



Report from Council

June 2006 Volume 41, No. 6

The Year in Review

Strata Manager Licensing in Effect

As reported in the July and October 2005 and February 2006 *Report from Council* newsletters, effective January 1, 2006, anyone who provides strata management services is required to be licensed under the *Real Estate Services Act*. **If you or your brokerage are providing any strata management services (including residential, commercial, industrial, bare land, etc.) and you have not applied to have your licence amended to do so, you are now in contravention of the *Real Estate Services Act*. You must either cease and desist or make immediate application to the Council office.** It should be noted that the brokerage, managing broker, and all licensees who are to provide strata management services must take the necessary steps to become licensed.

The 4th Special Report to Licensees, circulated to all licensees in July 2005, detailed the licensing requirements for strata management service providers. This Report, the Council Rules, and a number of other documents related to these new requirements are posted on the Council's website at www.recbc.ca.

Brokerage and Commission Trust Account Requirements Amended

Brokerages are advised that section 27 of

the *Real Estate Services Act* has been amended with respect to brokerage and commission trust accounts. Remuneration that has been earned may now be deposited when received **either** into a brokerage trust account **or** into a commission trust account. In addition, if a brokerage engages only one licensee – being its managing broker – it may deposit remuneration **that has already been earned in accordance with section 5-15 of the Council Rules** directly into its general operating account. In addition to the section 27 amendments, a number of other minor amendments were passed by the legislature. These amendments were outlined in the April 2006 *Report from Council* newsletter.

Disclosure! Disclosure! Disclosure!

The 5th Special Report to Licensees issued in March 2006 focused on the various disclosure requirements contained in the *Real Estate Services Act* and the Council Rules. The Report focuses on five main areas of disclosure that licensees must understand and apply in their daily practice: agency, interest in trade, remuneration, benefits and material latent defects. The Council urges all licensees, whether engaged in trading, rental or strata management services to familiarize themselves with the information contained in this Special Report which can be found on the Council's website at www.recbc.ca.

Administrative Penalties Policy

As reported in several articles throughout the past year, section 57(1) of the *Real Estate Services Act* allows the Council to impose administrative penalties on licensees who fail to adhere to the Council Rules. The administrative penalties for a contravention of a rule specified by regulation under section 56(1) [*rules subject to administrative penalties*] of the Act are as follows:

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

Full details of the Administrative Penalties Policy Statement #1 were outlined in the August 2005 *Report from Council* newsletter. The Policy Statement is also posted on the Council's website at www.recbc.ca.

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MICHAEL ZIEGLER

STATISTICS

(JUNE 2006)

REPRESENTATIVES: 14,042

ASSOCIATE BROKERS: 1,952

MANAGING BROKERS: 1,357

BROKERAGES: 1,395

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.realtorlink.ca

For further information, contact:

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A Note From the Chair

On June 30, 2006, my term as Chair of the Council ends as does my role as the managing broker member for the County of Westminster. I wish to express my sincere thanks for the opportunity to serve these past six years as it has been a most enriching and fulfilling experience.

You will note elsewhere in this report that joining me in retirement are Arlene Butler from the County of Vancouver after four years of service, Bob Clarke from the Combined Counties of Victoria and Nanaimo after ten years of service, and Michael Ziegler from the County of Victoria after six years of service. Each of them has provided valuable counsel during their terms.

On July 1st, the Council welcomes two new members, Gerry Martin of Abbotsford and Liz Tutt of Chilliwack. In addition, effective July 1, 2006, the provincial government has re-appointed Danny Leung of Richmond and Dr. William Lim of Vancouver to the Council. We look forward to our continued association with them, as well as our third public member, Ramesh Rikhi of Summerland.

The past two years have been unlike any in my 30 year involvement in the real estate industry. The introduction of RESA in January

2005 and the licensing of strata managers this past January have resulted in the industry undergoing its most significant change in almost half a century. It has been both challenging and gratifying as the industry responds to these two major initiatives. The industry should be very proud of these achievements and the confidence shown by the government.

