

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

IN THE MATTER OF
KARLHEINZ WILLI NEFF
AND
KARL NEFF PERSONAL REAL ESTATE CORPORATION
(087947)

CONSENT ORDER

RESPONDENTS: Karlheinz Willi Neff, Managing
Broker, Century 21 Desert Hills
Realty (2010) Ltd.

Karl Neff Personal Real Estate
Corporation, Century 21 Desert Hills
Realty (2010) Ltd.

DATE OF REVIEW MEETING: March 10, 2016

DATE OF CONSENT ORDER: March 17, 2016

CONSENT ORDER REVIEW COMMITTEE: D. Fimrite
M. Leslie
S. Lynch
D. Peerless, Chair
C. Squires

ALSO PRESENT: R.O. Fawcett, Executive Officer
G. Thiele, Director, Legal Services
J. Gossen, Legal Counsel for the Real
Estate Council

PROCEEDINGS:

On March 10, 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 Karlheinz Willi Neff and Karl Neff Personal Real Estate Corporation.

WHEREAS the ASF, a copy of which is attached hereto, has been executed by Karlheinz Willi Neff, Karl Neff Personal Real Estate Corporation and on behalf of the Council;

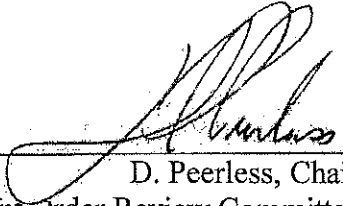
NOW THEREFORE, the Committee having made the findings proposed in the attached ASF, and in particular having found that Karlheinz Willi Neff and Karl Neff Personal Real Estate Corporation committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act*, orders that:

1. Karlheinz Willi Neff and Karl Neff Personal Real Estate Corporation each be reprimanded;
2. Karlheinz Willi Neff, 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;
3. Karlheinz Willi Neff and Karl Neff Personal Real Estate Corporation are jointly and severally liable to pay a discipline penalty to the Council in the amount of \$5,000.00 within ninety (90) days of the date of this Order;
4. Karlheinz Willi Neff and Karl Neff Personal Real Estate Corporation are jointly and severally liable to pay enforcement expenses of this Consent Order to the Council in the amount of \$1,250.00 within sixty (60) days from the date of this Order.

If Karlheinz Willi Neff or Karl Neff Personal Real Estate Corporation 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 17th day of March, 2016 at the City of Vancouver, British Columbia.

ON BEHALF OF THE CONSENT ORDER REVIEW COMMITTEE



D. Peerless, 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

**KARLHEINZ (KARL) WILLI NEFF
(087947)**

AND

**KARL NEFF PERSONAL REAL ESTATE CORPORATION
(087947PC)**

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

The following agreement has been reached between Karlheinz (Karl) Willi Neff ("Mr. Neff") and Karl Neff Personal Real Estate Corporation and the Real Estate Council of British Columbia (the "Council").

- A. Mr. Neff and Karl Neff Personal Real Estate Corporation hereby consents to an Order to be made pursuant to sections 41 and 43 of the *Real Estate Services Act* that he be reprimanded, and that they agree to be jointly and severally liable to pay a discipline penalty to the Council in the amount of \$5,000.00 within ninety (90) days of the date of the Order herein. Further, they agree to be jointly and severally liable to pay enforcement expenses of this Consent Order to the Council in the amount of \$1,250.00 within sixty (60) days from the date of the Order herein. Mr. Neff further agrees to 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 as directed by the Council. Further, Mr. Neff and Karl Neff Personal Real Estate Corporation consents to an Order that if they fail 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*.
- B. As a basis for this Order, Mr. Neff and Karl Neff Personal Real Estate Corporation acknowledges and agrees that the facts set forth herein are correct:
1. Mr. Neff was at all relevant times licensed as a Managing Broker with Century 21 Desert Hills Realty (2010) Ltd.
 2. Mr. Neff'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

2010/10/01	Present	Century 21 Desert Hills Realty (2010) Ltd. (X029807)	Managing Broker	Trading, Rental, Strata
2009/08/05	2010/10/01	Century 21 Riverside Realty 2008 Inc. (X029019)	Managing Broker	Trading, Rental, Strata
2006/11/01	2009/08/05	Royal Pro Real Estate Network Inc. (X024570)	Associate Broker	Trading, Rental
1999/02/25	2006/11/01	RLK Realty Ltd. (KelHar) (X026693)	Managing Broker	Trading, Rental
1998/01/20	1999/02/25	Royal LePage Real Estate Services Ltd. (Kelha) (X026346)	Managing Broker	Trading, Rental
1995/11/22	1998/01/20	Carruthers & Meikle (1987) Ltd. (Kelha) (X017832)	Managing Broker	Trading, Rental
1995/07/17	1995/11/22	Carruthers & Meikle (1987) Ltd. (Wstbk) (X021178)	Associate Broker	Trading, Rental
1990/06/01	1995/07/17	Carruthers & Meikle (1987) Ltd. (Wstbk) (X021178)	Representative	Trading, Rental

Secondary License

<u>Start Date</u>	<u>End Date</u>	<u>Licensing History</u>	<u>Licence Level</u>	<u>Licence Category</u>
2009/12/18	2010/07/14	Century 21 Riverside Realty 2008 Inc. (SnPks) (X029023)	Managing Broker	Trading, Rental

- Mr. Neff became licensed as Karl Neff Personal Real Estate Corporation on June 1, 2014 after the events relating to this matter arose.

