

Report from Council

New Chair, Vice-Chair Elected

First meeting of 2010/11 Council held in July

At the first meeting of the 2010/11 Council in July, Gerry Martin of B.C. Farm & Ranch Realty Corp., Abbotsford, was elected as Chair of the Real Estate Council for the 2010/11 term. Bryon Brandle of Re/Max-Vernon, Silver Star, was elected as Vice-Chair.

There are 16 members of the Real Estate Council, including three members appointed by the provincial government. Thirteen members are chosen through an election process open to all real estate licensees in the province. The elected

members are comprised of three representatives and nine brokers representing the various provincial counties. One individual is elected as the strata/rental property management member. Members are elected for two-year terms, with half of the Council elected each year, thus ensuring continuity. The names of the other Council members are listed in the right margin on the next page. ■



Gerry Martin



Bryon Brandle

The Future of the Relicensing Education Program

The REP Sheet



At its July 2010 meeting, the Council decided to postpone the Relicensing Education Program (REP) course requirements for the third cycle (January 2011–December 2014).

Licensees should be aware, however, that the requirements of the first and second REP cycles remain in place. This means that all licensees will be required to fulfill their first and second REP cycle course requirements in order to renew their

licence. The second REP cycle concludes on December 31, 2012.

Background

Over the past several months, the Council met to discuss the future of REP. During the course of its discussions, the Council considered a number of issues, including:

1. The confusion between the REP and PDP programs.
2. Issues with respect to course availability and delivery.
3. Appropriate course requirements for all licensing categories (trading, rental, strata).
4. The length of the current REP cycles (currently four years with overlapping cycles).

5. The use of online education and continuing education requirements in other jurisdictions.

Throughout the discussions, the Council's primary philosophy has been to have a continuing education requirement as a formal process for keeping licensees up-to-date on changes within the industry, most particularly on legal, legislative and practice updates.

Future course requirements

As a result of the Council's discussions, the Council examined the feasibility of implementing a continuing education program for all licensees on a calendar

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- The Importance of Licensees Responding Properly to Council Inquiries
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- Payment of Commissions After Licensee Has Transferred to Another Brokerage
- Providing Access to Strata Documents
- Unlicensed Assistants and Rental Property Management
- Disciplinary Decisions

A Note from the Chair



Gerry Martin,
Chair

It is an honour to be elected as Chair of the Council for the 2010–2011 term and I look forward to working with Vice-Chair Bryon Brandle and the other members of the Council. I want to thank past Chair Bill Brown for his leadership and guidance over the past year.

As mentioned in the June *Report from Council*, we welcome newly elected members Subhadra Ghose and Susan McGougan, both of Nanaimo, and re-elected members Bill Binnie of West Vancouver, Bill Phillips of Whistler and Marshall Cowe of Coquitlam. The government has also appointed Barbara Barry of West Vancouver as the third public member replacing retiring member Danny Leung of Richmond.

During my term as Council Chair, I look forward to continuing the Council's work on various initiatives, including the Relicensing Education Program ("REP"). Licensees will note from the lead article in this newsletter that the Council is working to improve REP. As indicated, the Council decided to postpone REP course requirements for the third cycle and will provide licensees with information with respect to the modified REP program as it becomes available.

Two other important educational initiatives include updating the Trading Services Applied Practice Course and the Broker's Licensing Course. The Council is working closely with the BC Real Estate Association and the UBC Real Estate Division at the Sauder School of Business on these projects. The Council looks forward to receiving feedback from its various committees and advisory groups on these and other projects over the coming year.

Finally, it would appear that the real estate market will continue to fluctuate over the next year and with that change will come many challenges. As a result, I urge you to use your best efforts to ensure that you do your part to maintain the high ethical standards that this industry is built upon.

On behalf of Council members and staff, I wish you a busy and productive fall.

Gerry Martin
Chair

Office Closures

The Council office will be closed on **Monday, September 6, 2010** for Labour Day and **Monday, October 11, 2010** for Thanksgiving.

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Real Estate Council of BC
CHAIR—Gerry Martin
VICE-CHAIR—Bryon Brandle
EXECUTIVE OFFICER—Robert O. Fawcett

COUNCIL MEMBERS

Barbara Barry
William (Bill) Binnie
William (Bill) Brown
Marshall Cowe
Subhadra Ghose
Abdul Ghouri
Susan McGougan
Jim McNeal
John Nagy
Patrick O'Donnell
William (Bill) Phillips
Bruce Turner
Liz Tutt
Michael Ziegler

STATISTICS August 2010

Representatives: 17,101
Associate Brokers: 1,796
Managing Brokers: 1,325
Total Licensees: 20,222
Brokerages (including branch offices
and sole proprietors): 1,417

Role of the Council

The Real Estate Council is a regulatory agency established by the provincial government. Its mandate is to protect the public interest by enforcing the licensing and licensee conduct requirements of the *Real Estate Services Act*. The Council is responsible for licensing individuals and brokerages engaged in real estate sales, rental and strata property management. The Council also enforces entry qualifications, investigates complaints against licensees and imposes disciplinary sanctions under the Act.

Report from Council

The *Report from Council* newsletter is published six times per year. Past issues can be found at www.recbc.ca.

Canada Post

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900–750 West Pender Street
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The Future of the Relicensing Education Program, *cont'd*

Continued from Page 1

year basis rather than licensing cycles. Education requirements would vary for trading, rental and strata licensing categories with yet to be decided course content that would include, but not be limited to:

- recent court cases,
- recent Council consent orders/hearing decisions of note,
- recent Errors & Omissions Insurance cases, and
- any changes to the *Real Estate Services Act*, other ancillary legislation and amendments to the Council Rules.

The method of course delivery has not yet been decided but could include in-class, online, or in-class and online formats. ■



Requirements for the First and Second Cycles of REP

First Cycle Requirements:

- The mandatory course for trading services licensees during the first REP cycle, for licence renewal until December 31, 2010, is “What Brokerages and REALTORS® Need to Know about Agency”.
- Trading services licensees are responsible to complete 2 courses: 1 elective and 1 mandatory course to satisfy the first Relicensing Education Program (REP) cycle requirements.
- Individuals licensed for rental property management only or rental and strata management only may substitute a second REP approved elective course for the mandatory course.
- Individuals licensed for strata management only are responsible to complete one REP approved elective course. Individuals licensed as managing brokers for strata management only are exempted from both the mandatory and elective course requirements.

