

Included  
in this issue:  
Council Member  
Nomination  
Information  
See p9

# Report from Council

## The Council Rules and the Consent Agreement between the Competition Bureau and CREA

The recent consent agreement reached between the Competition Bureau and the Canadian Real Estate Association (“CREA”) has drawn attention to the long-standing reality in British Columbia of there being many different business models under which licensees may provide real estate services. As this agreement has given rise to a number of telephone calls to the Council, it is timely for the Council to draw licensees’ attention to sections of the Council Rules to which licensees should give consideration when deciding on the model under which they wish to provide services.

In the Council’s role as regulator of the *Real Estate Services Act*, Regulation, Rules and Bylaws, it is of primary importance to the Council that licensees ensure that consumers understand the nature of the representation, if any, that a licensee is providing and the services that will be delivered.

Section 5-10 of the Council Rules speaks to the disclosure of representation and relationships in trading services. Section 5-1(4)(e) of the Council Rules sets out that a general description of the services to be provided by a brokerage must be contained within a written service agreement. Commonly, licensees, who are real estate board members, describe their services on a Schedule “A”, which forms part of an MLS® listing agreement.

Section 3-3(1)(a) through (j) of the Council Rules describes a licensee’s duties to clients. This includes, but is not limited to, acting in the best interest of the client; avoiding conflicts of interest; disclosing to a client all known material information; and communicating all offers to a client in a timely, objective and unbiased manner. Section 5-3.1 of the Council Rules also sets out that, unless otherwise instructed by a client, a licensee who receives a signed offer must promptly communicate the offer to the client. If a consumer and a licensee/brokerage wish to modify or make inapplicable one or more of the duties set out in section 3-3(1) of the Council Rules, they may do so under the provisions of section 3-3(2) of the Council Rules. **For certainty, a prudent licensee will ensure that any agreement made with a consumer to modify or limit their duties, as described in section 3-3(1) of the Council Rules, is done in writing, before providing any services.** A schedule “A” attached to a listing agreement appears to be a logical place where any agreement between the licensee and the consumer, to modify duties, may be clearly set out.

Section 4-7 of the Council Rules requires that a licensee must not publish any real estate advertising that a licensee knows contains a false statement or misrepresentation concerning real estate. Section 3-4 of the Council Rules requires that



licensees must act honestly and with reasonable care and skill. As such, in the event that a licensee is posting on an MLS® or other advertising medium information with respect to a property that has been provided by the seller or some other indirect source, that licensee, in order to exercise reasonable care and skill in this regard, should disclose the source of the information. The Council is of the view that section 4-7 of the Council Rules

*Continues on Page 2*

### Office Closures

The Council office will be closed on the following dates:

**Friday, April 22, 2011** for Good Friday  
**Monday, April 25, 2011** for Easter Monday

### This Issue:



- The Council Rules and the Consent Agreement between the Competition Bureau and CREA
- Disclosures of Interest in Trade
- Paying and Receiving Referral Fees
- Brokerage Financial Reporting Reminder
- New Information Regarding New Construction
- Revival of an Expired Contract
- Personal Real Estate Corporation Reminder
- Updated Condominium Manual Available for Sale
- SPECIAL SECTION: Council Nomination Information

- Council Meets with Minister of Finance
- Date of Final Acceptance on the Contract of Purchase and Sale
- Disciplinary Decisions

# A Note from the Chair



Gerry Martin,  
Chair

The lead story in this newsletter contains important information about the recent consent agreement between the Canadian Real Estate Association and the Competition Bureau. Licensees should familiarize themselves with this information in order that they understand their obligations under sections 3 [General Responsibilities of Licensees], 4 [Business Practices] and 5 [Relationships with Principals and Parties] of the Council Rules.

The annual Council elections are coming up in May and the Council is currently seeking nominations to fill positions where vacancies will exist. In a departure from the past practice of mailing nomination information separately, the Council is including nomination information and a tear-out nomination form in the middle of this newsletter. In addition to reducing costs and being more respectful of the environment, it is hoped that this will increase licensee awareness of the nomination information. I encourage licensees to take a few minutes and consider nominating qualified individuals to serve on the Council in districts where a vacancy will exist.

Licensees involved in the assignment of contracts should familiarize themselves

with the information contained on page 3 of this newsletter. The information outlines the disclosures that are required and to whom those disclosures must be made when dealing with the assignment of contracts.

This newsletter also contains an important reminder to managing brokers about paying and receiving referral fees. The article outlines managing broker responsibilities relating to appropriate disclosure of referral fees and ensuring that referral fees are not paid to unlicensed individuals who are not permitted, under the *Real Estate Services Act*, to receive referral fees.

It has now been two years since the legislation allowing for Personal Real Estate Corporations ("PREC") was brought into force and there are currently 631 PRECs licensed in the province. I wanted to remind those licensees that are considering licensing a PREC to familiarize themselves with the information found on the Council's website at [www.recbc.ca/licensing/prec.htm](http://www.recbc.ca/licensing/prec.htm), as well as the important reminder on page 7 of this newsletter.

Finally, I hope that you enjoy a prosperous and successful year ahead.

On behalf of the Council,

Gerry Martin  
Chair

## Council Rules and Consent Agreement, cont'd

*Continued from Page 1*

applies to a licensee that allows an advertisement to be published knowing that advertisement contains false or misleading information.

The Office of the Superintendent of Real Estate, which has jurisdiction regarding questions concerning unlicensed activity, is reviewing the issue of brokerages from outside British Columbia providing 'mere posting' services related to real estate located in British Columbia. The Council will be passing on any in-

formation provided to it by the Superintendent's office. Questions concerning unlicensed activity should be directed to the Office of the Superintendent of Real Estate at 604-953-5200.

Licensees with questions concerning the Competition Bureau/CREA consent agreement should direct those questions to their local real estate board. Questions concerning the Council Rules should be directed to the Council office at 604-683-9664, toll-free 1-877-683-9664 or email [info@recbc.ca](mailto:info@recbc.ca). ■

900-750 West Pender Street  
Vancouver, BC, Canada V6C 2T8  
Tel 604-683-9664  
Toll-free 1-877-683-9664  
Fax 604-683-9017  
[info@recbc.ca](mailto:info@recbc.ca)  
[www.recbc.ca](http://www.recbc.ca)

Office Hours:  
Monday-Friday 8:30am-4:30pm

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

### COUNCIL MEMBERS

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

### STATISTICS February 2011

Representatives: 17,094  
Associate Brokers: 1,760  
Managing Brokers: 1,342  
Total Licensees: 20,196  
Brokerages (including branch offices  
and sole proprietors): 1,439

### 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](http://www.recbc.ca).

### Canada Post

Return undeliverable addresses to:  
Real Estate Council of BC  
900-750 West Pender Street  
Vancouver, BC, Canada V6C 2T8

PM# 40016497

Printed on 100% post-consumer  
recycled paper

# Disclosures of Interest in Trade Related to the Assignment of Contracts of Purchase and Sale

What disclosures are required, and to whom must those disclosures be made, if a licensee is involved in the acquisition or disposition of real estate by way of an assignment?

Section 5-9 of the Council Rules requires a licensee, except in the limited circumstances described in subsection (2.1), to disclose certain information if, under a trade in real estate,

1. the licensee is to directly or indirectly acquire real estate,
2. an associate of the licensee is to directly or indirectly acquire real estate and the licensee is providing real estate services to the associate,
3. the licensee is to dispose of real estate, or
4. an associate of the licensee is to dispose of real estate and the licensee is providing trading services to the associate.

Where disclosure is required to be made, it must be made in a form approved by the Council. The Council has posted a Disclosure of Interest in Trade form, to be used for these purposes, on its website at [www.recbc.ca](http://www.recbc.ca).

These same disclosure requirements apply when the acquisition or disposition of the real estate is by way of an assignment. The following examples detail how these disclosure requirements apply in a variety of assignment scenarios:

## Scenario 1

A seller enters into a Contract of Purchase and Sale with buyer A for the sale of the seller's home. Prior to completion, Henry, who is a real estate licensee, approaches the buyer enquiring whether the buyer would like to assign their interest in the contract to Henry. Must Henry make a Disclosure of Interest in Trade, and, if yes, to whom?

*Yes. Henry, the real estate licensee, must complete and provide a Disclosure of Interest in Trade form to the buyer prior to any assignment agreement being entered into. So*



*long as there was not an intention from the outset that the buyer was acquiring the property for the specific purpose of assigning it to Henry, Henry is not obliged to provide the seller with a Disclosure of Interest in Trade.*

## Scenario 2

A seller enters in a Contract of Purchase and Sale with a buyer for the sale of the seller's apartment building, conditional on the buyer being able to obtain financing. The buyer is unable to obtain the total financing necessary and locates Randi, who agrees to have the buyer's interest in the contract assigned to her. Randi is married to a real estate licensee, Paul, who is asked to prepare the necessary assignment documents. Must Paul make a Disclosure of Interest in Trade and, if yes, to whom?

