

IN THE MATTER OF THE *REAL ESTATE SERVICES ACT*

S.B.C. 2004, c. 42

AND

IN THE MATTER OF

SHEILA ELIZABETH CAMPBELL FRANCIS

(004476)

AND

MICHELLE DENISE HAWTHORNE

(121255)

CONSENT ORDER

RESPONDENTS:

Sheila Elizabeth Campbell Francis,
Representative, 541012 British
Columbia Ltd. dba RE/MAX Sabre
Realty Group

Michelle Denise Hawthorne,
Representative, 541012 British
Columbia Ltd. dba RE/MAX Sabre
Realty Group

DATE OF REVIEW MEETING:

December 8, 2016

DATE OF CONSENT ORDER:

December 8, 2016

CONSENT ORDER REVIEW COMMITTEE:

R. Holmes, Chair
S. Heath
G. Martin
M. Leslie
K. Khoo

ALSO PRESENT:

G. Thiele, Director, Legal Services
J. Gossen, Legal Counsel for the Real
Estate Council

PROCEEDINGS:

On December 8, 2016 the Consent Order Review Committee (the "Committee") resolved to accept the Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver ("ASF") submitted by Sheila Elizabeth Campbell Francis and Michelle Denise Hawthorne.

WHEREAS the ASF, a copy of which is attached hereto, has been executed by Sheila Elizabeth Campbell Francis, Michelle Denise Hawthorne 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 Sheila Elizabeth Campbell Francis and Michelle Denise Hawthorne committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act*, orders that Sheila Elizabeth Campbell Francis and Michelle Denise Hawthorne:

1. each be reprimanded;
2. shall each pay a discipline penalty to the Council in the amount of \$1,000.00 within ninety (90) days of the date of this Order;
3. be jointly and severally liable to 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 Sheila Elizabeth Campbell Francis or Michelle Denise Hawthorne fail to comply with any term of this Order, the Council may suspend or cancel their licences without further notice to them, pursuant to sections 43(3) and 43(4) of the *Real Estate Services Act*.

Dated this 8th day of December, 2016 at the City of Vancouver, British Columbia.

ON BEHALF OF THE CONSENT ORDER REVIEW COMMITTEE



R. Holmes, 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

**SHEILA ELIZABETH CAMPBELL FRANCIS
(004476)**

AND

**MICHELLE DENISE HAWTHORNE
(121255)**

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

The following agreement has been reached between Sheila Elizabeth Campbell Francis ("Ms. Francis"), Michelle Denise Hawthorne ("Ms. Hawthorne"), and the Real Estate Council of British Columbia (the "Council").

- A. Ms. Francis hereby consents to an Order to be made pursuant to sections 41 and 43 of the *Real Estate Services Act* that she be reprimanded and pay a disciplinary penalty to the Council in the amount of \$1,000.00 within ninety (90) days from the date of the Order herein.
- B. Ms. Hawthorne hereby consents to an Order to be made pursuant to sections 41 and 43 of the *Real Estate Services Act* that she be reprimanded and pay a disciplinary penalty to the Council in the amount of \$1,000.00 within ninety (90) days from the date of the Order herein.
- C. Ms. Francis and Ms. Hawthorne hereby consent to an Order that they be jointly and severally liable to pay enforcement expenses to the Council in the total amount of \$1,500.00 within sixty (60) days from the date of the Order herein.
- D. Ms. Francis and Ms. Hawthorne further consent an Order that if either of them fails to comply with any of the terms of the Order set out above, a Discipline Hearing Committee may suspend or cancel their licences without further notice to them pursuant to section 43(3) and 43(4) of the *Real Estate Services Act*.

AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

E. As a basis for this Order, Ms. Francis and Ms. Hawthorne acknowledge and agree that the facts set forth herein are correct:

1. Ms. Francis was at all relevant times licensed as a representative with 541012 British Columbia Ltd. dba RE/MAX Sabre Realty,

2. Ms. Francis' licensing history is as follows:

Start Date	End Date	Brokerage	Licence Level	Licence Category
22/02/2013	Present	541012 British Columbia Ltd. dba RE/MAX Sabre Realty (X026052)	Representative	Trading, Rental
23/03/1990	22/02/2013	All Points Realty Group Ltd. dba RE/MAX All Points Realty (X018416)	Representative	Trading, Rental
12/03/1990	22/03/1990	*** Unlicensed ***		
31/03/1988	11/03/1990	All Points Realty Group Ltd. dba RE/MAX All Points Realty (X018416)	Representative	Trading, Rental
12/03/1986	31/03/1988	Sabre Realty Group Ltd. dba RE/MAX Sabre Realty Group (X002672)	Representative	Trading, Rental
24/11/1984	11/03/1986	*** Unlicensed ***		
23/04/1982	23/11/1984	Sabre Realty Group Ltd. dba RE/MAX Sabre Realty Group (X002672)	Representative	Trading, Rental
24/05/1978	22/04/1982	Coronation Realty Ltd. (X014987)	Representative	Trading, Rental
31/05/1977	24/05/1978	Wolstencroft Agencies Ltd. (X019871)	Representative	Trading, Rental

3. Ms. Hawthorne was at all relevant times licensed as a representative with 541012 British Columbia Ltd. dba RE/MAX Sabre Realty,

4. Ms. Hawthorne's licensing history is as follows:

Start Date	End Date	Brokerage	Licence Level	Licence Category
22/02/2013	Present	541012 British Columbia Ltd. dba RE/MAX Sabre Realty Group (X026052)	Representative	Trading
16/03/2001	22/02/2013	All Points Realty Group Ltd. dba RE/MAX All Points Realty (X018416)	Representative	Trading

