

Report from Council

The *Real Estate Services Act*: Five Years Later

The *Real Estate Services Act* (RESA) came into effect on January 1, 2005 and replaced the *Real Estate Act* that had been in existence since 1958. Under RESA, the Real Estate Council became a self-regulating organization giving it direct jurisdiction over the regulation of licensees. The new legislation also provided the Council with the power to make rules and bylaws that, among other things, govern all aspects of licensing, set out business practice requirements and establish standards of conduct. This has enabled the Council to quickly respond to changes in the marketplace in order to better serve consumers.

As part of the new legislation, the number of members of Council elected to represent districts was reduced from 17 members to 12 members. This resulted in a re-distribution of several counties for the purposes of Council elections. In addition, one member is now elected from the strata/rental property management sector. Further, the number of government appointed public members increased from two to three, bringing the total number of Council members to 16.

RESA created the Real Estate Special Compensation Fund which replaced trust account bonding requirements under the old Act. The compensation fund provides protection for a member of the public who has entrusted a licensee with

money that was either obtained by the fraud of that licensee, misappropriated or wrongfully converted, or intentionally not paid over or accounted for.

The creation of a Real Estate Special Compensation Fund is significant in that it further continues the evolution of consumer protection in the province. In fact, BC is often regarded as a leader when it comes to real estate practices. This history of innovation dates back several decades to when the Real Estate Errors and Omissions Insurance Corporation and the Real Estate Foundation of BC were created. The model for these two bodies has been used by several other real estate jurisdictions since that time.

RESA also gave the Council expanded discipline powers that allow it to impose a wide range of disciplinary sanctions. Whether as the result of a licensee entering into a consent order or as the result of a disciplinary hearing, the Council may reprimand, suspend or cancel a licence, impose restrictions or conditions on a licence, require a licensee to cease or to carry out specified activities, require a course of study or training, require payment of a disciplinary penalty of up to \$20,000 for a brokerage or \$10,000 for an individual licensee, and prohibit a licensee from applying for a licence for a specified period of time. In some



As the real estate industry evolves, so too does the Council in order to ensure that it effectively carries out its statutory responsibilities

circumstances, if it is determined that a licensee may have acted in a way that could result in a disciplinary order, a discipline committee may suspend a licensee's licence without a hearing. RESA also provides the Council with the authority to freeze property if it considers such action to be in the public interest, e.g. where there is evidence that trust funds have been misappropriated.

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A Note from the Chair



William R. Brown,
Chair

By the time most licensees will be reading this, the 2010 Winter Olympic Games will be underway. The spirit of the Olympic Games gives us pause to reflect on the drive, ambition and high ethical standards of athletes from around the world participating in the games. I believe that this same spirit of excellence exists within the real estate community and the vast majority of us demonstrate it every day to our clients. However, despite everyone's ongoing efforts to always conduct themselves with the highest ethical standards, this Report again contains a large number of discipline sanctions. This remains a concern to the Council and I urge licensees to always ensure that they are competent in the areas in which they practice.

Speaking of discipline decisions, you will note from this Report that a licensee was disciplined for failing to notify the Council of a criminal charge against her. The Council reminds all licensees that section 2-21 of the Council Rules requires licensees to **immediately disclose to the Council any discipline, bankruptcy or criminal proceedings against them.** Do not wait until the outcome of the proceeding to report it to the Council.

This Report also contains information about the Council's new remedial education course that was developed in conjunction with the Real Estate Division at the Sauder School of Business, UBC. The Council is hopeful that the remedial course will be assistive to licensees who have been the subject of a discipline sanction in getting back on the right path towards providing the highest level of service to their clients.

Finally, as a result of recent media attention about the relationship between real estate licensees and property inspectors, we have included a reminder article about this on page 5. I ask that all licensees engaged in trading services familiarize themselves with this information in order to avoid even the potential of a conflict of interest.

On behalf of the Council,

William R. Brown
Chair

Office Closures

The Council office will be closed on **Friday April 2, 2010** for Good Friday and **Monday April 5th, 2010** for Easter Monday.

Please Note

The Council office will remain open during the Olympic Games.

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Liz Tutt
Michael Ziegler

STATISTICS

February 2010

Representatives: 16,484
Associate Brokers: 1,771
Managing Brokers: 1,329
Total Licensees: 19,584
Brokerages (including branch offices
and sole proprietors): 1,400

Role of the Council

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

Report from Council

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

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RESA Five Years Later

In addition to expanded regulatory and disciplinary authority, RESA also stipulated that the Council would begin licensing a new category of licensees. Just a year after RESA came into effect, the Council began licensing strata managers across the province. The licensing of strata managers has gone very smoothly and the Council continues to work with the strata community to ensure the effective regulation of this segment of the industry.

In 2007, the Council introduced the Relicensing Education Program (REP) as a condition of licensing. REP has been an integral part of ensuring the continual competency of licensees across the province. While this program has been a huge undertaking for the industry, licensees and consumers alike have, no doubt, benefited from this ongoing education.

On January 1, 2009, the Council began issuing licences for personal real estate

corporations (PREC). PRECs allow real estate licensees to access the business advantages of incorporation. Although PRECs are not a regulatory matter per se, a number of changes were made to accommodate this licence category, including rule changes and changes to the Council's licensing system. To-date over 370 individuals across the province have chosen to license a PREC.

