

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

IN THE MATTER OF
DAVID JOHN DRENNAN
(136038)

CONSENT ORDER

RESPONDENT: David John Drennan, Representative,
Timothy Leigh Evans dba B.C. Realty
Match

DATE OF REVIEW MEETING: March 10, 2016

DATE OF CONSENT ORDER: April 6, 2016

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

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

PROCEEDINGS:

On March 10, 2016, an Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver ("ASF") submitted by David John Drennan was considered by the Consent Order Review Committee (the "Committee") and rejected. On March 31, 2016, a revised ASF acceptable to the Committee was submitted by Mr. Drennan.

WHEREAS the ASF, a copy of which is attached hereto, has been executed by David John Drennan and on behalf of the Council;

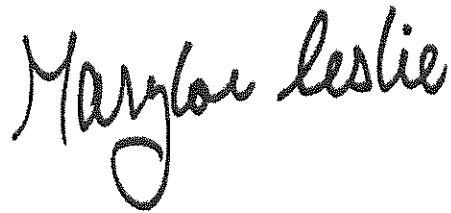
NOW THEREFORE, the Committee having made the findings proposed in the attached ASF, and in particular having found that David John Drennan committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act*, orders that:

1. Mr. Drennan's licence be suspended for fourteen (14) days;
2. A condition be placed on his licence that his managing broker shall review and approve in advance all of Mr. Drennan's advertising for a six (6) month period following the date of this Order; and
3. Mr. Drennan 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 this Order.

If David John Drennan 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 6th day of April, 2016 at the City of Vancouver, British Columbia.

ON BEHALF OF THE CONSENT ORDER REVIEW COMMITTEE

A handwritten signature in black ink that reads "Margot Leslie". The signature is written in a cursive, flowing style.

M. Leslie, Chair
Consent Order Review Committee

Atch.

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

IN THE MATTER OF

DAVID JOHN DRENNAN
(136038)

AGREED STATEMENT OF FACTS,
PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

The following agreement has been reached between David John Drennan ("Mr. Drennan") and the Real Estate Council of British Columbia (the "Council").

A. Mr. Drennan hereby consents to an Order pursuant to sections 41 and 43 of the *Real Estate Services Act* that:

1. his licence be suspended for fourteen (14) days commencing on a date determined by the Council;
2. a condition be placed on his licence that his managing broker shall review and approve in advance all of Mr. Drennan's advertising for a six (6) month period following the date of this Order; and
3. he 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 this Order.

Mr. Drennan 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 subsections 43(3) and 43(4) of the *Real Estate Services Act*.

B. As a basis for this Order, Mr. Drennan acknowledges and agrees that the facts set forth herein are correct:

1. Mr. Drennan's licensing history is as follows:

Brokerage	Licence Level	Licence Category	Start Date	End Date
Timothy Leigh Evans (004016)	Representative	Trading	10/5/2009	Present
*** Unlicensed ***			9/10/2009	10/4/2009

AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

Internet Realty Ltd. dba Prudential Kelowna Properties (X023801) *** Unlicensed ***	Representative	Trading	7/9/2009	9/9/2009
Sundance Investments Ltd. dba Sundance Realty Group (X028811) *** Unlicensed ***	Representative	Trading	7/3/2009 11/19/2007	7/8/2009 7/2/2009
Kamloops Platinum Realty Inc. (X028134)	Representative	Trading	10/23/2007 9/10/2007	11/18/2007 10/22/2007
Mark Gidden & Associates Signature Realty Inc. (X028833)	Representative	Trading	12/1/2006	9/10/2007
Norwich Real Estate Services Inc, dba RE/MAX Kelowna (X017071)	Representative	Trading	11/14/2003	12/1/2006
Horizon Realty Ltd. dba Coldwell Banker Horizon Realty (X021319)	Representative	Trading	10/3/2001	11/14/2003

2. On or about September 9, 2015, Mr. Drennan posted an advertisement on the website "Castanet.net" (the "Advertisement") which read as follows:

FORECLOSURE – SEMI LAKESHORE

\$540,000.00

1.3 ACRE, Fabulous 180 degree Lake views just a short walk to the boat launch, beautiful Beach. Shops and restaurants. Built in 2014. SIMILAR TO.