*Yes. Section 5-9 of the Council Rules requires the licensee, who is providing real estate services to an associate (his wife) in relation to the assignment, which is a trade in real estate, to make a Disclosure of Interest in Trade to the buyer. As in scenario 1 above, so long as there was not an intention from the outset that the buyer was acquiring the property for the specific purpose of assigning it to Randi, Paul is not obliged to provide the seller with a Disclosure of Interest in Trade.*

## Scenario 3

Mary, a real estate licensee, has always wanted to buy her neighbour's house, but she and her neighbour are not on good speaking terms. When a 'For Sale' sign goes up on the neighbour's front lawn, Mary wants to make an offer but knows

that her neighbour will not sell to Mary. Mary convinces a friend to make an offer, which is accepted by the neighbour, with the understanding that the friend will assign the contract to Mary prior to completion. Just to be certain that the neighbour won't be able to obstruct the assignment, the offer includes the following clause:

*"The Buyer reserves the right to assign this contract in whole or in part to any third party without further notice to the Seller; said assignment not to relieve the Buyer from his or her obligation to complete the terms and conditions of this contract should the assignee default."*

Must Mary make a Disclosure of Interest in Trade and, if yes, to whom?

*Yes. Section 5-9(2) requires the disclosure of a licensee's interest in an acquisition of real estate "if a licensee or an associate intends to acquire real estate currently owned by another person through acquisition by a third party who is subsequently to dispose of the real estate to the licensee or associate." In this instance, the Disclosure of Interest in Trade must be provided to both the original seller (the neighbour) and the original buyer (Mary's friend), and this disclosure must be made prior to the friend's offer being made to the neighbour. As with other forms of disclosure, the purpose is to provide relevant information to a person who has a right to know that information, at a time when that information can be used in order to make an informed decision.*

*Continues on Page 4*

Continued from Page 3

#### Scenario 4

Vijay is a licensee who has purchased a vacant lot with the intention of having a home built. Prior to completion of the lot purchase, Vijay finds a finished home which meets his family's needs and decides that he wants to assign his contract to purchase the vacant lot. He finds a buyer who is interested in entering into an assignment agreement. Must Vijay make a Disclosure of Interest in Trade and, if yes, to whom?

*Yes. Vijay had an obligation to make a Disclosure of Interest in Trade to the seller of the vacant lot prior to presenting his offer to purchase that lot. Now that he intends to assign his interest to the new buyer, he must also provide that buyer with a Disclosure of Interest in Trade prior to entering into the assignment agreement.*

Licensees should also be aware of conflicts of interest which arise related to licensees buying and selling real estate if a licensee attempts to act as an agent and a principal in the same transaction. Guidelines in relation to these conflicts may be found at [www.recbc.ca/licensee/PSM/PSM2-1.htm#jump106](http://www.recbc.ca/licensee/PSM/PSM2-1.htm#jump106), or on pages 37-39 of the Professional Standards Manual (7th Edition).

The following general information about the assignment of contracts may be found at [www.recbc.ca/licensee/PSM/PSM2-3.htm?zoom\\_highlight=%22assignment+of+contract%22](http://www.recbc.ca/licensee/PSM/PSM2-3.htm?zoom_highlight=%22assignment+of+contract%22) or pages 97-98 of the Professional Standards Manual (7th Edition).

#### Assignment of Contracts

Licensees, from time to time, will be involved in situations where buyers wish to assign their rights in a Contract of Purchase and Sale to other parties, especially in a rising real estate market where they can re-sell the property at a higher price before the completion date.

This situation can arise either before or after the execution of the original contract but, in either circumstance, licensees should not use clauses such as “and/or nominee” or “and/or assignee” in the description of the buyers. Arguments could

be made that contracts containing such phrases in the description of the buyer are unenforceable due to uncertainty in the identity of the buyer.

The general rule, in the absence of wording in the contract to the contrary, is that buyers may assign their rights under the contract as long as they do not prejudice the rights of the sellers. For example, if the sellers are carrying the mortgage, they may not want the contract to be assigned to another party. Also, licensees should be aware whether HST and/or Property Transfer Tax apply as a result of the assignment.

Section 36 of the *Law and Equity Act* provides that the seller's consent to the assignment is not required, provided that notice in writing of the assignment is given to the seller.

If the possibility of an assignment is contemplated at the time of entering into the original Contract of Purchase and Sale, licensees should consider the use of the following clause in the contract:

##### Assignment Option Clause

The Buyer reserves the right to assign this contract in whole or in part to any third party without further notice to the Seller; said assignment not to relieve the Buyer from his or her obligation to complete the terms and conditions of this contract should the assignee default.

Where the seller does not wish the buyer to assign the contract, the following clause may be used:

##### No Assignment Option Clause

The Buyer agrees not to assign this contract in whole or in part to any third party.

Licensees who are asked to represent an assignor (original buyer) or assignee (ultimate buyer) pursuant to a Contract of Purchase and Sale should, as a minimum, ensure that:

1. the assignor has the right to assign and the assignee has the right to receive a valid assignment by referring to the original contract;
2. a proper assignment is drafted and

validly executed (the British Columbia Real Estate Association (BCREA) has created two forms entitled “Assignment of Contract of Purchase and Sale—New Development” and “Assignment of Contract of Purchase and Sale—Non-Development”, both available on Webforms);

3. the seller has been given notice in writing of the assignment;
4. the identities of the parties are clear and verified (e.g., proper photo identification, passport, etc., especially when the assignment involves parties with whom the seller may not be familiar); licensees acting for assignors should be particularly careful to establish the identity of the assignor. Licensees should confirm through acceptable identification that the person asking that the contract be assigned is the purchaser on the contract;
5. the assignor's and the assignee's rights to the initial deposit under the original contract, if any, are dealt with; and
6. in the event that an assignor or assignee is a corporate party, the individual signing on behalf of the corporate entity has the authority to bind the corporation (this may involve conducting a company search and obtaining a copy of the corporate resolution allowing that individual to execute the assignment on the company's behalf).

Because the procedure and documentation for assignment can be complex and fraught with difficulties, it is in everyone's best interest for licensees to advise all parties to seek legal advice respecting

1. the drafting of effective and enforceable assignments of any Contract of Purchase and Sale, and
2. the importance of an assignor monitoring an assignee's performance of the contract until completion.

Licensees should document having provided this advice. Members of real estate boards/associations may also wish to refer to the additional information about assignments of contracts (e.g., BCREA Assignment of Contract of Purchase and Sale — Q&A Guide and “A REALTOR's Guide to the BCREA-CBA Assignment Agreement”) found on the REALTORLink website. ■

# Paying and Receiving Referral Fees— The Role of the Managing Broker

In August 2007 and June 2008, the Council published two articles about the payment and receipt of referral fees, as well as when and to whom disclosure of these referral fees is required. That information has been amalgamated and may be found in the *Professional Standards Manual* at [www.recbc.ca/licensee/PSM/PSM2-1.htm#jump256](http://www.recbc.ca/licensee/PSM/PSM2-1.htm#jump256) on the Council's website.

This article reviews some of that information and then provides managing brokers with guidelines in relation to

1. their responsibilities to ensure appropriate disclosure of referral fees, and
2. ensuring that referral fees are not paid to unlicensed individuals who are not allowed under the legislation to receive them.

## Review of disclosure obligations related to referral fees

Licenses are required to disclose to their clients the receipt, or anticipated receipt, of any remuneration that is not to be paid directly by their clients (see section 5-11 of the Council Rules). They are also required to disclose to their clients any material information respecting the real estate services they provide (see section 3-3(1)(f) of the Council Rules)—in this context, the fact that they are intending to pay a referral fee to someone who has generated a client lead. In simplest terms, this means that a licensee must disclose to their clients when they are going to receive a referral fee and when they are intending to pay a referral fee. These disclosures must be made when they are relevant; that is, at a time when the information is relevant to the person to whom the disclosure is being made. For example, if a licensee



is showing a buyer two similar suites and is going to receive a \$5,000 selling bonus if the buyer buys one of the suites rather than the other, the licensee must disclose that fact to the buyer before any purchase agreement has been entered into.

## The payment of referral fees to an unlicensed person

Referral fees may be paid to an unlicensed person as long as

- the unlicensed person does not solicit, for the purposes of making a referral, the names of persons who may want to acquire or dispose of real estate;
- the practice of making referrals is not the main business of the unlicensed person making the referral; and
- the unlicensed person making the referral does nothing else that would require them to be licensed.

Subject to the foregoing, section 6-1 of the Council Rules prohibits the payment of any remuneration to an unlicensed person in relation to real estate services. Note that soliciting the names of persons who may want to acquire or dispose of real estate, for the purpose of making a referral and getting paid for that referral, is an activity which requires licensing.

It is important that a brokerage has clear policies, and advises its licensees accordingly, with respect to the payment of referral fees.

## The payment of remuneration, including referral fees, to a former licensee

One issue which occasionally arises is the payment of remuneration, including referral fees, to a person who has surrendered their licence. That person may re-

*Continues on Page 6*

*In simplest terms, a licensee must disclose to their clients when they are going to receive a referral fee and when they are intending to pay a referral fee.*

*Continued from Page 5*

ceive remuneration for the services that were provided when they were licensed. For example, if trades complete after the licensee surrenders their licence, that person may still be paid after their licence is surrendered for those services that were provided when still licensed. However, it must be understood that the person cannot continue to provide services that require licensing after they have surrendered their licence. As noted above, this would include soliciting the names of persons for the purposes of making referrals, as this is an activity that requires licensing.

