

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

**IN THE MATTER OF
JASON RICHARD STOESZ**

CONSENT ORDER

RESPONDENT: Jason Richard Stoesz, Representative,
Norwich Real Estate Services dba
RE/MAX of Kelowna

DATE OF REVIEW MEETING: December 7, 2015

DATE OF CONSENT ORDER: December 29, 2015

CONSENT ORDER REVIEW COMMITTEE: C. Lindberg
S. Lynch, Chair
S. McGougan
C. Squires

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

PROCEEDINGS:

On December 7, 2015 the Consent Order Review Committee (the "Committee") resolved to accept the Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver ("ASF") submitted by Jason Richard Stoesz.

WHEREAS the ASF, a copy of which is attached hereto, has been executed by Jason Richard Stoesz 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 Jason Richard Stoesz committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act*, orders that Jason Richard Stoesz:

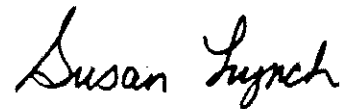
1. be reprimanded;

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2. 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. at his own expense, register for and successfully complete the Real Estate Trading Services Remedial Education Course in the time period as directed by Council; and
 4. 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 Jason Richard Stoesz 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 29th day of December, 2015 at the City of Vancouver, British Columbia.

ON BEHALF OF THE CONSENT ORDER REVIEW COMMITTEE



S. Lynch, 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

JASON RICHARD STOESZ
(146650)

AGREED STATEMENT OF FACTS,
PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

The following agreement has been reached between Jason Richard Stoesz ("Mr. Stoesz") and the Real Estate Council of British Columbia (the "Council").

- A. Mr. Stoesz hereby consents to an Order to be made pursuant to sections 41 and 43 of the *Real Estate Services Act* that he be reprimanded, pay a discipline penalty to the Council in the amount of \$2,500.00 within ninety (90) days from the date of the Order herein. Further, that he, 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 within the time period as directed by the Council. Further, he 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. Mr. Stoesz 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*.
- B. As a basis for this Order, Mr. Stoesz acknowledges and agrees that the facts set forth herein are correct:
1. Mr. Stoesz was at all relevant times licensed as a representative with Norwich Real Estate Services Inc. dba RE/MAX Kelowna.
 2. Mr. Stoesz's licensing history is as follows:

August 23, 2005 to Present	Norwich Real Estate Services Representative, Trading Inc. dba RE/MAX Kelowna (X017071)
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 3. On or about September 6, 2013 a unit at the Big White Ski Resort was listed for sale by another licensee in Mr. Stoesz's office at RE/MAX Kelowna.
 4. The list price was \$250,000 and the listing was silent as to whether GST or HST was payable. The property was part of the rental pool for Big White.

AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER


5. The Complainant, LC, made arrangements with Mr. Stoesz to view the subject property.
6. Mr. Stoesz stated that he had never sold a property at Big White before.
7. Mr. Stoesz stated that he was aware that the property was a recreational property and used by the sellers for commercial/rental purposes.
8. Mr. Stoesz stated that LC was an experienced buyer of recreational properties and had dealt with GST issues before.
9. Mr. Stoesz stated that after reviewing the property with LC he wrote an offer to purchase the said property on or about October 28, 2013. The terms of the offer included:

Price - \$249,000
Deposit \$10,000 within 24 hours of subject removal
Completion November 14, 2013
10. One of the subject clauses was for the buyer to receive and approve the rental pool contract to be removed by November 5, 2013. There was no mention whether GST was payable on the said contract.
11. On November 5, 2013 subject were removed and the transaction proceeded to completion.
12. Mr. Stoesz stated that one of the conditions was that the buyer was to honour the rental reservations that were already books and then it was LC's intention to get out of the rental pool.
13. Mr. Stoesz stated that on or about November 13, 2013, which was the day before closing LC was contacted by his lawyer's office looking for the GST on the sale and was asking LC how he was planning to pay the GST.
14. Mr. Stoesz stated that LC completed the transaction on November 15, 2013 "under protest" on the advice of his lawyer and had to pay GST in the amount of \$12,450.00.
15. Mr. Stoesz stated that he should have included a clause in the contract for LC to obtain independent professional advice regarding GST rather than assuming LC had expertise in this area.
16. In March 2015 LC sent a letter to the Council withdrawing his complaint which was originally against the listing representative.
17. Mr. Stoesz has no discipline record with the Council.

C. Proposed Acceptance of Findings and Waiver

AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

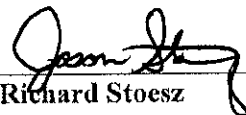
1. Based on the Agreed Statement of Facts as outlined herein, and without making any admissions of liability, Jason Richard Stoesz is prepared to accept the following findings if made against him by the Council's Consent Order Review Committee:
 - (a) Jason Richard Stoesz committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that he contravened sections 3-3(a) and 3-3(d) of the Council Rules by failing to act in the best interests of the buyer and acted out of his area of expertise when he neglected to include a clause in the Contract of Purchase and Sale for the buyer to receive and approve information or obtain independent professional advice regarding whether GST was applicable in the purchase.
2. Mr. Stoesz hereby waives his right to appeal pursuant to section 54 of the *Real Estate Services Act*.
3. Mr. Stoesz 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. Stoesz 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. Stoesz 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.




David P. Berger, Senior Legal Counsel
Real Estate Council of British Columbia

As to Part B only (Agreed Statement
of Facts)

Dated 26 day of November, 2015



Jason Richard Stoesz

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

Dated 26 day of November, 2015