Since RESA came into effect, the Council has also launched a new website, re-branded itself, issued a new Brokerage Standards Manual, changed several rules to allow for efficiencies at brokerages, and continues to work with industry bodies on major initiatives, such as agency.

The Council is now in its 52nd year of operation, making it one of the oldest real estate licensing bodies in North America. Since its inception, the government has continually expanded the

regulatory authority of the Council. In 1985, the Council took over full responsibility for licensing. A year later, it was granted decision making authority in disciplinary matters and, in the 1990's, the Council took over full responsibility of administering brokerage accountant's reports. This long history of service no doubt assisted the government in making decisions with respect to the level of authority that the Council was to be given under the *Real Estate Services Act*.

As the real estate industry evolves, so too does the Council in order to ensure that it effectively carries out its statutory responsibilities. The real estate industry has seen several changes in recent times but the Council believes that these changes have set a solid foundation that allows licensees to go about their business while the Council maintains a high level of consumer protection. ■

Personal Real Estate Corporation Reminder

Controlling Individual and PREC Must Make Applications Together

Personal real estate corporations (PREC) and the controlling individual associated with the PREC are reminded that any licence application process that is initiated by the controlling individual must be done in conjunction with the PREC. For example, if the controlling individual is applying to transfer his or her licence to another brokerage, **the PREC must also apply to transfer its licence at the same time.** Both must submit an application form and a fee of \$125.00 each (total \$250.00) to the Council's office to complete this process.

Another common example would be licence renewal. The controlling individual and the PREC licences expire on the

same date; therefore, they must both apply for licence renewal at the same time. The Application for Personal Real Estate Corporation form is used by the PREC for all licensing purposes, just as the Application for Representative, Associate Broker or Managing Broker Licence form is used by the controlling individual. The exception being the Application for Licence Renewal, which is a computer generated form and is mailed to the brokerage office of the licensee (both controlling individual and PREC) approximately six weeks prior to the expiry date. The fees required by a PREC for licensing purposes are the same as those that are required by the

controlling individual for the same type of application. The only exception is for a first time PREC licence, which may require pro-rated fees.

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



Council Rule Amendments

The Council, at its meeting on December 5, 2009, approved amendments to sections 2-3 and 2-4 of its Rules. The approved amendments increase the number of brokerage licences (i.e. offices) in relation to which a managing broker may be licensed from the current maximum of two to four. This means that a managing broker may be licensed in relation to a maximum of four offices of a brokerage (i.e. a head office and three branch offices, or four branch offices) or a maximum of four brokerages that are affiliated within the meaning of the *Business Corporations Act*. The maximum number of managing

broker licences an individual may hold, whether in relation to branch offices or affiliated brokerages, is four. The amendments took effect January 1, 2010.

As previously reported, the Council also recently eliminated the 100 kilometre proximity requirement related to managing brokers being licensed in relation to two brokerages.

The Council believes that today's communication technologies, along with a brokerage's ability to retain qualified individuals to assist with various aspects

of managing the brokerage, allow a well organized managing broker to fulfill these requirements, both where there is a significant distance between offices and where there are a number of offices involved. However, rather than totally eliminating the maximum number, the Council took a more measured approach of increasing the maximum from two to four brokerage licences. This will provide an opportunity to evaluate the effect.

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

Rule Changes	Description
2-3 Managing broker may be licensed in relation to <u>2 a maximum of 4</u> affiliated brokerages (1) For the purposes of section 7 (2) [<i>relationships between brokerages and other licensees</i>] of the Act, a managing broker may, <u>subject to subsection (2) of this section, be licensed in relation to 2 brokerages if</u> <u>(a) be licensed in relation to a maximum of 4 brokerages that the brokerages are affiliated within the meaning of the <i>Business Corporations Act</i>, and</u> ~~(b) the managing broker is not licensed in relation to more than one licence of a brokerage under section 2-4 [<i>related licensees of brokerages with branch offices</i>] of these rules.~~ (b) provide real estate services in relation to the licence of each of those brokerages. (2) <u>The total of all brokerage licences in relation to which a managing broker is licensed under this section and section 2-4 [<i>related licensees of brokerages with branch offices</i>] must not exceed 4.</u> (3) For certainty, section 7 (4) [managing broker subject to brokerage's licence] of the Act applies to the managing broker in relation to the specific brokerage licence in relation to which they are acting at any particular time.	Both this group of changes, and those below, have the cumulative effect of increasing the total number of brokerage offices in relation to which a managing broker may be licensed from the current maximum of 2 to a maximum of 4.
2-4 Related licensees of brokerages with branch offices (1) If a brokerage holds one or more branch licences in addition to its head office licence, a managing broker, associate broker or representative who is a related licensee of the brokerage must be licensed in relation to a single licence of the brokerage. (2) As an exception to subsection (1), a managing broker may, <u>subject to subsection (3),</u> <u>(a) be licensed in relation to 2 a maximum of 4 licences of a brokerage, and</u> ~~(b) may provide real estate services in relation to each of those brokerage licences, if the managing broker is not licensed in relation to another brokerage under section 2-3 [managing broker may be licensed in relation to two affiliated brokerages] of these rules.~~ <u>(b) provide real estate services in relation to each of those brokerage licences.</u> (3) <u>The total of all brokerage licences in relation to which a managing broker is licensed under this section and section 2-3 [managing broker may be licensed in relation to a maximum of 4 affiliated brokerages] must not exceed 4.</u> ~~(3)~~(4) For certainty, section 7 (4) [managing broker subject to brokerage's licence] of the Act applies separately to the managing broker in relation to the specific brokerage licence in relation to which they are acting at any particular time.	Both this group of changes, and those above, have the cumulative effect of increasing the total number of brokerage offices in relation to which a managing broker may be licensed from the current maximum of 2 to a maximum of 4.