### Guidelines for managing brokers related to paying referral fees

Managing brokers are responsible for ensuring that the business of their related brokerage is carried out in accordance with the requirements of the legislation. Before paying out a referral fee, a managing broker should ensure that

- if the person who is to receive the referral fee is unlicensed, they satisfy the

conditions bulleted in *The payment of referral fees to an unlicensed person* section above,

- any required disclosure has been made and a copy of the disclosure has been retained in the deal file, and
- details of the referral fee paid, and the person to whom it has been paid, are recorded in the trade record sheet.

### Receipt of referral fees

In addition to the disclosure of remuneration requirements detailed above, it should be noted that all referral fees received in relation to real estate services, being a form of remuneration, must be received through the brokerage with which the licensee is engaged. They cannot be paid directly to the licensee.

### Guidelines for managing brokers related to receiving referral fees

Whenever a brokerage receives a referral fee in relation to real estate services, the brokerage should prepare and main-

tain a record that includes the following information:

- (a) the amount of the referral fee;
- (b) the date on which the brokerage received the referral fee;
- (c) a description sufficient to identify the referral made by the brokerage or related licensee for which the referral fee was received;
- (d) the name of the person who paid the referral fee;
- (e) the name of every person to whom any amount of the referral fee is paid or payable;
- (f) the amount of the referral fee that is paid or payable to each person in paragraph (e), and the date on which it is paid to that person.

Licensees with questions can contact the Council at 604-683-9664, toll-free 1-877-683-9664 or email [info@recbc.ca](mailto:info@recbc.ca). ■

## Brokerage Financial Reporting Reminder

In 2009, the Council approved amendments to the Council Rules and Bylaws related to two brokerage financial reporting issues. The amendments allow certain brokerages that have proven their ability to maintain proper books and records and a positive financial position for at least three fiscal years, to file a Notice to Reader report, instead of a review engagement report, with respect to their financial statements. The amendments also allow brokerages that do not hold or receive public trust money during the course of a fiscal year to file a

solemn declaration, rather than an Accountant's Report.

The Council encourages brokerages that do not hold public trust funds to submit a statutory declaration (available on the Council's website) attesting to this fact. In addition, the Council also encourages brokerages to file a Notice to Reader report with their financial statements when the brokerage is eligible to do so.

The following is a link to the Council's



Policy Statement on financial reporting requirements: [www.recbc.ca/pdf/Policy/FinancialReportingPS1.pdf](http://www.recbc.ca/pdf/Policy/FinancialReportingPS1.pdf)

Brokerages with questions may contact the Council's Audit Department at 604-683-9664, toll-free 1-877-683-9664 or email [info@recbc.ca](mailto:info@recbc.ca). ■

## New Information Regarding New Construction

The section of the *Professional Standards Manual* on **New Construction**, commencing on page 173 of the hard copy 7th Edition, has been totally re-written. This new information is greatly expanded, dealing with issues related both to the construction of a new home—including building contracts, deficiency lists, inspections, builders lien holdbacks—and agreements to purchase a new home

which has already been substantially completed. Some information has been duplicated to ensure that licensees reading either of these will see complete details. The information also contains new clauses for licensee use in the drafting of Contracts of Purchase and Sale.

This new information has been incorporated into the online version of the



*Professional Standards Manual*, which is available on the Council's website at [www.recbc.ca](http://www.recbc.ca) under the heading of 'Licensee Info>Publications>Professional Standards Manual'. ■

## Revival of an Expired Contract

Some licensees attempt to revive an expired contract by having the buyer and seller sign the subject removal addendum after the time for the removal of the subject clause has expired or by having the parties sign an addendum attempting to revive the expired contract.

An expired contract cannot be revived. Licensees should draft a new Contract of Purchase and Sale for the parties to sign or have them sign an extension addendum before the contract expires. ■

## Personal Real Estate Corporation Reminder

The Council has seen a few instances where licensees were under the impression that their Personal Real Estate Corporation ("PREC") was licensed, only to realize that this was not the case because they did not complete all the steps necessary to have their PREC licensed with the Council. Please note that PRECs must be incorporated prior to applying for licensing, however, simply incorporating a company does not automatically make it a licensed PREC under the *Real Estate Services Act*.

Licensees wishing to licence a PREC

should first discuss this with their managing broker and review all the information available on the Council's website at [www.recbc.ca/licensing/prec.htm](http://www.recbc.ca/licensing/prec.htm). Along with the necessary information needed to apply for PREC licensing, this page also includes a link to the PREC application form.

Finally, the Council reminds licensees that having a PREC requires two sets of licensing fees (one for the controlling individual and one for the PREC) to be paid on an ongoing basis. In that regard, if your individual licensing fees



are normally \$1175 for two years, having a PREC means that the licensing fees would then be \$2350 every two years.

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

## Updated Condominium Manual Available for Sale

This winter, lawyer and author Mike Mangan, released the 3rd edition of *The Condominium Manual: A Comprehensive Guide to Strata Law in British Columbia*. The third edition updates strata developments since the last edition in 2004 and, amongst other updates, includes new information about recent court decisions, repairs, insurance, bylaws, common property matters, record keeping and

amendments to the *Strata Property Act*.

The 3rd edition of *The Condominium Manual* now forms part of the study materials for the strata management licensing course at UBC. Licensees engaged in providing strata management services and/or the sale of strata units may find the manual of assistance in conducting their business.

Licensees interested in obtaining a copy of *The Condominium Manual* can do so at a cost of \$49.95 (plus taxes) through the British Columbia Real Estate Association's website at [www.bcrea.bc.ca/themanual/default.html](http://www.bcrea.bc.ca/themanual/default.html). Licensees with questions about *The Condominium Manual* can contact the author at [customerservice@condomanual.ca](mailto:customerservice@condomanual.ca). ■

## Council Meets with Minister of Finance

Each fall, the Council Chair, Vice-Chair and Executive Officer meet with the Minister of Finance to present the Council's annual report as well as to provide updates on current industry matters. In January 2011, the entire Council had the opportunity to meet with the Minister. Pictured here is Gerry Martin, Council Chair and the Hon. Colin Hansen, Minister of Finance and Deputy Premier (right). As licensees are aware, the *Real Estate Services Act* and, in turn, the Real Estate Council, fall within the purview of the Ministry of Finance.



(Left) Council Chair, Gerry Martin and (right) Hon. Colin Hansen, Minister of Finance

## Date of Final Acceptance on the Contract of Purchase and Sale

Many Contracts of Purchase and Sale drafted by licensees contain a clause that the deposit is due within a certain time after acceptance of the contract. Therefore, the final acceptance date becomes important as to when the deposit is due for deposit in the brokerage's trust account.

Licensees should consider the following guidelines when drafting contracts of this nature. This example assumes use of the BCREA's "standard" Contract of Purchase and Sale:

1. When the offer is initially made by the buyer, it will be open for acceptance until a certain time, for example, until midnight that day. This time should be inserted in paragraph 23 of the contract.
2. If, for example, the seller accepts all of the terms of the contract, except the price, the seller will usually sign and date his or her acceptance in paragraph 24 of the standard contract and then counter the price by crossing out the price and adding in a new price. The seller will then initial the change. The seller's counter-offer is open for acceptance by the buyer until a certain time; for example, until noon the next day. This time should be inserted in para-

graph 23 and initialled by the seller.

3. The buyer then reviews the seller's counter-offer and decides to counter back to the seller with respect to the purchase price by crossing out the price and adding in a new price and initialling same. He leaves this counter-offer open until midnight, which time should be inserted in paragraph 23 and initialled by the buyer.
4. The seller then reviews the buyer's counter-offer and decides to accept it. He should initial the buyer's change in price and time for acceptance, if the time has been changed, then insert a date and time beside his initials. This becomes the final date of acceptance and starts the clock ticking with respect to the requirement for the deposit.

Licensees should ensure that the dates in paragraph 23 in the standard contract with respect to when the offer or counter-offer is open for acceptance are changed and initialled each time there is a counter-offer, as noted above.

Licensees should also ensure that the contracts are clear and legible so that there is no confusion as to the terms and dates.

Section 3-2(2)(b) of the Council Rules requires a licensee to immediately notify the managing broker if a deposit contemplated by an agreement has not been received.

Section 3-1(4) of the Council Rules requires the managing broker to ensure that all parties to an agreement giving effect to a trade in real estate are immediately notified if:

- (a) a deposit contemplated by the agreement that, if received, would be held by the related brokerage as a stakeholder under section 28 of the Act has not been received, or
- (b) a deposit cheque or other negotiable instrument that the brokerage received in respect of a deposit referred to in paragraph (a) has not been honoured.

Section 3-1(5) of the Council Rules requires that a Notice under subsection (4) must be given in writing or confirmed in writing.

