



THE MANITOBA
SECURITIES
COMMISSION

THE REAL ESTATE BROKERS ACT)

Order No. 2728

Section 26 and 34(1))

June 28, 2017

**ORANGE PROPERTIES (MAN) LTD. o/a
ORANGE REAL ESTATE SERVICES and ROBERT KRAIGSLEY**

WHEREAS:

(A) On November 27, 2014, Staff of the Manitoba Securities Commission (the "Commission") issued a Notice of Hearing (the "Notice") giving notice of its intention to hold a hearing (the "Hearing") to consider, among other things, whether Orange Properties (Man) Ltd. operating as Orange Real Estate Services ("Orange Properties") and/or Robert Kraigsley ("Kraigsley") misappropriated, misapplied and/or failed to properly account for or to pay to the person entitled trust monies in violation of the Trust Account Regulation and section 26 of *The Real Estate Brokers Act* (the "Act");

(B) Orange Properties, Kraigsley and Staff of the Commission ("Staff") entered into a Settlement Agreement (the "Settlement Agreement"), a copy of which is attached as Schedule "A" dated June 15, 2017, in which Staff, Orange Properties and Kraigsley agreed to a proposed settlement in the proceedings initiated by the Notice, subject to the approval of the Commission;

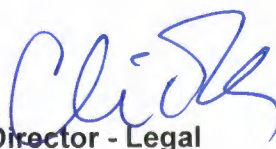
(C) Orange Properties and Kraigsley have consented to the issuance of this Order and has waived their right to a full hearing;

(D) The Commission has reviewed the Settlement Agreement and is of the opinion that it is in the public interest to make this Order.

IT IS ORDERED:

1. **THAT** the Settlement Agreement be and the same is hereby approved.
2. **THAT** Orange Properties and Kraigsley will pay to the Commission costs in the amount of five thousand (\$5,000.00) Dollars.

BY ORDER OF THE COMMISSION


Director - Legal

Real Estate Division

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A DIVISION OF THE MANITOBA FINANCIAL SERVICES AGENCY

IN THE MATTER OF: THE REAL ESTATE BROKERS ACT

- and -

IN THE MATTER OF: ORANGE PROPERTIES (MAN.) LTD.
operating as ORANGE REAL ESTATE
SERVICES and ROBERT KRAIGSLEY

SETTLEMENT AGREEMENT

A. INTRODUCTION

A.1 By way of Notice of Hearing and Statement of Allegations of Staff of The Manitoba Securities Commission (the "Commission"), notice was given to Orange Properties (Man.) Ltd. operating as Orange Real Estate Services ("ORANGE PROPERTIES") and Robert Kraigsley ("KRAIGSLEY") of the Commission's intention to hold a hearing under *The Real Estate Brokers Act* (the "Act").

A.2 Discussions have been held between ORANGE PROPERTIES, KRAIGSLEY and Staff of the Commission ("Staff") in an effort to settle the matters set out in the Notice of Hearing and Statement of Allegations ("Proceedings"). A settlement ("Settlement") has been reached based on the terms and conditions set forth in this agreement ("Settlement Agreement").

A.3 Pursuant to the Settlement, Staff agrees to recommend to the Commission that the Proceedings initiated against ORANGE PROPERTIES and KRAIGSLEY be resolved and disposed of in accordance with the terms and conditions of the Settlement Agreement as set forth below. ORANGE PROPERTIES and KRAIGSLEY each consent to the Settlement and to the making of the consent order referred to in Part D below, on the terms and conditions set forth in this Settlement Agreement.

B. STATEMENT OF FACTS

B.1 ORANGE PROPERTIES and KRAIGSLEY agree with the facts set out in this Part B.

Registration

B.2 ORANGE PROPERTIES was incorporated in Manitoba on October 17, 1995.

B.3 ORANGE PROPERTIES became a member of The Manitoba Real Estate Association ("MREA") on December 2, 1995 (membership certificate number 1572W). ORANGE PROPERTIES' membership in the MREA was cancelled effective April 8, 2010.