Reminder About Property Inspections

In recent years, pre-purchase property inspections have become more common in the marketplace. The Council considers this a positive development in that a property inspection will assist the buyer in understanding, prior to the purchase, the condition of the property and what repairs may be necessary.

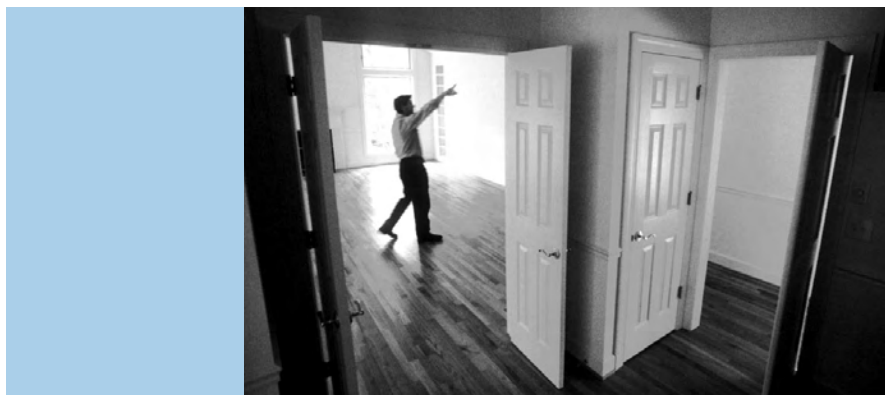
For this reason, a buyer's agent should always advise a buyer to have an independent inspection of a property, and the licensee should explain the importance of why such an inspection is necessary and that licensees are typically not qualified to provide home inspection advice. If a buyer chooses not to have an inspection, the agent's advice to do so should be documented.

In some cases, in addition to a buyer wanting to have the property inspected, a seller may also want such an inspection before listing the property for sale so that the seller is aware of what issues the property inspection report may identify.

If a licensee intends to refer clients to a property inspector, the safest way to do so is to provide a list of at least three professionals with whom the licensee, or others he or she knows, has dealt and have the client call, interview, and select them independently. It is recommended that licensees avoid "steering" buyers towards particular service providers or communicating information about their fees.

Effective March 1, 2009, providing a property inspection for a fee became an activity for which a licence is required. Consumer Protection BC is the agency responsible for property inspector licensing. For further information, visit www.consumerprotectionbc.ca.

Licensees should exercise care in selecting those to be included in this list of service providers. Before making a referral, licensees should ensure the individual is properly licensed, consider the inspector's experience and credentials and also what insurance coverage the inspector carries, such as errors and omissions insurance,



A buyer's agent should always advise a buyer to have an independent inspection of a property, and explain why such an inspection is necessary

liability insurance and worker's compensation coverage.

Once a buyer has determined which property inspector is to be used, licensees must respect the client relationship this creates between the buyer and the property inspector. The buyer is paying the property inspector for professional advice with respect to the condition of the property they are considering purchasing. Licensees should not attempt to thwart that relationship either by downplaying the importance of deficiencies noted by property inspectors or by making disparaging comments about the buyer's choice of property inspectors.

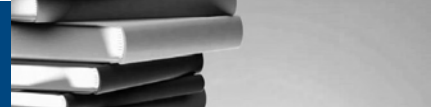
As with any subject clause, the length of time allowed for its removal should be reasonable while not being unnecessarily long. In the case of property inspections, sufficient time is required to arrange and conduct the inspection, prepare the report, and have the report reviewed by the buyer. The goal is to ensure the buyer has full knowledge of the results of the inspection and, if necessary, clarification from the inspector or any other qualified person as required.

In order to avoid the possibility or even the appearance of a conflict of interest,

licensees are advised not to pay the cost of the inspection report on behalf of a buyer. If the licensee were to pay, the inspector could be suspected of not wanting to jeopardize the transaction of the person paying him or her, who might or might not ask for his or her services in the future, depending on the conclusions of the inspection report.

Finally, as with any referral, section 5-11 of the Council Rules requires that if a licensee is to receive a referral fee or other consideration from a property inspector, this must be disclosed in writing to the licensee's client.