Licensees with questions regarding deposits should contact the Council's legal staff at 604-683-9664, toll-free 1-877-683-9664 or email [info@recbc.ca](mailto:info@recbc.ca). ■

**TO: ALL REAL ESTATE LICENSEES**

**RE: NOTICE OF ELECTION—REAL ESTATE COUNCIL MEMBER NOMINATIONS**

### Council Composition

The Council is comprised of 16 members, including three public members appointed by the provincial government. The remaining 13 members are chosen through an election process. Of the 13 elected members, nine are managing brokers or associate brokers, three are representatives and one is the rental/strata property management representative. Council members represent all eight counties in the province by way of Districts pursuant to s. 76 of the *Real Estate Services Act* (RESA) and are elected for two-year terms, with about half of the Council elected each year, thus ensuring continuity.

### This Year's Election

This year, the term of office for the following Council members expires on June 30, 2011. As a result, elections to fill vacancies for a two-year term will be held on May 11, 2011.

#### Managing Broker/Associate Broker Members

- In District #1 (County of Vancouver), the term of **Patrick O'Donnell** expires.
- In District #2 (County of Victoria), the term of **Michael Ziegler** expires.
- In District #6 (County of Yale), the term of **Bryon Brandle** expires.
- In District #7 (Combined Counties of Kootenay, Cariboo and Prince Rupert), the term of **Jim McNeal** expires.

Only individuals licensed at the managing broker or associate broker level may nominate other managing brokers or associate brokers as candidates.

#### Representative Members

- In District #1 (County of Vancouver), the term of **Abdul Ghouri** expires.
- In Districts #4 and #5 (County of Westminister North of the Fraser River and County of Westminister South of the Fraser River), the term of **Liz Tutt** expires.

Only individuals licensed at the representative level may nominate other representatives as candidates.

#### Rental Property Management/Strata Management Member

- The term for the rental property management/strata management representative, **William (Bill) Brown** of Victoria, expires.

Only individuals licensed to provide rental property management services and/or strata management services may nominate a candidate for election as the rental property management/strata management member.

From the above, you will note that there will be no election for a managing broker/associate broker in Districts #3, #4 and #5 (Counties of Nanaimo and Westminister - North and South of the Fraser River), and no election for a representative member in Districts #2, #3, #6 and #7 (Counties of Victoria, Nanaimo, Yale, Kootenay, Cariboo and Prince Rupert).

### Nomination and Election Process

Pursuant to section 2-3 of the *Real Estate Service Act* General Bylaws, every licensee is receiving this Notice of Election, as well as a nomination form. Where a vacancy exists, the attached nomination form must be used by those licensees who wish to be a candidate or to nominate a candidate. **Candidates nominated for election for a District must be licensed at a location in that District.**

Nominations must be received at the Council office not later than 4:30 p.m. on **Thursday, March 31, 2011**. It would assist in the preparation of the election material if nominations could be *returned as soon as possible*. Voting papers, together with a biographical summary of each candidate, will be mailed to all licensees (where elections are being held) in mid-April and must be received in the Council office not later than **Tuesday, May 10, 2011**. The ballots will be counted on **Wednesday, May 11, 2011**.

Please see the reverse of this page for detailed information on the roles and responsibilities of Council members.

Yours truly,



Robert O. Fawcett  
EXECUTIVE OFFICER

## Council Member Roles and Responsibilities

<b>What is the Real Estate Council?</b>	The Real Estate Council of British Columbia (“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 <i>Real Estate Services Act</i> (RESA), Regulation and Council Rules. 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 RESA. A Chair and Vice-Chair are elected annually by the members of the Council.
<b>What is the role of Council Members?</b>	Briefly stated, the role of a Council member is to uphold the licence law administered by the Real Estate Council. This involves reviewing complaint files, sitting on Hearing Committees and determining appropriate penalties for contraventions of RESA. In addition to administering licence law, Council members also advise on matters relating to legislative amendments, industry practice and policy.
<b>Who is eligible to serve on Council?</b>	Any licensee in the province is eligible to serve on the Council; however, those elected have traditionally been individuals of broad experience who enjoy the professional respect of other licensees. During the election process, only representatives may nominate other representatives as candidates, and only managing brokers or associate brokers may nominate other managing brokers or associate brokers as candidates. Candidates nominated for election for a particular District must be licensed at a location in that District. A map showing the eight Counties on which the District boundaries are based may be viewed on the Council’s website at <a href="http://www.recbc.ca">www.recbc.ca</a> .
<b>What is the length of a term on Council?</b>	Council members are elected for two-year terms, with half of the Council elected each year, thus ensuring continuity. Under section 77 of RESA, Council members may not serve more than six consecutive years.
<b>Do I require any special training?</b>	As noted above, Council members are generally real estate professionals with many years of professional experience. Some special training is required for specific Council member duties, including hearing procedures and administrative law. This training, however, is provided to Council members.
<b>What is the time commitment?</b>	<p>The following is a general list of the major time commitments expected of Council members:</p> <ul style="list-style-type: none"><li>• There are usually eight meetings of the entire Council each year. These are all-day meetings that are generally held in Vancouver.</li><li>• Council members usually serve on two committees (i.e. Education &amp; Licensing, Industry Review, Communications, Property Management). These committees generally meet in advance of Council meetings, either by conference call or in person at the Council office.</li><li>• Council members serve on the Complaints Committee for about three months per year. This Committee meets to review complaints and recommend future action for the various files (e.g. dismissal, a letter of warning or a hearing). In preparation for these meetings, Committee members spend six to eight hours reviewing the complaint files.</li><li>• Council members serve on various Hearing Committees with formal hearings generally lasting one or two days.</li><li>• Council members also participate in various training sessions and conferences held periodically throughout the year.</li></ul> <p>Prospective Council members are encouraged to contact an existing or retiring Council member in the District in which they are licensed. It is hoped that this contact will provide a clear perspective of travel and time commitments. A list of current Council members can be found on the Council’s website at <a href="http://www.recbc.ca">www.recbc.ca</a>.</p>
<b>Are there any restrictions to serving on Council?</b>	In order to reduce any potential conflict of interest, members of the Council must not sit as a director, officer or employee of another real estate organization (e.g. British Columbia Real Estate Association or any of its 12 member boards).
<b>How does the election process work?</b>	If you are interested in becoming a Council member, you must complete the nomination form provided and return it to the Council office by 4:30 p.m. on <b>Thursday, March 31, 2011</b> . The election will be held <b>Wednesday, May 11, 2011</b> , with those elected taking office July 1, 2011.
<b>Where can I get further information?</b>	For further information about the roles and responsibilities of Council members, please contact Robert O. Fawcett, Executive Officer at the Council office at 604-683-9664, toll-free 1-877-683-9664 or email <a href="mailto:rfawcett@recbc.ca">rfawcett@recbc.ca</a> .

## Nomination Form for 2011 Election of Members of the Real Estate Council

Candidates who wish to run for election to the Real Estate Council must complete this nomination form carefully to accurately indicate the position being sought. As indicated on the Notice of Election, there are elections being held this year as follows:

### Managing Broker/Associate Broker Members

Elections at the managing broker/associate broker level will be held in the following four Districts. If you have decided to stand for election, please check the box opposite the District for which you are eligible to stand for election. In addition, please complete the information below, as well as the reverse side of this form. Please note that, in order to be a candidate for one of the four elections listed below, you must be licensed at the managing broker/associate broker level and also be licensed to a brokerage located in the District that you seek to represent.

- District #1 (County of Vancouver) Managing broker/associate broker member
- District #2 (County of Victoria) Managing broker/associate broker member
- District #6 (County of Yale) Managing broker/associate broker member
- District #7 (Combined Counties of Kootenay, Cariboo and Prince Rupert) Managing broker/associate broker member

### Representative Members

Elections at the representative level will be held in the following two Districts. If you have decided to stand for election, please check the box and complete the information below and on the reverse side of this form. Please note that, in order to be a candidate for this election, you must be licensed at the representative level and also be licensed to a brokerage located in one of the counties listed above.

- District #1 (County of Vancouver) Representative member
- Districts #4 and #5 (County of Westminister North of the Fraser River and County of Westminister South of the Fraser River ) Representative member

### Rental Property Management/Strata Management Member

An election for the rental property management/strata management member of Council is also being held. In order to be a candidate, you must be licensed to provide rental property management services and/or strata management services. Candidates for election can be licensed at any licence level (e.g. representative, managing broker/associate broker)

- All Districts—Rental property management/strata management

**PLEASE PRINT CLEARLY**

**Name of Candidate** \_\_\_\_\_

Brokerage Name \_\_\_\_\_

Brokerage Address \_\_\_\_\_

**Nominated by** Name \_\_\_\_\_

Brokerage Name \_\_\_\_\_

Address \_\_\_\_\_

Signature of Nominator \_\_\_\_\_

**Seconded by** Name \_\_\_\_\_

Brokerage Name \_\_\_\_\_

Address \_\_\_\_\_

Signature of Seconder \_\_\_\_\_

*Each being licensed at the appropriate licence level and/or category*

Dated \_\_\_\_\_, 2011 Signature of Candidate \_\_\_\_\_

*To ensure your candidacy receives proper consideration by those entitled to vote, it is recommended that you provide the biographical notes indicated on the reverse of this form.*

This form must be returned to the office of the Real Estate Council, Suite 900–750 West Pender Street, Vancouver, BC, V6C 2T8 not later than 4:30 pm on **Thursday, March 31, 2011**. You may fax this form to 604-683-4117 or email a scanned copy to [info@recbc.ca](mailto:info@recbc.ca), BUT the original is still required to be submitted to the Council office. If you have any questions regarding this nomination form, please contact Robert O. Fawcett, Executive Officer at the Council office.

