

Report from Council

Privacy Guidelines for Rental and Strata Managers

The BC Office of the Information and Privacy Commissioner has recently developed privacy guidelines for both landlords/tenants, as well as for strata corporations/strata managers. Licensees engaged in providing rental property management and/or strata management services should familiarize themselves with these publications in order that they comply with the requirements of the *Personal Information Protection Act*.

Privacy Guidelines for Landlords and Tenants

Privacy Guidelines for Landlords and Tenants covers a range of frequently asked questions, including what information a landlord can collect from a prospective tenant on the initial application form and ongoing privacy issues that may develop during the course of a tenancy agreement, such as the use of video surveillance in an apartment building. *The Privacy Guidelines for Landlords and Tenants* can be found at this link: www.oipc.bc.ca/pdfs/private/PrivacyGuidelinesforLandlordsandTenantsFINAL.pdf

Privacy Guidelines for Strata Corporations and Strata Agents

Privacy Guidelines for Strata Corporations and Strata Agents covers a range of

topics, including guidelines for handling requests for complaint records, privacy issues relating to audio/video surveillance and entry control systems, rules that apply to the personal information of employees or independent contractors of strata corporations and creating a privacy policy for the strata corporation. The *Privacy Guidelines for Strata Corporations and Strata Agents* can be found at this link: [www.oipc.bc.ca/pdfs/private/Guidelines_StrataCorp\(2009\).pdf](http://www.oipc.bc.ca/pdfs/private/Guidelines_StrataCorp(2009).pdf)

Licensees with questions can contact the Office of the Information and Privacy Commissioner at 250-387-5629 or email info@oipc.bc.ca. ■



Licensees engaged in providing rental property management and/or strata management services should familiarize themselves with these publications in order that they comply with the requirements of the Personal Information Protection Act.

This Issue:



- Privacy Guidelines for Rental and Strata Managers
- Further Information about Providing Access to Strata Documents
- Changes to REP—What this Means to You
- Disciplinary Decisions

A Note from the Chair



Gerry Martin,
Chair

Licensees engaged in providing rental property management and/or strata management services are encouraged to review the lead story in this *Report* as it highlights two important privacy guides. Created by the Office of the Information and Privacy Commissioner, the guides were developed to assist landlords/tenants, as well as strata corporations/strata managers, in complying with the requirements of the *Personal Information Protection Act*.

A matter of continuing concern to the Council relates to licensees providing rental property and/or strata management services independent of their brokerage or when not properly licensed to provide those services. I remind managing brokers to ensure that licensees engaged by their brokerage are properly licensed and only provide real estate services in the name of and on behalf of their related brokerage, and not on their own behalf. For example, a licensee providing trading services (sales) on behalf of ABC Realty may not provide rental property management services independent of ABC Realty. This is a serious contravention of the *Real Estate Services Act* and the discipline sanctions can be significant.

As mentioned in the August 2010 *Report from Council* newsletter and again later in this *Report*, the Council has decided to defer its decision regarding what your Relicensing Education Program ("REP") course requirements will be for a third cycle. This does not mean that REP is being discontinued. Rather, the Council is working on developing the course format and delivery methods for future cycles. In order to assist with this, the Council, at its October 2010 meeting, decided that a task force should be appointed to provide recommendations on the future direction of REP. Licensees will be advised of their continuing education requirements as information becomes available.

Finally, on behalf of Council members and staff, I would like to take this opportunity to wish you and your family a happy holiday season and best wishes for the New Year.

On behalf of the Council,

Gerry Martin
Chair

Office Closures

The Council office will be closed for or have reduced service hours on the following dates:

Friday, December 24, 2010, closing at 3:00 pm
Monday, December 27, 2010, in lieu of Christmas Day
Tuesday, December 28, 2010, in lieu of Boxing Day
Friday, December 31, 2010, closing at 3:00 pm
Monday, January 3, 2011, in lieu of New Year's Day

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STATISTICS December 2010

Representatives: 17,148
Associate Brokers: 1,781
Managing Brokers: 1,329
Total Licensees: 20,258
Brokerages (including branch offices
and sole proprietors): 1,433

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.