A question often arises whether the seller's agent should be present during the inspection. The Council recommends that the seller's agent either be present or obtain permission from the seller that the seller's agent is not required to be present during the inspection. In making this decision, the seller should be advised whether the buyer and/or the buyer's agent intend to be present when the property inspector views the property. If the seller agrees that the seller's agent does not need to be present, the seller's agent should obtain the full name and address of the inspector as well as information on whether the inspector is bonded. ■



Completing Licence Renewal Forms: A Joint Responsibility Between the Applicant and Managing Broker

In January 2009, the Application for Licence Renewal form was amended to require licence renewal applicants to certify that they have completed the Council's Relicensing Education Program (REP) course requirements. However, as a result of random spot-checks, the Council has noticed that some licence renewal applicants have signed the licence renewal form certifying that they have completed the REP requirements when, in fact, they had not, and that some managing brokers have signed the renewal form without ascertaining whether the licence renewal applicant has completed the required REP courses.

The Council reminds licensees that it is the joint responsibility of both the licence renewal applicant and the managing broker to ensure that the renewal form is true and complete, including the section with respect to the completion of REP courses. If a renewal form is submitted to the Council office, and it is later determined that the REP course requirements have not been completed, the renewal application would be considered to be a false application. This would have serious ramifications for the licence renewal applicant, including whether or not they are suitable for continued licensing or whether they should be suspended for a period of time.

Managing brokers are reminded that, in signing an application, a managing broker certifies that they are satisfied from personal knowledge or from inquiries, that the licence renewal applicant is of good reputation and is suitable for licensing (including the completion

of REP requirements), and thereby approves the application. If an applicant for licence renewal has not completed the REP course requirements, the licence renewal applicant should take immediate steps to complete them PRIOR to their licence renewal date and PRIOR to submitting the Application for Licence Renewal form. Do not submit the application to the Council if the licence renewal applicant is only registered in a course; the courses must be completed before applying. If the licence renewal applicant is not eligible for renewal because they have not completed the REP course requirements, they should notify the Council, in writing, that they do not intend to renew their licence at this time and that they will cease to operate effective the date that their current licence expires.

The Council appreciates the diligence of licensees and managing brokers in ensuring that licence renewal applicants have completed the REP course requirements prior to licence renewal and completed the Application for Licence Renewal form properly.

Should you require any further information with respect to REP, please visit the Council's website at www.recbc.ca or contact the Council at 604-683-9664 or toll-free 1-877-683-9664. ■



Do not submit the application to the Council if the licence renewal applicant is only registered in a course; the courses must be completed before applying

Licenseses reminded of Education Re-Qualification Policy

Licenseses considering surrendering their licence are advised to make sure they understand the Council's Education Re-qualification Policy and know how long they can remain unlicensed without having to re-qualify. **If, after reviewing the policy, licenseses are unsure of how it applies in their own case, licenseses must provide a written request to the Council for that information. Only written inquiries will obtain a response.**

Representative's Education Re-qualification Policy

1. Application for Reinstatement within Licensing Period

Section 2-9 *[education re-qualification on reinstatement]* of the Council Rules applies to a representative licence that has become inoperative under section 22(1) *[person ceases to be engaged by brokerage]* of the *Real Estate Services Act*, been suspended under section 116(4) *[person fails to provide required security]* of the *Real Estate Services Act*, or been voluntarily surrendered to the Council.

In order to have the licence reinstated, an applicant who has less than 5 years of continuous licensing at some time

before the licence became inoperative, was suspended or was surrendered must meet the requirements of section 2-8(1)(b) *[pre-licensing examinations]* and section 2-8(2) *[applied practice course]* of the Council Rules.

However, section 2-7(3) *[waiver of educational requirements]* of the Council Rules states that the Council may waive, on the basis of an applicant's previous knowledge or training, some or all of the requirements in relation to a course, a corresponding examination, or a course and its corresponding examination.

2. Application for Re-Licensing Outside of Licensing Period

An applicant for a new representative licence who has previously been licensed as a representative is required to meet the requirements of section 2-8(1)(b) *[pre-licensing examinations]* and section 2-8(2) *[applied practice course]* of the Council Rules.

However, section 2-7(3) *[waiver of educational requirements]* of the Council Rules states that the Council may waive, on the basis of an applicant's



previous knowledge or training, some or all of the requirements in relation to a course, a corresponding examination, or a course and its corresponding examination.

3. Policy Respecting Waiver of Educational Requirements

An applicant for reinstatement or re-licensing who has been previously licensed will not be required to complete the applicable pre-licensing course, but may have to rewrite the applicable licensing examination or retake the applicable applied practice course.

The Council will waive the requirements in relation to a course or an examination in the following circumstances:

Representatives with continuous (unbroken*) licensed service in British Columbia of:	Will not be required to re-qualify for licensing by rewriting either the Real Estate Trading Services Licensing Examination or Rental Property Management Licensing Examination and retaking the applicable Applied Practice Course if they have been unlicensed for less than:
Less than 1 year	a period equivalent to their unbroken licensed period **
1 year but less than 5 years	1 year
5 years but less than 10 years	2 years
10 years but less than 15 years	3 years
15 years but less than 20 years	4 years
20 years and over	5 years

* "Unbroken" is defined as not having been unlicensed for a period of thirty (30) days or less. In calculating continuous unbroken service, registration under the Mortgage Brokers Act will be included. Any period of parental leave, as approved by the Council, will not affect your licensing history.

** An applicant is not required to re-qualify during the first twelve (12) months after passing the applicable pre-licensing examination.

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RECBC's Education Re-Qualification Policy

Requests for extensions of up to one (1) year to an individual's re-qualification date will be considered by Council staff. Extensions based on medical grounds must be supported by a medical certificate.

