



Report from Council

February 2007 Volume 42, No. 4

Save Your Money - Avoiding Common Advertising Mistakes Means Avoiding a Possible Administrative Penalty

The Council continues to receive complaints relating to licensees failing to comply with the Council Rules on advertising. Licensees are reminded that section 57(1) of the *Real Estate Services Act* allows the Council to impose administrative penalties on licensees who fail to adhere to specific Rules, including various sections that set out the requirements for advertising. In accordance with section 2-23 of the Council Rules, a licensee who fails to comply may be hit in the pocketbook, with a penalty imposed of:

- (a) \$250 for a first contravention;
- (b) \$500 for a second contravention, and
- (c) \$1000 for a third or subsequent contravention.

Since October 2005, the Council has issued 59 administrative penalties. Of this number 30 relate to advertising contraventions.

The most common advertising contravention, for which a penalty may be imposed, is failing to display the name of a licensee's brokerage on an advertisement in a "prominent and easily readable way" as is required under section 4-6(2) of the Council Rules. This means that whether it is a promotional flyer, website, billboard, classified or internet ad, the licensee name of the brokerage must appear, in compliance with section 4-6(2). Corporate logos or general franchise identification, which do not include the

complete licensee name of the brokerage, are not sufficient to meet the requirements of the Rule.

The second most common advertising contravention, for which a penalty may be imposed, is the advertising of a team name for a group of related licensees that has not been approved by and registered with the Council, as is required under section 4-6(5) of the Council Rules. To have a team name approved by and registered with Council, licensees simply have to send their written request to the Council's Licensing Department, setting out the name they would like to have approved and listing the members of their team, both licensed and unlicensed. Typically the Council's Licensing Department will be able to advise whether a team name has been approved within one week of receipt of a request. Licensees are reminded that they may only advertise a team name in conjunction with the name of their brokerage.

The third most common contravention, for which a penalty may be imposed, relates to the advertising of and signage on personal offices. Section 4-3(2) of the Council Rules sets out that, if a licensee maintains a personal office, there must be no indication (signage) that real estate services are provided from the office nor can the address of the personal office be displayed in any advertising or other

records relating to the provision of real estate services. If the personal office is in a commercial office space, the licensee may indicate on the building directory, "Mary Smith's personal office", but may not indicate "Mary Smith, XYZ Realty".

Managing brokers play an important role in ensuring that the licensees under their supervision are aware of their obligation to comply fully with the advertising requirements of the Council Rules, as well as the advertising guidelines and policies established by the Council. A managing broker's periodic review, with representatives and associate brokers, of examples of appropriate and inappropriate advertising can enhance the licensees' understanding of the requirements and keep their obligations top of mind.

With managing brokers and licensees working together to avoid the most common advertising mistakes outlined above, not only will they ensure compliance in advertising practices, licensees will also avoid the unnecessary expense of an administrative penalty.

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Real Estate Council of British Columbia

900 - 750 West Pender Street
Vancouver, B.C. V6C 2T8
Phone 604-683-9664
Toll-free 1-877-683-9664
Fax 604-683-9017
info@recbc.ca
www.recbc.ca

Office Hours:
Monday-Friday 8:30a.m. - 4:30p.m.

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STATISTICS

(FEBRUARY 2007)

REPRESENTATIVES: 15,107

ASSOCIATE BROKERS: 1,908

MANAGING BROKERS: 1,369

BROKERAGES: 1,408

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.

For further information, contact:
Anthony Cavanaugh, Communications
Officer at acavanaugh@recbc.ca

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A Note From The Chair

In BC, the real estate industry is now a self-regulated profession. This means that the Council is responsible for regulating the industry in accordance with the requirements of the *Real Estate Services Act* (RESA) and determining the standards of business practice and competencies required of real estate licensees. As we transitioned to RESA in 2005, the Council moved from a delegated authority under the *Real Estate Act* to the new self-regulating model.

One part of the Council's commitment to effective self-regulation is through its discipline and compliance regime. You will note that this Report contains six full pages of discipline orders. These orders, and the significance of the discipline penalties imposed, demonstrate the

Council's commitment to maintaining consumer confidence in the real estate marketplace.

Self-regulation, however, is based on a partnership between the Council administering the regulatory requirements and licensees adhering to those requirements by always doing the right thing. One aspect of always doing the right thing includes licensees only rendering service in areas in which they are competent to do so. I urge all licensees to familiarize themselves with the article on page four of this Report for further information on this topic.

The Council's Relicensing Education Program (REP) is another part of this partnership. Through REP, licensees indicate to the public that they are maintaining a



Philip Jones

minimum level of competence to practice and that licensees take their professional obligations seriously.

As individual real estate licensees, we know that self-regulation is a privilege. While this privilege is relatively new, it is indicative of the confidence that the government has placed in the Council and the public esteem we have earned. When I renew my licence in June of this year, I will, as in the past, reflect on the privilege I have to practice my chosen profession. I hope you will too.