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Further Information about Providing Access to Strata Documents

The August 2010 *Report from Council* newsletter contained an article entitled 'Providing Access to Strata Documents' which discussed the posting of strata corporation documents by licensees on their websites. Licensees providing trading services have raised a number of questions and concerns about this article which advised that strata corporation documents are not public documents and that licensees must not provide these documents to people who have not been authorized by the *Strata Property Act* to receive them.

Section 36 of the *Strata Property Act* obligates a strata corporation to provide documents to an owner, a tenant who has been assigned a landlord's right to inspect and obtain copies of documents, or a person authorized in writing by an owner or a tenant previously authorized. It is rare that a tenant will authorize the release of documents. This article will only refer to the owner in respect of the person authorizing the release of the documents.

The *Strata Property Act* does not restrict who may receive documents. Rather, it requires a strata corporation to provide documents in certain circumstances. A strata corporation is not obligated to provide a prospective buyer with strata corporation documents, other than a Form B and a Form F, unless the owner has authorized the buyer, in writing, to obtain the documents. This happens infrequently. It is usually the case that the owner authorizes the listing licensee to obtain the required documents from the strata corporation.

The Council has provided licensees with an authorization form to be signed by an owner that a licensee may present to the strata corporation as evidence of their authorization to obtain the strata corporation's documents. The form can be found within the 'Strata Sales' section of the Professional Standards Manual (the "PSM") on the Council's website (www.recbc.ca/licensee/PSM/PSM2-5.htm) or commencing on page 141 of the hardcopy version of the manual. Additionally, clause 1(B)(i) of the Multiple Listing Contract also contains authority for the listing licensee to obtain information about the listed property from other sources, including a strata corporation.

Once the licensee has obtained the documents from the strata corporation, how a licensee uses or distributes the documents is determined by the instructions provided to the licensee by the owner of the strata lot.

The Council has also provided licensees with a form entitled "Authorization to Agent to Deliver Strata Documents" which can also be found in the 'Strata Sales' section of the PSM noted above. The form sets out the owner's instructions to the licensee regarding the use and distribution of the documents obtained from a strata corporation. The authorization provides the licensee with the permission to deliver the strata documents and records to "a prospective buyer or buyer's agent".

The Council has interpreted the phrase "a prospective buyer or buyer's agent" to mean purchasers or their agents who are specifically interested in purchasing the seller's strata lot. The phrase cannot be interpreted to mean the "world at large" or, put another way, anyone who is surfing the internet and clicks on the licensee's website.

The Multiple Listing Contract contains an authorization in clause 9(A) in which the seller agrees that the documents obtained by the listing licensee can be disclosed to, among others, persons interested in the property, including prospective buyers and their agents. **The authorization contained in the Multiple Listing Contract is significantly broader than the authorization contained in the Council's authorization form.**

The authorization being relied on will determine how the licensee may distribute the strata corporation documents.

If a licensee wishes to post the documents on a website in order to make the documents available to any person who may wish to view them, the licensee should ensure that they have the appropriate authorization, such as that contained in clause 9(A) of the Multiple Listing Contract, from the owner. A licensee who makes strata corporation minutes and documents available on a website based only on the authorization form available from



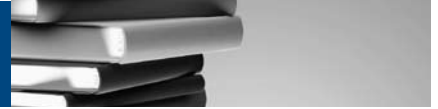
the Council could be found to have failed to follow their client's instructions if their client complains to the Council about too broad a circulation of the documents.

The further question that arises is whether an owner is entitled to authorize a licensee to make strata documents available to the public at large. Some licensees have argued that the *Strata Property Act* does not contain any restrictions on the use of the documents once they have been provided by the strata corporation. This view is correct. The *Strata Property Act* does not contain restrictions on how the documents can be used. However, the strata corporation may choose to impose such restrictions.