B.4 ORANGE PROPERTIES became registered as a real estate broker under the Act on January 31, 1996. Its registration expired on January 31, 2010 and its

registration has not been renewed.

B.5 At all material times, KRAIGSLEY was registered as an authorized official of ORANGE PROPERTIES pursuant to the Act.

B.6 ORANGE PROPERTIES managed condominium corporations and the condominium units of individual property owners, (the “property owners”) which included the collection of rent on behalf of the property owners.

Manitoba Housing Pooled Account

B.7 The money of all property owners were deposited and managed by ORANGE PROPERTIES through a single trust account (“Manitoba Housing Pooled Account”).

B.8 The accounting firm of Collins and Company (“Collins”) provided accounting for the condominium corporations.

B.9 Pursuant to Manitoba Regulation 57/88 R *The Real Estate Brokers Trust Accounts Regulation* under the Act (the “Trust Account Regulation”), ORANGE PROPERTIES was required to maintain its trust account in a manner consistent with the Act and its Trust Account Regulation.

B.10 KRAIGSLEY managed the trust records of the Manitoba Housing Pooled

Account for the period subsequent to January 1, 2006.

B.11 In October 2007, staff of the Commission became aware that some property owners had stopped receiving monthly rental distributions.

B.12 An investigation by The Manitoba Securities Commission (the "Commission") staff found during the period of 2006 and 2007 that ORANGE PROPERTIES and/or KRAIGSLEY failed to:

- (a) Maintain up to date records of all trust money received and disbursements of trust money;
- (b) Maintain up to date balance of trust money held for each property owner;
- (c) Maintain up to date reconciliations;
- (d) Maintain sufficient balance on deposit in the trust account to meet all its obligations with respect to trust money.

B.13 KRAIGSLEY hired Collins to reconstruct the trust records of the Manitoba Housing Pooled Account for 2006 and 2007. It was determined that ORANGE PROPERTIES either owed money to or overpaid the property owners.

B.14 An investigation by staff of the Commission confirmed a shortfall of trust money from the Manitoba Housing Pooled Account.

Insurance Claim Settlement

B.15 ORANGE PROPERTIES filed claims with The City of Winnipeg Police and its insurance company ("BBCG Claim Services Ltd.") for employee theft.

B.16 On February 1, 2010, ORANGE PROPERTIES received an insurance settlement cheque in the amount of \$24,340.00 from BBCG Claim Services Ltd.

B.17 The settlement Funds were deposited against a personal line of credit belonging to KRAIGSLEY, rather than into the broker's trust account.

COMPENSATION TO PROPERTY OWNERS

B.18 Numerous complaints against ORANGE PROPERTIES and KRAIGSLEY by property owners were received by staff in connection with property management services provided. There were shortfalls in trust money, due to certain property owners, in the Manitoba Housing Pooled Account.

B.19 KRAIGSLEY has agreed to pay to the property owners identified in Schedule "A" attached the amounts owing to these property owners as set out in Schedule

“A”. The cumulative amount to be paid by KRAIGSLEY is \$45,479.89. This amount represents the net monies that were owed by Orange Properties to the property owners identified inclusive of rent to be collected, security deposits to be held and amounts not paid by Orange Properties for expenses on behalf of these property owners for the period 2006-2007.

C. ACKNOWLEDGEMENTS

C.1 ORANGE PROPERTIES and KRAIGSLEY acknowledge that their conduct, as set out above, was contrary to the public interest.

D. TERMS OF SETTLEMENT

D.1 Staff seek a Consent Order from the Commission consistent with the terms contained in D.2 of the Settlement Agreement pursuant to the provisions of the Act.

D.2 The Consent Order sought by Staff is as follows:

- a) that the Settlement Agreement be approved;
- b) KRAIGSLEY forthwith pay to the Commission costs in the amount of \$5,000.00.