Second Cycle Requirements:

- The mandatory course for trading services licensees during the second REP cycle is “Real Estate Errors & Omissions Insurance Legal Update”, or “Real Estate Errors & Omissions Commercial Legal Update”, or “Strata Law/Legal Update”.
- Individuals licensed to provide strata management services or rental property management services or both are required to complete one elective course.
- Licensees are required to complete their second cycle REP requirements from the date their licence is issued in 2009 or 2010 to the date their licence expires in 2011 or 2012 respectively.
- The second REP cycle will conclude on December 31, 2012.

Legal Update Course Now Available in Online Format

In order to make the second cycle mandatory REP course more accessible for licensees, the Council is pleased to announce that the UBC Real Estate Division at the Sauder School of Business and the British Columbia Real Estate Association have worked together to develop an online version of the “Real Estate Errors & Omissions Insurance Legal Update” course.

This course may be completed at the licensee’s own pace by reading course materials, viewing video presentations and successfully completing four short assignments.

This course is now available to licensees at a cost of \$150. To register for this course, licensees are directed to go to the follow-

ing webpage on the UBC Real Estate Division’s website at: https://secure.sauder.ubc.ca/realestate/lic_lupd_regform.cfm

Licensees with questions can contact the Council office at 604-683-9664, toll-free 1-877-683-9664 or email info@recbc.ca. ■

The Importance of Licensees Responding Properly to Council Inquiries

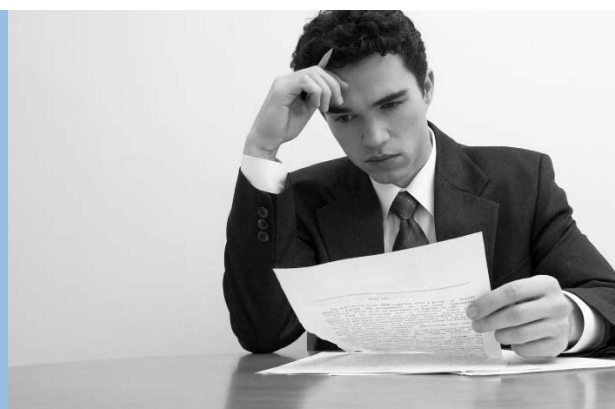
It is not always pleasant for a licensee to receive correspondence from the Council - especially if it relates to an investigation being conducted by the Council under section 37 of the *Real Estate Services Act* (“RESA”). The Council can conduct an investigation under RESA to determine if a licensee has committed professional misconduct or conduct unbecoming a licensee, and can do so on its own initiative or on receipt of a complaint. Complaints are a fact of life and often the price of carrying on business as a professional. The majority of licensees respond to inquiries from the Council in a cooperative and professional fashion, making the Council’s job relatively easy. Unfortunately, some licensees treat the correspondence and the requests for information as either unimportant or a nuisance. That can be an unwise decision.

Sometimes the complaint is received at the same time a complaint has been made to a real estate board or a civil action has been threatened or commenced. This may be an emotional time for a licensee and the licensee may be tempted to lash out or to ignore the problem. Sometimes the licensee may feel victimized or may not understand what is happening. When a licensee receives a request from the Council for information under section 37 of RESA, the licensee may sometimes not respond appropriately.

Generally, the licensee is asked to respond to specific allegations of professional misconduct (or conduct unbecoming) and is asked to provide copies of all contracts, service agreements, trade record sheets, agency and other disclosure forms, correspondence and any other relevant documents related to the subject matter of the inquiry. The licensee is also asked to provide any other information that the licensee would like the Council to consider.

The licensee is entitled to retain legal counsel to assist in responding to the Council, and should seriously consider doing so. The licensee should also speak to his or her managing broker about as-

When responding to allegations of professional misconduct, the licensee should seriously consider legal counsel.



sisting in preparing and reviewing the response, even if no allegations are made against the managing broker.

The licensee should not:

1. Ignore the request—that will just lead to further disciplinary action by the Council. Under section 2-19 of the Council Rules, licensees must respond promptly to any inquiry by the Council.
2. Treat the request as inconsequential—the complaint may ultimately lead to a hearing which may result in costs, licence reprimand, suspension, cancellation and/or financial penalty. If the complaint does not lead to a hearing, a proposal for a consent order may be accepted, but the Council will only proceed on this route based on information provided by the licensee. If that information is incomplete or untrue, it may be difficult to conclude a consent order.
3. Conceal or withhold information—that is a contravention under section 37(4) of RESA. If the matter proceeds to a hearing, the licensee’s credibility may become an issue. The licensee may be disciplined for the contravention as well.
4. Be sarcastic or emotional in the response—the licensee may be cross-examined on his or her response at a hearing, and outrageous or inflammatory statements in a response make for

interesting (and uncomfortable) cross-examinations.

The licensee should:

1. Give a full and fair accounting—the licensee’s response helps to form the charges that will be set out in the Notice of Hearing. If the licensee has not responded to certain allegations, the Council may assume those allegations are, for the purposes of the Notice of Hearing, probably undisputed.
2. Give copies of all documents requested—often the complainant gives the Council more documentation than the licensee, and the licensee should ensure that the Council has a complete picture. Some licensees treat the request as a nuisance but compared to the time spent preparing for and attending a hearing, this is easy!
3. Remember that the licensee may be examined, if a hearing is conducted, on all statements the licensee makes in the response. Therefore, accuracy and completeness is crucial. Even if the matter goes by way of a consent order, inaccurate or incomplete responses can hinder the timing of the process.