Licensees have also suggested that the documents obtained from the strata corporation belong to the owner and the owner is entitled to authorize their release. In fact, the documents, such as minutes, budgets, financial statements, engineering reports and legal opinions, belong to the strata corporation, not an owner. The strata corporation may wish to restrict how its documents could be used and disseminated.

For this reason, a licensee who wishes to rely on the authorization to distribute documents as set out in the Multiple Listing Contract should point out clause 9(A) to the owner and advise how the licensee intends to distribute the information. Before agreeing to such distribution, the owner or, if directed to do so by the owner, the licensee should confirm that the strata corporation has not imposed any restrictions on the manner in which strata documents can be distributed.

Licensees should recognize that simply being provided with strata corporation documents does not entitle the licensee to distribute the documents in a manner other than as directed by their client. ■



Changes to REP—What this Means to You

Section 2-8.1 of the Council Rules requires licensees to complete applicable continuing education courses in order to renew their real estate licence. Through the Relicensing Education Program (“REP”), the Council has mandated courses for all licensees during the first and second REP cycles. Earlier this year, the Council decided to defer its decision regarding what the REP course requirements will be for a third cycle. This deferral does not mean that REP is being discontinued. Rather, the Council is working on developing the format and delivery method for future course requirements and will provide licensees with updated information as it becomes available.

How Does This Affect You?

You are still required to complete your second REP cycle requirements as noted on this page. Once the Council determines the most appropriate continuing education requirements for licensees, you will be advised of what your educational requirements are for your licence renewal in 2013 or 2014. Board members are still required to complete 18 PDP credits for continued board membership.

Reasons for the Decision to Defer Third Cycle Requirements

There are a number of reasons the Council decided to defer making a decision about what the continuing education requirements will be for licence renewal in 2013 or 2014, or for a third REP cycle, 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.

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 prac-

tice updates. As a result, the Council is currently examining the feasibility of implementing a continuing education program for all licensees on a calendar 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.

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

Licensees Still Responsible for Completing REP Requirements

The first REP cycle will complete on December 31, 2010. Information about the first cycle course requirements can be found on the Council’s website at www.recbc.ca. Second cycle requirements for licence renewal in 2011 or 2012 must be completed and are noted below:

Trading Services Licensees

All licensees registered to conduct trading services are required to complete the ‘Real Estate E&O Insurance Legal Update’ course. In-class and on-line versions of the course are available. To attend an in-class offering,

contact your local real estate board directly. To register for the on-line course, visit www.realestate.ubc.ca/BCREAg.

Two alternate in-class courses are also available to trading services licensees; specifically commercial practitioners may choose to complete the ‘Real Estate E&O Insurance Commercial Legal Update’ course through a real estate board and strata managers who are also licensed to conduct trading services may choose to complete the ‘Strata Law/Legal Update’ course through the Professional Association of Managing Agents (PAMA).

Rental Property Management and Strata Property Management Licensees

Individuals licensed to provide rental property management or strata management services or both, are required to complete one REP approved elective course.

PDP Requirements

Members of real estate boards should know that the Council’s decision does not affect your PDP requirements. Your requirement to complete 18 PDP credits during the third PDP cycle is still in place. ■

Disciplinary Decisions

Since the October 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

James George Krahn

ISSUE: James George Krahn, currently unlicensed, entered into a Consent Order with the Council in which he consented to an Order that, while licensed as a representative, West Coast Realty Ltd. (Vic) dba Sutton Group–West Coast Realty (Vic), Victoria, he committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that he: (a) failed to provide his managing broker with a copy of a contract, contrary to section 3-2(1) of the Council Rules; (b) failed to immediately notify his managing broker when the deposit called for in the contract was not received, contrary to section 3-2(2) (b) of the Council Rules; and (c) failed to complete the requirements for written disclosure of his interest in the trade which was the subject of the contract, in accordance with section 5-9 of the Council Rules.