There are a number of people and organizations I would like to thank for their assistance and cooperation during my term as Chair.

- Superintendent of Real Estate Al Clark, Deputy Superintendent Jay Mitchell, and Acting Manager, Real Estate Peter Grimmett and the rest of the staff at the Financial Institutions Commission;

- David Moore, Director and Kevin Arndt, Manager, Licensing Education at the Real Estate Division, Sauder School of Business, University of British Columbia. Their continuing contribution to ensuring British Columbia has outstanding licensing education programs is very much appreciated by the Council;

- The British Columbia Real Estate Association (BCREA) and its member boards/associations. In particular, I would like to thank Past



Dougal Shewan

President Dave Barclay, President Kelly Lerigny and Executive Officer Robert Laing for their continued assistance and support with the introduction of the *Real Estate Services Act*;

- Vice-Chair Philip Jones and the members of the Council.

Finally, I would like to thank Council's Executive Officer Robert Fawcett and the rest of the Council staff for all of their efforts over the past year. They work efficiently and effectively to respond to both consumers and licensees and continue to deal with the challenges brought on by the introduction of RESA and the licensing of strata managers with professionalism. In particular, I would like to thank Nancy Gallop, Council's Administrative Assistant, who retires after 25 years of service. We wish Nancy all the best in her retirement.

*On behalf of Council,
Doug Shewan, Chair*

New Licensee Practice Manual

This month, every licensee in the province will receive a copy of the 6th edition of the Licensee Practice Manual (LPM). The 6th Edition LPM has been extensively updated and expanded to reflect the requirements of the *Real Estate Services Act*, Real Estate Services Regulation, the Council Rules and Bylaws. Licensees

will find these documents, together with the *Real Estate Development Marketing Act* and Real Estate Development Marketing Regulation, in the last half of the LPM.

The 6th edition has been divided into four main sections; **1) General** (provides important information applicable to all licensees regardless

of their area of practice), **2) Trading Services**, **3) Rental Property Management Services**, and **4) Strata Management Services**.

Licensees are reminded to ensure that they are using this most recent edition and not previous editions of the manual.

Statistics

Education

For the sixth year in a row, enrollments in the Trading Services and Rental Property Management Licensing Courses have increased. This, no doubt, is a result of the continued market activity throughout various parts of the province. In addition, a Strata Management Licensing course was created this year with enrollments totalling 92 students to date.

Year	First Half	Second Half	Total
1996/97	518	1,170	1,688
1997/98	489	361	850
1998/99	407	343	750
1999/00	355	335	690
2000/01	311	380	691
2001/02	630	918	1,548
2002/03	1,168	1,520	2,688
2003/04	2,067	2,278	4,345
2004/05	1,973	2,454	4,427
2005/06	2,708	2,778	5,486

Licensing

The figures shown below indicate that there was a 10.7 per cent increase in the number of licensees over the past year. This is the fourth straight year that this has occurred and reflects less individuals leaving the industry and more new entrants as indicated in the licensing course statistics.

Year	Managing/ Associate Brokers*	Representatives	Total	% Change
1996/97	3,944	13,206	17,150	-2.2
1997/98	3,835	12,159	15,994	-6.7
1998/99	3,677	10,889	14,566	-8.9
1999/00	3,523	10,233	13,756	-5.6
2000/01	3,427	9,393	12,820	-6.8
2001/02	3,378	9,390	12,768	-0.4
2002/03	3,375	9,985	13,360	+4.6
2003/04	3,358	11,033	14,391	+7.7
2004/05	3,240	12,487	15,727	+9.3
2005/06	3,367	14,042	17,409	+10.7

*Includes Sole Proprietors

Office Audits and Inspections

The mandate of the Council is to ensure that all licensed brokerages in the province have proper controls in place to protect trust monies at all times. The objective of office audits and inspections is to provide constructive feedback to the brokerage and indicate any deficiencies in the office operations and books/records as required by the *Real Estate Services Act*.