The Council has statutory authority for making the inquiries. You have a statutory duty to respond in the most complete and accurate fashion possible. Don’t be one of those licensees who is heard to complain later on—“I didn’t know that the response was that important.” It is. ■

Advertising Compliance— A Shared Responsibility

In a competitive market, creative advertisements can help brokerages and licensees stand out and differentiate themselves from their competitors. Unfortunately, in some instances, licensees take their advertising creativity beyond acceptable boundaries and into the territory of false and misleading advertising, with overblown promises and inaccurate representations. This is not an acceptable practice and is in contravention of section 4-7 of the Council Rules.

Licensees and managing brokers are reminded that all real estate advertisements, although they may promote the services of an individual licensee, are in fact brokerage advertisements, as licensees may only provide or offer to provide real estate services through, in the name of and on behalf of the brokerage with which they are licensed. As such, it is important that managing brokers ensure that all licensees engaged by the brokerage are aware of all brokerage policies with respect to advertising and are aware

of the advertising provisions set out in the Council Rules. The responsibility to ensure compliance with the advertising rules is shared by both licensees and managing brokers, on behalf of their brokerages.

Although managing brokers are not expected to review all advertisements, periodic checks of their licensees' advertisements, for compliance, is prudent, whether the advertisements are on the internet, in print or on any other form of media. Depending on the size of the brokerage, managing brokers may elect to designate someone to assist the managing broker with routine advertisement checks and compliance. Having "too many ads" does not change the shared responsibility to comply. Managing brokers should also periodically discuss examples of appropriate and inappropriate advertising practices, to ensure licensees' understanding of the requirements of sections 4-6, 4-7 and 4-8 of the Council Rules.



The Council Rules relating to advertising are very simple and set out in plain language. They can be found under the Real Estate Legislation tab on the Council's website at www.recbc.ca or in the Professional Standards Manual.

Licensees or managing brokers with questions may contact the Council office at 604-683-9664, toll free at 1-877-683-9664 or email info@recbc.ca. ■

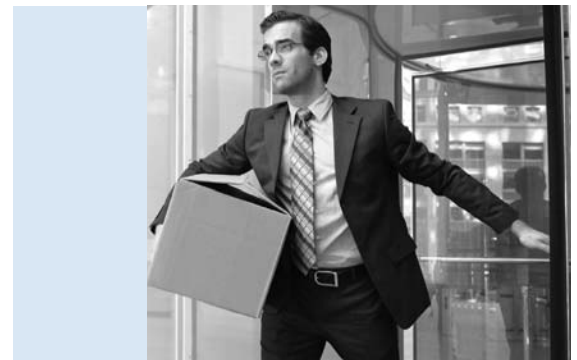
Payment of Commissions After Licensee Has Transferred to Another Brokerage

There are situations in which a licensee has a listing while licensed with Brokerage A and has written a firm and binding Contract of Purchase and Sale while licensed with Brokerage A and then transfers his or her licence to Brokerage B before the completion of the transaction and payment of commission. When Brokerage A receives the commission, the question arises whether Brokerage A may pay the commission owing to the licensee directly to the licensee or does Brokerage A have to pay the new Brokerage, which in turn will then pay the licensee.

Section 7(3)(b) of the *Real Estate Services Act* states that a managing broker, associate broker, or representative "(b) ... is not entitled to and must not accept remuneration in relation to real estate services from any person other than the brokerage in relation to which they are licensed".

If the commission is earned in accordance with the service agreement (section 5-15(3)(a) of the Council Rules) and the real estate services were provided by Brokerage A when the licensee was either engaged by Brokerage A or had transferred his or her licence to Brokerage B, then Brokerage A may pay the commission to the licensee directly. This would be the same if Brokerage A provided the real estate services and the property was sold after the licensee transferred his or her licence to Brokerage B.

However, if the file is transferred to Brokerage B along with the licensee, and the licensee performs real estate services in relation to the said property while li-



censed with Brokerage B, then, when the property sells, completion occurs, and the commission is due, Brokerage B must pay commission owing to the licensee.

Licensees with questions can contact the Council office at 604-683-9664, toll-free 1-877-683-9664 or email info@recbc.ca. ■

Providing Access to Strata Documents

It has come to the Council's attention that some trading services licensees and some strata management brokerages are posting copies of strata records, such as minutes of meetings, Form B Information Certificates, budgets etc., on the internet without ensuring that the requirements of the *Strata Property Act* are followed.

The *Strata Property Act* allows strata lot owners and others authorized by owners to obtain copies of strata corporation records. While the posting of records may seem an effective and timely way for them to be available to interested buyers and others, these records are not public and licensees must not provide these documents, or access to them, to people who have not been authorized, in accordance with the *Strata Property Act*, to receive them.

In the case of trading service licensees, these records may be related to a strata lot that the licensee is offering for sale, where they are posted on any combination of that licensee's website, their related brokerage's website, real estate marketing websites, and MLS® websites.

In the case of strata management licensees, this includes posting their clients' records on their brokerage's website without the requirement for a secure logging on procedure, where it can first be verified that the person logging on to obtain or review the documentation is authorized, in accordance with the *Strata Property Act*, to obtain access.

Licensees who make strata records avail-

able to unauthorized people may be found to be in contravention of the Council Rules and subject to disciplinary procedures.

For further information with respect to obtaining strata records, please refer to sections 36 and 115 of the *Strata Property Act*, as well as the Professional Standards Manual at www.recbc.ca/licensee/PSM/PSM2-5.htm?zoom_highlight=obtainin+g+strata+documents#jump28. ■

Strata Property Act Instruction Guides Updated

In 2000, to assist strata owners, residents and developers, the Superintendent of Real Estate prepared 28 guides to provide basic information about certain parts of the *Strata Property Act* ("SPA") and its Regulations. In the spring of 2010, all the guides were reviewed and updated as appropriate by the Ministry of Housing and Social Development.

A copy of the 28 updated guides is available on the Superintendent's website at:
www.fic.gov.bc.ca/responsibilities/strataowners/instruction_guides.htm.

A copy of SPA and the Regulations is available on the Superintendent's website at:
www.fic.gov.bc.ca/responsibilities/strataowners/act_regulations_forms_standardbylaws.htm.