Individuals who go beyond their re-qualification date are required to re-qualify for licensing by re-writing the appropriate examination and completing the applicable applied practice course.

Parental Leave

Real estate representatives who surrender their licences for the birth or

adoption of a child are not required to re-qualify for licensing by re-writing the Real Estate Trading Services, Rental Property Management or Strata Management Licensing Examination if licence application is made within one (1) year of when the parental leave began.

Parental leave is available to either parent of the child and may be taken at any time up to one (1) year following the birth or adoption of the child.

Parental leave will show as a break in a representative's licensing history but

will not be considered a break for the purposes of calculating continuous unbroken service under the Council's Representative Education Re-qualification Policy.

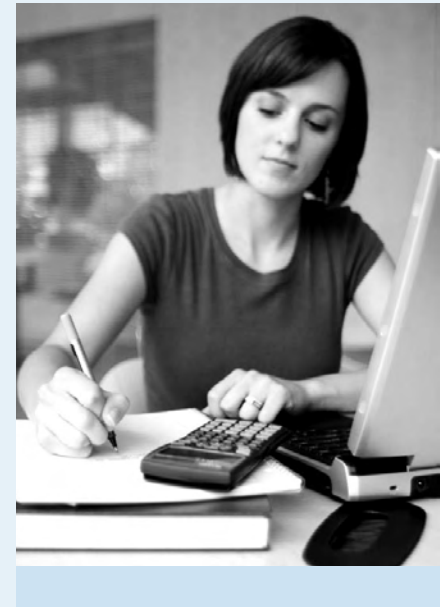
Licensees who wish to take parental leave must apply in writing, at the same time enclosing a copy of the child's birth certificate or proof and/or verification of adoption.

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

Remedial Education Course Launched

The Council, in conjunction with the Real Estate Division at the Sauder School of Business, recently introduced a Remedial Education Course. This course was created for individuals who are required to complete a remedial course of studies as part of a disciplinary decision under the *Real Estate Services Act*. The Remedial Education Course consists of selected material from the licensing course, as well as instructive information collected from recent Coun-

cil disciplinary decisions. It is presented in an online self-study format, and students are provided with access to all materials online. Students can read the materials at their own pace, watch and listen to narrated presentations online, and complete a number of online assignments. Topics have been selected from those that have, in the Council's opinion, most frequently led to errors in licensee conduct, such as topics related to the *Real Estate Services Act*, contract and agency law. ■



Notice of Licensee Resignation

David Guy Marshall, while licensed as an associate broker with Border Country Realty (1980) Ltd. dba Coldwell Banker Border Country Realty, Grand Forks, requested the Real Estate Council of British Columbia to discontinue disciplinary proceedings against him as he has decided to permanently retire from

real estate practice. Mr. Marshall was facing a disciplinary hearing into his professional conduct and would have been required to appear before a hearing panel of the Real Estate Council to respond to these allegations.

Considering the fact that there is likely

no greater disciplinary penalty than not being licensed to act again, the Real Estate Council agreed with Mr. Marshall's request. Mr. Marshall surrendered his licence on June 29, 2009 and the lifetime ban on Mr. Marshall's licensing under the *Real Estate Services Act* is effective as of December 4, 2009. ■

Disciplinary Decisions

Since the December 2009 *Report from Council* newsletter, the following actions have been taken as a result of disciplinary hearings and Consent Orders conducted by the Council.

Trading Services

Arman Sadeghi

ISSUE: Arman Sadeghi, representative, West Coast Realty Ltd. dba Sutton Group-West Coast Realty, North Vancouver, entered into a Consent Order with the Council in which he consented to an Order that he committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that he contravened section 35(1)(d) of the *Real Estate Services Act* in that he, as the listing agent in the listing and sale of property on 3rd Avenue, New Westminster, B.C. ("Property") by LB ("Seller") to MS ("Buyer") by Contract of Purchase and Sale dated September 12, 2007 ("Contract"): (a) relied on an earlier listing of the Property and failed to independently verify the particulars of same when he represented that the Property had extensive renovations and the particulars of same, which were untrue or misleading, as prior to the Property's listing it had been classified as uninhabitable by the City of New Westminster and its gas and electric services had been shut off following a civic investigation into the Property's former use as a marijuana grow operation and it remained uninhabitable at the completion of the Contract, contrary to section 3-4 of the Council Rules; (b) represented that the Property had a 75 foot frontage when that was untrue or misleading as the Property actually had a 45 foot frontage, contrary to sections 3-3(1)(a), 3-4 and 4-7 of the Council Rules; (c) failed to promptly deliver a copy of the Contract to his brokerage in accordance with sections 5-4 and 3-2(2)(a) of the Council Rules; and (d) failed to immediately notify his managing broker that the \$20,000 deposit that was contemplated by the Contract had not been received, in accordance with his duty under section 3-2(2)(b) of the Council Rules.