D.3 In the event the Settlement Agreement is approved, Staff will discontinue the proceedings as against ORANGE PROPERTIES and KRAIGSLEY.

E. PROCEDURE FOR APPROVAL OF SETTLEMENT

E1. The approval of this Settlement Agreement and the making of the Consent Order set out in this Settlement Agreement shall be sought at a public hearing pursuant to the Notice of Hearing.

E2. Staff, ORANGE PROPERTIES and KRAIGSLEY agree that if this Settlement Agreement is approved by the Commission, it will constitute the entirety of the evidence to be submitted to the Commission in connection with the Proceedings and ORANGE PROPERTIES and KRAIGSLEY hereby waive their respective rights to a full hearing and appeal of this matter.

E.3 Notwithstanding any other provision of this Settlement Agreement, if, for any reason whatsoever, this Settlement Agreement is not approved by the Commission or the Consent Order referred to in Section D above is not made by the Commission, Staff will be entitled to proceed with whatever steps it is entitled by law to take, including but not restricted to, the commencement of a hearing before the Commission, unaffected by this Settlement Agreement or the settlement discussions. In the event that such steps are taken, ORANGE PROPERTIES and

KRAIGSLEY shall have all of the usual rights of a person subject to such proceedings.

E.4 If the Settlement Agreement is not approved or the Consent Order set out in Section D above is not made by the Commission, the terms of this Settlement Agreement shall remain confidential and shall not be raised in this or any other proceeding, and any admissions contained in this Settlement Agreement shall be considered as without prejudice communications in furtherance of settlement discussions which will not be binding upon the parties and which will be inadmissible in any proceeding whatsoever.

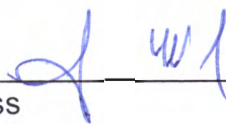
E.5 If this Settlement Agreement is approved by the Commission and the Consent Order made upon the terms set out in this Settlement Agreement, this Settlement Agreement will be a public document.

E.6 ORANGE PROPERTIES and KRAIGSLEY agree that if this Settlement Agreement is approved by the Commission and the Consent Order is made upon the terms set out in this Settlement Agreement, ORANGE PROPERTIES and KRAIGSLEY will not raise as a basis for attack on the Order, this Settlement Agreement, or the negotiation or process of approval of this Settlement Agreement, alleged bias, alleged unfairness, or any such other challenges to the validity of the Consent Order.

E.7 It is agreed by all parties that if this Settlement Agreement is approved by the

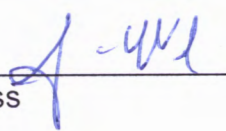
Commission and the Consent Order is made upon the terms set out in this Settlement Agreement, none of them will make any statements inconsistent with the terms of this Agreement.

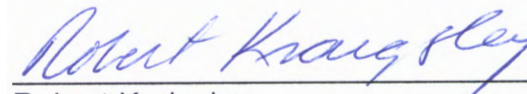
DATED at Winnipeg, Manitoba, this 25th day of April, 2017.

Witness 


Orange Properties (Man.) Ltd. operating as
Orange Real Estate Services

DATED at Winnipeg, Manitoba, this 25th day of April, 2017.

Witness 


Robert Kraigsley

DATED at Winnipeg, Manitoba, this 15th day of June, 2017.

Staff of the Manitoba Securities Commission

Per: 
Director, Legal and Enforcement

Schedule "A"
Orange Properties - Monies Owed to Property Owners

Property Owner	Amount Owed
SC	\$645.00
JC	\$1,028.69
RDR	\$328.50
MD & WD	\$2,544.20
RD	\$3,541.03
RDY	\$475.16
KG	\$1,396.00
LI	\$2,582.93
DK	\$3,693.38
DKN	\$3,455.83
RL	\$350.00
JL	\$1,232.50
JM	\$5,596.34
PM	\$4,809.71
AM	\$4,410.49
SS	\$2,960.67
CS	\$1,160.50
RW & SW	\$739.46
GW	\$4,529.50
	<u>\$45,479.89</u>