It should be noted that the updated guides do not provide a legal interpretation of provisions of SPA or the Regulations. Licensees should seek professional advice from a lawyer if they need to determine specific legal rights and duties which may apply in their particular situations. ■

Unlicensed Assistants and Rental Property Management

The Council has developed the following list of activities that may and may not be performed by unlicensed rental property management assistants employed by brokerages that are licensed to provide rental property management services (See section 2.14 of the *Real Estate Services Regulation*).

An unlicensed rental property management assistant employed by a brokerage may:

- show the rental real estate to prospective tenants;
- receive rental applications from prospective tenants for presentation to the licensee;
- regularly inspect a property for signs of a grow-op, as required by many municipalities;
- collect money in relation to the rental real estate, including money collected

as rent, security deposits or pet damage deposits, provided that, on receipt, the exempt caretaker or manager promptly delivers the money to the brokerage;

- perform bookkeeping or office functions, including recording and depositing rents and security deposits;
- order items of routine repair;
- call tradespersons for repair quotations as directed by the licensee;
- answer the telephone, take messages and respond, as directed by the licensee, to emergencies by calling a restoration company or other tradesperson;
- place routine telephone calls with respect to late rental payments;
- perform maintenance work and answer questions about such work;
- supervise employees or contractors hired by the brokerage.

An unlicensed rental property management assistant may not:

- negotiate or enter into contracts on behalf of the brokerage or the owner of rental real estate;
- make payments to third parties;
- manage landlord and tenant matters, e.g. sign tenancy agreements, notices of eviction, inspection reports, notices of rent increases, etc.;
- supervise employees or contractors hired or engaged by the owner;
- make telephone calls, do telemarketing, or performing other activities to solicit business on behalf of the licensee;
- provide any other service for which a licence is required under the *Real Estate Services Act*. ■

Disciplinary Decisions

Since the June 2010 *Report from Council* newsletter, the following actions have been taken as a result of disciplinary hearings and Consent Orders conducted by the Council.

Trading Services

Larrie Andrew Forbes

ISSUE: Larrie Andrew Forbes, representative, All Points Realty Group Ltd. dba Re/Max All Points Realty, Coquitlam, entered into a Consent Order with the Council in which he consented to an Order that he committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that he: (a) contravened section 3-2(2)(b) of the Council Rules by failing to immediately notify his managing broker that the deposit required under clause 2 of the contract was not received as required by the contract; (b) contravened section 35(1)(c) of the *Real Estate Services Act* by having the buyer remove the subjects to the contract and indicating that the deposit required under clause 2 of the contract had been provided, when he knew or ought to have known the deposit had not been provided; (c) in the alternative, contravened section 35(1)(d) of the *Real Estate Services Act* and section 3-4 of the Council Rules by allowing the buyer to remove the subjects to the contract and indicated that the deposit required by clause 2 of the contract had been provided, when it had not been provided as required by the contract.

RESULT: Larrie Andrew Forbes was suspended for seven (7) days from August 4, 2010 to August 10, 2010 (inclusive) and was ordered to successfully complete the Trading Services Remedial Education Course and pay enforcement expenses to the Council in the amount of \$1,000.00.

Paul Chiu Yin Pang New Asian Realty Inc.

ISSUE: New Asia Realty Inc., Vancouver, entered into a Consent Order with the

Council in which it consented to an Order that it committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* by contravening section 7-7(1)(b) of the Council Rules in that it failed to file an Accountant's Report with the Council by the prescribed date.

ISSUE: Paul Chiu Yin Pang, managing broker, New Asia Realty Inc., Vancouver, entered into a Consent Order with the Council in which he consented to an Order that he committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* by not fulfilling his responsibilities as managing broker for the performance of the duties imposed on the brokerage by its licence within the meaning of section 6(2)(b) of the *Real Estate Services Act* and by contravening section 3-1(1)(a) and (b) and 3-1(3) of the Council Rules in that he failed to ensure that an Accountant's Report was filed with the Council by the prescribed date.

RESULT: New Asia Realty Inc. was reprimanded and ordered to pay a discipline penalty to the Council in the amount of \$1,000.00.

RESULT: Paul Chiu Yin Pang was reprimanded.

RESULT: New Asia Realty Inc. and Paul Chiu Yin Pang were ordered to be jointly and severally liable to pay enforcement expenses to the Council in the amount of \$1,000.00.

William Robert Laurie WRL Real Estate Advisors Ltd.

ISSUE: WRL Real Estate Advisors Ltd., Vancouver, entered into a Consent Order with the Council in which it consented to an Order that it committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* by contravening section 7-7(1)(b) of the Council Rules in that it failed to file an Accountant's Report with the Council by the prescribed date.

ISSUE: William Robert Laurie, managing broker, WRL Real Estate Advisors Ltd., Vancouver, entered into a Consent Order with the Council that he committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* by not fulfilling his responsibilities as managing broker for the performance of the duties imposed on the brokerage by its licence within the meaning of section 6(2)(b) of the *Real Estate Services Act* and by contravening section 3-1(1)(a) and (b) and 3-1(3) of the Council Rules in that he failed to ensure that an Accountant's Report was filed with the Council by the prescribed date.

RESULT: WRL Real Estate Advisors Ltd. was reprimanded.

RESULT: William Robert Laurie was reprimanded.

RESULT: WRL Real Estate Advisors Ltd. and William Robert Laurie are jointly and severally liable to pay enforcement expenses to the Council in the amount of \$1,000.00.

Sukhdeep Singh Johal

ISSUE: Sukhdeep Singh Johal, representative, Omax Realty, who while licensed with Century 21 Coastal Realty Ltd. (formerly known as Apex International Services Ltd. dba Century 21 Apex International, Surrey, entered into a Consent Order with the Council in which he consented to an Order that he committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that he failed to disclose in writing to the brokerage or to the parties to the trade in the acquisition and/or disposal of the properties, his interest in the properties on the required Disclosure of Interest in Trade Form, contrary to section 5-9 of the Council Rules.

RESULT: Sukhdeep Singh Johal was reprimanded and ordered to pay enforcement expenses to the Council in the amount of \$1,000.00.