*On behalf of the Council,
Philip Jones, Chair*

Council Seeks Compliance Officer

In keeping with the Council's expanded regulatory authority and, as a result of an increased number of complaint files, the Council requires an individual to join its compliance team for the intake, investigation, and assessment of complaints against real estate licensees.

Experience in the real estate industry and/or investigative experience or

experience serving as a member of a real estate board's or organization's business practices committee is required. The position also requires excellent verbal and written communication skills, excellent judgment and analytical skills, resolution skills as well as strong organizational abilities and computer proficiency.

We offer a competitive salary and benefits package.

Please submit your resume with cover letter outlining qualifications and experience by February 28, 2007. A job description and more information is available at www.recbc.ca.

Please submit your resume and cover letter to: Maureen Coleman, Senior Compliance Officer #900—750 West Pender Street, Vancouver, BC V6C 2T8, Fax: 604-683-4117 email: info@recbc.ca

Council Office Closures

The Council office will be closed on April 6, 2007 for Good Friday and April 9, 2007 for Easter Monday.

Acting As a Buyer's Agent

The October 2006 *Report from Council* included an article entitled "Exclusive Buyer Agency Agreements" which discussed some of the advantages of these agreements, including establishing a buyer's agent's contractual rights to get paid for their services. The article generated a number of enquiries. It also raised concerns that some licensees may not be clear about their obligations as a buyer's agent.

All licensees have a duty to establish their agency responsibilities as early as possible, and to fully explain this relationship to their clients. In buyer agency, this process should include:

- determining what type of property and location the buyer is interested in buying;
- discussing the services you are offering to the buyer to locate and assist them in purchasing such properties;
- discussing the value of that service, including what the minimum compensation you are prepared to work for is;
- discussing the fact that some properties may be offered for sale which could meet the buyer's needs, but which do not offer sufficient compensation for your services;
- discussing options that may be available to address such circumstances **before they arise**, e.g.
 - buyer agrees to sign an exclusive buyer agency agreement that confirms the amount of compensation the buyer's agent will receive;
 - buyer agrees whether such properties should be brought to their attention;
 - buyer will make up any shortfall to a pre-determined

amount;

- buyer will attempt to negotiate through the contract of purchase and sale to have the pre-determined shortfall paid to the agent's brokerage out of the proceeds of the sale;
- ensuring the buyer understands whatever course of action is being agreed to; and
- committing that agreement to writing and having the buyer sign the agreement.

Of the foregoing options, the Council believes that entering into an exclusive buyer's agency agreement is the most comprehensive. Licensees can re-read the October 2006 *Report from Council* article concerning exclusive buyer agency agreements by going to www.recbc.ca/pdf/RFC/2006/RFCOctober2006.pdf.

In keeping with their buyer agency responsibilities, licensees must act in the best interest of their clients, and avoid conflicts of interest.

With this in mind, is it proper for a buyer's agent, without their client's knowledge, to avoid showing a buyer a property offered for sale, or otherwise 'steer' a buyer away from such a property, simply because the buyer's agent is not being offered as much remuneration as they wish to receive?

The answer, clearly, is no! A buyer's agent has an obligation to not allow their own personal interests to interfere with the best interests of their client. Service fees are negotiable, and there is no requirement for a seller, or a brokerage representing a seller, to offer sufficient compensation to satisfy any and all buyer's agents. This does not mean buyer's agents should work for less than satisfactory compensation, but it does mean that buyer's agents who are not prepared

to provide their services without some certainty about their level of compensation need to discuss this fact with their buyer clients.

Buyer's agents provide a valuable service to their buyers. A well informed buyer will understand the value of that service, and will realize that a buyer's agent cannot be expected to provide that service without being reasonably compensated.

If you are concerned that some properties offered for sale will not provide you with the amount of compensation desired, you should discuss this with your buyer clients before the situation arises, and come to an understanding about what will happen if that occurs. This process is similar to the one a licensee would use in making a listing presentation. Most licensees have determined what fee they expect when listing a property for sale. That is discussed with prospective sellers during listing presentations, and the agreed to fee is documented in the listing contract.

A buyer's agent who does not have this type of discussion reaching some form of agreement with their buyers, and simply chooses to ignore or steer buyers away from properties offered for sale which do not offer enough compensation for his or her liking, is not acting in the best interest of those clients. This could lead to disciplinary action and/or civil proceedings.

For further information respecting licensee obligations in a variety of service relationships (e.g. client, customer, dual agency) see pages 17 & 18 of the Licensee Practice Manual, 6th Edition. For further information or questions related to this article, please contact the Council information line at info@recbc.ca.

Competency in Practice Areas a Must

Real estate is a diverse and frequently complex industry. For that reason, licensees often specialize in a particular type of real estate and/or a specific market area. This allows them to remain current and familiar with the unique nature of that market segment.

The Council, and no doubt the public, expects a licensee to maintain a state of competency, on an ongoing basis, in all areas in which the licensee renders service. A licensee who demonstrates incompetence may be found to have committed professional misconduct.

