



Report from Council

February 2008 Volume 43, No. 5

Council Marks its 50th Year of Operation

This July will mark the 50th anniversary of the Real Estate Council of B.C. The following is a brief history of the Council, including some significant milestones from the past 50 years.

The origins of the Council's more extensive current day roles can be found back in 1920 when the government of British Columbia passed the *Real Estate Agent's Licensing Act* to protect consumers by requiring that real estate agents and salespersons be licensed in order that their activities might be regulated.

That Act was amended over the next 38 years, but always to better protect the public. In 1958, a new *Real Estate Act* was passed and included provision for a Real Estate Council with members representing all areas of the province. Later, representative members were added and, in 1993, two public member positions were added with the purpose of further ensuring that the interests of consumers remained paramount in the Council's work.

An original responsibility handed to the Council by the government was to provide courses and conduct examinations of individuals applying for licences, either as brokers or as representatives. To develop appropriate course materials and examination procedures, the Council enlisted the assistance of the Faculty of Commerce and Business Administration at UBC (now the Real Estate Division at the Sauder School of Business). That relationship continues today, although other institutions now provide courses using the UBC material and students

write the Council's exams.

With the active support of local real estate boards/associations and other professional and trade associations, the University was encouraged to create a Diploma Program in Urban Land Economics and graduate and post-graduate studies and courses, thus increasing the number of individuals with professional training well beyond the minimum requirements for licensing. Those programs have grown, as have industry-sponsored training programs to compliment the licensing programs.

In 1985, total responsibility for licence issuance and administration was delegated to the Council, a step that marked the first significant increase in the size of the Council's staff. While the Council has always had a disciplinary role that included conducting investigations of complaints and hearings when required, it originally only made recommendations to the Superintendent of Real Estate in each case. But in 1986, the government delegated all decision-making to the Council, leaving, of course, provision for appeals by both licensees and the Superintendent.

By 1987, most of the administrative responsibilities of the Superintendent's office had been delegated to Council. Since then there have been other delegated responsibilities, including the filing of Accountant's Reports.

January 1, 2005 marked a significant milestone in the Council's history when the *Real Estate Services Act* (RESA) and the *Real Estate Development Marketing Act* came into force, replacing Parts I and II of the *Real Estate*

Act. RESA significantly expanded the regulatory authority and disciplinary powers of the Real Estate Council, and essentially made it a self-regulating organization solely responsible for the administration of the Act. With the introduction of the new Act, the size of the Council has been reduced from 19 to 16 and now includes a rental/

continued on page 2...

In this Issue:

- Council Marks its 50th Year of Operation
- Personal Real Estate Corporations Introduced In BC
- Important Changes to Trading Services Applied Practice Course
- Buying Your Own Listing is a Conflict of Interest
- REP Sheet
- Interest on Deposits for the Purchase of Property
- Licensees Must Give Notice of Discipline, Bankruptcy, Criminal Proceedings
- Strata Document Review Services Required to be Licensed
- Placement of Insurance with Insurers Not Authorized in BC
- Special Levy Refunds and PST Grants
- Recovery of Damages/Funds by Strata Corporations
- Strata and Rental Property Management Licensees Must Disclose any Interest in Trade



Real Estate Council of
British Columbia

900 - 750 West Pender St.
Vancouver, B.C., Canada
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 8:30am - 4:30pm

REAL ESTATE COUNCIL OF B.C.

CHAIR

SATNAM T. SIDHU

VICE-CHAIR

JUDI WHYTE

EXECUTIVE OFFICER

ROBERT O. FAWCETT

COUNCIL MEMBERS

ROSEMARY BARNES

BRYON BRANDLE

WILLIAM BROWN

CYNTHIA A. CHEN

ALLAN CORBETT

JOHN FINLAYSON

DANNY LEUNG

WILLIAM H. LIM

GERRY MARTIN

JIM McNEAL

ANN PETRONE

RAMESH RIKHI

WAYNE STRANGLUND

LIZ TUTT

STATISTICS

(FEBRUARY 2008)

REPRESENTATIVES: 16,476

ASSOCIATE BROKERS: 1,845

MANAGING BROKERS: 1,368

BROKERAGES: 1,424

Role of the Council

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

Report from Council

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

Canada Post

Return undeliverable

addresses to:

Real Estate Council of BC

#900-750 West Pender Street

Vancouver, BC V6C 2T8

PM# 40016497

Printed on recycled paper

A Note From the Chair

As noted in the lead story of this Report, the Council is celebrating its 50th anniversary this year. The industry has seen significant change since the Council was formed in 1958 and the Council, like organized real estate, continues to strive to create an industry that fosters professionalism and maintains consumer confidence.

It seems appropriate to me that the Council's 50th anniversary is a perfect time to thank some of the individuals and organizations that have helped shape the Council, and thus the industry, over the years. First, let me begin by thanking the Financial and Corporate Sector Policy Branch of the Ministry of Finance for the valuable guidance it has given to the Council over the years and especially with its assistance with the introduction of the *Real Estate Services Act* (RESA). In addition, the Superintendent of Real Estate and the staff at the Financial

Institutions Commission have been invaluable with the support they have given to the Council over these many years.

As well, I want to acknowledge David Moore, Director, Licensing Education and Kevin Arndt, Manager, Licensing Education at the Real Estate Division, Sauder School of Business at the University of British Columbia. Our long standing partnership with UBC has seen the delivery of licensing courses to literally thousands of students over the past 50 years, both economically and efficiently.

The support of the BC Real Estate Association, its Executive Officer Robert Laing, and its member boards is very much appreciated. Through the participation and support from the industry, the Council has been able to achieve an increased level of authority over the years and, as licensees know,



Satnam Sidhu

was made a self-regulating organization in 2005 with the introduction of RESA.

Finally, I would like to thank all of the past members of Council and staff for their valuable contributions over the past 50 years. Your work has been instrumental in establishing the professional standards the industry has today.

*On behalf of Council
Satnam T. Sidhu, Chair*

Council Marks its 50th Year of Operation ...continued from cover

strata property management member and an additional public member, bringing the total public members to three.

As part of the introduction of RESA, the Council began licensing strata managers on January 1, 2006. This is another significant milestone in the history of real estate practice in the province, and serves to provide increased public protection for that

sector.

On January 1, 2007, the Council introduced its mandatory Relicensing Education Program (REP) for all licensees in the province. REP requires licensees to complete two courses during the licensees' two-year licence period as a condition of continued licensing. REP is intended to ensure that licensees maintain a high level of competence and knowledge of current

practice standards in order to better serve their clients.

British Columbia is often regarded as having some of the highest real estate standards in North America. All of the milestones listed above are designed, in one way or another, to continue these high standards and the Council's long history of maintaining consumer confidence in the real estate industry.

Office Closures

The Council office will be closed on the following dates:

Friday, March 21, 2008 for Good Friday

Monday, March 24, 2008 for Easter Monday

Personal Real Estate Corporations Introduced in BC To take Effect January 1, 2009

Regulatory amendments to the *Real Estate Services Act* that allow individual real estate licensees to form personal real estate corporations (PRECs) were approved by the government on January 22, 2008 and will go into effect on Jan. 1, 2009.

PRECs will allow real estate licensees to access the business advantages of incorporation. This can include better planning of income and tax streams and is similar to options available to other professionals, such as dentists, accountants and lawyers. The Council recommends that licensees, prior to establishing a PREC, obtain professional accounting and legal advice.

The implementation date of January 1, 2009 aligns with the tax year for individuals, and allows licensees sufficient time to obtain the appropriate professional advice to determine if a PREC will benefit their individual circumstances. It also allows the Council the necessary time to make



BRITISH COLUMBIA

the required amendments to its bylaws and rules as well as its licensing forms and computer system. It is anticipated that PREC licence applications will be accepted for processing in

November, 2008.

PRECs will have no impact on the existing regulatory oversight framework of the Council, nor will they reduce consumer protection standards.

British Columbia is the first province to offer this corporate structure to real estate licensees. Currently licensees operate as either employees or self-employed/individual contractors.

Further details with respect to PRECs will be provided in the coming months. A copy of the Information Bulletin and the Regulation approved by the cabinet can be found on the Council's website at www.recbc.ca.

Important Changes to the Trading Services Applied Practice Course


Managing brokers are advised that, **effective March 1, 2008**, all first-time trading services (sales) licensing applicants must provide proof of registration in the Residential/Commercial Trading Services Applied Practice Course **when making licence application**.

The Registration Notice (pictured here) is considered to be proof of registration and must be submitted to the Council along with the licence application form when applying for initial licensing. This form is sent to all trading services students by mail when they register in the Applied Practice Course or may be printed from BCREA's website when registering online.

Previously, individuals could make application for licensing with the Council prior to registering in the Trading Services Applied Practice Course.

All trading services licensees are required to complete the Residential/Commercial Trading Services Applied Practice course within six months of licensure.

Licensees with questions about this change in policy may contact Robin Rebeiro, Acting Education and Licensing Officer at the Council office at 604-683-9664, toll-free 1-877-683-9664 or email rrebeiro@recbc.ca.



**BRITISH COLUMBIA
REAL ESTATE
ASSOCIATION**

1420 – 701 Georgia Street West
PO Box 10123, Pacific Centre
Vancouver, BC V7Y 1C6
Telephone : 604-742-2795
Fax : 604-683-8601

REGISTRATION NOTICE

2008-01-24 - 8:05:42 AM

This registration code 8283A1825515 and Authorization number 062138 confirms that you have been registered for the Residential Trading Services Applied Practice Course as follows : (NOTE that Units 7 & 8 run concurrently and must be attended the same day)

Start Date 2007-10-24		End Date 2007-11-21	
UBC Robson Square			
800 Robson Street, Vancouver			
October 24, 31, November 7, 14, 21, 2007 Between: 9 am to 4 pm			
Unit 1	C680 - HSBC Hall	Wednesday 10/24	
Unit 2	C680 - HSBC Hall	Wednesday 10/24	
Unit 3	C485	Wednesday 10/31	
Unit 4	C485	Wednesday 10/31	
Unit 5	C680 - HSBC Hall	Wednesday 11/07	
Unit 6	C680 - HSBC Hall	Wednesday 11/07	
Unit 7	C485	Wednesday 11/14	
Unit 8	C485	Wednesday 11/14	
Unit 9	C680 - HSBC Hall	Wednesday 11/21	
Unit 10	C680 - HSBC Hall	Wednesday 11/21	
<small>*Meeting rooms may be subject to change, check notice board.</small>			

Please note that attendance at all sessions is compulsory for successful completion of this course. Traffic congestion is a problem everywhere. Please make sure to **allow sufficient time to arrive on time**. BCREA has a **ZERO TOLERANCE** Policy for lateness and if you arrive late or leave early, you will be required to re-take the entire class and pay a make-up fee of 10% of the course fee (\$47.50 plus GST = \$49.88) per day. Please Note : Unit 7 & 8 is a full day on the Contract of Purchase and Sale.