RESULT: James George Krahn was suspended for twenty-one (21) days, but as he has voluntarily remained unlicensed since April 15, 2010, twenty-one (21) days of the period between April 15, 2010 and July 15, 2010 would be counted towards his suspension. As such, Mr. Krahn was suspended from June 25, 2010 to July 15, 2010 (inclusive). In addition, Mr. Krahn 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.

Jackson Hing Yu Lai

ISSUE: Jackson Hing Yu Lai, representative, Multiple Realty Ltd. (Rhmd), 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)(d) of the *Real Estate Services Act* in that, as the purported limited dual agent in the purchase and sale of xxxxx 156A Street, Surrey pursuant to a November 9, 2009 contract

from the seller to the buyer he: (a) failed to clarify to the buyer the nature of the representation that he would be providing to the buyer as he initially acted solely as the buyer's agent but later purported to act on behalf of the seller as well, in accordance with section 3-3(1)(f) and section 5-10 of the Council Rules; (b) failed to clarify the nature of his relationship with the seller when he had the seller sign a Fee Agreement, which disclaimed any agency obligation to the seller, and when he contemporaneously had the seller sign a listing agreement and the contract, in which he purported to act as a limited dual agent, in accordance with section 3-3(1)(f) and section 5-10 of the Council Rules; and (c) failed to disclose in writing to the buyer the remuneration he anticipated receiving for providing real estate services, in accordance with section 5-8 and 5-11 of the Council Rules.

RESULT: Jackson Hing Yu Lai was suspended for fourteen (14) days from November 3, 2010 to November 16, 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.

Saqib Saeed Sheikh

ISSUE: Saqib Saeed Sheikh, representative, 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)(d) of the *Real Estate Services Act* in that he drafted the first assignment agreement and the second assignment agreement for the parties to sign without ensuring that the Township of Langley had issued a preliminary layout approval at the material times in question, which was a requirement pursuant to section 4 of the *Real Estate Development Marketing Act*.

RESULT: Saqib Saeed Sheikh was suspended for fourteen (14) days from November 10, 2010 to November 23, 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.

Vipin Sharma

ISSUE: Vipin Sharma, representative, Century 21 Coastal Realty Ltd., 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, contrary to section 3-4 of the Council Rules, failed to use reasonable care and skill to ascertain the age of the buyer prior to the buyer entering the contract.

RESULT: Vipin Sharma was suspended for seven (7) days from December 2, 2010 to December 8, 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.

Michael Gerald Dyson

ISSUE: Michael Gerald Dyson, representative, Parkside Realty Inc. dba Royal LePage Parkside Realty, Summerland, 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) of the *Real Estate Services Act* by contravening section 35(1)(a) of the *Real Estate Services Act* and section 3-3(1) (e) of the Council Rules in that he failed to maintain the confidentiality of a client's information in the course of communicating with prospective buyers after the brokerage's listing with the client had expired.

RESULT: Michael Gerald Dyson was suspended for seven (7) days from November 3, 2010 to November 9, 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.

Alain (Alan) Muchantef

ISSUE: Alain (Alan) Muchantef, representative, Crest Realty Westside Ltd. (VanW7) dba Re/Max Crest Realty Westside (VanW7), Vancouver, entered into a Consent Order with the Council in which he consented to an Order that he committed professional misconduct

Disciplinary Decisions, *cont'd*

within the meaning of section 35 of the *Real Estate Services Act* in that he: (a) failed to promptly pay or deliver to the brokerage all money received in relation to rental property management services, contrary to section 27(1)(a) of the *Real Estate Services Act*; (b) failed to ensure that the written service agreement between the brokerage and rental property owners for six properties included clauses required by section 5-1 of the Council Rules; (c) failed to ensure that a written service agreement was signed by an authorized signatory of the brokerage as required by section 5-1(3)(a) of the Council Rules; and (d) failed to provide his managing broker with the original or a copy of all records referred to in section 8-6 of the Council Rules, contrary to section 3-2(1)(c) of the Council Rules.