Disciplinary Decisions, *cont'd*

Sutton Group-West Coast Realty

ISSUE: West Coast Realty Ltd. (Brdwy) dba Sutton Group-West Coast Realty (Brdwy), Vancouver, entered into a Consent Order with the Council in which it consented to an Order that it committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that it permitted an unlicensed person to provide real estate services on behalf of the brokerage between November 27, 2008 and February 15, 2009, contrary to section 7(5)(a) of the *Real Estate Services Act*.

RESULT: West Coast Realty Ltd. (Brdwy) dba Sutton Group-West Coast Realty (Brdwy) was reprimanded and ordered to pay enforcement expenses to the Council in the amount of \$1,000.00.

Allan Wing Cheong Cheng Visar Realty Inc.

ISSUE: Visar Realty Inc., Richmond, entered into a Consent Order with the Council in which it consented to an Order that it committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* by contravening section 7-7(1)(b) of the Council Rules in that it failed to file an Accountant's Report with the Council by the prescribed date.

ISSUE: Allan Wing Cheong Cheng, managing broker, Visar Realty Inc., Richmond, entered into a Consent Order with the Council in which he consented to an Order that he committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* by not fulfilling his responsibilities as managing broker for the performance of the duties imposed on the brokerage by its licence within the meaning of section 6(2)(b) of the *Real Estate Services Act* and by contravening section 3-1(1)(a) and (b) and 3-1(3) of the Council Rules in that he failed to ensure that an Accountant's Report was filed with the Council by the prescribed date.

RESULT: Visar Realty Inc. was reprimanded.

RESULT: Allan Wing Cheong Cheng was reprimanded.

RESULT: Visar Realty Inc. and Allan Wing Cheong Cheng were ordered to be jointly and severally liable to pay enforcement expenses to the Council in the amount of \$1,000.00.

Christopher David Scott Christopher Markham Century 21 Queenswood Realty Ltd.

ISSUE: Christopher David Scott, representative, Century 21 Queenswood Realty Ltd., Victoria, entered into a Consent Order with the Council in which he consented to an Order that he committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that he provided trading services on or after June 13, 2009 to and including September 28, 2009 without being licensed to do so, contrary to sections 6(2), 7(5)(a) and 20 of the *Real Estate Services Act* and sections 2-13(2) and 3-1 of the Council Rules.

ISSUE: Christopher Markham, managing broker, Century 21 Queenswood Realty Ltd., Victoria, entered into a Consent Order with the Council in which he consented to an Order that he committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that he permitted a former representative licensed with the brokerage to provide real estate services on behalf of the brokerage after his licence expired on June 12, 2009 until he was relicensed on September 29, 2009, and he failed to ensure that the brokerage took sufficient steps to ensure that the public was aware that the former representative was no longer licensed with the brokerage, contrary to section 6(2) and 7(5)(a) of the *Real Estate Services Act* and section 3-1 of the Council Rules.

ISSUE: Century 21 Queenswood Realty Ltd., Victoria, entered into a Consent Order with the Council in which it consented to an Order that it committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that it permitted a former representative licensed with the brokerage to continue to provide real estate services on behalf of the brokerage after his licence expired on June 12, 2009 until he was

relicensed on September 29, 2009, contrary to section 7(5)(a) of the *Real Estate Services Act*.

RESULT: Christopher David Scott was reprimanded and ordered to enroll in and attend the first available "Real Estate E&O Insurance Legal Update 2010" course.

RESULT: Christopher Markham was reprimanded.

RESULT: Century 21 Queenswood Realty Ltd. was reprimanded.

RESULT: Christopher David Scott, Christopher Markham and Century 21 Queenswood Realty Ltd. are ordered to be jointly and severally liable to pay enforcement expenses to the Council in the amount of \$1,000.00.

Richard Morrison

ISSUE: Richard Morrison, representative, City Realty Ltd. dba Re/Max City Realty, Vancouver, entered into a Consent Order with the Council in which he consented to an Order that, while licensed as a representative with West Coast Realty Ltd. (Brdwy) dba Sutton Group-West Coast Realty (Brdwy), Vancouver, he committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that he: (a) allowed real estate advertising to be published as to a team approved by the Council in accordance with section 4-6(5) of the Council Rules, namely the Richard Morrison Real Estate Investment Team ("Team"), when the advertising was misleading and contrary to section 4-7 of the Council Rules, in that: (i) until his licensing on March 10, 2009, a former unlicensed assistant was not represented in marketing as "unlicensed assistant" and after his licensing, he ceased to be a member of the Team, but he continued to be represented as a Team member; (ii) during the period from November 4, 2008 until her resumed licensing on May 5, 2009, a former licensee was not represented as an unlicensed member of the Team; and (b) failed to ensure that the team name, "Richard Morrison Real Estate Investment Team", and the licensee name of the brokerage, namely

Disciplinary Decisions, *cont'd*

Sutton Group West-Coast Realty, was clearly indicated in the course of providing real estate services and displayed on all real estate advertising in a prominent and readable way, in accordance with section 4-5(1), 4-5(2) and 4-6(2) of Council Rules.

RESULT: Richard Morrison was reprimanded and ordered to pay enforcement expenses to the Council in the amount of \$1,000.00.

Douglas Lee (Leeroy) Jarvis Sharlene Morin Fernandes

ISSUE: Douglas Lee (Leeroy) Jarvis, representative, Vantage West Realty Inc., Kelowna, entered into a Consent Order with the Council in which he consented to an Order that, while licensed as a representative with Desert Aire Realty (1994) Inc. dba Coldwell Banker Desert Aire Realty, Osoyoos, he committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* by contravening section 3-3(1)(f) of the Council Rules in that he failed to disclose properly in writing to the Buyer that one of the Sellers was a licensee employed by the same brokerage as he, before the Buyer entered into the Contract of Purchase and Sale with the Sellers.