Failure to successfully complete this course within six months of licensing may result in the termination of your license. Absence from the course and subsequent delay in completing the course will only be approved for serious illness or compassionate reasons. Absence will not be approved for personal holidays or for business appointments.

The instructors for this program are carefully selected, experienced real estate practitioners. Instruction is based on the Residential Trading Services Applied Practice Course manual, which will be distributed to you on the first day of classes. It is important that you read the appropriate unit prior to attending each subsequent class in order to benefit fully from the class instruction.

The LPM is sent to your office along with your real estate licence. If you have not received it, please attempt to borrow one or be prepared to share. **Priority is given to licensees. If you are not licensed at the time of registration and this class becomes full, BCREA has the right to transfer you to the next available course if space is required for licensed students.**

Buying Your Own Listing is a Conflict of Interest

When a licensee undertakes to act as a limited dual agent when they are a party to a transaction, they are acting in a direct, inherent conflict of interest.

The Council has received a number of complaints against licensees relating to transactions where the licensee is the buyer

and acted as a limited dual agent, when buying their own listing or a listing that was listed with their brokerage. At the conclusion of investigations into this type of complaint, hearings typically are ordered and the licensees involved face the prospect of formal discipline, including suspensions and fines, which will form part of their permanent, public disciplinary record at the Council.

To properly execute limited dual agency representation, in an arm's length transaction, can in itself be challenging; however, when a licensee provides limited dual agency representation and is also a party to the transaction, it is impossible.

If a licensee decides to take a substantial professional risk and make an offer to buy their own listing or any property listed with their brokerage, they are advised to:

Before Negotiations

Prior to the commencement of any negotiations with the seller to purchase his or her property, advise their managing broker of their intentions. If their managing broker approves of proceeding with the proposed

purchase, continue to involve the managing broker or his/her designate throughout the buying process.

Full Disclosure

Promptly and fully disclose their conflict of interest position to the seller and confirm such disclosure in writing.

representative acting for the seller, with the Managing Broker or his/her designate then undertaking to act as an alternate representative of the brokerage when dealing with the seller.

Cease All Communication

Cease all direct communication with the seller.

All contact with the seller should be indirectly through the managing broker or his/her designate.

Disclosure of Interest in Trade

Ensure that a Disclosure of Interest in Trade form is fully completed and presented to the seller, **prior to the presentation of their offer.**

A clause should be included in the contract confirming their delivery of the required disclosure, e.g. *"The Seller acknowledges having received a signed Disclosure of Interest in Trade form which disclosed the licensee's interest in the transaction before the receipt of this offer"*.

Condition Requiring Independent Advice

Make their offer *"subject to the Seller, on or before [a specific date which should ensure sufficient time is provided for the seller to obtain all required professional advice], receiving and being satisfied with, such*

professional advice as he deems appropriate, including but not limited to legal advice as to the terms and conditions of this Contract, appraisal advice as to the current fair market value of the Property and tax advice".

Option to Cancel Listing

Give the seller the option to cancel the service agreement (listing) and the opportunity to seek independent representation.

Withdraw as Representative

If the seller chooses not to cancel the service agreement, fully withdraw as the brokerage

If a licensee decides to take a substantial professional risk to sell their own property through their brokerage, they are advised to:



Buying Your Own Listing is a Conflict of Interest ...continued from previous page

Before Listing the Property

Prior to listing their property through their brokerage, advise their managing broker of their intentions and continue to involve the managing broker or his/her designate throughout the selling process.

Appoint Brokerage Listing Representative

Not act as their brokerage representative for the listing; rather arrange for another licensee in their brokerage to act as the listing representative for the brokerage. The representative engaged should take all steps that are customary when taking a listing, including measuring the property, obtaining a site plan and survey, checking title, checking the municipal file, preparing the listing agreement, inputting property information into the Multiple Listing Service®, preparing all advertising and promotional material, etc.

Do Not Act for Buyers

At no time should their brokerage act as agent for a potential buyer of their property. Should a buyer wish a brokerage licensee to act for them, such licensee should promptly and fully disclose the brokerage conflict of interest to the potential buyer and confirm such disclosure in writing. The listing representative for the brokerage (along with all other brokerage representatives) should act as agent for the seller only, and no agency representation should be provided to a buyer of the property. Any brokerage licensee who has entered into a buyer agency agreement with a buyer who becomes interested in buying the property should cancel such agreement and give the buyer the opportunity to seek independent representation.

Do Not Communicate Directly with Buyer

Do not at anytime communicate directly with the buyer. All communication with the buyer should be indirectly through the listing representative for the brokerage.

Disclosure of Interest in Trade

Ensure that a Disclosure of Interest in Trade form is fully completed and presented to the buyer, **prior to the presentation of the buyer's offer**. If an offer is received prior to having made the required disclosure, the prospective buyer must be given the opportunity to rescind his or her offer prior to the licensee-seller accepting it. It is not sufficient to accept the offer subject to the disclosure. The Disclosure is required to be made before any agreement is entered into. A clause should be included in the contract confirming the licensee-seller's delivery of the required disclosure, e.g. *"The Buyer acknowledges having received a signed Disclosure of Interest in Trade form which disclosed the licensee's interest in the transaction before the making of this offer"*.

Independent Advice

The buyer's offer should be made *"subject to the Buyer, on or before [a specific date which should ensure sufficient time is provided for the buyer to obtain all required professional advice], receiving and being satisfied with, such professional advice as he deems appropriate, including but not limited to legal advice as to the terms and conditions of this Contract, appraisal advice as to the current fair market value of the Property and tax advice"*.

Explanation

Under current agency practice, it is the brokerage that is the agent for the purposes of providing real estate services. When the brokerage becomes the agent for a client, all licensees engaged by that brokerage also become the agent for that same client. In limited dual agency representation, the brokerage has two clients. Limited dual agency requires that a brokerage, and all licensees engaged by that brokerage, be impartial to the interests of the two clients they represent, not preferring the interests of one over the other. When also involved as a buyer or a seller, it is impossible for a licensee to be impartial to their own interests and not prefer their interests over the interests of the other party

to the transaction.

In addition to the obligation of a limited dual agent to act in an impartial, objective manner, they are also obliged to:

- not disclose the other party's maximum/minimum price;
- not disclose the other party's motivation or any other confidential information obtained from the other party;
- not provide confidential advice on any or all relevant matters;
- not help negotiate and draft favorable terms.

A limited dual agent, who is a party to a transaction, is not only unable to be impartial; they may also be privy to the other party's maximum/minimum price, motivation and other confidential information. Possession of such confidential information may give a licensee an unacceptable advantage over the other party, in a negotiation, which would not exist in an arms-length transaction.

Buying from or selling to a client is filled with risk for licensees, both because of the professional discipline that may be faced under the provisions of the *Real Estate Services Act*, and actions that may be commenced against a licensee and their brokerage, by a client, through the courts. The courts have been quick to set aside transactions where it appears that a licensee has taken advantage of a person the licensee represented. Further, errors and omissions insurance will not cover a licensee's loss if they are successfully sued for any profit or gain they were not legally entitled to.

Licensees are reminded that the withdrawal of their agency representation does not extinguish all of a licensee's fiduciary duties to a former client. A licensee must still hold confidential all information they acquired through their agency relationship with the former client and disclose to the former client everything material about the licensee's plans for the property.

The REP Sheet

REP Reminder Letter

As licensees are aware, the Council's Relicensing Education Program (REP) came into effect on January 1, 2007 and requires licensees to complete two courses every licensing cycle as a condition of continued licensing. Licensees who will be renewing their licences in January 2009 are now half way through their licence cycle. This means that these licensees have only 12 months remaining to complete the REP course requirements. In order to assist licensees, the Council will be sending a REP requirements reminder letter to all licensees half way through their two-year licence cycle. The Council urges all licensees to complete their course requirements as soon as possible to avoid an anticipated last minute rush. Leaving it to the last minute could mean that courses are unavailable and may result in licensees not fulfilling their REP requirements. Licensees are reminded that licence renewal is dependant on completing the REP course requirements! **If you do not complete the REP requirements within your two-year licence cycle, your licence may not be renewed.** A sample of the reminder letter is shown below.

Dear Licensee:

RE: REP – Deadline Reminder

The records of the Council indicate that your licence is due for renewal on <insert date>, 2009. The Council is writing to you to remind you that you now have approximately twelve months to complete your Re-licensing Education Program (REP) requirements in order to renew your licence.

Having signed the REP Declaration form when you last renewed your licence, you are aware that you must complete two courses as a condition of licence renewal. Licensees are required to complete the mandatory course, "What Brokerages and REALTORS® Need to Know about Agency", and one elective course to be selected from the list of REP approved courses detailed on the Council's REP web page at: www.recbc.ca/licensee_info/rep.htm.

If you are a real estate board member and required to complete PDP credits as a requirement of board membership, the Council has also provided a course comparison chart on its website to assist licensees in determining what courses they may complete in order to obtain credits for both the REP program and PDP program simultaneously.

Individuals licensed for rental property management only or rental and strata management services only may substitute a second REP approved elective course for the mandatory agency course "What Brokerages and REALTORS® Need to Know about Agency" in the first REP cycle. Individuals licensed to provide only strata management services are exempted from the mandatory course in the first REP cycle as they have been given credit for completing the Strata Management Licensing Course. Individuals licensed as managing brokers to provide only strata management services are also exempted from the elective course in the first REP cycle as they will be completing the Broker's Licensing Course and Examination as a requirement of licensing.

There are currently over 19,500 real estate licensees in BC who must fulfill these REP requirements as a condition of re-licensing. As a result, the Council urges you to complete your requirements at the earliest possible date to avoid any possible delay in taking either the mandatory or elective courses in order to renew your licence.

Should you have any further questions or concerns regarding the REP requirements, please do not hesitate to contact me at the Council's office or by email at rrebeiro@recbc.ca.