The First Offer

- On August 19, 2013, Council received a complaint from C.F. and T.F. (the "1st buyers) prospective buyers of a manufactured home.
- On or about May 9, 2013 Mr. Neff listed a manufactured home for sale located at 4XXX Gerella Road, Pritchard, BC.

AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

6. On or about July 22, 2013 the 1st buyers made an offer to purchase the Subject Property by way of a Contract of Purchase and Sale. Mr. Neff did not act for the buyers.
7. The Contract of Purchase and Sale Addendum contained the following clause:

"Subject to the Sellers providing evidence satisfactory to the Buyers that the manufactured home meets Electrical Approval standards as required by section 21 of the Electrical Safety Regulation of the Safety Standards Act on or before August 2, 2013."
8. Mr. Neff was asked to provide particulars with respect to CSA approval or the Silver Label as required by the Electrical Safety Standards. The buyers tried to verify the CSA number provided on the listing and were unable to do so. Their offer was subsequently not accepted by the seller and the buyers were advised of this on August 19, 2013.

The Second Offer

9. On or about August 20, 2013, M.R. and D.R. entered into a Contract of Purchase and Sale with Mr. Neff acting as the dual agent for the buyers and the seller.
10. The first offer was refused but a second offer made by the buyers was accepted by the seller and subjects were removed by September 1, 2013.
11. On September 23, 2013 the seller retained an electrical company to apply for a Silver Label for the manufactured home.
12. On October 1, 2013 the B.C. Safety Authority issued a Silver Label for the manufactured home. The Contract of Purchase and Sale completed on October 2, 2013.
13. Mr. Neff responded to the Council inquiries as to what steps he took to ascertain if there was a valid CSA or Silver Label sticker on the subject property, by stating that he obtained the information from the seller and that information was included in the listing information.
14. Mr. Neff indicated that the listing for the property included a CSA number of "940430" as part of the legal description for the subject property.
15. On October 20, 2013, the Council contacted the B.C. Safety Authority to verify the CSA number provided by Mr. Neff which had been included on the listing information. On November 19, 2013 the Council received the requested information from the B.C. Safety Authority which indicated that CSA number in the listing information and in the 1st buyers' offer for the property was not recognized by the B.C. Safety Authority.

AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

16. Mr. Neff advised Council that the seller had provided the number from their insurance papers, and that he believed that the property also had Silver Label # 225034 issued by the B.C. Safety Authority.
17. On December 11, 2013 Mr. Neff advised the Council that an A/C unit was installed in the manufactured home and the Silver Label was added at that time in addition to the CSA number provided earlier. Mr. Neff at this time provided a copy of the MLS Listing Contact and the Contract of Purchase and Sale for the second, and subsequently accepted offer.
18. The Contract of Purchase and Sale for the second offer did not contain a clause about a CSA number or Silver Label sticker.
19. On January 29, 2014 the Council received a copy of the Electrical Certificate of Inspection for the property dated for October 1, 2013.
20. On January 29, 2014 the subsequent buyer and owner of the property advised Council that Mr. Neff told him that the manufactured home would require an electrical inspection and certification before closing. Mr. Neff also told the buyer that the cost of the inspection and certification would be the responsibility of the seller.
21. Mr. Neff believed that the manufactured home had a valid CSA number when he listed the property although he subsequently discovered that it did not. He ensured that prior to closing the transaction closing there was a valid CSA sticker and Silver Label as required by the B.C. Safety Authority.
22. Mr. Neff has had no previous discipline with the Council.

C. Proposed Acceptance of Findings and Waiver

1. Based on the Agreed Statement of Facts as outlined herein, and without making any admissions of liability, Karlheinz Willi Neff and Karl Neff Personal Real Estate Corporation are prepared to accept the following findings if made against them by the Council's Consent Order Review Committee, in that they:
 - (a) failed to act in the best interest of his clients, the prospective purchasers of the manufactured home property located at 48XX Gerella Road, Pritchard, BC, when he failed to disclose that the property did not have a CSA approval sticker or equivalent from the BC Safety Authority, contrary to section 3-3(a) of the Council Rules;
 - (b) failed to disclose a material latent defect in writing, separate from an agreement giving effect to a trade in real estate, as required under section 5-8(1)(a) of the Council Rules, that the subject property did not have a CSA approval sticker or equivalent from the BC Safety Authority, contrary to section 5-13(2) of the Council Rules.


AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

- (c). made a misleading statement to the Council within the meaning of section 35(1)(g) of RESA when he advised the Council that the manufactured home at 48XX Gerella Road, Prichard, B.C. had a CSA approval sticker when he listed the property when he learned after listing that CSA number provided by the seller was not a valid CSA number and that the CSA sticker was not applied for and obtained until after the subject sale in which he acted as a dual agent.
- 2. Mr. Neff became licensed as Karl Neff Personal Real Estate Corporation hereby waives their right to appeal pursuant to section 54 of the *Real Estate Services Act*.
- 3. Mr. Neff and Karl Neff Personal Real Estate Corporation acknowledges that they have a right to seek independent legal advice before signing this Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver.
- 4. Mr. Neff and Karl Neff Personal Real Estate Corporation acknowledges 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. Mr. Neff and Karl Neff Personal Real Estate Corporation acknowledges 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.
- 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 B only (Agreed Statement of Facts)

Dated 22 day of Feb, 2016



Karlheinz Willi Neff on his behalf and on behalf of Karl Neff Personal Real Estate Corporation

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

Dated 11 day of February, 2016