Year	1 st Year or Procedural Inspection	Priority Inspections & Follow-up	Total Brokerage Inspections
2001/02	78	99	177
2002/03	95	106	201
2003/04	72	76	148
2004/05	130	67	197
2005/06	102	80	182

Complaints

As indicated in the following statistics, the number of complaints received at the Council increased to 461, a 33 per cent increase over the previous year. This increase is due largely to the continued active real estate market in the province. In addition, the number of hearings and consent orders continues to be high in relation to previous years and is a reflection of the increased number of complaints received.

Year Ended May 31	Complaints Received	Hearings Held	Consent Orders*	Qualification Hearings**	Letters of Warning***	Dismissed or Withdrawn	Admin. Closed****
1999/00	160	29	-	4	38	67	-
2000/01	195	40	-	7	43	69	-
2001/02	193	11	10	3	36	85	-
2002/03	311	14	21	4	29	39	117
2003/04	308	21	31	7	32	20	102
2004/05	345	6	46	4	11	30	147
2005/06	461	16	42	3	41	58	263

* In the event that a licensee wishes to admit to the alleged breaches of the *Real Estate Services Act*, Regulations or Council Rules and agrees to the stipulated penalty and costs, a Consent Order arrangement may be entered into. In this type of arrangement, an Agreed Statement of Facts would also be required.

** Qualification hearings are held when there is some question as to whether or not an individual is suitable to become licensed under the *Real Estate Services Act*.

*** Letters of warning are issued on files where there is an indication of a minor or technical contravention of the *Real Estate Services Act* which did not cause harm to any consumer.

**** A complaint file may be closed administratively at any stage where it is found that:

- the Council has no jurisdiction over the matter (i.e. including matters that are not related to a licensee providing real estate services, as that term is defined in the *Real Estate Services Act*);
- there is no evidence of professional misconduct or conduct unbecoming a licensee;
- the complaint has been dealt with to the Complainant's and the Council's satisfaction by the brokerage or licensee;
- the complaint has been withdrawn.

Discipline

The following figures reflect the penalties agreed to by the Consent Order Review Committee or Hearing Committees over the past six years. The overall number of disciplinary penalties continues to increase as compared with previous years. It is interesting to note that the number of licence suspensions continues to be over 30 for the second year in a row. This is a reflection of the seriousness of the contraventions of the *Real Estate Services Act* and Council Rules. As reported last year, under the *Real Estate Services Act*, the Council can now make an order for the immediate suspension of a licence if it is in the public interest to do so. Two of these orders were issued in the past year.

Year Ended May 31	Licences Cancelled	Suspensions in the Public Interest	Licences Suspended	Licensees Reprimanded	Total
1999/00	0	-	19	8	27
2000/01	4	-	16	20	40
2001/02	3	-	7	16	26
2002/03	1	-	18	30	49
2003/04	0	-	19	23	42
2004/05	3	1	35	24	63
2005/06	3	2	34	32	71

Council Election Results

Each year, the term of eight or nine Council members expires and elections are held to fill the vacancies. The following have been elected for a two-year term commencing July 1, 2006.

New Council Members

Portion of the County of Westminister South of the Fraser River (managing/associate broker)
Gerry Martin, B.C. Farm & Ranch Realty Corp., Abbotsford (licensed for 27 years)

Re-elected Council Members

County of Vancouver (managing/associate brokers)
Allan Corbett, NAI Commercial, Vancouver (licensed for 33 years)
Satnam Sidhu, Re/Max Crest Realty, North Vancouver (licensed for 27 years)

County of Nanaimo (managing/associate broker)
John Finlayson, Osborne Realty Services (1992) Ltd., Duncan (licensed for 23 years)

Portion of the County of Westminister North of the South Bank of the Fraser River (managing/associate broker)
Rosemary Barnes, Park Georgia Realty Ltd., Coquitlam (licensed for 30 years)