Sincerely,
Robin Rebeiro
Acting Education and
Licensing Officer

Reminders

Interest on Deposits for the Purchase of Property

As licensees are aware, the wording in the Contact of Purchase and Sale states "Deposits to be held in trust in accordance with the provisions of the *Real Estate Services Act*". As not all consumers may be aware that the intent

of this wording means that interest is paid to the Real Estate Foundation, licensees should ensure that they familiarize themselves with their brokerage's policy with respect to interest on trust deposits. Further, licensees should have

a discussion with their clients with respect to this policy and, where a client requests, include the "Deposit to Bear Interest Clause" found on page 71 of the Licensee Practice Manual in the Contract of Purchase and Sale.

Licensees Must Give Notice of Discipline, Bankruptcy, Criminal Proceedings

Section 2-21 of the Council Rules states that:

(2) A licensee must promptly notify the council, in writing, if any of the following circumstances apply:

(a) the licensee is subject to any disciplinary or regulatory proceedings in which the licensee may be or has been made subject to a discipline sanction under legislation in British Columbia or another jurisdiction regulating

(i) real estate, insurance or securities activities, or

(ii) mortgage brokers, accountants, notaries or lawyers;

(b) the licensee has any court order or judgment made against the licensee in relation to

(i) real estate services,

(ii) a dealing in insurance, mortgages or securities, or

(iii) misappropriation, fraud or breach of trust;

(c) any business that the licensee owns, or of which the licensee has been a director, officer or partner at any time during the past 2 years, has any court order or judgment made against the business in relation to

(i) real estate services,

(ii) a dealing in insurance, mortgages or securities, or

(iii) misappropriation, fraud or breach of trust;

(d) the licensee is charged with or convicted of an offence under a federal or provincial enactment or under a law of any foreign jurisdiction, excluding

(i) highway traffic offences resulting only in monetary fines or demerit points, or both, and

(ii) charges initiated by a violation ticket as defined in the Offence Act or by a ticket as defined in the Contraventions Act (Canada);

(e) the licensee is the subject of any bankruptcy, insolvency or receivership proceedings;

(f) any business that the licensee owns, or of which the licensee has been a director, officer or partner at any time during the past 2 years, is the subject of any bankruptcy, insolvency or receivership proceedings.

(3) In addition to providing a written notice, the licensee must provide

(a) particulars, and

(b) any additional information or documentation, as requested by the council.

(4) In the case of notice required to be provided by an associate broker or representative, the licensee must give a copy of the notice under subsection (2) to the managing broker of the related brokerage.

Licensees must not wait for either licence renewal or licence transfer to report this information to the Council.

Licence Renewal Applications

The Council has noticed that a number of managing brokers have been signing and dating renewal applications prior to the licensee dating them, which leads the Council to believe that these managing brokers aren't reviewing the completed applications prior to signing. The Council reminds managing brokers not to "pre-sign" application forms for future use, as it is their responsibility to be aware of the contents of any application form they sign.

FAQ's Posted on Council Website

The Council has posted a number of frequently asked questions on its website. The questions are some of the more common questions that the Council receives from licensees. Licensees are encouraged to have a look at www.recbc.ca/licensee_info/licensee_faq.htm on the Council website if they have questions about topics ranging from advertising to property management to disclosure issues.

RECBC Staff Appointments

Over the past several months, a number of new staff have joined the Council office. The Council now employs 37 full and part-time staff at its offices in Vancouver.

Accounting and Audit

Debbie Morreau joined the Accounting and Audit Department as the Manager, Accounting and Audit and works closely with Lisa Holst, Director, Accounting and Audit. Beverly Tung and Sunita Ishri recently joined the Council's Audit Department as Auditor/Investigators. The Council now has four Auditor/Investigators.

Compliance

Angie Smith and Jane Kolonsky have joined the Council's Compliance Department as Compliance Officers. David Parsons has joined the Compliance Department as Council's Rental/Strata Property Management Compliance Officer. Angie, Jane and David work with the Council's Manager, Compliance, Maureen Coleman.

Legal Services

Shelley Russell has joined the Council's Legal Department as legal counsel. The Council now has four staff lawyers. The lawyers work under the direction of David Berger, Director, Legal Services.



L-R Debbie Morreau, Angie Smith, Jane Kolonsky, Sunita Ishri, Beverly Tung, David Parsons, Shelley Russell

Strata Document Review Services Required to be Licensed

Licensees should be aware that any person who provides strata document review services is required to be licensed under the *Real Estate Services Act*. Strata document review services include reviewing strata meeting minutes, AGM minutes, bylaws, insurance certificates, the "Form B", operating budget, financial statements, strata plans, unit entitlement, parking, limited common property and exclusive use areas, leasing or renting of units, pets, engineering reports, restrictive covenants, etc. and then providing buyers with opinions based on these documents.

The Council and the Office of the Superintendent of Real Estate have reviewed this matter and agree that strata document

review services fall within the definition of trading services under the *Real Estate Services Act*. As such, any individuals or companies that offer this



Real Estate Council of British Columbia

kind of service must be licensed with the Real Estate Council.

The Council reminds any current licensees who may be providing this kind of service that

all real estate services must be provided in the name of and on behalf of the licensee's related brokerage. It is not permissible to provide any licensed real estate services independent of a licensee's brokerage.

These types of strata document review services, which may have significant value for sellers and buyers of strata lots, require specialized expertise. Licensees intending to provide such services must ensure they are adequately qualified to do so. They should also discuss with their brokerage, in advance, the provision of these services.

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

Placement of Insurance with Insurers Not Authorized in BC

Real estate licensees should be aware that the *Financial Institutions Act* requires insurance to be placed only with insurers authorized to do business in BC. Strata managers and rental property managers, in particular, need to ensure that they and their clients are aware of this requirement.

Insurance agents have a duty to their client to use due diligence in selecting an insurer that will not place the client unduly at risk. Where an insurer is not authorized to do business in BC, the client loses the benefit of the consumer protection provided through licensing and regulation of insurers under the *Financial Institutions Act*. As a result, the client can be placed at undue risk.

The *Financial Institutions Act* includes a very limited exception to permit insurance to be placed with insurers who are not authorized to do business in BC. The position of the Superintendent of Financial Institutions is that this exception will be applicable only in exceptional circumstances. Those circumstances may occur where a client is unable to obtain insurance from an authorized insurer. They would not occur where the client is unhappy with the quote from an authorized insurer.

Even where a client is unable to obtain insurance from an authorized insurer, an

insurance agent is not permitted to offer to place insurance with an unauthorized insurer. The insurance agent can be subject to enforcement action if they do so. A client must initiate the idea of looking for insurance through an unauthorized insurer without any prompting by the insurance agent, and must give the insurance agent instructions to obtain quotes from an unauthorized insurer, also without prompting by the insurance agent.

Before giving those instructions, the client would need to be aware of the potential risks of doing business with an insurer not authorized to do business in BC. Those risks include issues such as:

- Is the unauthorized insurer subject to a regulatory framework in its home jurisdiction which ensures consumer protection through standards for minimum capital reserves, solvency requirements, requirements for financial statements prepared in accordance with accepted standards, independent audits and regular actuarial reviews?

- Is there a regulator empowered to conduct periodic inspections and reviews to identify compliance with regulatory standards and to identify adequate financial strength?

- Do the governance standards for the

unauthorized business provide assurance of prudent oversight?

- Is there any regulation in its home jurisdiction of the business conducted by the unauthorized insurer in BC?

- Are there sufficient assets within the jurisdiction of BC courts to cover any claims against the unauthorized insurer?

- Would the unauthorized insurer agree to appear before BC courts in an action? Does it have an attorney for service in BC?

- Does the unauthorized insurer have any adjusters authorized by the Superintendent of Insurance to adjust claims in BC on its behalf?

- Does the unauthorized insurer handle claims and disputes using the same standards of fairness as in BC?

Before acting on any client instructions to obtain a quote from an unauthorized insurer, licensees are advised to contact the office of the Superintendent of Insurance to further discuss the *Financial Institutions Act* requirements and risks of proceeding. For more information on this issue, please refer to Financial Institutions Commission Bulletin INS-06-010 at www.fic.gov.bc.ca/pdf/insurance_bulletins/INS_06_010.pdf

Special Levy Refunds and PST Grants

The Homeowner Protection Office annually releases a public document pertaining to PST refunds from building restoration projects. It has been learned that there have been instances where a strata corporation's PST refund was sent to its strata management brokerage, but that the brokerage did not deposit the PST refund to the credit of the special levy account and did not report receipt of the refund to the client on a timely basis. This has caused considerable delays resulting in the refund not being issued back to the rightful owner, as strata lots were sold in the meantime.

To the extent that the strata corporation has an obligation to establish the special levy refund

time at the completion of a project, the strata manager will rely upon a direction by the strata council and/or its legal counsel to establish the refund date.

The brokerage is obligated to promptly report to its strata corporation client receipt of any rebates, refunds, settlements and/or surpluses relating to the special levy project.

Regarding refunds to owners, licensees are reminded that, in accordance with section 108 of the *Strata Property Act*, the refund is issued to the registered owner. The owner, in section 1 of the Act, is defined as the person registered on title. In the event that the refund is to be issued to a party other than the registered owner, licensees should

exercise diligence to ensure that all parties involved in the transaction of a strata lot refund have granted written consent for the release and acceptance of the refunds or settlements to any party other than the registered owner. It would be prudent for the brokerage to advise the strata corporation to seek legal advice on the disbursement of refunds and documentation that may be necessary to manage the risk to the strata corporation associated with releasing the funds to alternate parties.

For further information on the PST Relief Grant Program, please visit the Homeowner Protection Office website at www.hpo.bc.ca.

Recovery of Damages/Funds by Strata Corporations

The purchase of a strata unit involves an interest in the assets and liabilities of the strata corporation, in addition to an interest in the strata unit itself. A strata unit owner owns a proportionate share of the common property and common assets of the strata corporation based on the strata lot's unit entitlement.

The interest in the strata corporation's assets will become an important issue in a Contract of Purchase and Sale where the strata corporation is seeking to recover funds through court judgments, insurance/warranty claims or settlements to offset damage incurred as a result of water penetration or defective construction. If the strata corporation eventually recovers funds, it may decide to return some or all of the funds to the strata owners - the registered owners of the strata units at the time the funds are disbursed. As a result, the seller, who might have paid a special levy for repairs or to fund a lawsuit for the recovery of damages, would not be entitled to receive any of the funds if disbursed after completion.

Licensees need to be aware of this potential issue when listing a strata unit for sale. Licensees should, in addition to ascertaining the condition and details with respect to the strata unit itself, investigate the activities of the strata corporation. Has there been a special levy for damage due to water penetration, defective construction or other issue? An insurance or warranty claim filed or anticipated? Litigation commenced or

anticipated? Is there potential for a PST rebate for repairs? Particular care should be taken where the licensee is not familiar with the strata property's market area.