RESULT: Alain (Alan) Muchantef was reprimanded, ordered to pay a discipline penalty to the Council in the amount of \$1,000.00, ordered to successfully complete the Trading Services Remedial Education Course, and to pay enforcement expenses to the Council in the amount of \$1,000.00. The Committee decided to accept the above penalty as it was satisfied that there was no attempt on the part of Mr. Muchantef to misappropriate these funds, and that he was holding these funds until they could be transferred to a trust account opened by the brokerage.

John Wesley Percy

ISSUE: John Wesley Percy, representative, Camosun Properties Ltd. dba Re/Max Camosun, 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) of the *Real Estate Services Act* in that he (a) contravened section 35(1)(a) of the *Real Estate Services Act* by failing: (i) contrary to section 2-21(2)(d) of the Council Rules, to promptly notify the Council in writing that, around June 20, 2006, he had been charged with certain offences requiring disclosure; (ii) contrary to section 2-21(2)(d) of the Council Rules, to promptly notify the Council in writing that, on March 20, 2008, he had been convicted of one of the offences; (iii) contrary to section 2-21(4) of the Council Rules, to give a copy of the notice referred to in section 2-21(2)(d) relating to the charges and conviction to

the managing broker of his related brokerage; and (b) contravened section 35(1)(g) of the *Real Estate Services Act* in that he made a false or misleading statement in his application for licence renewal, in that he certified that he had not been charged with offences requiring disclosure when in fact he had been so charged.

RESULT: John Wesley Percy was reprimanded, and was ordered to successfully complete the disciplinary education assignments applicable to Chapter 2 (The *Real Estate Services Act*) of the Real Estate Trading Services Licensing Course and to pay enforcement expenses to the Council in the amount of \$1,000.00.

Virendar Kumar Sharma

ISSUE: Virendar Kumar Sharma, representative, Fraseridge Realty Ltd. dba Amex-Fraseridge Realty, 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, contrary to section 3-2(i)(a) of the Council Rules, failed to provide to his managing broker a copy of the disclosure dated August 30, 2009, respecting his purchase of a property.

RESULT: Virendar Kumar Sharma was reprimanded 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.

Brian Douglas Niles

ISSUE: Brian Douglas Niles, representative, West Coast Realty Ltd. (Vic) dba Sutton Group—West Coast Realty (Vic), 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: (a) contravened section 3-2(2) of the Council Rules in that he failed to notify his managing broker that the deposit required by the Contract of Purchase and Sale was not provided in accordance with the terms of the contract; specifically, the deposit was provided over a month after the date it was required in the contract; and (b) contravened section 3-2(1)(b) of the Council Rules in that he failed to

promptly provide his managing broker with a copy of the accepted offer regarding the transaction.

RESULT: Brian Douglas Niles was reprimanded 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.

Kenneth John Gibbons

ISSUE: Kenneth John Gibbons, managing broker, Sterling Realty Ltd. (Coq) dba Prudential Sterling Realty (Coq), 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, in the release of the deposit, contrary to one or more than one of section 28(2)(a) or 30(2) of the *Real Estate Services Act*, he inadvertently permitted the release of the deposit to the buyers without having from the seller an agreement in writing permitting the release of the deposit.

RESULT: Kenneth John Gibbons was reprimanded, 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.

Allan Thomas Corbett

Paramount Lodging Advisors

ISSUE: Paramount Realty Advisors Ltd. dba Paramount Realty Advisors, 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: Allan Thomas Corbett, managing broker, Paramount Realty Ltd., Burnaby, entered into a Consent Order with the Council in which he consented to an order that, while licensed as a managing broker, with Paramount Realty Advisors Ltd. dba Paramount Realty Advisors, Vancouver, 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

Disciplinary Decisions, *cont'd*

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 the said Accountant's Report was filed with the Council by the prescribed date.

RESULT: Paramount Realty Advisors was reprimanded.

RESULT: Allan Thomas Corbett was reprimanded.

RESULT: Further, Paramount Realty Advisors and Allan Thomas Corbett were jointly and severally liable to pay enforcement expenses to the Council in the amount of \$1,000.00.