Combined Counties of Victoria, Nanaimo,

Yale, Kootenay, Cariboo & Prince Rupert (representative)
Ann Petrone*, Re/Max Kelowna, Kelowna (licensed for 16 years)

The following Council members have a further year to serve

County of Vancouver (managing/associate brokers)
Cynthia Chen, Macdonald Realtors Westmar, Richmond (licensed for 17 years)
Judi Whyte, Prudential Sussex Realty, West Vancouver (licensed for 29 years)

County of Victoria (managing/associate broker)
Wayne Strandlund, Fisgard Asset Management Corporation, Victoria (licensed for 37 years)

Rental Property/Strata Management Member Representative
William Brown, Brown Bros. Agencies Limited, Victoria (licensed for 32 years)

County of Westminister (managing/associate broker)
Marshall Cowe, Royal LePage Coronation West Realty, Coquitlam (licensed for 34 years)

County of Yale (managing/associate broker)
Keith Bevington, Re/Max Front Street Realty, Penticton (licensed for 22 years)

County of Kootenay (managing/associate

broker)
Philip Jones, Royal LePage East Kootenay Realty, Cranbrook (licensed for 30 years)

Combined Counties of Cariboo and Prince Rupert (managing/associate broker)
Jim McNeal, Royal LePage Prince George, Prince George (licensed for 29 years)

County of Vancouver (representative)
Abdul Ghouri, Royal Pacific Realty (Kingsway) Ltd. (licensed for 22 years)

The three public members are Ramesh Rikhi of Penticton, William Lim of Vancouver and Danny Leung of Richmond

Retiring from Council

Arlene Butler, Re/Max Select Properties, Vancouver after four years of service
Bob Clarke, Coast Realty Group (Campbell River) Ltd., Campbell River after ten years of service
Dougal Shewan, Royal LePage-Wolstencroft, Langley after six years of service
Michael Ziegler, Newport Realty Ltd., Victoria after six years of service

*The Council, at its meeting on May 7, 2006, appointed Liz Tutt, Re/Max Nyda Realty, Chilliwack for the period of July 1, 2006 to June 30, 2007 as the representative member for the Combined Counties of Westminister, Yale, Kootenay, Cariboo and Prince Rupert.

Important Notice About Council Licensing Forms

In order to assist licensees in transitioning to the *Real Estate Services Act*, the Council has allowed a lengthy grace period during which older licensing forms would still be processed by the Council's Licensing Department. **That grace period ends on June**

30, 2006, after which time, older licensing forms will not be processed and applicants will be required to complete a current application form prior to having their licence issued. Brokerages, administrators and licensees must use the most current

licensing forms beginning July 1, 2006. All of the Council's current licensing forms can be found on its website at www.recbc.ca > Licensee Information > Forms. Questions may be directed to the Council at 604-683-9664 or toll-free 1-877-683-9664.

Disciplinary Decisions

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

➤ **Complaint:** Contravention of section 31(1)(c), section 36, section 38 of the *Real Estate Act*, section 27 and section 35(1) of the *Real Estate Services Act*, and section 3-2 of the Council Rules /Misconduct and Professional Misconduct

■ **Issue:** Smrat (Sam) Sharma, currently unlicensed, who, while licensed as a representative with Langara Realty Corp. dba Sutton Group Langara Realty, Vancouver, misconducted himself within the meaning of section 31(1)(c) of the *Real Estate Act* in that he failed to:

(a) notify sellers or their representatives that deposits and/or increases of deposits, or both of them, as the case may be, were received late or at all;

(b) properly document transactions including completing transaction record sheets, collapse forms if applicable, how deposits were received, how earlier contracts were superseded by later ones, document subject removals and date extensions, and ensure that all pages of the contract were properly paginated;

(c) provide disclosures in writing in the form and manner prescribed by the Superintendent of Real Estate to the seller, the assignors or either of them prior to offering to acquire their properties in his own right or through his company, in accordance with section 38 of the *Real Estate Act*;