Where there is an indication that the strata corporation may recover funds in the future or that there may be a special levy refund, licensees should make the seller aware that, typically, the strata corporation's assets and liabilities flow with the strata unit's registered owner as shown on title at the time of the disbursement of funds, proportionately to the unit entitlement. If the seller wishes to retain any rights or benefits (such as the right to recover funds or to vote in future on issues related to the recovery of funds) after completion, the seller must negotiate for those rights with a prospective buyer. As a result, **prior** to entertaining any offers, the seller should seek legal advice from a lawyer experienced in strata property issues as to the options for retaining rights and benefits in relation to potential future recovery of funds as against the current prospective purchasers and any successive purchasers in the future.

Where the possibility of future recovery of funds is uncertain, the least complicated approach may be to ensure that both the seller and the prospective buyer are fully aware of the current status of a potential future recovery of funds. Then, based on that knowledge, the parties may negotiate a sale price that reflects the parties' assessment of the uncertainties

around recovery and the possibility of future special levies to secure that recovery, knowing that any recovery will be paid to the registered owner at the time of the payment out by the strata corporation.

If the seller and prospective buyer wish to negotiate any arrangement other than price, each should be advised to seek independent legal advice from a lawyer experienced in strata property issues **prior** to entering into any unconditional Contract of Purchase and Sale. **Licensees should be cautious about drafting any clauses in these circumstances, given the uncertainty of future events, such as future levies or future successive transfers of the strata unit, and the difficulty of identifying issues that may not be readily apparent or ascertainable. It may be that a separate legal agreement will be required to reflect the arrangement negotiated by the parties.**

Licensees should also be alert to the issue of possible future special levies arising as a result of events that occurred prior to completion or as a result of special resolutions that were passed prior to completion, with payment of the special levy due after completion. The parties will need to negotiate responsibility for payment of the special levy in such cases. Please refer to pages 209 - 210 of the Licensee Practice Manual for more information.

Strata and Rental Property Management Licensees Must Disclose any Interest in Trade

Licensees providing strata management and/or rental management services are often unaware that section 5-9 of the Council Rules (Disclosure of Interest in Trade) applies to them.

Such licensees often assume that section 5-9 applies only to licensees providing trading services as they may have professional, specialized knowledge of the local real estate market. However, section 5-9 binds every licensee, regardless of the level or category of their licence.

Every licensee must make a disclosure, in

accordance with the Rules, if under a trade in real estate, that licensee is to directly or indirectly acquire, dispose of (or in some circumstances rent) real estate.

The disclosure must be made promptly, but in any case before any agreement for the acquisition or disposition is entered into, and be in a form approved by the Council.

The Council provides a disclosure form on its website (www.recbc.ca) to be presented before any agreement for the acquisition or disposition of real estate is entered into where the seller,

landlord, buyer or tenant is licensed under the Act or where a licensee is providing trading services to or on behalf of a party to a trade in real estate who is an associate of that licensee. A copy of the disclosure must also be given to the licensee's managing broker and retained at the brokerage.

Please refer to pages 22-24 of the Licensee Practice Manual for further information about this rule. Licensees with questions may contact the Council Office at 604 683 9664, toll-free at 1-877-683-9664 or email info@recbc.ca.

Notice of Licensee Resignations

James Gilmore Ramsay, managing broker with SwiftSure Strata Services Inc. Ltd., Richmond, who was temporarily suspended by the Real Estate Council of British Columbia on February 16, 2007, requested the Real Estate Council to discontinue disciplinary proceedings against him as he had decided to permanently retire from real estate practice. Mr. Ramsay was facing a disciplinary hearing into his professional conduct and would have been required to appear before a discipline hearing committee of the Real Estate Council to respond to these allegations.

Considering the fact that there is likely no greater disciplinary sanction than not being licensed to act again, the Real Estate Council agreed with Mr. Ramsay's request. The lifetime ban on Mr. Ramsay's licensing under the *Real Estate Services Act* was effective as of January 15, 2008.

Jia Jie (Henry) Wang, while licensed as a representative with One Percent Realty Ltd., Vancouver, requested the Real Estate Council of British Columbia to discontinue disciplinary proceedings against him as he had decided to permanently retire from real estate practice. Mr. Wang was facing a disciplinary hearing into his professional conduct and would have been required to appear before a hearing committee of the Real Estate Council to respond to these allegations.

Considering the fact that there is likely no greater disciplinary sanction than not being licensed to act again, the Real Estate Council agreed with Mr. Wang's request. The lifetime ban on Mr. Wang's licensing under the *Real Estate Services Act* was effective as of November 30, 2007, although he surrendered his licence to the Real Estate Council on May 25, 2007.

Disciplinary Decisions

Since the December 2007 *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 sections 35(1)(a), 25, 6(2) 35(1)(d), 6, 27(1), and 27(4) of the *Real Estate Services Act*, sections 8-9, 3-1(1), and 5-9 of the Council Rules/Professional misconduct, brokerage records, brokerage must have managing broker, incompetence, payment into trust records must be kept up to date, managing broker responsibilities disclosure of interest in trade

ISSUE: Tapestry Realty Ltd. dba Royal Group Tapestry Realty, Surrey, brokerage, committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that it

(a) failed to keep proper books, records and accounts, contrary to section 25 of the *Real Estate Services Act* and section 8-9 of the Council Rules; and

(b) failed to have a managing broker supervising the performance of the duties of the brokerage representatives, in accordance with the duties under section 6(2) of the *Real Estate Services Act* and section 3-1(1) of the Council Rules.

ISSUE: Sukhmander (Sam) Rakhra, currently

unlicensed, who, while acting as managing broker, Tapestry Realty Ltd. dba Royal Group Tapestry Realty, Surrey, committed professional misconduct within the meaning of section 35(1)(d) of the *Real Estate Services Act* in that he

(a) failed to be actively engaged in the management of the related brokerage and failed to ensure that the business of the brokerage was carried out competently and in accordance with the Act, regulations, rules and bylaws, both with regard to the subject transactions noted and in the general course of business of the brokerage, contrary to section 6 of the Act;

(b) failed to ensure that a representative, in providing trading services on behalf of the brokerage, promptly delivered all trust monies received on behalf of a principal in relation to real estate services to the brokerage trust account, contrary section 27(1) of the Act;

(c) in those transactions where the seller was to directly hold deposits;

(i) failed to ensure that buyers were advised to seek independent advice with respect to that deposit; and

(ii) failed to ensure that separate written agreements were in place, as required by section 27(4) of the Act;

(d) permitted a licensee to act in a conflict of interest in that the representative acted as a limited dual agent when he was also a director of the corporate seller;

(e) failed to ensure that in transactions where a representative, while a licensee, was disposing of real estate in which he had an interest, made disclosure of that interest to the Buyers, as required by section 5-9 of the Council Rules;

(f) failed to maintain control over all brokerage files, including ensuring that all documentation was retained in the brokerage file, including disclosure of remunerations, listing agreements, separate written agreements when deposits were paid directly to the seller/developer, pursuant to section 27(4) of the Act and that they were made available to the Council at its request;

(g) failed to be actively engaged in the management of the brokerage in respect of his supervision of licensees, in that he failed to ensure that this aspect of the business of the brokerage was carried out competently, in accordance with the Act, Regulations, Rules and/or bylaws, and that he failed to ensure that there was adequate level of supervision of the said licensees in that he:

(i) failed to ensure in accordance with section 27(4) of the Act in a number of transactions in which the licensees acted as a limited dual agent, that there were separate written agreements executed in instances where deposits were paid directly to the seller/developer, that buyers were advised to seek independent legal advice with respect to the payment of the deposits directly to the seller/developer and that buyers were

advised that the stakeholder provisions of the Act would not apply; and
(ii) failed to ensure a licensee withdrew from her agency obligations to her seller/developer client when she bought her own listing.

RESULT: Tapestry Realty Ltd. dba Royal Group Tapestry Realty 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 Tapestry Realty Ltd. dba Royal Group Tapestry Realty, and a Consent Order was issued. Further, Tapestry Realty Ltd. dba Royal Group Tapestry Realty and Sukhmander (Sam) Rakhra are jointly and severally liable to pay enforcement expenses to the Council in the amount of \$1,500.00.

RESULT: Sukhmander (Sam) Rakhra was suspended for one hundred and eighty days (180) from February 13, 2008 to August 10, 2008 (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 Sukhmander (Sam) Rakhra, and a Consent Order was issued. Sukhmander (Sam) Rakhra, as a condition of re-licensing as managing broker, associate broker or representative, must successfully complete the disciplinary education assignments applicable to Chapter 2 (Mandatory Requirements Under the *Real Estate Services Act*), Chapter 3 (Business Standards), Chapter 7 (Personnel Management, Part I: Job Analysis, Recruitment, and Selection) and Chapter 8 (Personnel Management, Part II: Training, Appraising, and Motivating Performance) of the Broker's Licensing Course, and Chapter 9 (Professional Ethics) of the Real Estate Trading Services Licensing Course. Further, Sukhmander (Sam) Rakhra and Tapestry Realty Ltd. dba Royal Group Tapestry Realty are jointly and severally liable to pay enforcement expenses to the Council in the amount of \$1,500.00.

COMPLAINT: Contravention of sections 35(1)(a), 35(1)(c), and 35(2) of the *Real Estate Services Act*, sections 3-2(5), 3-3(1)(a) and 3-4 of the Council Rules/Professional misconduct, deceptive dealings, conduct unbecoming, licensee responsibilities, duties to clients, duty to act honestly and with reasonable care and skill

ISSUE: Paul Song Wu, associate broker, currently unlicensed, who, while licensed with Macdonald Realty Ltd. dba Macdonald Realty, Vancouver, committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that he, in the listing and proposed sale of the property on behalf of his client

- (a) prepared the contract which purported to be prepared by another licensee of his brokerage, but was in fact prepared by himself, without the knowledge of that licensee;
- (b) prepared the contract which purported to be an offer to buy but was in fact a "fake" offer to buy made by a fictitious person who he had fabricated and knew was fictitious;
- (c) signed the name of the fictitious person on the contract;
- (d) witnessed the signature of the fictitious person on the contract when in fact he had not witnessed anyone other than himself sign the contract;
- (e) represented to his client that the contract was a valid offer to purchase the property made by another client and prepared by another licensee of his brokerage; and
- (f) advised his client not to make a counter offer, in the hope that his deceptive and dishonest conduct in inventing the contract and sending it to his client would not come to light.