Section 35 of the *Real Estate Services Act* (RESA) provides that a licensee commits “professional misconduct” if the licensee:

- (a) contravenes [RESA], the Regulations, or the Council Rules;
- (b) breaches a restriction or condition of their licence;
- (c) does anything that constitutes wrongful taking or deceptive dealing;
- (d) demonstrates incompetence in performing any activity for which a licence is required;
- (e) fails or refuses to cooperate with an investigation under section 37 or 48;
- (f) fails to comply with an order of the Real Estate Council, a discipline committee or the Superintendent;
- (g) makes or allows to be made any false or misleading statement in a document that is required or authorized to be produced or submitted under [RESA].

When issues related to a particular transaction arise that are outside of a licensee's area of expertise, guidance should be sought from the licensee's

managing broker. It may be that these matters should be referred to an appropriate independent expert (e.g., a lawyer, accountant, building inspector, etc.).

However, sometimes it is the very nature of the real estate transaction that is beyond the scope of a licensee's expertise. For example, a licensee whose licence allows rental property management activity but who specializes in single-family home sales may have no experience or knowledge in the area of rental property management. If the opportunity to provide rental property management services arises, and assuming the licensee's employing brokerage has the necessary systems available to provide competent rental property management services, the licensee would be well advised to discuss the opportunity with the licensee's managing broker prior to offering to render service.

Similarly, while a real estate licence permits an individual to provide services related to trades in real estate throughout the province, that does not mean licensees are always competent to do so. The expertise necessary to market a waterfront home on Vancouver Island is not the same expertise necessary to assist in the purchase of a cattle ranch in the Cariboo. There are often situations where a prudent licensee should refer business to someone who is more knowledgeable in a particular market or to another licensee within the brokerage who has the knowledge and experience to assist.

The public relies on a licensee's expertise. Therefore, licensees should not act in situations where they are unable to render competent service.

Section 43 of RESA provides for disciplinary action against a licensee who breaches section 35 by committing professional misconduct. As set out in section 35 of RESA, a licensee can commit professional misconduct in a variety of ways, including by demonstrating incompetence.

Standards of practice have been rising consistently and every licensee is expected to conform to the higher standards as they become the norm. In considering whether a licensee may have demonstrated incompetence and thereby committed professional misconduct, the accepted and normal standards of practice in the profession are taken into account by the Council. Although “incompetence” is not defined, in considering whether a licensee might have demonstrated incompetence, the normal standards of practice are taken into account.

As a general guide, it is suggested that licensees remember that they are paid remuneration for their expertise. Section 3-4 of the Council Rules requires them to act honestly and with reasonable skill and care.

A real estate licensee who extends or offers service or information, even at no charge, is required to comply with RESA and may be found to have committed professional misconduct, notwithstanding that the real estate services were provided for free.

The careless rendering of an opinion can be as damaging as a negligent or incompetent statement of fact and the licensee who unknowingly leads the public into harm's way risks much. The penalties imposed by the Council and the courts can be severe.

Miscellaneous Reminders

Licence Applicants Must Make Full Disclosure

Managing brokers should impress upon first-time and renewing licence applicants the importance of full and honest disclosure of information in their licence applications.

Licence applications are investigated and if the investigation discloses that the application contains inaccurate, misleading or incomplete information, a hearing may be convened to deal with the application, which could result in a licence refusal, suspension or cancellation. It is in the best interest of every licence applicant to make full disclosure with respect to criminal charges and convictions, bankruptcy or legal proceedings at the outset.

If applicants conceal adverse information by providing false or incomplete information in their applications, the presumption as to their “good reputation” is compromised. Real estate licensees constantly act in fiduciary relationships and for that reason their trustworthiness must be above question.

Proper Licensing: A Shared Responsibility

Individual licensees and managing

brokers have a shared responsibility to ensure that they are properly licensed at all times.

Individuals must ensure that their licence is kept current and renewed when required. Any lapses in licensing can have serious consequences, including having to re-write the licensing examination. In addition, licensees must ensure that they are properly licensed for the type of service they are rendering to consumers. There are three categories of real estate services in British Columbia: trading services (sales), rental property management services and strata management services. In order to render service in any or all of these categories, you must be licensed to do so.

Managing brokers also share in the responsibility for ensuring proper licensing of individuals related to the brokerage. Managing brokers must have controls in place to ensure that any licensees who transfer into the brokerage file the necessary transfer forms and fees with the Council office. In addition, managing brokers must ensure that individuals do not provide real estate services until the Council issues a licence to do so.

Licensees with questions about their licence category or expiry date

may check the licence certificate at their brokerage or view the Licensee Search page on the Council’s website at www.recbc.ca.

Re-Qualification Date Reminder

Licensees wishing to obtain their re-qualification date to determine how long they may remain unlicensed are reminded that the Council requires all requests to be made in writing. Requests can be sent via mail, fax at 604-683-9017 or email at info@recbc.ca.

Maintaining Proper Books and Records

The Council again reminds managing brokers of the requirement to maintain, at all times, proper books and records in accordance with the *Real Estate Services Act*. If a brokerage is unable or does not have the expertise to maintain proper books and records, it must hire the necessary staff to do so. The potential harm to the public of unaccounted for, missing or wrongfully converted monies is of great concern and therefore managing brokers are urged to take corrective action if a brokerage is not in compliance with the record keeping requirements of the Council Rules.