RESULT: Arman Sadeghi was suspended for thirty (30) days from December 30, 2009 to January 28, 2010 (inclusive) and was ordered to be under the direct supervision of his managing broker for a period of one year from January 28, 2010 to January 27, 2011, during which time the managing broker will provide quarterly reports to the Council and will report anything of an adverse nature with respect to Mr. Sadeghi's activities. Further, Arman Sadeghi was ordered to successfully complete the disciplinary education assignments applicable to Chapter 2 (The *Real Estate Services Act*) and Chapter 9 (Professional Ethics) of the Real Estate Trading Services Licensing Course, successfully complete the Trading Services Remedial Education Course, enrol 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 \$1,000.00.

Andrew Marc Hasman

ISSUE: Andrew Marc Hasman, representative, Andrew Hasman Realty Ltd. dba Re/Max Andrew Hasman, Vancouver, entered into a Consent Order with the Council in which he consented to an Order that he committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* by contravening section 3-3(1)(c) of the Council Rules by extending the Multiple Listing Contract from March 31, 2008 to April 16, 2008 without the knowledge or consent of the seller.

RESULT: Andrew Marc Hasman was suspended for thirty (30) days from December 16, 2009 to January 14, 2010 (inclusive) and was ordered to pay a discipline penalty to the Council in the amount of \$1,000.00, to successfully complete the disciplinary education assignments applicable to Chapter 9 (Professional Ethics) of the Real Estate Trading Services Licensing Course, and pay enforcement expenses to the Council in the amount of \$1,000.00.

Selina Li Mak & Thomas Man Fung Wu

ISSUE: Thomas Man Fung Wu, representative, Multiple Realty Ltd. (Rhmd), Richmond, entered into a Consent Order with the Council in which he consented to an Order that he committed professional misconduct within the meaning of section 35(1)(d) of the *Real Estate Services Act* in that he, as a limited dual agent in the listing and sale of two properties located at Cooney Road, Richmond, both from AT ("seller") to BB ("buyer"), presented addenda to each of the Cooney Road contracts to the seller, which included clauses purporting to automatically release the deposit to the seller if the buyer did not complete the transaction, when he knew or ought to have known of the necessity to obtain fresh separate written agreements from the parties in accordance with sections 28(2)(a), 30(2)(b) and 35(1)(a) and (d) of the *Real Estate Services Act*, contrary to sections 3-3(1)(a) and 3-4 of the Council Rules.

ISSUE: Selina Li Mak, managing broker, Multiple Realty Ltd. (Rhmd), Richmond, entered into a Consent Order with the Council in which she consented to an Order that she committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that she failed to ensure the seller was immediately notified in writing that the second deposits of \$40,000 each owing under the two Cooney Road contracts had not been received by December 17, 2007 as required by the terms of both contracts, as amended, contrary to section 3-1(4) and (5) of the Council Rules.

RESULT: Thomas Man Fung Wu was suspended for seven (7) days from January 20, 2010 to January 26, 2010 (inclusive) and was ordered to enrol in and attend the first available CPE course "Contracts: Keep on Top of Changes" or "Risk Management for REALTORS®".

RESULT: Selina Li Mak was reprimanded.

RESULT: Thomas Man Fung Wu and Selina Li Mak were ordered to be jointly

Disciplinary Decisions, *cont'd*

and severally liable to pay enforcement expenses to the Council in the amount of \$1,000.00.

Darren Reagh Cannon & Darren Cannon Personal Real Estate Corporation

ISSUE: Darren Reagh Cannon – Darren Cannon Personal Real Estate Corporation, representative, Colliers Macaulay Nicolls Inc. dba Colliers International, Vancouver, entered into a Consent Order with the Council in which he consented to an Order that he committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that, as the listing representative for the seller in the sale of property at Mayfield Place, Richmond, by Contract of Purchase and Sale dated October 19, 2007, he: (i) contravened section 3-3(1)(g) of the Council Rules in that, upon becoming aware that the buyer was represented by a licensee and had written an offer dated October 19, 2007 to purchase the said property, failed to communicate the offer to the seller in a timely, objective and unbiased manner; (ii) contravened section 3-3(1)(i) of the Council Rules in that he failed to take reasonable steps to avoid a conflict of interest by offering agency to the buyer in order to protect his own interests rather than the interests of his client, the seller, specifically, to ensure that he would receive remuneration in the transaction; and (c) contravened section 3-4 of the Council Rules in that he failed to act with reasonable care and skill by contacting the buyer directly to sign an offer, which he had prepared dated October 22, 2007, when he knew that the buyer had already submitted an offer dated October 19, 2007 through his representative.

RESULT: Darren Reagh Cannon – Darren Cannon Personal Real Estate Corporation was suspended for fourteen (14) days from December 16, 2009 to December 29, 2009 (inclusive) and was ordered to successfully complete the disciplinary education assignment 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 \$1,000.00.

Lawrence Kwong Inn Wong

ISSUE: Lawrence Kwong Inn Wong, associate broker, Royal Pacific Realty (Kingsway) Ltd., Vancouver, entered into a Consent Order with the Council in which he consented to an Order that he committed professional misconduct within the meaning of section 35(1) of the *Real Estate Services Act* in that he: (a) contrary to section 3-3(1)(a) of the Council Rules, did not act in the best interests of sellers by providing agency to the sellers pursuant to the sellers' listing and also considering to act as an agent for the buyer in the proposed resale of the property, as evidenced, in part, by the Authority to Sell; (b) contrary to section 3-3(1)(j) of the Council Rules, failed to disclose to the sellers the conflict of interest set out in paragraph (a) above; and (c) contrary to one or more than one of section 35(1)(d) of the *Real Estate Services Act* and section 3-3(1)(d) of the Council Rules, failed to fully or properly advise the sellers in writing to seek independent advice when they requested Mr. Wong to terminate the contract.