Strata Management Services

Kenneth Joseph Cameron Davreux Strata Pro Property Management Services

ISSUE: Kenneth Joseph Cameron Davreux, managing broker, 494888 B.C. Ltd. dba Strata Pro Property Management Services, Osoyoos, 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) of the *Real Estate Services Act* in that (a) , as managing broker of 494888 B.C. Ltd. dba Strata Pro Property Management Services ("Strata Pro"), he contravened section 3-1(1) and (3) of the Council Rules and sections 6(2) and 35(1)(a) and (d) of the *Real Estate Services Act* in that from on or about April 30, 2008 to on or about March 11, 2009 he, in respect to the Brokerage's rental property management pooled trust account ("Rental Account"): (i) failed to ensure Strata Pro maintained proper books, accounts and other records, namely related to its Rental Account, contrary to section 25 of the *Real Estate Services Act* and section 8-1 of the Council Rules; (ii) failed to ensure Strata Pro prepared and maintained in a timely fashion or at all proper monthly reconciliations of the Rental Account banking statements to the record referred in section 8-2 of the Council Rules, in accordance with section 25 of the *Real Estate Services Act* and section 8-2 of the Council Rules; (iii) failed to ensure Strata Pro prepared and maintained in a timely fashion or at all proper monthly trust liability and

asset reconciliations for the Rental Account in accordance with section 25 of the *Real Estate Services Act* and section 8-3(d) of the Council Rules; (iv) allowed Strata Pro to make a payment from the Rental Account when the payment rendered the Rental Account to a negative balance or when the Rental Account was already at a negative balance, in contravention of section 25 of the *Real Estate Services Act* and section 7-5(1) of the Council Rules; (v) failed to ensure Strata Pro took immediate steps to eliminate the negative balance reflected in the Rental Account record or trust ledger, in contravention of section 25 of the *Real Estate Services Act* and section 7-5(2) of the Council Rules; (vi) failed to ensure Strata Pro notified the Council of a negative balance in the Rental Account, as set out in section 7-5(1) of the Council Rules, within the time period in section 7-5(3) of the Council Rules, in contravention of section 25 of the *Real Estate Services Act* and section 7-5(3) of the Council Rules; and (b) as managing broker of Strata Pro, he contravened sections 6(2) and 35(1)(a) and (d) of the *Real Estate Services Act* and section 3-1(1) of the Council Rules in that he: (i) failed to examine, notice and report to the Council that a tenancy agreement entered into by a licensee on behalf of Strata Pro indicated it was executed by the licensee on behalf of Strata Pro on or about January 15, 2009, before the licensee was employed with Strata Pro, and when the licensee's licence was inoperative; and, (ii) failed to ensure that there was an adequate level of supervision for related associate brokers and representatives.

ISSUE: 494888 B.C. Ltd. dba Strata Pro Property Management Services, Osoyoos, 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) of the *Real Estate Services Act* in that it contravened section 3-1(1) and (3) of the Council Rules and sections 6(2) and 35(1)(a) and (d) of the *Real Estate Services Act* in that from on or about October 2, 2008 to on or about March 11, 2009, in respect to its rental property management pooled trust account ("Rental Account"), it: (a) failed to maintain proper books, accounts and other records in relation to the Rental Account, in accordance with section 25 of the *Real Estate Services Act* and section 8-1 of the Council

Rules; (b) failed to prepare and maintain in a timely fashion or at all proper monthly reconciliations of the Rental Account banking statements to the record referred in section 8-2 of the Council Rules, in accordance with section 25 of the *Real Estate Services Act* and section 8-2 of the Council Rules; (c) failed to prepare and maintain in a timely fashion or at all proper monthly trust liability and asset reconciliations of the Rental Account in accordance with section 25 of the *Real Estate Services Act* and section 8-3 of the Council Rules; (d) made a payment from the Rental Account when the payment rendered the Rental Account to a negative balance or when the Rental Account was already at a negative balance, in contravention of section 25 of the *Real Estate Services Act* and section 7-5(1) of the Council Rules; (e) failed to take immediate steps to eliminate the negative balance reflected in the Rental Account record or trust ledger, in contravention of section 25 of the *Real Estate Services Act* and section 7-5(2) of the Council Rules; and (f) failed to notify the Council of a negative balance in the Rental Account, as set out in section 7-5(1) of the Council Rules, within the time period in section 7-5(3) of the Council Rules, in contravention of section 25 of the *Real Estate Services Act* and section 7-5(3) of the Council Rules.

