

THE REAL ESTATE COUNCIL OF BRITISH COLUMBIA
IN THE MATTER OF THE *REAL ESTATE SERVICES ACT*
S.B.C. 2004, c. 42 as amended

AND

IN THE MATTER OF

CINDY MARIE MOORE
(158790)

AND

COURTNEY ALEXANDER SMITH
(142128)

CONSENT ORDER

RESPONDENTS:

Ms. Moore and Mr. Smith ,
representative, RE/MAX Williams Lake
Realty, while licensed with Cariboo Team
Realty Group Ltd. dba Sutton Cariboo
Realty

Courtney Alexander Smith, managing
broker, while licensed with Cariboo Team
Realty Group Ltd. dba Sutton Cariboo
Realty

DATE OF REVIEW MEETING:

October 10, 2018

DATE OF CONSENT ORDER:

October 10, 2018

CONSENT ORDER REVIEW COMMITTEE:

J. Daly
E. Mignosa
S. Sidhu

ALSO PRESENT:

E. Seeley, Executive Officer
D. Avren, Director, Legal Services
M. Shirreff, Legal Counsel for the Real
Estate Council

PROCEEDINGS:

On October 10, 2018, the Consent Order Review Committee (the "Committee") resolved to accept the Consent Order Proposal ("COP") submitted by Ms. Moore and Mr. Smith and Courtney Alexander Smith.

WHEREAS the COP, a copy of which is attached hereto, has been executed by Ms. Moore and Mr. Smith and Courtney Alexander Smith.

NOW THEREFORE, the Committee having made the findings proposed in the attached COP, and in particular having found that Ms. Moore and Mr. Smith and Courtney Alexander Smith committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act*, orders that:

1. Ms. Moore and Mr. Smith and Courtney Alexander Smith each be reprimanded;
2. Cindy Marie Moore and Courtney Alexander Smith each pay a discipline penalty to the Council in the amount of \$1,000, within ninety (90) days of the date of this Consent Order; and
3. Cindy Marie Moore and Courtney Alexander Smith be jointly and severally liable to pay enforcement expenses in the amount of \$1,500 within sixty (60) days from the date of this Consent Order.

If Ms. Moore and Mr. Smith or Courtney Alexander Smith 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 10th day of October, 2018, at the City of Vancouver, British Columbia.

ON BEHALF OF THE CONSENT ORDER REVIEW COMMITTEE

"J. Daly"

John Daly
Consent Order Review Committee

Atch.

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

AND

IN THE MATTER OF

CINDY MARIE MOORE (158790) and
COURTNEY ALEXANDER SMITH (142128)

CONSENT ORDER PROPOSAL BY CINDY MARIE MOORE and COURTNEY
ALEXANDER SMITH

BACKGROUND AND FACTS

This Consent Order Proposal (the “Proposal”) is made by Cindy Marie Moore (“Ms. Moore”) and Courtney Alexander Smith (“Mr. Smith”) to the Consent Order Review Committee (“CORC”) of the Real Estate Council of British Columbia (the “Council”) pursuant to section 41 of the *Real Estate Services Act* (“RESA”).

For the purposes of the Proposal, Ms. Moore, Mr. Smith and the Council have agreed upon the following facts:

1. Ms. Moore has been licensed as a representative for trading services since 2010. During the material period, Ms. Moore was licensed with Cariboo Team Realty Group Ltd. (the “Brokerage”). Ms. Moore had been licensed with the Brokerage since February 2013.
2. Mr. Smith was licensed during the material period for trading and as a managing broker with the Brokerage. Mr. Smith’s licensing history is as follows:

Start Date	End Date	Brokerage	License Level	License Category
2012/03/15	Present	Cariboo Team Realty Group Ltd (X029056)	Managing Broker	Trading
2008/11/08	2012/03/15	Cariboo Team Realty Group Ltd. (X029056)	Representative	Trading
2008/11/06	2008/11/06	***Unlicensed***	NA	NA
2005/06/07	2008/11/05	Williams Lake Realty (1989) Ltd. (XO20790)	Representative	Trading

3. On April 14, 2016, the Licensing Department of the Council (the “Licensing Department”) sent a reminder to the Brokerage that Ms. Moore’s licence was scheduled to expire on April 29, 2016, and that an application for renewal needed to be submitted.