ISSUE: Sharlene Morin Jarvis, currently unlicensed, entered into a Consent Order with the Council in which she consented to an Order that, while licensed as a representative with Desert Aire Realty (1994) Inc. dba Coldwell Banker Desert Aire Realty, Osoyoos, she committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* by contravening section 5-9(3), 5-9(4) and 5-9(5) of the Council Rules in that she failed to properly disclose in writing her interest in trade to the Buyer prior to the Buyer entering into a Contract of Purchase and Sale.

RESULT: Douglas Lee (Leeroy) Jarvis was reprimanded and was ordered to successfully complete the Trading Services Remedial Education Course.

RESULT: Sharlene Morin Fernandes was reprimanded and was ordered to success-

fully complete the Trading Services Remedial Education Course.

RESULT: Douglas Lee (Leeroy) Jarvis and Sharlene Morin Fernandes were ordered to be jointly and severally liable to pay enforcement expenses to the Council in the amount of \$1,000.00.

Rental Management Services

Kenneth York Leong Oceanridge Realty Ltd.

ISSUE: Oceanridge Realty Ltd., Vancouver, entered into a Consent Order with the Council in which it consented to an Order that it committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that it: (a) contravened section 25 of the *Real Estate Services Act* and sections 8-2, 8-3 and 8-4(2)(a) of the Council Rules in that it failed to keep proper books, accounts and other records for the period between April 1, 2008 and November 12, 2008; (b) contravened section 27(2) of the *Real Estate Services Act* in that it received the sum of \$1,000 of the security deposit from a tenant with respect to a rental property situated at Pacific Avenue, Vancouver, B.C. and failed to deposit same in the brokerage rental property management trust account and instead deposited same to the brokerage general account; (c) contravened section 27(2) of the *Real Estate Services Act* in that it received the sum of \$7,154.22 re the first client on August 5, 2008 and failed to deposit same in the rental property management trust account of the brokerage but instead deposited same to the general account; (d) contravened section 27(2) of the *Real Estate Services Act* in that it received the sum of \$1,500 on October 23, 2008 re the second client and failed to deposit same in the brokerage rental property management trust account but instead deposited same to the general account; (e) contravened section 30(1)(g) of the *Real Estate Services Act* in that it transferred funds from the brokerage rental property management trust account to the brokerage general account as fees in the amount of \$2,732.09 going back for approximately a ten-year period without the instructions of the principal of the Chancellor Boulevard account; (f) contravened section 5-1

of the Council Rules in that it failed to have written service agreements with respect to all rental property management clients or written waivers of such agreements; (g) contravened sections 5-1(4)(g) and 5-1(5)(d) of the Council Rules in that a written service agreement for the management of rental property on Main Street, Vancouver, B.C. did not contain the following required clauses: (i) security deposits, pet damages and other deposits that are to be dealt with, as required under section 5-1(5)(d) of the Council Rules; and (ii) a provision respecting the use and disclosure of personal information, as required under section 5-1(4)(g) of the Council Rules; (h) contravened section 7-5(2) and (3) of the Council Rules: (i) by failing to take immediate steps to eliminate trust shortages in the brokerage rental property management trust account until it was brought to their attention by the Council; and (ii) by failing to notify the Council of the said trust shortages; (i) contravened section 27(5) of the *Real Estate Services Act* in that it failed to ensure that no money, other than money referred to in subsections (1) and (2) of section 27 of the *Real Estate Services Act* was paid into its brokerage trust account; and (j) contravened section 3(1) of the *Real Estate Services Act* in that it conducted strata management services, as defined in section 1 of the *Real Estate Services Act*, when only licensed to provide trading and rental property management services.

ISSUE: Kenneth York Leong, managing broker, Oceanridge Realty Ltd., Vancouver, entered into a Consent Order with the Council in which he consented to an Order that he committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that he: (a) failed to fulfil his responsibilities as managing broker for the performance of the duties imposed on the brokerage by its licence within the meaning of section 6(2)(b) of the *Real Estate Services Act*; (b) contravened section 3(1) of the *Real Estate Services Act* in that he conducted strata management services, as defined in section 1 of the *Real Estate Services Act*, when he was only licensed to provide trading and rental property management services; (c) contravened section 3-1(1)(a) and (b) and section 3-1(3)(a) and (b) of the Council Rules in that he: (i) failed to ensure the business of the bro-

Disciplinary Decisions, *cont'd*

kerage was carried out competently and in accordance with the *Real Estate Services Act*, Regulation, Rules and Bylaws by permitting the brokerage to conduct strata management services when it was not licensed to do so; (ii) failed to ensure that the said brokerage kept proper books, accounts and other records, as required by section 25 of the *Real Estate Services Act* and sections 8-2, 8-3 and 8-4(2)(a) of the Council Rules; (iii) failed to ensure that monthly reconciliations were reviewed, dated, and initialed by him as the managing broker, as required by section 7-4(2) of the Council Rules; (iv) failed to ensure that monies received in connection with rental properties from three clients were deposited into the rental property management trust account of the brokerage, as required by section 27(2) of the *Real Estate Services Act*; (v) failed to ensure that he had instructions from the principal of the Chancellor Boulevard account before transferring funds from the rental property management trust account to the general account of the brokerage as fees in the amount of \$2,732.09 going back approximately for a ten-year period, as required by section 30(1)(g) of the *Real Estate Services Act*; (vi) failed to ensure that the brokerage had written service agreements with all rental property management clients, as required by section 5-1 of the Council Rules or written waivers of such agreements; (vii) failed to ensure that a written service agreement between the brokerage and the owner of the property on Main Street, Vancouver, B.C. contained clauses with respect to security deposits, pet damage deposits, and other deposits that are to be dealt with, as required by section 5-1(5) (d) of the Council Rules, and a provision respecting the use and disclosure of personal information, as required by section 5-1(4)(g) of the Council Rules; (viii) failed to ensure that funds not connected with the trade in real estate services were not deposited into the trust account of the brokerage, as required by section 27(5) of the *Real Estate Services Act*; (ix) failed to ensure that the brokerage reported trust account shortages to the Council, as required by section 7-5(3)(b) of the Council Rules; (x) failed to ensure that the brokerage took immediate steps to eliminate trust shortages in the brokerage rental property management trust account until it was brought to his attention by the

Council, as required by section 7-5(2) of the Council Rules; (d) contravened section 3-1(3)(a) of the Council Rules in that he failed to ensure that the trust accounts and records of the brokerage were maintained in accordance with the *Real Estate Services Act*, Regulation, Rules and Bylaws; and (e) contravened section 2-19 of the Council Rules by failing to respond promptly to the inquiries of the Council in connection with this matter.