(d) turn all contracts into his brokerage;

(e) notify his managing broker or his brokerage that he had entered into contracts to acquire properties in his own right or through his company;

(f) properly assign buyers' interests as assignors, including the right to the deposit to the assignee;

(g) ensure the sellers or the assignors, as

the case may be, were advised to seek independent legal advice when the contracts were assigned including to Mr. Sharma or his company, or when the property was subject to a claim of builders lien;

(h) clarify the nature of his agency representation in accordance with section 36 of the *Real Estate Act* that he was to provide to the assignor when he, personally or through his company, decided to accept an assignment of the assignors' interests;

(i) properly document transactions when deposits were to be paid directly to sellers prior to completion, and the consequent risks to the buyers or assignors, as the case may be, in such an event;

(j) invariably credit deposit cheques to transactions to which the funds related;

(k) notify sellers or their representatives when deposits were dishonoured due to insufficient funds;

(l) notify sellers or their representatives when unpaid deposit cheques or dishonoured deposit cheques were subsequently replaced by payments including deposits that did not originate from the buyers in question;

(m) avoid conflicts of interest when he purported to act as a dual agent on behalf of his company as seller and also act on behalf of buyers; and,

(n) failed to withdraw offering agency to parties when he had a personal interest in the transaction.

Mr. Sharma professionally misconducted himself contrary to section 35(1) of the *Real Estate Services Act* in that he:

(a) committed an act of deceptive dealing by advising the buyers to make a substantial deposit cheque payable to his unlicensed company, instead of his brokerage; by signing the seller's name to a contract addendum, without the seller's knowledge or consent, which purported to authorize the buyer to make payment of the deposit cheque to his unlicensed company, instead of his brokerage; by representing that the deposit would be held

by his unlicensed company as a stakeholder; and by depositing the deposit cheque to the account of his unlicensed company, instead of his brokerage, contrary to section 27 of the *Real Estate Services Act*;

(b) committed an act of wrongful taking by misappropriating and wrongfully converting the deposit he received from the buyers and by depositing that deposit cheque to the account of his company, instead of his brokerage, contrary to section 27 of the *Real Estate Services Act* and by intentionally failing to account for or pay over, within a reasonable time, the deposit which he or alternatively his unlicensed company had received from the buyers and thereby committed an act of professional misconduct;

(c) contravened section 3-2(a) of the Council Rules by failing to turn in the contract to his brokerage in a timely manner; and

(d) contravened section 3-2(b) and (d) of the Council Rules by failing to keep the managing broker informed of his failure to comply with the *Real Estate Services Act*.

✍ **Penalty:** Smrat (Sam) Sharma's licence was cancelled and the Council will not consider any application for licensing for a period of five years commencing April 15, 2005, to and including April 14, 2010 for misconduct and professional misconduct as described above after an Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver was entered into between the Real Estate Council and Smrat (Sam) Sharma, and a Consent Order was issued. In addition, as a condition of continued licensing, he is required to pay enforcement expenses to the Council in the amount of \$5,000.00 and to pay a discipline penalty to the Council in the amount of \$10,000.00 as a condition of future licensing under the *Real Estate Services Act*.

➤ **Complaint:** Contravention of sections 16(2), 31(1)(c) of the *Real Estate Act* and section 9.12 of Regulation 75/61 under the *Real Estate Act/Negligence*

■ **Issue:** Christina Tsi-Wah Kai, managing broker, Kaiton Realty Group Inc., Vancouver, was negligent within the meaning of section 9.12 of Regulation 75/61 under the Act in that she

(i) failed to pay or deliver all money held for or received on behalf of property management clients in accordance with section 16(2) of the Act;

(ii) conducted property management services independent of her employing brokerage; and

(iii) failed to recommend independent legal advice to the seller given the conflict of interest she was in as the property manager of the property being purchased by her husband.