Strata Manager Grandparenting Period Has Now Ended

As licensees are aware, effective January 1, 2006, those who provide strata management services are required to be licensed under the *Real Estate Services Act*. The Council reminds all individuals engaged in strata management that, in accordance with section 10-3 of the Council

Rules, the grandparenting period for strata management licensing ended on December 31, 2006. As a result, the Council will no longer accept applications from strata managers for grandparented licensing status. Individuals wishing to provide strata management services in BC after

January 1, 2007 are now required to complete the Strata Management Licensing Course and Examination to obtain a licence.

Since the Council began licensing strata managers, it has licensed over 870 individuals and 260 brokerages to provide strata management services.

Strata Management Licensing Exemptions

Section 1 of the *Real Estate Services Act* (RESA) defines ‘strata management services’ as follows:

"strata management services" means any of the following services provided to or on behalf of a strata corporation:

- (a) collecting or holding strata fees, contributions, levies or other amounts levied by, or due to, the strata corporation under the *Strata Property Act*;
- (b) exercising delegated powers and duties of a strata corporation or strata council, including
 - (i) making payments to third parties on behalf of the strata corporation,
 - (ii) negotiating or entering into contracts on behalf of the strata corporation, or
 - (iii) supervising employees or contractors hired or engaged by the strata corporation
- (iv) but does not include an activity excluded by regulation;

Section 2.18 of the *Real Estate Services Regulation* (the *Regulation*) allows individuals who are employed by a strata corporation or a brokerage to provide certain strata management services without having to be licensed. This article will only deal with such individuals who are employees of brokerages. Section 2.18 states:

Exemption for strata caretakers employed by strata corporation or brokerage

2.18 (1) *Subject to subsection (2), an individual who is employed as a caretaker or manager by a strata corporation, or by a brokerage that provides strata management*

services to or on behalf of a strata corporation, is exempt from the requirement to be licensed under Part 2 of the Act in respect of collecting strata fees, contributions, levies or other amounts levied by, or due to, the strata corporation under the Strata Property Act.

(2) *On receipt of money referred to in subsection (1), the exempt caretaker or manager must promptly deliver the money to the strata corporation or brokerage, as applicable.*

Therefore, the only service from within the list contained in the definition of strata management



services which may be performed by a brokerage’s unlicensed employee is the collection of strata fees, contributions, levies or other amounts levied by, or due to, the strata corporation under the *Strata Property Act*. The other services, all of which relate to exercising the delegated powers and duties of a strata corporation or strata council, may only be performed by licensees engaged by the brokerage.

The other important point for brokerages to remember is that the relationship between the brokerage and an unlicensed person acting under the section 2.18 exemption regulation must be one of employer/employee. The unlicensed person may not act as an independent contractor providing services to or on behalf of the brokerage. The usual tests one would find in an employer/employee relationship that apply for income tax and remittance purposes must be satisfied, e.g. the brokerage being responsible for source deductions of income tax, employment insurance premiums, Canada Pension Plan contributions, etc. Brokerages may wish to seek independent accounting and/or legal advice to ensure this required working relationship is in place.

In reviewing the activities of brokerages engaging unlicensed employees to provide strata management services under the section 2.18 exemption, the Council may require such brokerages to show that the employer/employee relationship has been established similar to the manner it is dealt with by the Canada Revenue Agency. The Council will also look for verification that the scope of strata management services performed by such unlicensed employees is limited to those detailed in section 2.18.

A brokerage which employs unlicensed people under the section 2.18 exemption regulation is responsible to ensure compliance with the foregoing, and may be subject to discipline proceedings for failing to do so.

Disciplinary Decisions

Since the December 2006 *Report from Council* newsletter, the following actions have been taken as a result of disciplinary hearings and Consent Orders conducted by the Council.

COMPLAINT Contravention of section 35(1)(d) of the *Real Estate Services Act* /Professional misconduct, incompetence.

ISSUE Margaret Ann Reibin, representative, Hanna Realty Ltd., Vancouver, committed professional misconduct within the meaning of section 35(1)(d) of the *Real Estate Services Act* and was incompetent in that she: (i) failed to ensure that the sellers' acceptance of a Contract of Purchase and Sale was made subject to the sellers not being obligated with respect to a previously accepted contract; (ii) failed to advise the sellers to seek independent legal advice as soon as she became aware of the risk to the sellers of being obligated under two contracts; (iii) failed to act in the best interest of the sellers when she attempted to revoke the contract when it was a firm contract subject only to the sale of the buyer's own property; and (iv) failed to ensure that the second buyer knew that their offer was a back-up offer and that the sellers were already obligated under a previously accepted contract.

RESULT Margaret Ann Reibin's licence was suspended for thirty (30) days from December 20, 2006 to January 18, 2007 (inclusive) for professional misconduct as described above after an Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver was entered into between the Real Estate Council and Margaret Ann Reibin, and a Consent Order was issued. In addition, as a

condition of continued licensing, Margaret Ann Reibin was required to successfully complete the disciplinary education assignments applicable to Chapter 2 (*Real Estate Services Act*) of the Real Estate Trading Services Licensing Course, to enroll in and attend the first available "Professionalism it Pays! Be Safe or Be Sued" course and to pay enforcement expenses to the Council in the amount of \$500.00.