RESULT: Oceanridge Realty Ltd. was reprimanded and ordered to pay a discipline penalty to the Council in the amount of \$2,000.00.

RESULT: Kenneth York Leong's managing broker's licence was suspended for thirty (30) days from August 18, 2010 to September 16, 2010 (inclusive) but during the suspension period he is eligible to be licensed as an associate broker or representative and he was ordered to successfully complete the Trading Services Remedial Education Course.

RESULT: Oceanridge Realty Ltd. and Kenneth York Leong were ordered to be jointly and severally liable to pay audit costs to the Council in the amount of \$1,575.00 and were ordered to be jointly and severally liable to pay enforcement expenses to the Council in the amount of \$1,000.00.

Rental/Strata Management Services

Paul Martin Stapley

ISSUE: Paul Martin Stapley, managing broker, Peak Property Management Inc., Vancouver, entered into a Consent Order with the Council in which he consented to an Order that he (a) committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that he contravened section 37 of the *Real Estate Services Act* by (i) failing to respond until March 17, 2008 to an initial request made on December 20, 2007 with an initial response date of January 15, 2008 and a reminder of February 4, 2008; and (ii) failing to respond until June 4, 2008 to an initial request made on April 2, 2008 with an initial response date

of April 23, 2008 and a reminder of May 14, 2008, and (b) committed professional misconduct within the meaning of section 35(1)(d) of the *Real Estate Services Act* by: (i) failing to pay commission-based remuneration for licensees engaged by the brokerage, who are providing rental property management and/or strata management services, from a brokerage trust account or commission trust account, contrary to section 7-5 of the Council Rules; (ii) failing to take immediate steps to eliminate negative balances within rental management services trust accounts, contrary to section 7-5 of the Council Rules; (iii) failing to transfer CRF funds within 7 days of the end of the month, contrary to section 7-9(4) of the Council Rules; (v) failing to arrange for a qualified second co-signatory for all CRF or special levy trust accounts for the strata corporations within the care of the brokerage, contrary to section 7-9(6) of the Council Rules; (v) failing to prepare and maintain monthly reconciliations of the pooled rental management services trust accounts, contrary to sections 8-2 and 8-3 of the Council Rules; and (vi) failing to maintain a separate list of all trades in real estate in which the brokerage was involved for the 2008 fiscal year, contrary to section 8-4 of the Council Rules.

RESULT: Paul Martin Stapley was reprimanded, ordered to pay a discipline penalty to the Council in the amount of \$1,500.00, to successfully complete the Trading Services Remedial Education Course, and pay enforcement expenses to the Council in the amount of \$1,000.00.

Strata Management Services

William Kenneth Carter

Baywood Property Management Ltd.

ISSUE: Baywood Property Management Ltd., Victoria, entered into a Consent Order with the Council in which it consented to an Order that it committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that: (a) in contravention of sections 5-8, 5-11 and 5-12 of the Council Rules, it failed to promptly and in writing disclose to the Strata Corporation that a restoration

Disciplinary Decisions, *cont'd*

contractor providing services to the Strata Corporation was also a director of the Brokerage; (b) in contravention of section 25 of the *Real Estate Services Act*, it failed to maintain proper books and records in accordance with the Council Rules, in that from on or about December 2005, the Brokerage, on behalf of the Strata Corporation, failed to record all invoices which it received from a restoration contractor; (c) in contravention of sections 3-3(1)(a) and 3-4 of the Council Rules, it failed to act in the best interest of the Strata Corporation and with reasonable care and skill, in that it: (i) failed to file an insurance claim on behalf of the Strata Corporation for water penetration damages that occurred in 2005 totaling on or about \$10,906.16; and, (ii) failed to provide a roofing inspection report to the representative of the Strata Corporation's insurance company regarding another insurance claim filed on behalf of the Strata Corporation, which resulted in the claim being denied; (d) in contravention of section 3-3(1)(b) of the Council Rules, it failed to act in accordance with the lawful instructions of the client, in that it failed to investigate the reasons why an invoice in the amount of \$500.00 was paid to the restoration contractor in June 2007; (e) in contravention of section 7-9(2) of the Council Rules, it failed to maintain at least one separate trust account in the name of the Strata Corporation for the operating money and at least one separate trust account in the name of the Strata Corporation for the contingency reserve fund money and special levy money or both.

ISSUE: William Kenneth Carter, managing broker, Baywood Property Management Ltd., Victoria, entered into a Consent Order with the Council in which he consented to an Order that he committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that, in the provision of strata management services to a Strata Corporation: (a) in contravention of sections 5-8, 5-11 and 5-12 of the Council Rules, he failed to promptly and in writing disclose to the Strata Corporation that a restoration contractor providing services to the Strata Corporation was also a director and shareholder of the Brokerage; (b) in contravention of sections 6(2) and 25 of the *Real Estate Services Act* and section 3-3(1) and (3) of the Council Rules, he failed to ensure the Broker-