## Nomination Form for 2011 Election of Members of the Real Estate Council, PAGE 2

### Nomination Form, *cont'd*

Candidate Name \_\_\_\_\_

The following information is requested from each candidate in order that brief biographical notes may be mailed with the voting papers.

Name for Biographical Notes *(if same as on page one, do not complete)* \_\_\_\_\_

Position in brokerage *(Please check one box)*:  Managing Broker  Associate Broker  Representative

Number of years licensed in British Columbia \_\_\_\_\_

#### Memberships held in real estate organizations (e.g. Real Estate Board, BCREA, REIBC, etc.)

---



---



---

#### Positions or Offices held in real estate organizations (e.g. Director, BCREA; President of Board, etc.)

Position	Dates

#### Other interests, leadership positions and memberships, etc. (e.g. service clubs, community organizations, sports groups, etc.)

---



---



---

#### Comments on why you are running for Council and any issues you feel are important for the regulation of the industry

---



---



---



---



---



---



---

This form must be returned to the office of the Real Estate Council, Suite 900–750 West Pender Street, Vancouver, BC, V6C 2T8 not later than 4:30 pm on **Thursday, March 31, 2011**. You may fax this form to 604-683-4117 or email a scanned copy to [info@recbc.ca](mailto:info@recbc.ca), BUT the original is still required to be submitted to the Council office not later than **Thursday, March 31, 2011**.

# How to Avoid Complaints and a Council Investigation

Licensees reading this issue of the *Report from Council* will find seven pages summarizing recent Council discipline decisions ordered against licensees. Many of the published decisions are the final chapter in a process that begins at the Council with the receipt of a written complaint against a licensee from an unhappy member of the public. Experience has shown that, by the time a complainant takes the time and trouble to set out their complaint in writing, they are often angry and frustrated. Further, the complainant may believe that their concerns have been trivialized by the licensee and, by this point, they are determined that the licensee will answer for their alleged professional misconduct.

A complaint may result in substantial expense and damage to reputations, with serious implications for the business of the licensee and their brokerage. Here are a few simple, proactive steps a licensee may take to avoid the time consuming, unsettling process of responding to a Council investigation.

## 1. Communicate clearly with clients, early and often

Complaints often arise because of a gap between a client's expectations of the services that are to be provided and those that are delivered. At the onset of a relationship, licensees must clearly describe the scope and limitations of the services they will be providing and set out the obligations of the client. Remember, unless modified, all of the duties to clients described in section 3-3(1) of the Council Rules apply.

## 2. Standardize your processes and procedures

Run your business like a business. Mistakes and poor or untimely communications occur when things get busy and crucial steps are missed. Standardized processes and checklists can help ensure that this does not happen to you. Licensees are considered by the courts to be trusted advisors with special expertise. Conduct yourself and your business accordingly.

The *Real Estate Services Act* and Council Rules require that you demonstrate competence and apply reasonable care and skill.

## 3. Remember who you work for

The answer is not "myself". You work for your clients and must act in their best interest, avoiding all conflicts with the client's interests and, in the event that a conflict does arise, must promptly and fully disclose the degree and nature of the conflict. Often, complaints arise when licensees try to serve too many masters (limited dual agency) or wear too many hats (limited dual agent while a principal to a trade) where relationships or knowledge acquired through an agency relationship preclude a licensee from having the ability to be neutral to the interests of all parties.

## 4. Disclose all material information and use reasonable efforts to discover relevant facts

Licensees have a positive obligation to disclose to their clients all material information respecting the real estate services, the real estate and the trade to which the services relate. It is not up to a licensee to decide what may be considered material by the client, but rather a licensee must disclose everything they know in this regard. Additionally, if you don't have information that you know would be material to the client and their decisions, you must make efforts to ascertain the facts from reliable sources. This again speaks to a licensee's competency and the need to apply reasonable care and skill.

## 5. There is no such thing as a "private deal" for licensees

Licensees must provide real estate services only in the name of their related brokerage plus deliver all trade records and disclosures to the brokerage. Section 2(2) of the *Real Estate Services Act* sets out that the Act applies to every licensee



*A mindful, pro-active approach to the problems that arise in the course of daily business can go a long way*

who provides real estate services, even if they provide the services for free or on their own behalf. Further, section 7(3) of the Act requires that a licensee may only provide real estate services and get paid through and on behalf of the brokerage with which they are licensed. So even if you are buying or selling property "privately" that is not listed, all provisions of the Act and the Council Rules apply. Remember, rental property management, even if done for free or as a favour, is a real estate service.

## 6. Deal appropriately with clients' concerns as they arise

Mistakes happen. Communications may become confused or break down for any number of reasons. Clients may become anxious with a poor understanding of the elements of offers and counter-offers or other scenarios like multiple offers. Dealing with challenges and concerns appropriately as they arise, in a professional, calm, informed fashion will go a long way to fulfilling your role as a "trusted advisor with special expertise", able to refute, with confidence, any unwarranted allegation of professional misconduct.

Not all complaints can be avoided, but a mindful, pro-active approach to the problems that arise in the course of a licensee's daily business can go a long way to the successful resolution of potential controversies and complaints.

Licensees with questions should contact the Council office at 604-683-9664, toll-free 1-877-683-9664 or email [info@recbc.ca](mailto:info@recbc.ca). ■

# Disciplinary Decisions

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

## Trading Services

### Munjinder (Major) Singh Gill

**ISSUE:** Munjinder (Major) Singh Gill, currently unlicensed, while licensed as a representative with Fraseridge Realty Ltd. dba Amex-Fraseridge Realty, Vancouver, entered into a Consent Order with the Council in which he consented to an Order that he committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that he: (a) contravened section 35(1)(c) of the *Real Estate Services Act* by misappropriating and/or wrongfully converting money provided to him from buyers for deposits as purchases of individual units in an intended development to be located on Joyce street in Vancouver (the “Joyce Street Development”), or in the alternative; (b) contravened section 35(1)(c) of the *Real Estate Services Act* by failing to account for and pay over, within a reasonable time, money that was received by him from buyers for deposits on purchases of individual units at the Joyce Street Development; (c) contravened section 5-13(1)(d) of the Council Rules by failing to disclose to the buyers of units in the Joyce Street Development that the necessary building permits and approvals had not been obtained from the City of Vancouver when he sold the units to some of the buyers; (d) contravened section 7(3)(a) of the *Real Estate Services Act* by selling units in the Joyce Street Development and providing real estate services separate from the brokerage; (e) contravened section 27(1)(a) of the *Real Estate Services Act* by failing to deliver deposit money given to him from buyers of units at the Joyce Street Development to the brokerage for deposit into the brokerage’s trust account absent a separate written agreement from all principals indicating their agreement that the money not be held in the brokerage’s trust account as set out in section 27(4) of the *Real Es-*

*tate Services Act*; (f) contravened section 2-21(2)(a)(i) of the Council Rules by failing to provide a copy of and/or advise the Council of the Order of the Superintendent of Real Estate dated December 8, 2008 directing Westcoastliving Developments Ltd. (“Westcoastliving”) and Mr. Gill to cease marketing the Joyce Street Development; (g) contravened section 2-21(4) of the Council Rules by failing to provide a copy of or advise the brokerage of the Order of the Superintendent of Real Estate dated December 8, 2008 directing Westcoastliving and Mr. Gill to cease marketing the Joyce Street Development; (h) contravened section 3-2(1)(b) of the Council Rules in that he failed to provide his managing broker(s) with a copy of the trading records regarding his attempted purchase of the lands where the Joyce Street Development was to be located; (i) contravened section 5-9 of the Council Rules by failing to disclose his status as a licensee and his interest in trade regarding his attempted purchase of lands where the Joyce Street Development was to be located; (j) contravened section 3-2(1)(b) of the Council Rules by failing to provide his managing broker(s) with copies of the trading records regarding the sale of the units at the Joyce Street Development; and (k) contravened section 35(2) of the *Real Estate Services Act* by committing conduct unbecoming a licensee in that he: (i) marketed, or permitted marketing of units in the Joyce Street Development without a building permit, contrary to section 5(1) of the *Real Estate Development Marketing Act*; (ii) failed to ensure that deposit money provided in respect of the units he sold at the Joyce Street Development was held in a trust account, contrary to section 18 of the *Estate Development Marketing Act*; (iii) entered into agreements with purchasers to sell units in the Joyce Street Development prior to a disclosure statement being filed with the Superintendent of Real Estate, contrary to sections 3, 14, and 15 of the *Real Estate Development Marketing Act*; and (iv) entered into contracts for the sale of units in the Joyce Street Development on behalf of the intended development company Westcoastliving Developments Ltd. despite that neither

he nor Westcoastliving owned the land on which the Joyce Street Development was to be located.