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13/03/1998 16/03/2001 Coronation Real Estate Services Ltd. Representative Trading
(X026404)
29/01/1997 13/03/1998 Royal LePage Real Estate Services Representative Trading
Ltd.(Coqau) (X014120)
31/10/1995 29/01/1997 Royal LePage Real Estate Services Representative Trading
Ltd.(Bbyki) (X014123)

5. On July 3, 2015, M. Z. and A. Z., buyers of a property at 1XXX Walnut Crescent (the "Property") in Coquitlam, filed a complaint against Ms. Sheila Francis and Ms. Michelle Hawthorne, ("Licensees"), the seller's licensees with Re/Max Sabre Realty Group in Port Coquitlam, alleging that the Licensees misrepresented the property when they advertised the property as having a heated driveway, when the driveway was only plumbed for heating, and needed to be hooked up. Ultimately, it was determined that it would cost the buyers \$8,105.00 to address this issue.
6. On August 5, 2014, the buyers viewed the Property and were provided with a feature brochure by Ms. Hawthorne.
7. The MLS® Listing sheet was provided to the buyers by their own agent. Both the feature brochure and the MLS® Listing stated the property included "a heated garage and driveway".
8. On August 6, 2014, a Contract of Purchase and Sale was entered into, which included the following details:

Price:	\$1,070,000
Deposit:	\$50,000 within 24 hours of subject removal
Completion:	October 22, 2014
Possession:	October 25, 2014
Subject to:	Inspection, to be removed by August 12, 2014.
9. On August 12, 2014, a home inspection was carried out by [REDACTED] with the seller, buyer and the buyer's agent in attendance. The inspection report did not mention the driveway heating system.
10. On October 22, 2014, the transaction completed and the buyers moved into the property.
11. M. Z. stated that he first found out about the driveway heating system being plumbed in only, and not hooked up approximately two weeks before they were given the keys to the property. M. Z. stated that he met with the seller to go over a few things at the property to see how things operated. He had no idea that the heating system did not work. His home inspector didn't confirm its operation as it was the summer time when the inspection was carried out.

AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

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12. Ms. Francis and Ms. Hawthorne stated that the seller told them during the initial listing of the property on July 2, 2014 that the driveway was heated. The Licensees stated that the previous MLS® Listing of April 2, 2014 stated there was a heated garage and driveway.
13. The Licensees submitted that during the inspection, the seller pointed out the boiler room and the hookups for the driveway to the inspector, buyers and the buyers' licensee. Ms. Hawthorne also acknowledged that the MLS Listing ought to have stated that the driveway was "roughed-in" for heat.
14. The Licensees stated that following the home inspection, A. Z. contacted them on October 18, 2014 about the heated driveway and why it wasn't hooked up. The Licensees followed up with the seller and responded to A. Z.; informing him that antifreeze would need to be added to the plumbing line and then the line hooked up to the boiler.
15. The Licensees failed to apply reasonable care and skill when they published false and misleading advertising about details concerning the driveway heating system that was not hooked up or operational.

Previous Discipline

16. Neither Ms. Francis nor Ms. Hawthorne has any previous discipline with the Council.

F. Proposed Acceptance of Findings and Waiver

1. Based on the Agreed Statement of Facts as outlined herein, and without making any admissions of liability, Sheila Elizabeth Campbell Francis and Michelle Denise Hawthorne are prepared to accept the following findings if made against them by the Council's Consent Order Review Committee:
 - (a) Sheila Elizabeth Campbell Francis, committed professional misconduct within the meaning of section 35(1)(a) of RESA while acting as a representative for the seller in the sale of a property located at 1XXX Walnut Crescent, Coquitlam (the "Property"). In particular, contrary to sections 3-4 and 4-7 of the Council Rules, she failed to act with reasonable care and skill and she published real estate advertising for the Property that she ought to have known contained a false and/or misleading statement or misrepresentation when the MLS® listing she prepared for the Property included a statement that the Property had a heated driveway and she knew or ought to have known that the piping was only roughed in and still required to be connected to a hot water system.

AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

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- (b) Michelle Denise Hawthorne, committed professional misconduct within the meaning of section 35(1)(a) of RESA while acting as a representative for the seller in the sale of a property located at 1XXX Walnut Crescent, Coquitlam (the "Property"). In particular, contrary to sections 3-4 and 4-7 of the Council Rules, she failed to act with reasonable care and skill and she published real estate advertising for the Property that she ought to have known contained a false and/or misleading statement or misrepresentation when the MLS® listing she prepared for the Property included a statement that the Property had a heated driveway and she knew or ought to have known that the piping was only roughed in and still required to be connected to a hot water system.
2. Ms. Francis and Ms. Hawthorne hereby waive their right to appeal pursuant to section 54 of the *Real Estate Services Act*.
 3. Ms. Francis and Ms. Hawthorne acknowledge that they have the right to seek independent legal advice before signing this Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver.
 4. Ms. Francis and Ms. Hawthorne acknowledge and are 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. Francis and Ms. Hawthorne acknowledge and are 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.

AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

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.



Jessica S. Gossen, Legal Counsel

Real Estate Council of British Columbia

As to Part E only (Agreed Statement of Facts)

Dated 15 day of December, 2016



Shelia Elizabeth Campbell Francis

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

Dated 14 day of December, 2016



Michelle/Denise Hawthorne

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

Dated 14 day of DEC., 2016