age maintained proper books and records in accordance with the Council Rules, in that from on or about December 2005, the Brokerage, on behalf of the Strata Corporation, failed to record all invoices which it received from a restoration contractor and, failed to ensure there was an adequate level of supervision for related Brokerage employees and/or licensees who were performing these services, contrary to section 3-1(1) (c) and 3-1(3)(a) of the Council Rules; (c) in contravention of sections 3-3(1)(a) and 3-4 of the Council Rules, he failed to ensure he and the Brokerage acted in the best interest of the Strata Corporation and with reasonable care and skill, in that: (i) they and each of them failed to file an insurance claim on behalf of the Strata Corporation for water penetration damages that occurred in 2005 totaling on or about \$10,906.16; (ii) they and each of them failed to provide a roofing inspection report to the representative of the Strata Corporation's insurance company regarding another insurance claim filed on behalf of the Strata Corporation, which resulted in the claim being denied; (d) in contravention of section 3-3(1)(b) of the Council Rules, he and the Brokerage failed to act in accordance with the lawful instructions of the client, in that they and each of them failed to investigate the reasons why an invoice in the amount of \$500.00 was paid to a restoration contractor in June 2007; (e) in contravention of section 7-9(2), he failed to ensure the Brokerage maintained at least one separate trust account in the name of the Strata Corporation for the contingency reserve fund money and special levy money or both; (f) in contravention of section 6(2) of the *Real Estate Services Act* and section 3-1 of the Council Rules, he failed to ensure he was actively engaged in the management of the said Brokerage, that the said business of the Brokerage was carried out competently and in accordance with the Act, Regulation, Rules and/or Bylaws; and that there was an adequate level of supervision for related associate brokers and representatives.

RESULT: Baywood Property Management Ltd. was reprimanded.

RESULT: William Kenneth Carter was reprimanded.

RESULT: Baywood Property Management Ltd. and William Kenneth Carter

were ordered to be jointly and severally liable to pay a discipline penalty to the Council in the amount of \$2,000.00 and e were ordered to be jointly and severally liable to pay enforcement expenses to the Council in the amount of \$1,000.00.

Cristine Ann Tames

ISSUE: Cristine Ann Tames, managing broker, Coast Pacific Property Services Ltd., Courtenay, entered into a Consent Order with the Council in which she consented to an Order that she committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that she: (a) contravened section 27(2)(a) of the *Real Estate Services Act* and section 7-9(3) of the Council Rules by failing to promptly deposit funds received on behalf of the strata from the developer of the strata corporation into the brokerage trust account; (b) contravened section 8-7.1(3) and 8-7.1(4)(b) of the Council Rules by failing to provide the strata with copies of the strata's management records, including accounting statements, invoices, and monthly bank statements within four weeks of the termination of her contract with the strata, and specifically, failed to provide a copy of the strata's general ledger to the strata within four weeks of the termination of her contract with the strata; (c) contravened section 7-9(7) of the Council Rules by failing to provide the strata with copies of the monthly bank statements and reconciliations for the trust account operated by the brokerage on behalf of the strata within six weeks after the end of the month for which statements were issued from October 2007 to May 2008; and (d) contravened section 3-1(1) of the Council Rules by failing to ensure the business of the brokerage was carried out competently and in accordance with *Real Estate Services Act*, the Regulation, Rules and Bylaws.

RESULT: Cristine Ann Tames was reprimanded, ordered to pay a discipline penalty to the Council in the amount of 1,500.00, to successfully complete the Trading Services Remedial Education Course, and pay enforcement expenses to the Council in the amount of \$1,000.00.

Disciplinary Decisions, *cont'd*

Glen Stephen William Nicoll Mountain Strata Management Ltd.

ISSUE: Mountain Strata Management Ltd., Big White, entered into a Consent Order with the Council in which it consented to an Order that it committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* by contravening section 7-7(1)(b) of the Council Rules in that it failed to file an Accountant's Report with the Council by the prescribed date.

ISSUE: Glen Stephen William Nicoll, managing broker, Mountain Realty at Big White Ltd., Big White, entered into a Consent Order with the Council in which he consented to an Order that, while licensed as managing broker of Mountain Strata Management Ltd., Big White, he committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* by not fulfilling his responsibilities as managing broker for the performance of the duties imposed on the brokerage by its licence within the meaning of section 6(2)(b) of the *Real Estate Services Act* and by contravening section 3-1(1)(a) and (b) and 3-1(3) of the Council Rules in that he failed to ensure that an Accountant's Report was filed with the Council by the prescribed date.

RESULT: Mountain Strata Management Ltd. was reprimanded and ordered to pay a discipline penalty to the Council in the amount of \$1,000.00

RESULT: Glen Stephen William Nicoll was reprimanded.

RESULT: Mountain Strata Management Ltd. and Glen Stephen William Nicoll are ordered to be jointly and severally liable to pay enforcement expenses to the Council in the amount of \$1,000.00.

Christine Barbara Thompson Total Concept Management & Realty Inc.

ISSUE: Total Concept Management & Realty Inc., Campbell River, entered into a Consent Order with the Council in which it consented to an Order that it committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* by contravening section 7-7(1)(b) of the Council Rules in that it failed to file an Accountant's Report with the Council by the prescribed date.

ISSUE: Christine Barbara Thompson, currently unlicensed, entered into a Consent Order with the Council in which she consented to an Order that while she was licensed as managing broker of Total Concept Management & Realty Inc., Campbell River, she committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* by not fulfilling her responsibilities as managing broker for the performance of the duties imposed on the brokerage by its licence within the meaning of section 6(2)(b) of the *Real Estate Services Act* and by contravening section 3-1(1)(a) and (b) and 3-1(3) of the Council Rules in that she failed to ensure that an Accountant's

Report was filed with the Council by the prescribed date.

RESULT: Total Concept Management & Realty Inc. was reprimanded.

RESULT: Christine Barbara Thompson was reprimanded.

RESULT: Total Concept Management & Realty Inc. and Christine Barbara Thompson are jointly and severally liable to pay enforcement expenses to the Council in the amount of \$1,000.00.

Ian Robert Lowe

ISSUE: Ian Robert Lowe, managing broker, Springs Strata Management Ltd., Vancouver, entered into a Consent Order with the Council in which he consented to an Order that he committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that he contravened section 7(3)(b) of the *Real Estate Services Act* by accepting remuneration in relation to real estate services from a person other than the brokerage to which he is licensed.

RESULT: Ian Robert Lowe was reprimanded and was ordered to successfully complete the disciplinary education assignments applicable to Chapter 2 (Mandatory Requirements Under the *Real Estate Services Act*) of the Strata Management Licensing Course, and pay enforcement expenses to the Council in the amount of \$1,000.00. ■

Feedback?

Please send any comments about the *Report from Council* newsletter to:

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