RESULT: Lawrence Kwong Inn Wong was suspended for seven (7) days from January 20, 2010 to January 26, 2010 (inclusive) and was ordered to enrol in and attend the first available CPE courses "Real Estate E&O Insurance Legal Update 2009" and "What Brokerages and REALTORS® Need to Know About Agency", and pay enforcement expenses to the Council in the amount of \$1,000.00.

Christopher Louis Appelbe

ISSUE: Christopher Louis Appelbe, currently unlicensed, while licensed as a representative with Max Wright Real Estate Corporation dba Sotheby's International Realty Canada, Vancouver, entered into a Consent Order with the Council in which he consented to an Order that he committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that he: (a) confirmed he had completed the course requirements of the Council's Re-Licensing Education Program when he had not completed the course requirements, contrary to section 35(1)(g) of the *Real Estate Services Act*; and (b) failed to complete the course re-

quirements of the Council's Re-Licensing Education Program prior to making application for his licence renewal, contrary to section 2-8.1 of the Council Rules.

RESULT: Christopher Louis Appelbe was reprimanded and ordered to pay a discipline penalty to the Council in the amount of \$1,000.00, and pay enforcement expenses to the Council in the amount of \$1,000.00.

Georgena N. Thompson

ISSUE: Georgena N. Thompson, representative, Broadway West Realty Ltd. dba Amex Broadway West Realty, Vancouver, entered into a Consent Order with the Council in which she consented to an Order that she committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* by contravening sections 5-8 and 5-9 of the Council Rules in that she: (a) provided real estate services to a brokerage other than one to which she was licensed to provide trading services, contrary to section 7(3) of the *Real Estate Services Act*; and (b) failed to promptly deliver a copy of an accepted offer to her brokerage, contrary to section 5-4(b) of the Council Rules.

RESULT: Georgena N. Thompson was reprimanded, ordered to successfully complete the disciplinary education assignments applicable to Chapter 2 (The *Real Estate Services Act*) of the Real Estate Trading Services Licensing Course, to enrol in and attend the first available "Real Estate E&O Insurance Legal Update 2009" course, and pay enforcement expenses to the Council in the amount of \$1,000.00.

Farhad (Nick) Nikjou

ISSUE: Farhad (Nick) Nikjou, representative, Nechako Real Estate Ltd. dba Century 21 In Town Realty, Vancouver, entered into a Consent Order with the Council in which he consented to an Order that he committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that: (a) contrary to one or more than one of sections 3(1)(a) and 35(1)(d) of the *Real Estate Services Act*, he provided rental property management services when he was not licensed to do so;

Disciplinary Decisions, *cont'd*

(b) contrary to one or more than one of sections 7(3)(a) and 35(1)(d) of the *Real Estate Services Act*, he provided real estate services directly and not through his brokerage; and (c) contrary to one or more than one of sections 7(3)(b) and 35(1)(d) of the *Real Estate Services Act*, directly or indirectly, he accepted remuneration for real estate services outside of his brokerage.

RESULT: Farhad (Nick) Nikjou was reprimanded and ordered to successfully complete the disciplinary education assignment applicable to 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 \$1,000.00.

Angela Kabakov

ISSUE: Angela Kabakov, representative, Royal Pro Real Estate Network Inc., White Rock, entered into a Consent Order with the Council in which she consented to an Order that, while she was licensed with TRG The Residential Group Downtown Realty Ltd. dba The TRG Residential Group Downtown Realty, Vancouver, she committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that she: (a) contravened section 2-21(2)(d) of the Council Rules by failing to promptly notify the Council in writing of a criminal charge laid against her; and (b) contravened section 2-21(4) of the Council Rules by failing to notify her managing broker of the criminal charges laid against her.

RESULT: Angela Kabakov was reprimanded and ordered, as a condition of continued licensing, to notify the Council of the disposition of the criminal charge laid against her on or about September 23, 2008 within one week of learning the outcome of the disposition of the charge and pay enforcement expenses to the Council in the amount of \$1,000.00.

Sanae (Sanny) Nishi & Angell, Hasman & Associates (The Angell Group) Realty Ltd.

ISSUE: Angell, Hasman & Associates (The Angell Group) Realty Ltd., West Vancouver, entered into a Consent Order with the Council in which it consented

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

ISSUE: Sanae (Sanny) Nishi, managing broker, Angell, Hasman & Associates (The Angell Group) Realty Ltd., West Vancouver, entered into a Consent Order with the Council in which she consented to an order that she committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* by not fulfilling her responsibilities as managing broker for the performance of the duties imposed on the brokerage by its licence within the meaning of section 6(2)(b) of the *Real Estate Services Act* and by contravening section 3-1(1)(a) and (b) and 3-1(3) of the Council Rules in that she failed to ensure that the said Accountant's Report was filed with the Council by the prescribed date.

RESULT: Angell, Hasman & Associates (The Angell Group) Realty Ltd. was reprimanded and ordered to pay a discipline penalty to the Council in the amount of \$1,000.00.

