review Committee:
 - (a) Mr. Raine committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* while acting as a representative for the seller in the sale of the Property, in that:
 - i. contrary to sections 3-4 of the Council Rules, he failed to act with reasonable care and skill, in that he failed to determine the correct square footage of the Property; and

AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER


- ii. contrary to section 4-7 of the Council Rules, he published real estate advertising for the Property that he knew or reasonably ought to have known contained a misrepresentation, in that the MLS[®] listing he prepared for the Property contained an erroneous description of the Property's square footage.
2. Mr. Raine hereby waives his right to appeal pursuant to section 54 of the *Real Estate Services Act*.
3. Mr. Raine acknowledges that he has a right to seek independent legal advice before signing this Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver.
4. Mr. Raine 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. Raine acknowledges and is aware that the Superintendent of Real Estate has the right, pursuant to section 54 of the *Real Estate Services Act*, 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 F only (Agreed Statement
of Facts)**

Dated 12 day of January, 2016
2017



William Robert Raine

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

Dated 4 day of JANUARY, 2016/2017