RESULT: Paul Song Wu was suspended for one hundred and eighty (180) days from December 19, 2007 to June 15, 2008 (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 Paul Song Wu and a Consent Order was issued. Further, as a condition of continued licensing, Mr. Wu is to pay enforcement expenses to the Council in the amount of \$750.00.

COMPLAINT: Contravention of sections 35(1)(a) and 35(1)(c) of the *Real Estate Services Act*, and section 3-1 of the Council Rules/Professional misconduct, wrongful taking or deceptive dealing, managing broker responsibilities

ISSUE: Holly Christine Luthe, managing broker, Cedar Grove Realty Ltd., Prince George, committed professional misconduct within the meaning of section 35(1)(a) and (c) of the *Real Estate Services Act* and section 3-1 of the

Council Rules in that she

(a) as representative for a buyer in the proposed sale of property:

- (i) failed to advise the seller that the cheque provided by the buyer for the deposit had not been placed in the brokerage trust account and that the brokerage was not holding any funds in respect of the transaction;
 - (ii) mislead the seller as to the fact that the funds were in trust when they were not;
 - (iii) acted in a conflict of interest when she borrowed money and deposited that money to the brokerage trust account to fulfill the buyer's deposit obligations in relation to the contract; and
 - (iv) attempted to mislead the Council on May 27, 2005 when she failed to inform the Council that the funds she indicated were in trust had only been deposited on May 27, 2005 and were not received as a lump sum deposit from the buyer as implied but were the proceeds from her own personal loan; and
- (b) as managing broker for the brokerage, she failed to
- (i) be actively engaged in the management of the said brokerage; and
 - (ii) ensure that the said business of the brokerage was carried out competently and in accordance with the Act, Regulations, Rules and/or Bylaws.

RESULT: Holly Christine Luthe was suspended for ninety (90) days from December 19, 2007 to March 17, 2008 (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 Holly Christine Luthe and a Consent Order was issued. Further, Holly Christine Luthe must, as a condition of continued licensing, successfully complete Chapter 2 (*Real Estate Services Act*) and Chapter 9 (Professional Ethics) of the Real Estate Trading Services Licensing Course, pay to the Council a discipline penalty in the amount of \$2,500.00 and enforcement expenses in the amount of \$750.00.

COMPLAINT: Contravention of sections 35(1)(a) and 6(2)(b) of the *Real Estate Services Act*, sections 3-1(1)(a) and (b), 3-1(3) and 7-7(1) of the Council Rules/Professional misconduct, failure to file Accountant's Report, managing broker responsibilities

ISSUE: 494888 B.C. Ltd. dba Strata Pro Property Management Services, Osoyoos, 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: Kenneth Joseph Cameron Davreux, managing broker, 494888 B.C. Ltd. dba Strata Pro Property Management Services, Osoyoos, committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* by not fulfilling his responsibilities as managing broker for the performance of the duties imposed on the brokerage by its licence within the meaning of section 6(2)(b) of the *Real Estate Services Act* and by contravening sections 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: 494888 B.C. Ltd. dba Strata Pro Property Management Services was suspended for sixty (60) days from January 4, 2008 to March 4, 2008 (inclusive) but that the suspension would be terminated if and when 494888 B.C. Ltd. dba Strata Pro Property Management Services filed an Accountant's Report acceptable to the Council. If the Accountant's Report was received prior to January 4, 2008, then 494888 B.C. Ltd. dba Strata Pro Property Management Services will be reprimanded. If the Accountant's Report was not received within that sixty (60) day suspension period, then, immediately upon the conclusion of that period, the licence of 494888 B.C. Ltd. dba Strata Pro Property Management will be cancelled. As an Accountant's Report acceptable to the Council was received on December 27, 2007, 494888 B.C. Ltd. dba Strata Pro Property Management Services was reprimanded for the contravention described above after a hearing was held with respect to the above. Further, 494888 B.C. Ltd. dba Strata Pro Property Management and Kenneth Joseph Cameron Davreux are jointly and severally liable to pay enforcement expenses to the Council in the amount of \$1,288.60.

RESULT: Kenneth Joseph Cameron Davreux was reprimanded for professional misconduct as described above after a hearing was held with respect to the above. Further, Kenneth Joseph

Cameron Davreux and 494888 B.C. Ltd. dba Strata Pro Property Management Services are jointly and severally liable to pay enforcement expenses to the Council in the amount of \$1,288.60.

COMPLAINT: Contravention of sections 35(1)(a), 35(1)(e), 7(3)(a), 7(3)(b), 37(4), and 6(2) of the *Real Estate Services Act* and sections 2-19, 3-1(1), 4-2, and 4-5 of the Council Rules/ Professional misconduct, provided real estate services separate from brokerage, accepted remuneration separate from brokerage, failed to cooperate with investigation, failed to respond promptly, managing broker responsibilities, failed to display business sign, failed to ensure advertising included business name

ISSUE: Angelo Dionisios Tsakumis, currently unlicensed, who, while licensed as a representative with Amacon Realty Ltd., Vancouver, committed professional misconduct within the meaning of section 35(1)(a) and 35(1)(e) of the *Real Estate Services Act* in that he:

(a) provided real estate services to corporations related through common shareholders and directors to the brokerage but not licensed to provide real estate services, contrary to section 7(3)(a) of the *Real Estate Services Act*;
(b) accepted remuneration in relation to his real estate services from persons other than his related brokerage, namely corporations related through common shareholders and directors to the brokerage, contrary to section 7(3)(b) of the *Real Estate Services Act*; and
(c) failed to cooperate with a Council investigation as required by section 37(4) of the *Real Estate Services Act* and failed to promptly reply to Council as required by section 2-19 of the Council Rules.

ISSUE: Richard Kurt Otto Wittstock, managing broker, Amacon Realty Ltd., Vancouver, committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that he:

(a) failed to ensure that a licensee only provided real estate services through his related brokerage in accordance with sections 6(2) and 7(3)(a) of the *Real Estate Services Act* and section 3-1(1) of the Council Rules;
(b) failed to ensure that a licensee only received remuneration for real estate services through the brokerage in accordance with sections 6(2) and

7(3)(b) of the *Real Estate Services Act*;
(c) failed to promptly reply to Council as required by sections 2-19 and 3-1(1) of the Council Rules;
(d) failed to ensure the brokerage displayed on or near the door of its head office a business sign that clearly shows the brokerage's name in accordance with sections 3-1(1) and 4-2 of the Council Rules; and
(e) failed to ensure all brokerage advertising included the licensed name of the brokerage in accordance with sections 3-1(1) and 4-5 of the Council Rules.

ISSUE: Amacon Realty Ltd., Vancouver, committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that it:

(a) allowed a related licensed representative to provide real estate services to corporations related through common shareholders and directors to the brokerage, but not licensed to provide real estate services;
(b) allowed a related licensed representative to accept remuneration in relation to his real estate services from persons other than the brokerage he was licensed with, namely corporations related through common shareholders and directors to the brokerage;
(c) failed to promptly reply to Council as required by section 2-19 of the Council Rules;
(d) failed to display on or near the door of its head office a business sign that clearly showed its name in accordance with section 4-2 of the Council Rules; and
(e) failed to ensure all brokerage advertising included its licensed name in accordance with section 4-5 of the Council Rules.

ISSUE: Angelo Dionisios Tsakumis, currently unlicensed, will be suspended for thirty (30) days upon licence reissuance 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 Angelo Dionisios Tsakumis, and a Consent Order was issued.

RESULT: Richard Kurt Otto Wittstock 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 Richard Kurt Otto Wittstock, and a

Consent Order was issued. Further, Richard Kurt Otto Wittstock must successfully complete the disciplinary education assignments applicable to Chapter 2 (Mandatory Requirements under the *Real Estate Services Act*) and Chapter 3 (Business Standards) of the Broker's Licensing Course. Further, Richard Kurt Otto Wittstock shall pay a discipline penalty to the Council in the amount of \$2,500.00 and shall pay enforcement expenses to the Council in the amount of \$750.00.

RESULT: Amacon Realty Ltd. 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 Amacon Realty Ltd., and a Consent Order was issued. Further, Amacon Realty Ltd. shall pay a discipline penalty to the Council in the amount of \$10,000.00 and shall pay enforcement expenses to the Council in the amount of \$1,000.00.

COMPLAINT: Contravention of sections 35(1)(d) and 27(4) of the *Real Estate Services Act*; sections 5-11, 3-3(1)(i), 3-3(1)(a), and 3-4 of the Council Rules/Incompetence, stakeholder provisions, duty to act honestly and with reasonable care and skill, duties to clients

ISSUE: Adrian Joseph Hazzi, representative, Norwich Real Estate Services Inc. dba Re/Max of Kelowna, Kelowna, committed professional misconduct within the meaning of section 35(1)(d) of the *Real Estate Services Act*, in that he demonstrated incompetence by

(a) failing to promptly disclose the source and amount of the anticipated remuneration in accordance with section 5-11 of the Council Rules;

(b) acting as an agent of the buyer when it was inappropriate to do so and in so doing acted in a conflict of interest as he had an ongoing relationship with the seller, contrary to section 3-3(1)(i) and section 3-3(1)(a) of the Council Rules;

(c) failing to act with reasonable care and skill in a real estate transaction, in accordance with section 3-4 of the Council Rules, including:

(i) failing to clarify in writing the value of the 2002 Bombardier (quad ATV) for the purpose of the contract, failing to clarify why a deposit of \$5,000.00 was payable to someone other than the seller, and failing to clarify by separate written

agreement, in accordance with section 27(4) of the *Real Estate Services Act*, that the stakeholder provisions do not apply;

(ii) failing to ensure the buyer was advised to include a subject to financing in light of the fact that the construction was incomplete and the buyer had separated from his spouse;

(iii) failing to ensure a contract was put into effect that clearly set out in writing the rights and responsibilities of the parties including upon default, and without restricting the generality of the foregoing, the right to walk through prior to completion, a provision of a deficiency holdback, and the requirement for an occupancy permit;

(d) failing to advise the buyer to seek independent legal advice and the time to obtain such advice, both prior to the execution of the contract and during the course of the contract, when the seller's failure to complete became an issue; and

(e) failing to promptly deliver a copy of an accepted contract to his brokerage.

RESULT: Adrian Joseph Hazzi was suspended for thirty (30) days from February 6, 2008 to March 6, 2008 (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 Adrian Joseph Hazzi, and a Consent Order was issued. Further, Adrian Joseph Hazzi must successfully complete the disciplinary education assignments applicable to Chapter 12 (Law of Agency) of the Real Estate Trading Services Licensing Course and pay enforcement expenses to the Council in the amount of \$750.00.