✍ **Penalty:** Christina Tsi-Wah Kai's licence was suspended for thirty (30) days from April 26, 2006 to May 25, 2006 (inclusive) for misconduct and negligence as described above after an Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver was entered into between the Real Estate Council and Christina Kai, and a Consent Order was issued. In addition, as a condition of continued licensing, she is required to successfully complete Chapter 2 (Mandatory Requirements Under the *Real Estate Services Act*) of the Broker's Licensing Course and to pay enforcement expenses to the Council in the amount of \$500.00.

➤ **Complaint:** Contravention of section 9.12 of Regulation 75/61 under the *Real Estate Act/Incompetence*

■ **Issue:** Shari Lesley Baird, representative, Royal Group Tapestry Realty, Surrey, was incompetent within the meaning of section 9.12 of Regulation 75/61 under the Act in that she

(i) failed to provide the Form B to the buyer prior to making the contract or failed to make the contract the subject to receipt and approval of the Form B;

(ii) failed to provide the buyer with the meeting minutes prior to making the contract,

or failed to make the contract subject to receiving and approving such minutes;

(iii) failed to provide the buyer with the proper bylaws for the property; and

(iv) failed to make the contract subject to inspection or indicate that inspection was waived.

✍ **Penalty:** Shari Lesley Baird's licence was suspended for thirty (30) days from April 26, 2006 to May 25, 2006 (inclusive) for incompetence as described above after an Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver was entered into between the Real Estate Council and Shari Lesley Baird, and a Consent Order was issued. In addition, as a condition of continued licensing, she is required to successfully complete Chapter 2 (*Real Estate Services Act*) and Chapter 7 (Strata Properties (Condominiums) and Co-operatives in British Columbia) of the Real Estate Trading Services Licensing Course, to enroll in and attend the first available "Professionalism it Pays! Be Safe or Be Sued" Course and pay enforcement expenses to the Council in the amount of \$500.00.

➤ **Complaint:** Contravention of section 35(1) under the *Real Estate Services Act/Professional Misconduct*

■ **Issue:** Peter Yeo, representative, Re/Max Select Properties, Vancouver, contravened section 35(1) of the *Real Estate Services Act* in that he committed professional misconduct by demonstrating incompetence in that he failed to follow client instructions by refusing to accept the buyers' deposit.

✍ **Penalty:** Peter Yeo's licence was suspended for twenty-one (21) days from May 3, 2006 to May 23, 2006 (inclusive) for professional misconduct as described above after an Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver was entered into between the Real Estate Council and Peter Yeo, and a Consent Order was

issued. In addition, as a condition of continued licensing, he is required to successfully complete the disciplinary education assignments applicable to Chapter 10 (The Law of Contract) and Chapter 11 (Contracts for Real Estate Transactions) of the Real Estate Trading Services Licensing Course, to enroll in and attend the next available Legal Update Course and to pay enforcement expenses to the Council in the amount of \$500.00.

➤ **Complaint:** Contravention of section 9.12 of Regulation 75/61 under the *Real Estate Act/Negligence*

■ **Issue:** John George Torsky, Representative, One Percent Realty Ltd., Vancouver, who, while licensed with Money Saver Realty Ltd., Surrey, contravened section 9.12 of Regulation 75/61 under the *Real Estate Act* in that while he had the consent of the sellers to extend the listing for the purposes of a potential buyer, he failed to obtain the authority of the sellers to extend the listing further and signed the sellers' names to an amendment to the listing contract with his own name as witness thereby extending the listing contract further without the express authority of the sellers.

✍ **Penalty:** John George Torsky's licence was suspended for twenty-one (21) days from May 3, 2006 to May 23, 2006 (inclusive) for negligence as described above after an Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver was entered into between the Real Estate Council and John George Torsky, and a Consent Order was issued. In addition, as a condition of continued licensing, he is required to register, pay for and attend the next available session for Unit 4 (Listing Documentation) of the Residential Trading Services Applied Practice Course as provided by the British Columbia Real Estate Association, and to pay enforcement expenses to the Council in the amount of \$500.00.