**RESULT:** Munjinder (Major) Singh Gill is not eligible to renew his licence for a period of five (5) years from the date his licence was surrendered to the Council, namely for five years after December 3, 2008 to December 2, 2013. As a condition of re-licensing, Mr. Gill is ordered to pay a discipline penalty to the Council in the amount of \$10,000.00. As a further condition of re-licensing, Mr. Gill is ordered to pay enforcement expenses to the Council in the amount of \$1,000.00. Further, Mr. Gill is ordered to successfully complete the Trading Services Remedial Education Course within sixty (60) days of licence reissuance.

### Harjinder (Raj) Singh Thind

**ISSUE:** Harjinder (Raj) Singh Thind, representative, West Coast Realty Ltd. (Coq) dba Sutton Group-West Coast Realty (Coq), Coquitlam, entered into a Consent Order with the Council in which he consented to an Order that, while licensed as a representative with Apex International Services Ltd. (Bby) dba Century 21 Apex International (Bby), Burnaby, he committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that, in connection with a Contract of Purchase and Sale for business assets between himself as the buyer and/or assignee and International News and Matex Consulting Corporation as seller dated May 21, 2008 (the “Contract”), he: (a) failed to provide a completed and properly executed Disclosure of Interest in Trade to the assignee/buyer when he assigned the Contract to a third party, contrary to section 5-9(1)(a) of the Council Rules; (b) failed to avoid a conflict of interest when he represented that assignee/buyer as buyer’s agent in the Contract while he was a principal in the transaction, contrary to section 3-3(1)(j) of the Council Rules; (c) failed to disclose to the assignee/buyer of his conflict in interest regarding the Contract, contrary

---

## Disciplinary Decisions, *cont'd*

to section 3-3(1)(j) of the Council Rules; (d) failed to provide copies of the transaction and related documents regarding the Contract to the brokerage promptly, contrary to section 3-2(1)(b) of the Council Rules; (e) did not submit the necessary paperwork to the brokerage until after the deposit was due, contrary to section 3-2(2)(b) of the Council Rules; (f) failed to act in the best interests of the assignee/buyer when he facilitated the removal of all subjects on the Contract when he knew or ought to have known that the assignee/buyer had not completed all due diligence with respect to the transaction, contrary to section 3-3(1)(a) and 3-4 of the Council Rules; and (g) acted in a conflict of interest when he created an addendum to the original Contract which irrevocably released Mr. Thind from any obligations under the Contract without ensuring that the assignee/buyer received independent legal advice.

**RESULT:** Harjinder (Raj) Singh Thind and Raj Thind Personal Real Estate Corporation was suspended for forty-five (45) days from December 15, 2010 to January 28, 2011 (inclusive), and was ordered to successfully complete the Trading Services Remedial Education Course and pay enforcement expenses to the Council in the amount of \$1,000.00.

### Venus Calma Bermudez

**ISSUE:** Venus Calma Bermudez, representative, Royal Pacific Riverside Realty Ltd., 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 of the *Real Estate Services Act* in that she: (a) while acting as the representative for the buyer concerning the purchase of property located at Cameron Court, Richmond, she promised to make a payment to the buyer representing a rebate or reduction of her commission, but did not reduce this to writing, contrary to sections 5-1(4), 3-3 and/or 3-4 of the Council Rules; (b) after the purchase of the property completed, she provided the buyer with a document that stated the commission earned by Ms. Bermudez was an amount lower than the commission that Ms. Bermudez actually earned,

contrary to section 35(1)(c) of the *Real Estate Services Act* and/or section 3-4 of the Council Rules; and (c) failed to respond promptly to inquiries made to her by the Council in letters dated July 15, August 10 and August 31, 2009, contrary to section 2-19 of the Council Rules.

**RESULT:** Venus Calma Bermudez was suspended for thirty (30) days from February 2, 2011 to March 3, 2011 (inclusive) and was ordered, with respect to the contravention of section 2-19 of the Council Rules, to pay a discipline penalty to the Council in the amount of \$2,000.00. In addition, she was ordered to successfully complete the Trading Services Remedial Education Course and pay enforcement expenses to the Council in the amount of \$1,000.00.

### Ji Wei (David) Wu

**ISSUE:** Ji Wei (David) Wu, representative, 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)(a) of the *Real Estate Services Act* in that he failed to disclose to the buyer that he paid a referral fee of \$5,000.00 concerning this transaction to the wife of a person acting under Power of Attorney for the buyer.

**RESULT:** Ji Wei (David) Wu was suspended for twenty-one (21) days from January 12, 2011 to February 1, 2011 (inclusive), and was ordered to successfully complete the Trading Services Remedial Education Course and pay enforcement expenses to the Council in the amount of \$1,000.00.

### Robert James Harrington Price Smart Realty

**ISSUE:** Robert James Harrington, managing broker, Harrington Homes Realty Incorporated dba Price Smart Realty, Langley, 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

committed professional misconduct within the meaning of: (a) section 35(1)(d) of the *Real Estate Services Act* in that he permitted the brokerage to provide real estate services through an unlicensed assistant “Rebecca” on “Rebecca’s Price Smart Realty Page is on Facebook”; (b) section 35(1)(a) of the *Real Estate Services Act* in that he: (i) contravened section 3-1(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, Regulation, rules and bylaws; (ii) contravened sections 3-4 and 4-7 of the Council Rules in that he advised sellers in advertisements that they could instantly cancel their listing and delete their agent by completing the form provided which was a cancellation form with the indication “no restrictions”, which he knew or ought to have known was false or misleading; (iii) contravened section 4-7 of the Council Rules by advertising false and/or misleading information in that the website indicated that the seller’s name and number would be placed on a for sale sign with the brokerage’s name, which could lead members of the public to believe that these individuals were licensed with the brokerage; and (iv) contravened section 3-4 of the Council Rules by advising the public in his advertising to make multiple offers on several homes at once and see who would meet their price.

**ISSUE:** Harrington Homes Realty Incorporated dba Price Smart Realty, Langley, 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(5)(a) of the *Real Estate Services Act* in that it provided real estate services through an unlicensed assistant “Rebecca” on “Rebecca’s Price Smart Realty Page is on Facebook”.

**RESULT:** Robert James Harrington was suspended for fourteen (14) days from January 26, 2011 to February 8, 2011 (inclusive) and was ordered to successfully complete the Trading Services Remedial Education Course.

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

---

## Disciplinary Decisions, *cont'd*

**RESULT:** Robert James Harrington and Price Smart Realty were jointly and severally liable to pay enforcement expenses to the Council in the amount of \$1,000.00.

### Gurvinder Singh Brar

**ISSUE:** Gurvinder Singh Brar, representative, Century 21 Coastal Realty Ltd., formerly known as Apex International Services Ltd. dba Century 21 Apex International, Abbotsford, entered into a Consent Order with the Council in which he consented to an Order that he committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that he: (a) contravened section 3-3(1)(a) and 2(a) of the Council Rules by failing to promptly provide his managing broker with a copy of all records in relation to real estate services by drafting a Contract of Purchase and Sale in the brokerage's name for a property for both the buyer and sellers and failing to provide his brokerage with copies of the documents; and (b) contravened section 3-4 of the Council Rules by demonstrating incompetence and failing to act with reasonable care and skill in that he knew that the subject property was listed with another brokerage when he drafted the Contract of Purchase and sale on behalf of the sellers without ensuring that the listing contract had been cancelled.

**RESULT:** Gurvinder Singh Brar was suspended for fourteen (14) days from December 15, 2010 to December 28, 2010 (inclusive), and was ordered to successfully complete the Trading Services Remedial Education Course and pay enforcement expenses to the Council in the amount of \$1,000.00.

### Robert Scott Joiner

**ISSUE:** Robert Scott Joiner, representative, Coast Country Properties Ltd. dba Royal LePage in the Comox Valley, Courtenay, entered into a Consent Order with the Council in which he consented to an Order that, while licensed with Estate Realty Ltd. dba Coldwell Banker Island Coastal, Courtenay, he

committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that, while acting in the sale of a property on Lake Trail Road, Courtenay, he: (a) failed to promptly provide his managing broker all trading records relating to the contract, contrary to section 3-2(1) (a) and (b) of the Council Rules; and (b) failed to keep his managing broker informed of real estate services he was providing in relation to the contract, contrary to section 3-2(2)(a) of the Council Rules.

**RESULT:** Robert Scott Joiner was suspended for fourteen (14) days from January 26, 2011 to February 8, 2011 (inclusive), and was ordered to successfully complete the Trading Services Remedial Education Course and pay enforcement expenses to the Council in the amount of \$1,000.00.

### Glen Stephen William Nicoll

**ISSUE:** Glen Stephen William Nicoll, managing broker, Mountain Realty At Big White, Big White, 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 4-8 of the Council Rules in that he listed and published a property for sale on MLS without the consent of one of the owners.

**RESULT:** Glen Stephen William Nicoll was suspended for fourteen (14) days from January 12, 2011 to January 25, 2011 (inclusive), and was ordered to successfully complete the Trading Services Remedial Education Course and pay enforcement expenses to the Council in the amount of \$1,000.00.