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

ISSUE: Chang (Charlie) Wan Cha, representative, Royal Pacific Realty (Kingsway) Ltd., Vancouver, misconducted himself and demonstrated incompetence pursuant to section 35(1)(d) of the *Real Estate Services Act*, in his representation of the buyers relating to the purchase of a property when he failed to ensure that the buyers received the strata minutes prior to the subject removal date and allowed the buyers to remove the strata document subject condition or ensure that the buyers understood the risks of removing the subject condition without having an opportunity to review the strata minutes.

RESULT: Chang (Charlie) Wan Cha was suspended for thirty (30) days from January 2, 2008 to January 31, 2008 (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 Chang (Charlie) Wan Cha, and a Consent Order was issued. Further, Chang (Charlie) Wan Cha will successfully complete Chapter 2 (The *Real Estate Services Act*) of the Real Estate Trading Services Licensing Course, enroll in and attend the first available CPE course "Professionalism it Pays! Be Safe or Be Sued!" or "Legal Update" and pay enforcement expenses to the Council in the amount of \$750.00.

COMPLAINT: Contravention of section 35(1)(a) of the *Real Estate Services Act*, sections 3-3 and 3-4 of the Council Rules/Professional misconduct, duties to clients

ISSUE: Chan Yiu Ng (also known as Terry Eng), managing brokerage, Terry Eng Realty Ltd. dba Re/Max Terry Eng, Vancouver, committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* and sections 3-3 and 3-4 of the Council Rules in that he:

(a) failed to ensure that the buyers had financing in place before drawing up the said contract with no subject to financing clause; and

(b) failed to properly advise the buyers as to the consequences of not having a subject to financing condition in the contract.

ISSUE: Jennifer Lai Won Ng, representative, Terry Eng Realty Ltd. dba Re/Max Terry Eng, Vancouver, committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* and sections 3-3 and 3-4 of the Council Rules in that she:

(a) failed to ensure that the buyers had financing in place before drawing up the said contract with no subject to financing clause; and

(b) failed to properly advise the buyers as to the consequences of not having a subject to financing condition in the contract.

RESULT: Chan Yiu Ng (also known as Terry Eng) was suspended for twenty-one (21) days from January 9, 2008 to January 29, 2008 (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 Chan Yiu Ng (also known as Terry Eng), and a Consent Order was issued. Further, Chan Yiu Ng (also known as Terry Eng) must enroll in and attend the first available CPE course "Professionalism it Pays! Be Safe or Be Sued!" and "Legal Update". Further, Chan Yiu Ng (also known as Terry Eng) and Jennifer Lai Wong Ng are jointly and severally liable to pay enforcement expenses to the Council in the amount of \$750.00.

RESULT: Jennifer Lai Wong Ng was suspended for twenty-one (21) days from February 6, 2008 to February 26, 2008 (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 Jennifer Lai Wong Ng, and a Consent Order was issued. Further, Jennifer Lai Wong Ng must enroll in and attend the first available CPE course "Professionalism it Pays! Be Safe or Be Sued!" and "Legal Update". Jennifer Lai Wong Ng and Chan Yiu Ng (also known as Terry Eng) are jointly and severally liable to pay enforcement expenses to the Council in the amount of \$750.00.

COMPLAINT: Contravention of section 35(1)(d) of the *Real Estate Services Act*, sections 3-4, 4-7 and 4-8 of the Council Rules/Professional misconduct, incompetence, duty to act with reasonable care and skill, false or misleading advertising, advertising in relation to specific real estate

ISSUE: Hyun Jin (James) Chung, representative, 1st West Realty Inc. dba Sutton Group - 1st West Realty, Coquitlam, who, while licensed with Envoy Realty Ltd. dba Sutton Premier Realty, Surrey, committed professional misconduct within the meaning of section 35(1)(d) of the *Real Estate Services Act* in that he demonstrated incompetence by

(a) advertising the property without the consent of the owner or his authorized agent, contrary to section 4-8 of the Council Rules;

(b) publishing real estate advertising in respect of the property that he knew or ought to have known was false or that he knew or ought to have known contained a false statement or misrepresentation concerning real estate, a trade in real estate or the provision of real estate services, contrary to section 4-7 of the Council Rules; and

(c) failing to act honestly and with reasonable care in a real estate transaction, in accordance with section 3-4 of the Council Rules.

RESULT: Hyun Jin (James) Chung was suspended for twenty-one (21) days from December 19, 2007 to January 8, 2008 (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 Hyun Jin (James) Chung and a Consent Order was issued. Further, Hyun Jin (James) Chung must successfully complete Chapter 2 (The *Real Estate Services Act*) of the Real Estate Trading Services Licensing Course and pay enforcement expenses to the Council in the amount of \$750.00.

COMPLAINT: Contravention of section 35(1)(d) of the *Real Estate Services Act*, sections 3-4, 4-7 and 4-8 of the Council Rules/Professional misconduct, incompetence, duty to act with reasonable care and skill, false or misleading advertising, advertising in relation to specific real estate

ISSUE: Susana Kim, representative, Envoy Realty Ltd. dba Sutton Premier Realty, Surrey, committed professional misconduct within the meaning of section 35(1)(d) of the *Real Estate Services Act* in that she demonstrated incompetence by

(a) advertising the property without the consent of the owner or his authorized agent, contrary to section 4-8 of the Council Rules;

(b) publishing real estate advertising in respect of the property that she ought to have known was false, contrary to section 4-7 of the Council Rules; and

(c) failing to act with reasonable care in a real estate transaction, in accordance with section 3-4 of the Council Rules.

RESULT: Susana Kim was suspended for twenty-one (21) days from December 19, 2007 to January 8, 2008 (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 Susana Kim and a Consent Order was issued. Further, Susana Kim must successfully complete Chapter 2 (The *Real Estate Services Act*) of the Real Estate Trading Services Licensing Course and pay

enforcement expenses to the Council in the amount of \$750.00.

COMPLAINT: Contravention of section 35 of the *Real Estate Services Act*/Professional misconduct

ISSUE: Harmen Jan Berghuis, representative, Apex International Services Ltd. dba Century 21 Apex International, Delta, who, while licensed with Northstar Realty Ltd. (Sur) dba Royal LePage Northstar Realty (Sur), Surrey, committed professional misconduct within the meaning of section 35 of the *Real Estate Services Act* in that he:

(a) knowingly allowed an unlicensed individual to perform real estate trading services;

(b) remunerated an unlicensed individual for providing real estate trading services by providing that individual with a percentage of the commissions earned by Mr. Berghuis on the trade in real estate while knowing that the individual was unlicensed;

(c) advertised on a website for the provision of real estate trading services with an unlicensed individual as though the individual was licensed, when he knew that was untrue;

(d) failed to clearly indicate the licensee name of the related brokerage on his website in the course of providing real estate services; and

(e) continued to provide real estate trading services in association with that unlicensed individual without ensuring that it was indicated that the individual was unlicensed, and despite advising the Council by letter that he would not do so.

RESULT: Harmen Jan Berghuis was suspended for twenty-one (21) days from January 23, 2008 to February 12, 2008 (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 Harmen Jan Berghuis, and a Consent Order was issued. Further, Harmen Jan Berghuis must successfully complete Chapter 2 (*Real Estate Services Act*) of the Real Estate Trading Services Licensing Course, enroll in and attend the first available CPE course "Professionalism it Pays! Be Safe or Be Sued!" and pay enforcement expenses to the Council in the amount of \$750.00.

COMPLAINT: Contravention of section 35(1)(d)

of the *Real Estate Services Act*, sections 3-4, 4-7 and 4-8 of the Council Rules/Professional misconduct, incompetence, duty to act with reasonable care and skill, false or misleading advertising, advertising in relation to specific real estate

ISSUE: Won Il (William) Lee, representative, 1st West Realty Inc. dba Sutton Group - 1st West Realty, Coquitlam, committed professional misconduct within the meaning of section 35(1)(d) of the *Real Estate Services Act* in that he demonstrated incompetence by (a) advertising property without the consent of the owner or his authorized agent, contrary to section 4-8 of the Council Rules; (b) publishing real estate advertising in respect of the property that he knew or ought to have known was false or that he knew or ought to have known contained a false statement or misrepresentation concerning real estate, a trade in real estate or the provision of real estate services, contrary to section 4-7 of the Council Rules; and (c) failing to act honestly and with reasonable care in a real estate transaction, in accordance with section 3-4 of the Council Rules.

RESULT: Won Il (William) Lee was suspended for twenty-one (21) days from December 19, 2007 to January 8, 2008 (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 Won Il (William) Lee and a Consent Order was issued. Further, Won Il (William) Lee must successfully complete Chapter 2 (The *Real Estate Services Act*) of the Real Estate Trading Services Licensing Course and pay enforcement expenses to the Council in the amount of \$750.00.

COMPLAINT: Contravention of sections 3(1)(a), 6(2), 7(5)(a) 35(1)(a) and 35(1)(d) of the *Real Estate Services Act* and section 3-1(1) of the Council Rules/Professional misconduct, incompetence, requirement of licensing, managing broker responsibilities, requirement for licensing of a representative

ISSUE: Kennedy-Cooper Realty Ltd., New Westminster, brokerage, committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that it permitted an unlicensed representative to provide

real estate services on behalf of the brokerage from on or about December 2005 until on or about mid-March 2007, contrary to section 3(1)(a) (requirement of licensing) and section 7(5)(a) (requirement of licensing of a representative) of the *Real Estate Services Act*.

ISSUE: Edward Lewis Burnham, managing broker, Kennedy-Cooper Realty Ltd., New Westminster, committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that he failed to fulfill his responsibilities as a managing broker for the performance of the duties imposed on the brokerage by its licence within the meaning of section 6(2) of the *Real Estate Services Act* and section 3-1(1) of the Council Rules (managing broker responsibilities) in that he failed to follow up sufficiently in order to ensure that an unlicensed representative did not provide real estate services on behalf of the brokerage from on or about December 2005 until on or about mid-March 2007, without being licensed, before permitting him to engage in activity which required licensing, in accordance with section 3(1)(a) (requirement for licensing) and section 7(5)(a) (requirement for licensing of a representative) of the *Real Estate Services Act* and section 3-1(1) of the Council Rules

RESULT: Kennedy-Cooper Realty Ltd. 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 Kennedy-Cooper Ltd. and a Consent Order was issued. Further, Kennedy-Cooper Realty Ltd. and Edward Lewis Burnham are jointly and severally liable to pay enforcement expenses to the Council in the amount of \$750.00.