COMPLAINT Contravention of sections 31(1)(c) and 37 of the *Real Estate Act* and section 35(1)(c) of the *Real Estate Services Act* /Misconduct and professional misconduct

ISSUE Raj Kumar Gupta, representative, Century 21 In Town Realty, Vancouver, contravened section 31(1)(c) (misconduct), section 37 (failure to deliver copy) of the *Real Estate Act* and section 35(1)(c) (professional misconduct) of the *Real Estate Services Act* in that he (i) created a false and misleading document when he, in relation to a listing amendment form which had been previously signed by his clients to reflect a change in the listing price, modified the form to extend the listing contract without having the clients resign the form as to their agreement to this change. The licensee re-dated the form but left the clients' signatures as they were which implied that the clients had signed on that day in relation to this change when that was not true and (ii) failed to deliver a copy of the listing amendment form to his clients.

RESULT Raj Kumar Gupta's licence was suspended for thirty (30) days from January 24, 2007 to February 22, 2007 (inclusive) for professional

misconduct as described above after an Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver was entered into between the Real Estate Council and Raj Kumar Gupta, and a Consent Order was issued. In addition, as a condition of continued licensing, he was required to successfully complete the disciplinary education assignments applicable to Chapter 9 (Professional Ethics) of the Real Estate Trading Services Licensing Course, to enroll in and attend the next available "Professionalism It Pays! Be Safe or Be Sued" and to pay enforcement expenses to the Council in the amount of \$500.00.

COMPLAINT Contravention of sections 35(1)(a), 35(1)(d), 27(1) and (4) of the *Real Estate Services Act*, sections 3-2(1), 3-3, 5-2, 5-4, 5-8 and 5-10 of the Council Rules/ Professional misconduct and incompetence.

ISSUE Ashok Kumar Kukreja, representative, who while licensed as a representative with Medallion Realty Ltd. dba Sutton Group Medallion Realty, Surrey, was incompetent within the meaning of section 35(1)(d) and therefore committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that he: (i) failed to properly disclose the nature of the agency representation offered, and any substantive change in that representation to his client or, in the alternative, provided trading services in the circumstance where to do so was to act in a conflict of interest; (ii) failed to pay the deposit for the subject property to his brokerage or, in the alternative, have a separate written agreement which all parties

agreed that he, as the seller, would hold the deposit; (iii) failed to promptly deliver a copy of the accepted Contract of Purchase and Sale to his brokerage; (iv) failed to advise the buyer to seek legal advice with respect to a term of the Contract of Purchase and Sale that the “deposit will be paid immediately upon subject removal. Deposit will be in the form of demand draft or certified cheque”.

RESULT Ashok Kumar Kukreja’s licence was suspended for thirty (30) days from January 2, 2007 to January 31, 2007 inclusive for incompetence and professional misconduct as described above after an Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver was entered into between the Real Estate Council and Ashok Kumar Kukreja, and a Consent Order was issued. In addition, as a condition of continued licensing, he is required to successfully complete the disciplinary education assignments applicable to Chapter 2 (*Real Estate Services Act*) of the Real Estate Trading Services Licensing Course, to enroll in and attend the first available “Agency”, “Legal Update” and “Professionalism it Pays! Be Safe or Be Sued” courses and to pay enforcement expenses to the Council in the amount of \$500.00.

COMPLAINT Contravention of section 35(1)(d) and 35(1)(a) of the *Real Estate Services Act*/Incompetence, professional misconduct.

ISSUE Lily Fung Ming Li, representative, who while licensed with Sunrich Realty Ltd. dba Amex Sunrich Realty, Richmond, (a) was incompetent within the meaning of section 35(1)(d) of the *Real Estate Services Act*, and therefore committed professional misconduct within the meaning of section 35(1)(a) of the *Real*

Estate Services Act in that she: (i) failed to make the Contract of Purchase and Sale subject to viewing and approval by the parties in question; and (ii) failed to advise the sellers and/or their representative in a timely manner that she had not secured a deposit in the amount of \$70,000 from the buyer in accordance with the Contract of Purchase and Sale; and (b) that she contravened section 3-2(1)(b) of the Council Rules and therefore committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that she failed to promptly provide a copy of the Contract of Purchase and Sale to her managing broker.

RESULT Lily Fung Ming Li’s licence will be suspended for twenty-one (21) days upon license reissuance for the contraventions as described above after an Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver was entered into between the Real Estate Council and Lily Fung Ming Li, and a Consent Order was issued. In addition, as a condition of continued licensing, she is required to successfully complete the disciplinary education assignments applicable to Chapter 2 (*Real Estate Services Act*), Chapter 10 (The Law of Contract) and Chapter 11 (Contracts for Real Estate Transactions) of the Real Estate Trading Services Licensing Course, to enroll in and attend the first available “Legal Update” course, and to pay enforcement expenses to the Council in the amount of \$500.00.