### Lucinda Haksi

**ISSUE:** Lucinda Haksi (formerly Lucinda Cooper), representative, West Coast Realty Ltd. (Brdwy) dba Sutton Group–West Coast Realty, Vancouver, entered into a Consent Order with the Council in which she consented to an Or-

der that, while licensed with TRG The Residential Group Downtown Realty Ltd. dba TRG The Residential Group Downtown Realty, Vancouver, she committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* by contravening section 3-4 of the Council Rules in that she did not act with reasonable care and skill by presenting an offer to the seller and conveying the seller's acceptance to the offeror's agent when she knew, or ought to have known that only one of the two registered owners had signed the acceptance of the offer to purchase the property.

**RESULT:** Lucinda Haksi (formerly Lucinda Cooper) was suspended for seven (7) days from January 26, 2011 to February 1, 2011 (inclusive), and was ordered to successfully complete the Trading Services Remedial Education Course and pay enforcement expenses to the Council in the amount of \$1,000.00.

### John Samuel Rogers

**ISSUE:** John Samuel Rogers, representative, Vernon Realty Inc. dba Re/Max - Vernon, Vernon, 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) contrary to section 3-4 of the Council Rules, cut and pasted the signatures of the sellers from previous documents signed by the sellers onto the dated listing amendment and onto the undated listing amendment, all without the knowledge or consent of the sellers; and (b) contrary to section 5-3(1) of the Council Rules, on behalf of the sellers, signed the dated listing amendment and the undated listing amendment without the written authorization from the sellers.

**RESULT:** John Samuel Rogers was suspended for seven (7) days from February 2, 2011 to February 8, 2011 (inclusive), and was ordered to successfully complete the Trading Services Remedial Education Course and pay enforcement expenses to the Council in the amount of \$1,000.00.

## Disciplinary Decisions, *cont'd*

### Clinton Garrett Miller

**ISSUE:** Clinton Garrett Miller, representative, Orange Bridge Realty Ltd. dba Royal LePage Parksville–Qualicum Beach Realty, Qualicum Beach, while licensed with Nanaimo Realty (Seaside) Ltd. (PkvI) dba Royal LePage Parksville–Qualicum Beach Realty (PkvI), Parksville, 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 in that he failed to clarify and document his commission reduction arrangements with a buyer in writing; and (b) contravened section 3-2(1)(b) of the Council Rules in that he failed to promptly provide a Contract of Purchase and Sale and Assignment Addendum to his managing broker upon execution of same.

**RESULT:** Clinton Garrett Miller and Clinton Miller Personal Real Estate Corporation were suspended for seven (7) days from December 22, 2010 to December 28, 2010 (inclusive), and were ordered to successfully complete the Trading Services Remedial Education Course and pay enforcement expenses to the Council in the amount of \$1,000.00.

### Nicholas James Podas

**ISSUE:** Nicholas James Podas, representative, Central Realty Ltd. dba Re/Max Central, Burnaby, entered into a Consent Order with the Council in which he consented to an Order that he committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that he: (a) failed to act in the best interests of the seller in that he made it a condition of the seller agreeing to release the deposit that he be paid the commissions he alleged was owed to him by Sutton, contrary to section 3-3(1)(a) of the Council Rules; (b) failed to advise the seller to obtain legal advice with respect to release of the deposit and the conditions for the release of the deposit that he imposed, contrary to section 3-3(1)(d) of the Council Rules; (c) failed to take reasonable steps to avoid a conflict of interest in that he placed his interests ahead of those of the seller in requiring certain of the conditions for

the release of the deposit be met, which conditions benefitted only him and not the seller, contrary to section 3-3(1)(i) of the Council Rules; and (d) failed to disclose the conflict of interest set out in paragraph (c) above to the seller, contrary to section 3-3(1)(j) of the Council Rules.

**RESULT:** Nicholas James Podas was reprimanded and was ordered to pay a discipline penalty to the Council in the amount of \$1,000.00, successfully complete the Trading Services Remedial Education Course, and pay enforcement expenses to the Council in the amount of \$1,000.00.

### Donald James Tregear Ocean City Realty (2003) Ltd.

**ISSUE:** Ocean City Realty (2003) Ltd., Victoria, entered into a Consent Order with the Council in which it consented to an Order that it committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* 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:** Donald James Tregear, managing broker, Ocean City Realty (2003) Ltd., Victoria, entered into a Consent Order with the Council in which he consented to an order that he committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* by not fulfilling his responsibilities as managing broker for the performance of the duties imposed on the brokerage by its licence within the meaning of section 6(2)(b) of the *Real Estate Services Act* and by contravening section 3-1(1)(a) and (b) and 3-1(3) of the Council Rules in that he failed to ensure that the said Accountant's Report was filed with the Council by the prescribed date.

**RESULT:** Ocean City Realty (2003) Ltd. was reprimanded.

**RESULT:** Donald James Tregear was reprimanded.

**RESULT:** Further, Ocean City Realty (2003) Ltd. and Donald James Tregear

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

### Erika Eugenie Eva Langer Royal LePage Terrace

**ISSUE:** Skeena Realty Ltd. dba Royal LePage Terrace, Terrace, 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:** Erika Eugenie Eva Langer, managing broker, Skeena Realty Ltd. dba Royal LePage Terrace, Terrace, 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:** Royal LePage Terrace was reprimanded.

**RESULT:** Erika Eugenie Eva Langer was reprimanded.

**RESULT:** Further, Royal LePage Terrace and Erika Eugenie Eva Langer were jointly and severally liable to pay enforcement expenses to the Council in the amount of \$1,000.00.

### Yanqing (Amy) Sun

**ISSUE:** Yanqing (Amy) Sun, representative, Andrews Realty Ltd. dba Re/Max Real Estate Services, Vancouver, entered into a Consent Order with the Council in which she consented to an Order that

## Disciplinary Decisions, *cont'd*

she committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that she: (a) contravened section 3-3(1) of the Council Rules in that she drafted an addendum to a contract indicating that the selling commission for the transaction would be 3.25% on \$100,000.00 and 1.16% on the balance, plus a bonus of \$30,000.00, and signed and initialed the buyers' signatures on the addendum without obtaining the written authorization from the buyers; and (b) contravened section 3-4 of the Council Rules in that she signed the buyers' names to the addendum instead of her name as agent for the buyers, and witnessed the signatures of the buyers which she had signed.

**RESULT:** Yanqing (Amy) Sun was reprimanded, and was ordered to successfully complete the Trading Services Remedial Education Course and pay enforcement expenses to the Council in the amount of \$1,000.00.

### **Earle Manly MacDonald Prudential Sussex Realty— Jason Soprovich**

**ISSUE:** Jason Soprovich Realty Inc. dba Prudential Sussex Realty—Jason Soprovich, 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 failing to ensure a managing broker was actively engaged in the management of the brokerage, contrary to sections 6 and 7 of the *Real Estate Services Act*.

**ISSUE:** Earle Manly MacDonald, managing broker, Jason Soprovich Realty Inc. dba Prudential Sussex Realty—Jason Soprovich, 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* by: (a) contravening section 2-19 of the Council Rules in that, despite repeated requests from the Council's Accounting and Audit Department for a response to their inquiries regarding the brokerage's Ac-

countant's Report for the year ended August 31, 2009, he failed to provide a written response or communicate with Council staff; and (b) failing to be actively engaged in the management of the brokerage, contrary to section 6(2) of the *Real Estate Services Act* and section 3-1(1) of the Council Rules.

**RESULT:** Jason Soprovich Realty Inc. dba Prudential Sussex Realty—Jason Soprovich was reprimanded.

**RESULT:** Earle Manly MacDonald was reprimanded.

**RESULT:** Further, Jason Soprovich Realty Inc. dba Prudential Sussex Realty—Jason Soprovich and Earle Manly MacDonald were ordered to be jointly and severally liable to pay enforcement expenses to the Council in the amount of \$1,000.00.

### **Terry Michael Kurash**

**ISSUE:** Terry Michael Kurash, representative, D.F.H. Realty Ltd. (VicGold), Victoria, entered into a Consent Order with the Council in which he consented to an Order that he committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that he failed to adequately supervise his unlicensed assistant who was providing trading services in Mr. Kurash's name on her website, contrary to section 3-2(4) of the Council Rules.

**RESULT:** Terry Michael Kurash was reprimanded and ordered to pay enforcement expenses to the Council in the amount of \$1,000.00.