4. Later that same day, on April 14, 2016, the Licensing Department received, by email, an Application for Licence Renewal for Ms. Moore (the “Application”). The Application was dated March 15, 2016 and was signed by Ms. Moore as the applicant, as well as Mr. Smith as the managing broker for the Brokerage.
5. Pursuant to section 2-8.1(2) of the Rules made under the RESA, in order to renew a licence, a licensee must:
 - a. have completed the applicable continuing education courses respecting the real estate services and the level of licence in relation to which the application is made, and
 - b. have passed the examinations corresponding to those courses **prior to the date the license is renewed** [emphasis added].
6. To satisfy the Council’s Relicensing Education Program (“REP”) requirements, licensees are required to complete a Legal Update course during each 24-month period prior to the licence expiry date.
7. The Application included a section entitled “**Part C – Consents and Certification**”, which stated as follows:

Confirmation of completion of REP requirements

I confirm that I have completed the Council’s Relicensing Education Program (REP) requirements pursuant to sections 2-8.1 of the Council Rules. I have attached evidence of my completion of the Legal Update REP course related to a real estate service I provide, in a format approved by the Council, pursuant to section 4-6 of the Bylaws.

Certification

I certify that I am the applicant for licensing and the information and statements contained in this application and any attachments are true and complete.

8. In signing the Application (Part C) on March 15, 2016, Ms. Moore confirmed and certified that she had completed the necessary REP requirements. In support of the Application, Ms. Moore submitted certification showing that she had completed the course on **April 14, 2014** (which was during her previous licensing cycle).
9. Mr. Smith also signed the Application (Part C) on March 15, 2016, confirmed his position as a managing broker of the Brokerage, and provided the following certification:

Certification of related brokerage

I, the managing broker, sole proprietor, director, officer or partner of the related brokerage, certify that I am satisfied from personal knowledge or from inquiries that the applicant is of good reputation and is suitable for licensing, and hereby approve this application.

10. On April 19, 2016, Ms. Moore's licence expired.
11. On April 29, 2016, the Licensing Department advised Mr. Smith that Ms. Moore had not satisfied the REP requirements necessary for licence renewal, as she had not completed a Legal Update course between April 20, 2014 and April 19, 2016.
12. Ms. Moore and Mr. Smith acknowledge that Ms. Moore had not completed the REP requirements for licence renewal as of the date that the Application was submitted to the Council.
13. Ms. Moore completed the required REP course on May 24, 2016. A further application to renew her license was approved by the Council on May 26, 2016.
14. On September 26, 2016, Mr. Moore submitted a response statement in which she acknowledged her error and stated that she had mistakenly believed that the April 14, 2014 Legal Update course qualified for her re-application cycle. Ms. Moore described the issue as "a complete oversight" on her part and noted that, as soon as she became aware of the issue, she took steps to undertake the required REP course.
15. Ms. Moore also stated that her original application for renewal had been attempted to be sent to the Council on March 15, 2016, but for some reason the fax had not gone through. Ms. Moore stated that had her original application been sent in when she thought it had, that she would have had time to "pick up on" her mistake with respect to the REP requirements.
16. Mr. Smith submitted a response statement on September 30, 2016 in which he described the changes that he had made to his practice in reviewing license renewal forms and accepted responsibility for his role in the error:

..In view of this mistake made on both my part and the on the [sic] part of Ms. Moore – I no will [sic] longer rely on the realtor to provide me with their education history – I have the ability to, and will check to confirm that all mandatory courses have been completed and the correct number of PDP points have been acquired before the license renewal [sic] signed and delivered to your office. This was an oversight on my part and with my new policy in place I do not anticipate any further issues.
17. Neither Ms. Moore nor Mr. Smith has a prior discipline history with the Council.

PROPOSED FINDINGS OF MISCONDUCT

For the sole purposes of the Proposal and based on the Facts outlined herein, Ms. Moore proposes the following findings of misconduct be made by the CORC:

1. Ms. Moore committed professional misconduct within the meaning of section 35(1) of the RESA:

- a. when, in or around March 15, 2016, she submitted an Application for License Renewal in which she made a false or misleading statement when she certified that she had completed the Relicensing Education Program requirements necessary for her license renewal when she knew or ought to have known that she had not completed the necessary program, contrary to section 35(1)(g) of the RESA; and
- b. by failing to complete the course requirements of the Relicensing Education Program prior to the expiration of her license on April 19, 2016 and prior to submitting her application for licence renewal, contrary to section 2-8.1 of the Rules.