COMPLAINT Contravention of section 35(1)(d) of the *Real Estate Services Act* /Incompetence

ISSUE Giancarlo David Galasso, representative, One Percent Realty Ltd., Vancouver, was incompetent within the meaning of section 35(1)(d)

of the *Real Estate Services Act* in that he published real estate advertising that he knew or ought to have known contained a false statement or misrepresentation concerning a property.

RESULT Giancarlo David Galasso’s licence was suspended for fourteen (14) days from January 24, 2007 to February 6, 2007 (inclusive) for incompetence as described above after an Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver was entered into between the Real Estate Council and Giancarlo David Galasso, and a Consent Order was issued. In addition, as a condition of continued licensing, he was required to successfully complete the disciplinary education assignments applicable to Chapter 2 (*Real Estate Services Act*) of the Real Estate Trading Services Licensing Course and to pay enforcement expenses to the Council in the amount of \$500.00.

COMPLAINT Contravention of section 35(1)(a) of the *Real Estate Services Act*, sections 3-1(3)(b) and 7-7(1)(b) of the Council Rules/Contravention of Act or Rules, professional misconduct

ISSUE David Arthur Pearson (Sole Proprietorship), Prince George, 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 Real Estate Council by the prescribed date.

ISSUE David Arthur Pearson, managing broker, of David Arthur Pearson (Sole Proprietorship), committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* by

contravening section 3-1(3)(b) 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 David Arthur Pearson (Sole Proprietorship) was reprimanded for the contravention described above after an Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver was entered into between the Real Estate Council and David Arthur Pearson (Sole Proprietorship), and a Consent Order was issued. In addition, as a condition of continued licensing, David Arthur Pearson and David Arthur Pearson (Sole Proprietorship) were jointly and severally liable to pay enforcement expenses to the Council in the amount of \$500.00.

RESULT David Arthur Pearson, managing broker, David Arthur Pearson (Sole Proprietorship), was reprimanded for professional misconduct as described above after an Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver was entered into between the Real Estate Council and David Arthur Pearson, and a Consent Order was issued. In addition, as a condition of continued licensing, David Arthur Pearson (Sole Proprietorship) and David Arthur Pearson were jointly and severally liable to pay enforcement expenses to the Council in the amount of \$500.00.

COMPLAINT Contravention of section 35(1)(a) of the *Real Estate Services Act*, sections 3-1(3)(b) and 7-7(1)(b) of the Council Rules/ Contravention of Act and professional misconduct

ISSUE B B I Development Corporation dba Global Business

Brokers International, Kelowna, 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 Real Estate Council by the prescribed date.

ISSUE Orville Carl Wright, managing broker, BBI Development Corporation dba Global Business Brokers International, committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* by contravening section 3-1(3)(b) 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 BBI Development Corporation dba Global Business Brokers International, was reprimanded for the contravention described above after an Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver was entered into between the Real Estate Council and BBI Development Corporation dba Global Business Brokers International, and a Consent Order was issued. In addition, as a condition of continued licensing, Orville Carl Wright and BBI Development Corporation dba Global Business Brokers International were jointly and severally liable to pay enforcement expenses to the Council in the amount of \$500.00.

RESULT Orville Carl Wright, managing broker, BBI Development Corporation dba Global Business Brokers International, was reprimanded for professional misconduct as described above after an Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver was entered into between the

Real Estate Council and Orville Carl Wright, and a Consent Order was issued. In addition, as a condition of continued licensing, BBI Development Corporation dba Global Business Brokers International and Orville Carl Wright were jointly and severally liable to pay enforcement expenses to the Council in the amount of \$500.00.

COMPLAINT Contravention of section 35(1)(a) of the *Real Estate Services Act*, sections 3-1(3)(b) and 7-7(1)(b) of the Council Rules/ Professional misconduct

ISSUE Louwin Management Ltd., Richmond, 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 Real Estate Council by the prescribed date.

ISSUE John Siu Fung Wu, managing broker, Louwin Management Ltd., Richmond, committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* by contravening section 3-1(3)(b) 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 Louwin Management Ltd. was ordered to pay a fine in the amount of \$1,000 to the Council for the contravention described above. In addition, as a condition of continued licensing, John Siu Fung Wu and Louwin Management Ltd. are jointly and severally liable to pay enforcement expenses to the Council in the amount of \$500.00.

RESULT John Siu Fung Wu,

managing broker, Louwin Management Ltd., was reprimanded for professional misconduct as described above and, as a condition of continued licensing, he is required to successfully complete the disciplinary education assignments applicable to Chapter 2 (Mandatory Requirements Under the *Real Estate Services Act*) and as a further condition of continued licensing, Louwin Management Ltd. and John Siu Fung Wu are jointly and severally liable to pay enforcement expenses to the Council in the amount of \$500.00.

COMPLAINT Contravention of section 35(1)(a) of the *Real Estate Services Act*, sections 3-1(3)(b) and 7-7(1)(b) of the Council Rules/ Professional misconduct

ISSUE Atira Property Management Inc., Vancouver, 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 Real Estate Council by the prescribed date.