RESULT: Kenneth Joseph Cameron Davreux was reprimanded and was ordered to successfully complete the Trading Services Remedial Education Course, and complete the Advanced Strata Management Course as provided by Langara College, Vancouver, commencing September 2010.

RESULT: Strata Pro Property Management Services was reprimanded and ordered to undergo an Office and Records Inspection of the books and records of Strata Pro within six months of the date of the Order with the cost of the audit to be paid by Strata Pro.

RESULT: Kenneth Joseph Cameron Davreux and Strata Pro Property Management Services were ordered to be jointly and severally liable to pay a discipline penalty to the Council in the amount of \$1,500.00 and enforcement expenses to the Council in the amount of \$1,000.00.

Russell Guy Crouse

ISSUE: Russell Guy Crouse, managing bro-

Disciplinary Decisions, *cont'd*

ker, Salt Spring Realty Ltd. dba Royal LePage Salt Spring Realty, Salt Spring Island, entered into a Consent Order with the Council in which he consented to an Order that he while licensed as managing broker with Royal Property Management Ltd., Salt Spring Island, committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that he: (a) contravened section 7-4(2) of the Council Rules by failing to review, date and initial the brokerage's monthly reconciliations and monthly trust liability and asset reconciliations, as required by section 8-2(b) and 8-3(b) of the Council Rules; and (b) contravened section 7-9(4) of Council Rules by failing to transfer contingency reserve fund money collected on behalf of the brokerage's strata corporation clients to the applicable trust account within seven days after the end of the month in which the contingency reserve fund money was received, as required by section 7-9(2)(b) of the Council Rules.

RESULT: Russell Guy Crouse was reprimanded 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.

Bernard (Bernie) Leong

ISSUE: Bernard (Bernie) Leong, associate broker, Pacific Quorum Properties 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* in that, while licensed as managing broker with Jefferson Management Corporation, Richmond, a brokerage providing ongoing strata management services to a strata corporation, he contravened section 6(2) of the *Real Estate Services Act* and section 3-1(1), 3-3(1)(a) and (b) and 3-4 of the Council Rules, in that he failed to act in accordance with the lawful instructions of the strata corporation and with reasonable care and skill, he did not ensure Jefferson Management Corporation sent a letter to a strata lot owner to inform the owner that their request to rent their unit had been denied by the strata council of the strata corporation which resulted in the owner being granted automatic permission to rent out the unit given that a response was not provided on behalf of the strata corporation, in accordance with section 144(4) of the *Strata Property Act*.

RESULT: Bernard (Bernie) Leong was reprimanded, was ordered to successfully complete the Advanced Strata Management Course and pay enforcement expenses to the Council in the amount of \$500.00.

Rental Property Management Services

Roger Eric Eyton Spurling Proline Management Ltd.

ISSUE: Proline 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 it contravened section 7-5(3) of the Council Rules in that it failed to notify the Council of a negative balance on a trust account ledger within the time period prescribed in section 7-5(3) of the Council Rules.

ISSUE: Roger Eric Eyton Spurling, managing broker, Proline 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 he, as managing broker of the brokerage, contravened section 6(2) of the *Real Estate Services Act* in that he failed to ensure that the said business of the brokerage was carried out in accordance with the Act, Regulations, Rules and/or Bylaws.

RESULT: Proline Management Ltd. was reprimanded.

RESULT: Roger Eric Eyton Spurling was reprimanded.

RESULT: Proline Management Ltd. and Roger Eric Eyton Spurling are ordered to be jointly and severally liable to 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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