RESULT: Sanae (Sanny) Nishi was reprimanded.

RESULT: Further, Angell, Hasman & Associates (The Angell Group) Realty Ltd. and Sanae (Sanny) Nishi were ordered to be jointly and severally liable to pay enforcement expenses to the Council in the amount of \$1,000.00.

Haneef Virani & Karim Virani & Virani Real Estate Advisors

ISSUE: Haneef Virani, representative, Karim Virani Realty Inc. dba Virani Real Estate Advisors, West Vancouver, entered into a Consent Order with the Council in which he consented to an Order that he committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that he failed: (a) to properly ascertain and disclose to the Buyer that access to the Property was granted by unregistered permit; (b) to act

with reasonable care and skill, in that he drafted the Contract of Purchase and Sale without reference to the unregistered permit; (c) to disclose in writing a material latent defect concerning the Property, in particular that access to the Property was governed by an unregistered permit; and (d) to advise the Buyer to obtain independent professional advice concerning the impact of the unregistered permit.

ISSUE: Karim Virani, representative, Karim Virani Realty Inc. dba Virani Real Estate Advisors, West Vancouver, entered into a Consent Order with the Council in which he consented to an Order that he committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that he failed to confirm the representations made by the Sellers regarding the unregistered permit and to supervise Haneef Virani in his handling of the matter.

ISSUE: Karim Virani Realty Inc. dba Virani Real Estate Advisors, West Vancouver, entered into a Consent Order with the Council in which it consented to an Order that it committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that it failed to ensure the Buyer's deposit for the Property was placed in an interest earning trust account with the interest accruing to the benefit of the Buyer.

RESULT: Haneef Virani was ordered to pay a discipline penalty to the Council in the amount of \$7,500.00 and pay enforcement expenses to the Council in the amount of \$1,000.00.

RESULT: Karim Virani was reprimanded.

RESULT: Virani Real Estate Advisors was reprimanded and ordered to pay enforcement expenses to the Council in the amount of \$1,000.00.

Earl David Hain & Century 21 Solutions Realty

ISSUE: Solutions Realty Inc. dba Century 21 Solutions Realty, Olalla, entered into a Consent Order with the Council in which it consented to an Order that it committed professional misconduct within the meaning of section 35(1)(a) of

Disciplinary Decisions, *cont'd*

the *Real Estate Services Act* by contravening section 27(5) of the *Real Estate Services Act* in that it failed to ensure that no money, other than money referred to in subsections (1) and (2) of section 27 of the *Real Estate Services Act* was paid into the brokerage trust account.

ISSUE: Earl David Hain, managing broker, Solutions Realty Inc. dba Century 21 Solutions Realty, Olalla, entered into a Consent Order with the Council in which he consented to an Order that he committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* by contravening section 3-1(1)(b) of the Council Rules in that he failed to ensure that the business of the brokerage was carried out competently and in accordance with the Act, Regulations, Rules and/or Bylaws, by permitting funds not connected with a trade in real estate to be deposited into the brokerage trust account, in contravention of section 27(5) of the *Real Estate Services Act*.

RESULT: Century 21 Solutions Realty was reprimanded.

RESULT: Earl David Hain was reprimanded and ordered to successfully complete the disciplinary education assignment applicable to Chapter 2 (Mandatory Re-

quirements Under The *Real Estate Services Act*) of the Broker's Licensing Course.

RESULT: Century 21 Solutions Realty and Earl David Hain were ordered to be jointly and severally liable to pay enforcement expenses to the Council in the amount of \$1,000.00.

Sally Anne Warner

ISSUE: Sally Anne Warner, representative, Sea to Sky Real Estate Whistler Ltd. (formerly Golden Eagle Realty Ltd.) dba Re/Max Sea to Sky Real Estate Whistler, Whistler, entered into a Consent Order with the Council in which she consented to an Order that she committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* by contravening section 35(1)(d) of the *Real Estate Services Act*, and sections 3-3 and 3-4 of the Council Rules in that she: (a) advised the vendor of the property that the entire FF&E reserve would be adjusted in his favour at the time of completion; (b) failed to properly inform herself as to the treatment of the FF&E reserve for the subject property; and (c) failed to advise the vendor of the property to obtain independent legal or other professional advice on a matter that was outside her expertise.

RESULT: Sally Anne Warner was reprimanded and ordered to successfully complete the disciplinary education assignments applicable to Chapter 2 (The *Real Estate Services Act*) and Chapter 7 (Strata Properties (Condominiums) and Co-operatives in British Columbia) of the Real Estate Trading Services Licensing Course, and pay enforcement expenses to the Council in the amount of \$750.00.

Strata Management Services

Condex Property Management Ltd.

ISSUE: Condex Property Management Ltd., Vancouver, entered into a Consent Order with the Council in which it consented to an Order that it committed professional misconduct within the meaning of section 35 of the *Real Estate Services Act* in that it provided strata management services to three strata corporations after January 1, 2008 without having in place written service agreements in accordance with section 5-1 of the Council Rules, and without waivers from the clients.

RESULT: Condex Property Management Ltd. was reprimanded and ordered to pay enforcement expenses to the Council in the amount of \$1,000.00. ■

Feedback?

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

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