ISSUE Claire Rosalind Conrad, managing broker, Atira Property Management Inc., Vancouver, committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* by contravening section 3-1(3)(b) 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 Atira Property Management Inc. was reprimanded for the contravention described above. In addition, as a condition of continued licensing, Claire Rosalind Conrad and Atira Property Management Inc. are

jointly and severally liable to pay enforcement expenses to the Council in the amount of \$500.00.

RESULT Claire Rosalind Conrad, managing broker for Atira Property Management Inc., was reprimanded for professional misconduct as described above. In addition, as a condition of continued licensing, Atira Property Management Inc. and Claire Rosalind Conrad are jointly and severally liable to pay enforcement expenses to the Council in the amount of \$500.00.

COMPLAINT Contravention of section 35(1)(a) of the *Real Estate Services Act*, sections 3-1(3)(b) and 7-7(1)(b) of the Council Rules/ Professional misconduct

ISSUE 682277 B.C. Ltd. dba Homelife Realty Okanagan, Kelowna, 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 Terry Edwin Grunau, managing broker, Homelife Realty Okanagan, Kelowna, committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* by contravening section 3-1(3)(b) 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 682277 B.C. Ltd. dba Homelife Realty Okanagan was reprimanded for the contravention described above. In addition, as a condition of continued licensing, 682277 B.C. Ltd. dba Homelife Realty Okanagan must pay a discipline

penalty in the amount of \$1,000 to the Council. As a further condition of continued licensing, 682277 B.C. Ltd. dba Homelife Realty Okanagan and Terry Edwin Grunau are jointly and severally liable to pay enforcement expenses to the Council in the amount of \$500.00.

RESULT Terry Edwin Grunau, managing broker, 682277 B.C. Ltd. dba Homelife Realty Okanagan was reprimanded for professional misconduct as described above. In addition, as a condition of continued licensing, 682277 B.C. Ltd. dba Homelife Realty Okanagan and Terry Edwin Grunau are jointly and severally liable to pay enforcement expenses to the Council in the amount of \$500.00.

COMPLAINT Contravention of section 35(1)(a) of the *Real Estate Services Act*, sections 3-1(3)(b) and 7-7(1)(b) of the Council Rules/ Professional misconduct

ISSUE Legend Resort Real Estate Ltd., Kelowna, 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 Real Estate Council by the prescribed date.

ISSUE James Robert Hammond, managing broker, Legend Resort Real Estate Ltd., Kelowna, committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* by contravening section 3-1(3)(b) 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 Legend Resort Real Estate

Ltd. was reprimanded for the contravention described above. In addition, as a condition of continued licensing, James Robert Hammond and Legend Resort Real Estate Ltd. are jointly and severally liable to pay a discipline penalty in the amount of \$1,000 to the Council and to pay enforcement expenses to the Council in the amount of \$500.00.

RESULT James Robert Hammond, managing broker, Legend Resort Real Estate Ltd., was reprimanded for professional misconduct as described above. In addition, as a condition of continued licensing, Legend Resort Real Estate Ltd. and James Robert Hammond are jointly and severally liable to pay a discipline penalty in the amount of \$1,000 to the Council and to pay enforcement expenses to the Council in the amount of \$500.00.

COMPLAINT Contravention of section 9.12 of Regulation 75/61 under the *Real Estate Act*/Negligence

ISSUE Cathy Lee Rawlyk, representative, One Percent Realty Ltd., Vancouver, was negligent within the meaning of section 9.12 of Regulation 75/61 under the *Real Estate Act* in that she: (i) failed to ensure that the purchasers were aware that the property was a truncated lot and (ii) failed to ascertain and advise the purchasers that structures on the property also encroached upon neighboring property.

RESULT Cathy Lee Rawlyk was reprimanded for negligence as described above after an Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver was entered into between the Real Estate Council and Cathy Lee Rawlyk, and a Consent Order was issued. In addition, as a condition of continued licensing, she is required to

successfully complete the disciplinary education assignments applicable to Chapter 2 (*Real Estate Services Act*) and Chapter 9 (Professional Ethics) of the Real Estate Trading Services Licensing Course, to enroll in and attend the first available “Professionalism it Pays! Be Safe or Be Sued” and “Electronic Title Searching” course and to pay enforcement expenses to the Council in the amount of \$750.00.

COMPLAINT Contravention of section 9.12 of Regulation 75/61 under the *Real Estate Act*/Negligence

ISSUE For Cheung Phillip Lau, representative, Par Excellence Management Inc. dba Sutton Group-Killarney Realty, Vancouver, was negligent within the meaning of section 9.12 of Regulation 75/61 under the *Real Estate Act* in that he: (i) failed to ensure that the purchasers were aware that the property was a truncated lot, and (ii) failed to ascertain and advise the purchasers that structures on the property also encroached upon neighboring property.