...

For Free DAILY updates of all Bank Foreclosures and other Distress Sale Homes that may represent below market value.

David Drennan, Realty Match. ...

Bedrooms: 4
Bathrooms: 3
Sq. Ft.: 2250.00
...

3. The description of the property featured in the Advertisement closely resembled an existing MLS® listing for a foreclosure property in Peachland, B.C. (the "Peachland Property").
4. The MLS® listing for the Peachland Property read as follows:

AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

FABULOUS LAKE VIEW

\$539,000.00

Fabulous 180 degree Lake and Mountain Views just a short walk to the boat launch, Dog Beach and beautiful Beach Avenue shops and restaurants in Peachland. Built in 2014 and ready for move in.

Bedrooms: 4

Bathrooms: 3

Sq. Ft.: 2285.00

...

5. Mr. Drennan did not have the permission of the brokerage with the listing for the Peachland Property to use or borrow from the wording in the MLS® listing for that property.
 6. Mr. Drennan knew or ought to have known that the price and description of the property featured in the Advertisement were so similar to the price and description of the Peachland Property that people were likely to be misled into believing that the property described in the Advertisement was the Peachland Property.
 7. Furthermore, the photographs displayed in the Advertisement posted by Mr. Drennan did not correspond to a real property. The Advertisement included two photographs: one showing the exterior of a house, and one showing a view from a deck. The former was a stock photograph taken from Google. The latter was a photograph taken from an existing MLS® listing for another property (not the Peachland Property), and was used without the consent of the brokerage responsible for that listing.
 8. Mr. Drennan knew or ought to have known that persons viewing the Advertisement were likely to be misled into believing that the property featured in the Advertisement was a real property available for purchase. While the description in the Advertisement contained the words "SIMILAR TO", the Advertisement did not make it clear that the property it featured was non-existent.
 9. According to Mr. Drennan, it was not his intention to mislead persons viewing the Advertisement. He believed that because the Advertisement included the words "SIMILAR TO", it was not misleading for him to feature a non-existent property in the Advertisement. His intention was not to advertise the property featured in the Advertisement, but rather to advise members of the public that they could contact him for a list of bank foreclosure properties "similar to" the property featured in the Advertisement.
-

Disciplinary History

10. On August 10, 2010, Mr. Drennan entered into a Consent Order with the Council in which he admitted that he committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that:

AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

- a) Contrary to section 4-7 of the Council Rules, he advertised to members of the public that the property was being "Sold Sunday Night to the Highest Offer" which he knew or ought to have known was untrue or misleading as the seller had a reserve price on the said property; and
- b) Contrary to section 3-4 of the Council Rules, he failed to disclose to members of the public in the MLS® listing public remarks that the seller had a reserve price on the said property.

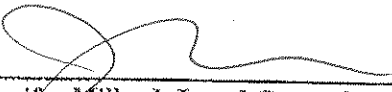
11. Mr. Drennan received a reprimand and was ordered to pay a disciplinary penalty of \$1,500 and enforcement expenses of \$1,000 to the Council. He was also ordered to complete the Remedial Education Course as provided by the Sauder School of Business at the University of British Columbia in the time period directed by 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, Mr. Drennan is prepared to accept the following findings if made against him by the Council's Consent Order Review Committee:
 - (a) David John Drennan committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that, contrary to sections 3-4 and 4-7 of the Council Rules, he failed to act honestly and with reasonable care and skill, and/or published real estate advertising that he knew or ought to have known contained a false or misleading statement or misrepresentation, by:
 - (i) publishing an advertisement on "Castanet.net" for foreclosure properties "similar to" a listing for a non-existent property; and
 - (ii) publishing a mock listing on "Castanet.net" that featured a price and description similar to an existing MLS® listing.
2. Mr. Drennan hereby waives his right to appeal pursuant to section 54 of the *Real Estate Services Act*.
3. Mr. Drennan 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. Drennan 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.


AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

5. Mr. Drennan 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 civil proceedings.


Jennifer Millerd, Legal Counsel
Real Estate Council of British Columbia

As to Part B only (Agreed Statement of Facts)

Dated 4th day of April, 2016


David John Drennan

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

Dated 31 day of MARCH, 2016