### **Strata Management Services**

#### **David John Hensman Sidonia Bernadette (Nini) Nestor**

**ISSUE:** David John Hensman, managing broker, Teamwork Property Management Ltd., Abbotsford, 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* while acting as

strata property manager for seven strata corporation clients (the "strata corporation clients") in that he: (a) contravened section 3-3(1)(a) of the Council Rules by failing to act in the best interests of the strata corporation clients by investing contingency reserve funds in an investment program with RBC Dominion Securities, which did not meet the requirements of section 95(2) of the *Strata Property Act*, as required by section 7-9(8) of the Council Rules; (b) contravened section 3-3(1)(a) of the Council Rules by failing to act in the best interests of the strata corporation clients by failing to advise the strata corporation clients that the RBC Dominion Securities investment program he suggested to the strata corporation clients did not meet the requirements of section 95(2) of the *Strata Property Act* and section 7-9(8) of the Council Rules; (c) contravened section 3-3(1)(d) of the Council Rules by failing to advise some or all of the strata corporation clients to seek independent professional advice regarding the investment of contingency reserve funds before investing the strata corporation clients' contingency reserve funds in the investment program with RBC Dominion Securities suggested by the brokerage, a matter outside the scope of his expertise; (d) contravened section 3-3(1)(f) of the Council Rules by failing to advise some or all of the strata corporation clients with the details regarding the costs, fees and charges expected to be levied by RBC Dominion Securities if the strata corporation clients invested contingency reserve funds with RBC Dominion Securities through the program offered by the brokerage; (e) on or about January 6, 2009, contravened section 3-4 of the Council Rules by failing to act with reasonable care and skill by providing incorrect information to the treasurer of one of the strata corporation clients, that the strata corporation contingency reserve fund money had not suffered a loss while invested with RBC Dominion Securities, which was not correct; (f) contravened section 3-1(1)(b) of the Council Rules in that he failed to ensure that all trust accounts for one of the strata corporation clients were designated as trust accounts in the brokerage's records and in the records of the institution holding the account, as required by section 26(2) of the *Real Estate Services Act*;

## Disciplinary Decisions, *cont'd*

(g) contravened section 3-1(1)(b) of the Council Rules in that he failed to ensure the brokerage specified the remuneration the brokerage would be paid in the service agreement reached between the brokerage and one of the strata corporation clients, as required by section 5-1(4)(f) of the Council Rules; and (h) contravened section 3-1(1)(b) of the Council Rules in that he failed to ensure the brokerage specified the remuneration the brokerage would be paid in the service agreement reached between the brokerage and one of the strata corporation clients, as required by section 5-1(4)(f) of the Council Rules.

**ISSUE:** Sidonia Bernadette (Nini) Nestor, representative, Teamwork Property Management Ltd., Abbotsford, 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* while acting as strata property manager for one strata corporation client (the “strata corporation client”) in that she: (a) contravened section 3-3(1)(a) of the Council Rules by failing to act in the best interests of the strata corporation client by investing contingency reserve funds in an investment program with RBC Dominion Securities, which did not meet the requirements of section 95(2) of the *Strata Property Act*, as required by section 7-9(8) of the Council Rules; and (b) contravened section 3-3(1)(a) of the Council Rules by failing to act in the best interests of the strata corporation client by failing to advise the strata corporation client that the RBC Dominion Securities investment program she suggested did not meet the requirements of section 95(2) of the *Strata Property Act* and section 7-9(8) of the Council Rules.

**RESULT:** David John Hensman was reprimanded.

**RESULT:** Sidonia Bernadette (Nini) Nestor was reprimanded.

**RESULT:** David John Hensman and Sidonia Bernadette (Nini) Nestor were jointly and severally liable to pay a discipline penalty to the Council in the amount of \$2,500.00 and pay enforcement ex-

penses to the Council in the amount of \$1,000.00.

### Tyler Wade Johnson

**ISSUE:** Tyler Wade Johnson, currently unlicensed, entered into a Consent Order with the Council in which he consented to an Order that, while licensed as managing broker with Atira Property Management Inc. (WhtRk), White Rock, he committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that he contravened section 6(2) of the *Real Estate Services Act* and section 3-1(1) of the Council Rules in that he: (a) failed to ensure that a licensee’s real estate licence was operative and transferred to Atira Property Management Inc. before the licensee provided real estate services through and on behalf of Atira Property Management Inc; (b) failed to be actively engaged in the management of the brokerage; (c) failed to ensure that the business of the brokerage was carried out competently and in accordance with the Act, Regulation, Rules and/or Bylaws; and (d) failed to ensure that there was an adequate level of supervision for related associate brokers and representatives.

**RESULT:** Tyler Wade Johnson was reprimanded and ordered to pay enforcement expenses to the Council in the amount of \$1,000.00.

### Sharron Renee Oswald

**ISSUE:** Sharron Renee Oswald, representative, Bayside Property Services Ltd., Burnaby, entered into a Consent Order with the Council in which she consented to an Order that, while licensed with Atira Property Management Inc. (WhtRk), White Rock, she committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* between June 9, 2009 and August 5, 2009 in that she contravened sections 3(1) and 20 of the *Real Estate Services Act* by providing property management services through and on behalf of Atira Property Management Inc. (WhtRk) while her licence was inoperative.

**RESULT:** Sharron Renee Oswald was reprimanded and ordered to pay enforcement expenses to the Council in the amount of \$1,000.00.

### Real Gilles Rousseau

**ISSUE:** Real Gilles Rousseau, currently unlicensed, entered into a Consent Order with the Council in which he consented to an Order that, while licensed as a representative, Bertram Realty Ltd. dba Macdonald Realty Vernon, Vernon, and then while licensed as a managing broker, Uptown Realty Ltd. dba Macdonald Realty Vernon, Vernon, he committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that he: (a) contravened section 3-3(1)(c) of the Council Rules in that he incurred and withdrew extra charges from the strata corporation’s trust account without having first received the strata council’s approval; (b) contravened section 3-4 of the Council Rules by failing to apply reasonable care and skill in that he: (i) failed to attend to the registration of bylaws within 60 days as required by the *Strata Property Act* and as required by the service agreement with the strata corporation; (ii) failed to transfer the monthly budgeted contribution to the Contingency Reserve Fund monies from the strata’s operating trust account to the Contingency Reserve Fund trust account within 7 days after the end of the month in which the money was received, contrary to section 7-9(4) of the Council Rules; and (c) contravened section 8-10 and 8-11 of the Council Rules in that he failed as managing broker of the former Uptown Realty Ltd. to arrange for the records for a strata corporation to be kept for a period of at least 7 years after their creation with (i) another brokerage; (ii) an accountant, lawyer or notary public, or (iii) another person acceptable to the Council.

**RESULT:** Real Gilles Rousseau was reprimanded, and was ordered to pay a discipline penalty to the Council in the amount of \$1,000.00, to successfully complete the Trading Services Remedial Education Course, and to pay enforcement expenses to the Council in the amount of \$1,000.00.

## Disciplinary Decisions, *cont'd*

### Frank Chang

**ISSUE:** Frank Chang, managing broker, West-East Realty Co. Ltd., Vancouver, entered into a Consent Order with the Council in which he consented to an Order that he committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* by contravening section 3(1)(a) of the *Real Estate Services Act* by providing strata management services to a strata plan in which he owned 12 of the 14 units, when neither he nor the managing broker were licensed to provide strata property management services and without meeting the requirements for an exemption from licensing for strata management services, as set out in section 9-3 of the Council Rules.

**RESULT:** Frank Chang was reprimanded, and was ordered to successfully complete the Trading Services Remedial Education Course, enrol in and complete the “Real Estate E&O Insurance Legal Update” course, and pay enforcement expenses to the Council in the amount of \$1,000.00.

### Rental Property Management Services

#### Ke (Jerry) Liu

**ISSUE:** Ke (Jerry) Liu, representative, Sutton Centre Realty Ltd. dba Sutton

Centre Realty, Burnaby, 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: (a) contravening section 3(1)(a) of the *Real Estate Services Act* by providing rental property management services on behalf of owners of strata units in a strata corporation located on Cornerstone Mews in Burnaby, B.C. while not licensed to provide rental management services; (b) contravening section 7(3) (b) of the *Real Estate Services Act* by collecting management fees and/or receiving remuneration in respect of rental property management services he provided to owners of strata units in a strata corporation located on Cornerstone Mews in Burnaby, B.C. directly from the owners and apart from the brokerage; (c) contravening section 27(1) of the *Real Estate Services Act* by failing to promptly pay or deliver to the brokerage money he received from the provision of rental property management services he provided to owners of strata units in a strata corporation located on Cornerstone Mews in Burnaby, B.C.; (d) contravening section 4-6(2) of the Council Rules by advertising to offer “property services” on Craigslist.org without displaying the name of the brokerage in a prominent and easily readable way; and (e) contravening section 4-3(2)(a) of the Council Rules by

placing a sign that was visible outside his personal office, which advertised “property services” and included his name, telephone number and the brokerage name.

**RESULT:** Ke (Jerry) Liu was reprimanded, and was ordered to successfully complete the Trading Services Remedial Education Course and pay enforcement expenses to the Council in the amount of \$1,000.00.

#### John William Brandon

**ISSUE:** John William Brandon, managing broker, Columbia Property Management Ltd., Kamloops, entered into a Consent Order with the Council in which he consented to an Order that he committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that he permitted the brokerage to provide real estate services through individuals who were not licensed in relation to the brokerage, contrary to section 7(5)(a) of the *Real Estate Services Act* and section 3-1(1) of the Council Rules.

**RESULT:** John William Brandon was reprimanded, was ordered to successfully complete the Trading Services Remedial Education Course and pay enforcement expenses to the Council in the amount of \$1,000.00. ■

## Feedback?

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

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

Copyright 2011 Real Estate Council of BC

Return undeliverable addresses to:  
Real Estate Council of British Columbia  
900—750 West Pender Street, Vancouver, BC, Canada V6C 2T8  
PM# 40016497

**Disclaimer:** While RECBC makes every effort to ensure that the information in this publication is current and accurate, RECBC does not warrant or guarantee that it will be free of errors. The information contained in this publication is not intended to cover all situations. It is general information only and users/readers are encouraged to seek their own independent advice for particular fact situations.