RESULT For Cheung Phillip Lau was reprimanded for negligence as described above after an Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver was entered into between the Real Estate Council and For Cheung Phillip Lau, and a Consent Order was issued. In addition, as a condition of continued licensing, he is required to successfully complete the disciplinary education assignments applicable to Chapter 2 (*Real Estate Services Act*) and Chapter 9 (Professional Ethics) of the Real Estate Trading Services Licensing Course, to enroll in and attend the first available “Professionalism it Pays! Be Safe or Be Sued” and “Electronic Title Searching” course and to pay enforcement expenses to the Council

in the amount of \$750.00.

COMPLAINT Contravention of section 9.12 of Regulation 75/61 under the *Real Estate Act*/Negligence and incompetence.

ISSUE Ernest James Mansley, managing broker, One Percent Realty Ltd., Vancouver, was negligent within the meaning of section 9.12 of Regulation 75/61 under the *Real Estate Act* in that he was not in active charge of the business of the brokerage with respect to the activities of a licensee related to the brokerage.

RESULT Ernest James Mansley was reprimanded and, as a condition of continued licensing, he is required to successfully complete the disciplinary education assignments applicable to Chapter 2 (Mandatory Requirements Under the *Real Estate Services Act*) of the Managing Broker's Licensing Course and to pay enforcement expenses to the Council in the amount of \$2,000.00.

COMPLAINT Contravention of section 31(1) of the *Real Estate Act*, section 9.16 of Regulation 75/61 under the *Real Estate Act*, sections 6(2) and 35(1) of the *Real Estate Services Act* and section 3-1 of the Council Rules / Negligence and professional misconduct.

ISSUE Langara Realty Corp. dba Sutton Group – Langara Realty, Vancouver, was negligent within the meaning of section 9.16 of Regulation 75/61 under the *Real Estate Act* in that it: (i) failed to ensure that if deposits were not received in a timely manner, that the reasons for late deposits were fully documented in the brokerage files; (ii) failed to ensure that all the transactions were properly documented; and (iii) failed to ensure that the buyers were encouraged to



seek independent legal advice when deposits were not held by a licensed brokerage as stakeholder.

ISSUE Gregory George Rahn, managing broker, Langara Realty Corp. dba Sutton Group – Langara Realty, Vancouver, was (i) in breach of his duty to be in active charge of the business of the brokerage and to be actively engaged in management of the brokerage, (ii) in breach of his duty to monitor brokerage transactions in that, deposits were not always received in a timely manner, and the reasons for the late deposits were not always fully documented in the brokerage files, (iii) failed to ensure that all transactions were properly documented in the brokerage file and (iv) failed to ensure that buyers were encouraged to seek independent legal advice.

RESULT Langara Realty Corp. dba Sutton Group Langara be reprimanded for negligence as described above after an Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver was entered into between the Real Estate Council and Sutton Group Langara, and a Consent Order was issued. In addition, as a condition of continued licensing, it is required to pay enforcement expenses to the Council in the amount of \$3,000.00 and it agrees to make a voluntary payment to the Real Estate Compensation Fund Corporation in the amount of \$20,000.00.

RESULT Gregory George Rahn was reprimanded for negligence and misconduct as described above after an Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver was entered into between the Real Estate Council and Gregory George Rahn and a Consent Order was issued. In addition, as a condition of continued licensing, Mr. Rahn is required to pay enforcement expenses to the Council in the amount of \$1,000.00.

COMPLAINT Contravention of section 9.16 of Regulation 75/61 under the *Real Estate Act*, sections 6(2) and 35(1)(a) of the *Real Estate Services Act* and section 3-1 of the Council Rules/Negligence and misconduct.

ISSUE Craig Steward Newsholme, managing broker, Langara Realty Corp. dba Sutton Group – Langara Realty, Vancouver, was (i) in breach of his duty to be in active charge of the business of the brokerage and to be actively engaged in management of the brokerage, (ii) in breach of his duty to monitor brokerage transactions in that deposits were not always received in a timely manner, and the reasons for the late deposits were not always fully documented in the brokerage files, (iii) failed to ensure that all transactions were properly documented in the brokerage file and (iv) failed to ensure that buyers were encouraged to seek independent legal advice.

RESULT Craig Stewart Newsholme

was reprimanded for negligence and misconduct as described above after an Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver was entered into between the Real Estate Council and Craig Stewart Newsholme, and a Consent Order was issued. In addition, as a condition of continued licensing, Mr. Newsholme is required to pay enforcement expenses to the Council in the amount of \$1,000.00.

COMPLAINT Contravention of section 9.12 of Regulation 75/61 under the *Real Estate Act* /Negligence.

ISSUE John Ryan, representative, Whistler Real Estate Company Limited, Whistler, was negligent within the meaning of section 9.12 of Regulation 75/61 under the Act in that he failed to ensure that his licensed assistant was providing competent real estate services.

RESULT John Ryan was reprimanded for negligence as described above after an Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver was entered into between the Real Estate Council and John Ryan, and a Consent Order was issued. In addition, as a condition of continued licensing, Mr. Ryan must successfully complete Chapter 2 (*Real Estate Services Act*) of the Real Estate Trading Services Licensing Course and was required to pay enforcement expenses to the Council in the amount of \$500.00.