For the sole purposes of the Proposal and based on the Facts outlined herein, Mr. Smith proposes the following findings of misconduct be made by the CORC:

1. Mr. Smith committed professional misconduct within the meaning of section 35(1) of the RESA when, in or around March 15, 2016, he:
 - a. allowed Ms. Moore to make a false or misleading statement in her application for licence renewal. In particular, by certifying on Ms. Moore's application that she had completed the Relicensing Education Program when he knew or ought to have known that Ms. Moore had not completed the course requirements; and
 - b. failed to ensure that Ms. Moore had completed the course requirements of the Relicensing Education Program in the two year period prior to her license expiry date, as required under section 2-8.1 of the Rules made under the RESA,

contrary to section 6(2) of the RESA and sections 3-1(1)(b) and 3-1(1)(c) of the Rules.

PROPOSED ORDERS

Based on the Facts herein and the Proposed Findings of Misconduct, Ms. Moore and Mr. Smith propose that the Notice of Discipline Hearing in this matter be resolved through the following Orders being made by the CORC, pursuant to section 43 of the RESA:

1. Both Ms. Moore and Mr. Smith each be reprimanded.
2. Ms. Moore and Mr. Smith each pay a discipline penalty to the Council in the amount of \$1,000.00, within ninety (90) days of the date of this Consent Order.
3. Ms. Moore and Mr. Smith be jointly and severally liable to pay enforcement expenses in the amount of \$1,500.00 within sixty (60) days from the date of this Consent Order.
4. If Ms. Moore and Mr. Smith fail to comply with any of the terms of this Order, a Discipline Committee may suspend or cancel Ms. Moore's or Mr. Smith's licence(s) without further notice to Ms. Moore and Mr. Smith.

ACKNOWLEDGEMENTS AND WAIVER OF APPEAL RIGHT

1. Ms. Moore and Mr. Smith both acknowledge and understand that the Council may refer or decline to refer the Proposal to the CORC. If the Proposal is referred to the CORC, it may be accepted or rejected by the CORC. If the Proposal is rejected by the CORC, the matter may be referred to a disciplinary hearing.
2. Ms. Moore and Mr. Smith both acknowledge that they have been urged and given the opportunity to seek and obtain independent legal advice with respect to the disciplinary process, the allegations contained in the Notice of Discipline Hearing, and the execution and submission of the Proposal to the CORC; and that they have obtained independent legal advice or have chosen not to do so; and that they are making the Proposal with full knowledge of the contents and the consequences if the Proposal is accepted.
3. Ms. Moore and Mr. Smith both acknowledge and are aware that the Council will publish the Proposal and the Consent Order or summaries thereof in its Report from Council newsletter, on the Council's website, on CanLII, a website for legal research, and in such other places and by such other means as the Council in its sole discretion deems appropriate.
4. Ms. Moore and Mr. Smith both acknowledge and are aware that the Superintendent of Real Estate has the right, pursuant to section 54 of the RESA, to appeal any decision of the Council, including any Consent Order made by the Council in relation to this matter.
5. Ms. Moore and Mr. Smith both hereby waive their right to appeal pursuant to section 54 of the RESA.

6. The Proposal and its contents are made by Ms. Moore and Mr. Smith for the sole purpose of resolving the Notice of Discipline Hearing in this matter and do not constitute an admission of civil liability. Pursuant to section 41(5) of the RESA, the Proposal and its contents may not be used without the consent of Ms. Moore and Mr. Smith in any civil proceeding with respect to the matter.

“C. M Moore”

CINDY MARIE MOORE

COURTNEY ALEXANDER SMITH

Dated 15, day of June, 2018

Dated _____, day of _____, 2018

Signature of Ms. Moore witnessed on the above date by

Signature of Mr. Smith witnessed on the above date by

“B. Goodman”

Witness Name (*Please Print*)

Witness Name (*Please Print*)

“B. Goodman”

Witness Signature

Witness Signature

6. The Proposal and its contents are made by Ms. Moore and Mr. Smith for the sole purpose of resolving the Notice of Discipline Hearing in this matter and do not constitute an admission of civil liability. Pursuant to section 41(5) of the RESA, the Proposal and its contents may not be used without the consent of Ms. Moore and Mr. Smith in any civil proceeding with respect to the matter.

“C. A. Smith”

CINDY MARIE MOORE

COURTNEY ALEXANDER SMITH

Dated____, **day of** _____, **2018**

Dated_ 11_, **day of** ___June ___, **2018**

Signature of Ms. Moore witnessed on the above date by

Signature of Mr. Smith witnessed on the above date by

“L. Colgate”

Witness Name (*Please Print*)

Witness Name (*Please Print*)

“L. Colgate”

Witness Signature

Witness Signature