RESULT: Edward Lewis Burnham was suspended for fourteen (14) days from December 19, 2007 to January 1, 2008 (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 Edward Lewis Burnham and a Consent Order was issued. In addition, Edward Lewis Burnham must successfully complete Chapter 2 (Mandatory Requirements under the *Real Estate Services Act*) of the Broker's Licensing Course. Further,

Edward Lewis Burnham and Kennedy-Cooper Realty Ltd. are jointly and severally liable to pay enforcement expenses to the Council in the amount of \$750.00.

COMPLAINT: Contravention of section 35(1)(a) of the *Real Estate Services Act*, sections 3-2, 3-2(2) and 3-4 of the Council Rules/Professional misconduct, promptly provide managing broker with a copy of all records, prompt notification of managing broker where no deposit, duty to act with reasonable care and skill

ISSUE: Harry Jesse, representative, Homelife Glenayre Realty Company Ltd., Abbotsford, committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that he:

(a) contravened section 3-4 of the Council Rules by failing to advise the seller or the seller's representative in a timely manner that he had not received a deposit cheque from the buyer within 24 hours after acceptance of the said contract; (b) contravened section 3-2(2) of the Council Rules by failing to immediately notify his managing broker that he had not received the deposit within 24 hours after acceptance of the said contract; and (c) contravened section 3-2 of the Council Rules by failing to submit said contract of purchase and sale to his brokerage in a timely manner after it was accepted by the seller.

RESULT: Harry Jesse was suspended fourteen (14) days from January 9, 2008 to January 22, 2008 (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 Harry Jesse and a Consent Order was issued. Further, Harry Jesse must successfully complete Chapter 2 (The *Real Estate Services Act*) of the Real Estate Trading Services Licensing Course, enroll in and attend the first available "Legal Update" course and pay enforcement expenses to the Council in the amount of \$750.00.

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

ISSUE: Navindra Kumar Sahay, representative, Performance Realty Ltd. dba Re/Max Performance

Realty, Delta, committed professional misconduct within the meaning of section 35(1)(d) of the *Real Estate Services Act* in that he:

(a) acted in a conflict of interest when he represented the buyer as a limited dual agent when he loaned the sellers the sum of \$10,000.00 and registered this loan as a mortgage against the title of the subject property after listing the property; and

(b) failed to disclose the fact that he had registered a mortgage against the title of the property to his client buyer prior to his client buyer's purchase of the property.

RESULT: Navindra Kumar Sahay was suspended for seven (7) days from January 2, 2008 to January 8, 2008 (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 Navindra Kumar Sahay, and a Consent Order was issued. Further, Navindra Kumar Sahay must complete the disciplinary education assignment applicable to Chapter 2 (The *Real Estate Services Act*) of the Real Estate Trading Services Licensing Course, enroll in and attend the first available CPE course "What Brokerages and REALTORS Need to Know about Agency" and pay enforcement expenses to the Council in the amount of \$750.00.

COMPLAINT: Contravention of section 35(1)(a) of the *Real Estate Services Act*, sections 5-10, 5-11 and 3-4 of the Council Rules/Professional misconduct, agency disclosure, disclosure of remuneration, failure to act honestly and with reasonable care and skill

ISSUE: Robin Elizabeth Cameron, representative, West Coast Realty Ltd. dba Sutton Group-West Coast Realty, North Vancouver, committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act*:

(a) by contravening section 5-10 of the Council Rules in that she failed to make proper agency disclosure in the said Contract of Purchase and Sale in that she indicated that she had an agency relationship with the buyers when in fact her brokerage had a limited dual agency relationship with both the buyers and the sellers;

(b) by contravening section 5-11 of the Council Rules in that she failed to make proper separate written disclosure of remuneration to the said

buyers; and

(c) by contravening section 3-4 of the Council Rules in that she failed to adequately protect the interests of the said buyers by not making the said Contract of Purchase and Sale subject to the buyers receiving and approving an elevation site survey from the said sellers within a certain time period.

RESULT: Robin Elizabeth Cameron was suspended for seven (7) days from January 16, 2008 to January 22, 2008 (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 Robin Elizabeth Cameron, and a Consent Order was issued. Further, Robin Elizabeth Cameron must enroll in and attend the first available CPE course "Legal Update" and pay enforcement expenses to the Council in the amount of \$750.00.

COMPLAINT: Contravention of section 35(1)(a) of the *Real Estate Services Act*, sections 3-3(1)(i) and 3-3(1)(j) of the Council Rules/Professional misconduct, failure to take reasonable steps to avoid any conflict of interest, failure to promptly disclose existence of conflict of interest

ISSUE: Lori Dawn Neuen, representative, Hugh & McKinnon Realty Ltd., Surrey, committed professional misconduct under section 35(1)(a) of the *Real Estate Services Act* when she agreed, while she was the buyer of a property, to concurrently represent the seller of the property with respect to the Seller's purchase of a new property, in that she acted in a conflict of interest; and she failed to take reasonable steps to avoid a conflict of interest in accordance with section 3-3(1)(i) of the Council Rules; and failed to promptly and fully disclose to her client that she was in a conflict of interest within the meaning of section 3-3(1)(j) of the Council Rules.

RESULT: Lori Dawn Neuen was suspended for seven (7) days from February 6, 2008 to February 12, 2008 (inclusive) for professional misconduct as described above after a hearing was held into this matter. Further, Lori Dawn Neuen is required to pay enforcement expenses to the Council in the amount of \$4,000.00.

COMPLAINT: Contravention of section 35(1) of the *Real Estate Services Act* /Professional

misconduct.

ISSUE: Stephen Smith, representative, Your Real Estate Centre Inc. dba Royal LePage Prince George, Prince George, committed professional misconduct within the meaning of section 35(1) of the *Real Estate Services Act* in that he:

(a) provided real estate services other than on behalf of the brokerage in relation to which he was licensed;

(b) agreed to accept remuneration from a person other than the brokerage in relation to which he was licensed;

(c) failed to provide the managing broker with the original or copy of all records referred to in sections 8-4 and 8-5 of the Council Rules;

(d) failed to keep the managing broker informed of the real estate services being provided, and other activities being performed by the representative on behalf of the brokerage;

(e) failed to promptly pay or deliver to the brokerage all money held or received from, for or on behalf of a principal in relation to real estate services, and failed to promptly pay into a brokerage trust account all money held or received from, for or on behalf of a principal in relation to real estate services, without having a written agreement that is separate from any agreement under which the real estate services are provided or giving effect to a trade in real estate, and

(f) failed to advise the buyer to get independent legal advice with respect to the payment of the deposit directly to the seller.

RESULT: Stephen Smith was suspended for seven (7) days from January 16, 2008 to January 22, 2008 (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 Stephen Smith, and a Consent Order was issued. Further, Stephen Smith must successfully complete Chapter 2 (*Real Estate Services Act*) of the Real Estate Trading Services Licensing Course, enroll in and attend the first available "Professionalism it Pays! Be Safe or Be Sued!" or "Legal Update", and pay enforcement expenses to the Council in the amount of \$750.00.

COMPLAINT: Contravention of sections 35(1)(a), 35(1)(d), 3(1)(a) and 7(5)(a) of the *Real Estate Services Act* and section 6-1(1) of the Council

Rules/Professional misconduct, incompetence, requirement for licence to provide real estate services, provision of real estate services by unlicensed individual, payment to unlicensed persons prohibited

ISSUE: Multiple Realty Ltd., Vancouver, committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that it permitted an unlicensed individual to provide rental property management services on behalf of the brokerage from on or about March 1, 2005 until January 2007, contrary to section 3(1)(a) and 7(5)(a) of the *Real Estate Services Act*.

ISSUE: John Shiong-Choy Ma, managing broker, Multiple Realty Ltd., Vancouver, committed professional misconduct within the meaning of section 35(1)(d) of the *Real Estate Services Act* in that he:

(a) permitted an individual to provide real estate services on behalf of the brokerage while unlicensed from on or about March 1, 2005 until January 2007 contrary to section 7(5)(a) of the *Real Estate Services Act*; and

(b) paid remuneration to an individual in relation to real estate services while that individual was unlicensed, contrary to section 6-1(1) of the Council Rules.

RESULT: Multiple Realty Ltd. 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 Multiple Realty Ltd., and a Consent Order was issued. Further, Multiple Realty Ltd. and John Shiong-Choy Ma are jointly and severally liable to pay enforcement expenses to the Council in the amount of \$750.00.

RESULT: John Shiong-Choy Ma 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 John Shiong-Choy Ma, and a Consent Order was issued. Further, John Shiong-Choy Ma will pay a discipline penalty to the Council in the amount of \$2,000.00 and will successfully complete Chapter 2 (Mandatory Requirements Under the *Real Estate Services Act*) of the Broker's Licensing Course. Further, John Shiong-Choy Ma and

Multiple Realty Ltd. are jointly and severally liable to pay enforcement expenses to the Council in the amount of \$750.00.

COMPLAINT: Contravention of sections 35(1)(a) 3-1(a), 6(2), and 7(5)(a) of the *Real Estate Services Act*, sections 3-1(1), and of the Council Rules/Professional misconduct, requirement of licensing, requirement for licensing of representative, managing broker responsibilities

ISSUE: Admaster Realty Ltd., previously licensed as Day Team Realty Ltd., Victoria, committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that it permitted an unlicensed representative to provide real estate services on behalf of Day Team Realty Ltd. from on or about January 26, 2007 until on or about February 12, 2007, contrary to sections 3(1)(a) and 7(5)(a) of the *Real Estate Services Act*

ISSUE: Christophe Franck Bonnieux, currently unlicensed, who, while licensed as managing broker, Admaster Realty Ltd., previously licensed as Day Team Realty Ltd., Victoria, committed professional misconduct within the meaning of sections 35(1)(a) and 6(2) of the *Real Estate Services Act* and section 3-1(1) of the Council Rules in that he failed to follow up sufficiently in order to ensure that an unlicensed representative did not provide real estate services on behalf of the brokerage from on or about January 26, 2007 until on or about February 12, 2007, without being licensed in accordance with sections 3(1)(a) and 7(5)(a) of the *Real Estate Services Act* and section 3-1(1) of the Council Rules.

ISSUE: Real Mart Realty Ltd., Victoria, committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that it permitted an unlicensed representative to provide real estate services on behalf of the brokerage from on or about February 13, 2007 until on or about March 4, 2007, contrary to sections 3(1)(a) and 7(5)(a) of the *Real Estate Services Act*.