➤ **Complaint:** Contravention of section 9.12 of Regulation 75/61 under the *Real Estate Act*/ Incompetence

■ **Issue:** Peter Anthony Arduini, representative, Homelife Merritt Real Estate Ltd., Merritt, contravened section 9.12 of Regulation 75/61 under the *Real Estate Act* in that he failed to ensure the buyers and their representatives were aware that the property in question remained registered in the name of a deceased individual and that the performance of any Contract of Purchase and Sale executed by an executor named in the deceased's will would be contingent upon a grant of letters probate being issued.

✍ **Penalty:** Peter Anthony Arduini's licence was suspended for twenty-one (21) days, from May 17, 2006 to June 6, 2006 (inclusive) for incompetence as described above after an Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver was entered into between the Real Estate Council and Peter Anthony Arduini, and a Consent Order was issued. In addition, as a condition of continued licensing, he is required to pay enforcement expenses to the Council in the amount of \$500.00.

➤ **Complaint:** Contravention of section 9.12 of Regulation 75/61 under the *Real Estate Act*/Negligence

■ **Issue:** Tracey Lynne Cruz, representative, Whistler Real Estate Company Limited, Whistler, was negligent within the meaning of section 9.12 of Regulation 75/61 under the Act in that she failed to look after the best interests of her clients when she recommended her husband to act as property manager, despite the fact that he was not licensed.

✍ **Penalty:** Tracey Lynne Cruz's licence was suspended for ten (10) days from April 26, 2006 to May 5, 2006 (inclusive) for negligence as described above after an Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver was entered into between the Real Estate Council and Tracey Lynne Cruz, and a Consent Order was issued. In addition, as a condition of continued licensing, she is required to successfully complete Chapter 2 (*Real Estate Services Act*) of the Real Estate Trading Services Licensing Course and pay enforcement expenses to the Council in the amount of \$500.00.

➤ **Complaint:** Contravention of section 35(1)(a) of the *Real Estate Services Act*, section 3-1(3)(b) and 7-7(1)(b) of the Council Rules under the *Real Estate Services Act*/Professional Misconduct

■ **Issue:** Achieve Properties Ltd, Victoria, 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 on or before the prescribed date.

✍ **Penalty:** Achieve Properties Ltd. was reprimanded for professional misconduct as described above after an Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver was entered into between the Real Estate Council and Vern Polichek on behalf of Achieve Properties Ltd., and a Consent Order was issued. In addition, as a condition of continued licensing, Achieve Properties Ltd. is to pay enforcement expenses to the Council in the amount of \$500.00.

➤ **Complaint:** Contravention of section 35(1)(a) of the *Real Estate Services Act*, section 3-1(3)(b) and 7-7(1)(b) of the Council Rules under the *Real Estate Services Act*/Professional Misconduct

■ **Issue:** Saito-House Real Estate Services Inc. dba Sutton Group Saito-House Real Estate Services, Vancouver, committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* by contravening section 7-7(1)(b) of the Council Rules in that it failed to file an Accountant's Report with the Council on or before the prescribed date.

■ **Issue:** Peter Motomasa Saito, managing broker, Sutton Group Saito-House Real Estate Services, Vancouver committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* by contravening section 3-1(3)(b) of the Council Rules in that he failed to ensure that the said Accountant's Report was filed with the Council on or before the prescribed date.

✍ **Penalty:** Sutton Group Saito-House Real Estate Services and Peter Motomasa Saito were reprimanded for professional misconduct as described above after an Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver was entered into between the Real Estate Council and Peter Saito on his own behalf and on behalf of Sutton Group Saito-House Real Estate Services, and a Consent Order was issued. In addition, as a condition of continued licensing, Sutton Group Saito-House Real Estate Services and Peter Motomasa Saito are jointly and severally liable to pay enforcement expenses to the Council in the amount of \$500.00.