ISSUE: James Anthony McEvoy, managing broker, Real Mart Realty Ltd., Victoria, committed professional misconduct within the meaning of sections 35(1)(a) section 6(2) of the *Real Estate Services Act* and section 3-1(1) of the Council

Rules in that he failed to follow up sufficiently in order to ensure that an unlicensed representative did not provide real estate services on behalf of the brokerage from on or about February 13, 2007 until on or about March 4, 2007, without being licensed in accordance with sections 3(1)(a) and 7(5)(a) of the *Real Estate Services Act* and section 3-1(1) of the Council Rules.

RESULT: Admaster Realty Ltd., previously licensed as Day Team Realty Ltd., 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 Admaster Realty Ltd. previously known as Day Team Realty Ltd., and a Consent Order was issued. Further, Admaster Realty Ltd, previously licensed as Day Team Realty Ltd., and Real Mart Realty Ltd. are jointly and severally liable to pay a discipline penalty to the Council in the amount of \$500.00 and pay enforcement expenses to the Council in the amount of \$750.00.

RESULT: Christophe Franck Bonnieux 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 Christophe Franck Bonnieux, and a Consent Order was issued.

RESULT: Real Mart Realty Ltd. 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 Real Mart Realty Ltd., and a Consent Order was issued. Further, Real Mart Realty Ltd. and Admaster Realty Ltd., previously licensed as Day Team Realty Ltd., are jointly and severally liable to pay a discipline penalty to the Council in the amount of \$500.00 and pay enforcement expenses to the Council in the amount of \$750.00.

RESULT: James Anthony McEvoy 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 James Anthony McEvoy, and a Consent Order was issued.

COMPLAINT: Contravention of section 35(1)(a) of the *Real Estate Services Act* and section 3-1(1) of the Council Rules/Professional misconduct, managing broker failed to be in active charge of the business of the brokerage

ISSUE: Peter William Molander, currently unlicensed, who, while licensed as managing broker, Fernie Real Estate Company Ltd., Fernie, committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that he contravened section 3-1(1) of the Council Rules by failing to ensure that a licensee on behalf of Fernie Real Estate Company Ltd. did not offer agency representation to the seller or, in the alternative, withdrew offering agency representation to the seller when he first became aware that the licensee was also acting as a principal in the transaction.

RESULT: Peter William Molander 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 Peter William Molander and a Consent Order was issued.

COMPLAINT: Contravention of section 35(1)(a) of the *Real Estate Services Act*, sections 5-10(a) and 3-2(2)(a) of the Council Rules/Professional misconduct, failure to disclose nature of representation, failure to keep managing broker informed

ISSUE: Brian Robert Gregory, associate broker, Macdonald Realty, Kelowna (1995) Ltd. dba Macdonald Realty Kelowna, Kelowna, committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that in respect to a joint venture agreement entered into between one corporate entity and an individual and/or this individual's corporate entity, he:
(a) failed to disclose the nature of his representation to the parties to the joint venture agreement when he agreed to draft the said agreement for the parties, contrary to section 5-10(a) of the Council Rules; and
(b) failed to advise his managing broker that he was providing real estate services to the joint venture parties as required by section 3-2(2)(a) of the Council Rules.

RESULT: Brian Robert Gregory was reprimanded for professional misconduct as described above after a hearing into this matter. In addition, Brian Robert Gregory is required to successfully complete the disciplinary education assignments applicable to Chapter 2 (The *Real Estate Services Act*) of the Real Estate Trading Services Licensing Course, to enroll in and attend the first available CPE course "Professionalism it Pays! Be Safe or Be Sued", and to pay enforcement expenses to the Council in the amount of \$1,191.32.

COMPLAINT: Contravention of sections 5-8, 5-9 and 3-2(2) of the Council Rules/Professional misconduct, failure to make written disclosure, failure to promptly disclose to all parties, failure to keep managing broker informed

ISSUE: Paul Dy Ang, associate broker, Westmar Realty Ltd. dba Macdonald Realty Westmar, Richmond, failed to (a) provide a disclosure of interest in trade to a corporate entity as required by sections 5-8 and 5-9 of the Council Rules when he and/or his company acquired an interest in a property by way of a joint venture agreement, which included an option to purchase the property or part thereof; and (b) advise his managing broker that he was acquiring property which required a disclosure of an interest in trade, contrary to section 3-2(2) of the Council Rules.

RESULT: Paul Dy Ang was reprimanded for conduct as described above after a hearing into this matter. In addition, he was required to successfully complete the disciplinary education assignments applicable to Chapter 9 (Professional Ethics) of the Real Estate Trading Services Licensing Course and to pay enforcement expenses to the Council in the amount of \$1,191.32.

COMPLAINT: Contravention of section 35(1)(a) of the *Real Estate Services Act* and section 5-10 of the Council Rules/Professional misconduct, agency disclosure

ISSUE: Jimmy Cheong Man Chuck, representative, West Coast Realty Ltd. (Brdwy) dba Sutton Group–West Coast Realty (Brdwy), Vancouver, committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* by contravening section 5-10

of the Council Rules in that he failed to make proper agency disclosure in the said Contract of Purchase and Sale in that he indicated that he had an agency relationship with the sellers when in fact his brokerage had a limited dual agency relationship with both the buyers and the sellers.

RESULT: Jimmy Cheong Man Chuck 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 Jimmy Cheong Man Chuck, and a Consent Order was issued. Further, Jimmy Cheong Man Chuck must successfully complete Chapter 12 (Law of Agency) of the Real Estate Trading Services Licensing Course and pay enforcement expenses to the Council in the amount of \$750.00.

COMPLAINT: Contravention of section 35 of the *Real Estate Services Act*/Professional misconduct

ISSUE: Glen Allan Kullman, associate broker, Northstar Realty Ltd. dba Royal LePage Northstar Realty, Surrey, who, while licensed as managing broker at Northstar Realty Ltd. (Sur) dba Royal LePage Northstar Realty (Sur), Surrey, committed professional misconduct within the meaning of section 35 of the *Real Estate Services Act* in that he failed (a) failed to ensure that an individual was licensed before performing real estate trading services on behalf of Royal LePage Northstar Realty (Sur); (b) failed to ensure that the business of Royal LePage Northstar Realty (Sur) was carried out competently and in accordance with the *Real Estate Services Act* and the Council Rules; and (c) failed to ensure that there was an adequate level of supervision for representatives who perform duties on behalf of Royal LePage Northstar Realty (Sur) in accordance with the Council Rules.

RESULT: Glen Allan Kullman 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 Glen Allan Kullman, and a Consent Order was issued. Further, Glen Allan Kullman must pay enforcement expenses to the Council in the

amount of \$750.00.

COMPLAINT: Contravention of sections 35(1) (a), 7(5)(a), and 6(2) of the *Real Estate Services Act* and section 3-1(1) of the Council Rules/ Professional misconduct, provision of real estate services by unlicensed representative

ISSUE: 596373 B.C. Ltd. dba Re/Max Westcoast, Richmond, brokerage, committed professional misconduct within the meaning of section 35(1) (a) of the *Real Estate Services Act* in that it permitted an unlicensed representative to provide real estate services on behalf of the brokerage from on or about April 9, 2007 to July 4, 2007, contrary to section 7(5)(a) of the *Real Estate Services Act*.

ISSUE: Richard Joseph Laurendeau, managing broker, 596373 B.C. Ltd. dba Re/Max Westcoast, Richmond, committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that he failed to ensure that a former representative with 596373 B.C. Ltd. dba Re/Max Westcoast, did not engage in activities, which required licensing, contrary to section 6(2) of the *Real Estate Services Act* and section 3-1(1) of the Council Rules.

RESULT: 596373 B.C. Ltd. dba Re/Max Westcoast 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 596373 B.C. Ltd. dba Re/Max Westcoast, and a Consent Order was issued. Further, 596373 B.C. Ltd. dba Re/Max Westcoast and Richard Joseph Laurendeau are jointly and severally liable to pay enforcement expenses to the Council in the amount of \$750.00.

RESULT: Richard Joseph Laurendeau 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 Richard Joseph Laurendeau, and a Consent Order was issued. Further, Richard Joseph Laurendeau must successfully complete Chapter 2 (Mandatory Requirements Under the *Real Estate Services Act*) of the Broker's Licensing Course, and Richard Joseph Laurendeau and 596373 B.C. Ltd. dba Re/Max Westcoast are jointly and severally liable to pay enforcement expenses to the Council in the amount of \$750.00.

COMPLAINT: Contravention of section 35(1) (a) the *Real Estate Services Act* and section 7-7(1)(b) of the Council Rules /Professional misconduct, failure to file Accountant's Report

ISSUE: Delta Hotels Limited, 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 Council by the prescribed date.

RESULT: Delta Hotels Limited 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 Delta Hotels Limited, and a Consent Order was issued. Further, Delta Hotels Limited must pay enforcement expenses to the Council in the amount of \$750.00.

COMPLAINT: Contravention of sections 35(1) (a) and 6(2)(b) of the *Real Estate Services Act*, sections 3-1(1)(a) and (b), 3-1(3) and 7-7(1)(b) of the Council Rules/Professional misconduct, managing broker responsibilities, failure to file Accountant's Report

ISSUE: Boulton Realty Ltd., 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 Council by the prescribed date.

ISSUE: William Leonard Boulton, managing broker, Boulton Realty Ltd., Vancouver, committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* by not fulfilling his responsibilities as managing broker for the performance of the duties imposed on the brokerage by its licence within the meaning of section 6(2)(b) of the *Real Estate Services Act* and by contravening sections 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: Boulton Realty Ltd. 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 Boulton Realty Ltd., and a Consent Order was issued. In addition, Boulton Realty Ltd. and William Leonard Boulton are jointly and severally liable to pay enforcement expenses to the Council in the amount of \$750.00.

RESULT: William Leonard Boulton 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 William Leonard Boulton, and a Consent Order was issued. In addition, Mr. Boulton and Boulton Realty Ltd. are jointly and severally liable to pay enforcement expenses to the Council in the amount of \$750.00.

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

Real Estate Council of British Columbia
#900—750 West Pender Street
Vancouver, BC V6C 2T8
Tel: 604-683-9664
Toll-free: 1-877-683-9664
Email: info@recbc.ca

Copyright 2008 Real Estate Council of BC

Return undeliverable Canadian addresses to:

Real Estate Council of British Columbia
#900—750 West Pender Street, Vancouver, BC V6C 2T8
PM# 40016497