

Report from Council

Year in Review

AIT and TILMA Agreements Now in Effect

As reported in the April 2009 *Report from Council* newsletter, the labour mobility provisions of the Agreement on Internal Trade (AIT) and the Trade Investment and Labour Mobility Agreement (TILMA) are now in effect. The objective of these agreements is to reduce barriers to the free movement of persons, goods, services and investments within Canada. As of May 1, 2009, the Council will recognize real estate licence applicants from all Canadian jurisdictions that have an occupational standard. This means that licensees from other Canadian jurisdictions that have provincial or territorial certification may make application for licensing without having to be tested on their knowledge of real estate practice in British Columbia. It is important to note that registration with the Council is still required.

Home Inspector Licensing Now In Effect

As of March 31, 2009, home inspectors in British Columbia are required to be licensed by the Business Practices and Consumer Protection Authority (BPCPA). BC is the first province to require home inspectors to obtain licensing and requires home inspectors to be a member of a recognized home inspection association. To further strengthen professional credibility and enhance consumer protection, the BPCPA also requires all home inspectors to carry errors & omission insurance, as well as general liability insurance in order to obtain a licence.

CRF Loans Require Authorization

The February 2009 Report from Council newsletter outlined the responsibilities of a brokerage with respect to Contingency Reserve Fund loans. Brokerages engaged in strata management services must assess each situation carefully before proceeding with making CRG loans from or transferring trust funds between trust accounts. For those situations where the scope of authority is not established within the service agreement, the brokerage should obtain the express authority of their strata corporation client, in the form of a separate written direction that clearly establishes the authority for the specific circumstance. Without the authority to “loan” or transfer funds, a strata manager may incur substantial risk and liability, as well as be subject to discipline under the Council Rules.

Personal Real Estate Corporations

As reported in the October 2008 *Report from Council* newsletter, the ability to licence Personal Real Estate Corporations (PREC)s took effect on January 1, 2009. PRECs allow real estate licensees to access the business advantages of incorporation which can include better planning of income and tax streams and is similar to options available to other professionals, such as dentists, accountants and lawyers. Licensees should obtain independent professional accounting and legal advice prior to making application for licensing to ensure that proceeding with the licensing of a PREC is in the best interest of the licensee. The Council has developed guidelines for licensing a



PREC that are available on the Council's website at www.recbc.ca.

Disclosure of Remuneration to Clients Who Aren't Paying for It

In the August 2008 *Report from Council* newsletter, the Council reiterated that section 5-11 of the Council Rules requires that a licensee disclose in writing to the licensee's client all remuneration received or anticipated to be received from anyone other than the licensee's client. The requirement to disclose remuneration that is not being paid directly by the client applies to trading services, rental property management services and strata management services. The Council has developed disclosure forms for these service categories that are available on the Council's website at www.recbc.ca.

Past copies of the *Report from Council* newsletter are posted under the Licensee Information tab on the Council's website at www.recbc.ca. Licensees with questions may contact the Council office at 604-683-9664, toll-free 1-877-683-9664 or email info@recbc.ca. ■

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A Note from the Chair



Judi A. Whyte, RI
Chair

As I end my term on the Council, I would like to thank all who have supported me during this journey. It has been a gratifying experience and feels like I have just graduated with a master's degree in real estate. To those who give so much of their time and knowledge to our industry from around the province, my sincere thanks.

Farewell to those members of the Council who join me in departing the Council table: Cynthia Chen from the County of Vancouver after eight years of service, Wayne Strandlund from the County of Victoria after six years of service, and Ramesh Rihki from Summerland, one of our three public appointees who has served on the Council twice for a total of 13 years. Each of these fine individuals has contributed to the Council's mandate during their tenure.

On July 1st, the Council welcomes newly elected Patrick O'Donnell of West Vancouver, as well as Abduhl Ghouri of Vancouver and Michael Ziegler of Victoria, both of whom have previously sat on the Council. We also welcome back re-elected members Bryon Brandle, William R. Brown, Liz Tutt and Jim McNeal.

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

- The British Columbia Real Estate Association (BCREA) and its member boards / associations. In particular, I would like to thank Past President Scott Veitch and Executive Officer Robert Laing for their cooperation and support;
- 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;
- Vice-Chair William Brown and the members of the Council, both past and present, that I have served with who have made my time on the Council such a pleasure;
- The volunteers who serve on the Council's Education, Rental Property and Strata Management advisory groups.

Finally, I would like to thank the Council's Executive Officer, Robert Fawcett and all of the Council staff for their attentive and conscientious efforts over the past year. They work efficiently and effectively to respond to both consumers and licensees and are always willing to help and guide us.

**Judi Whyte, RI
Chair**

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Real Estate Council of BC
CHAIR—Judi A. Whyte
VICE-CHAIR—William R. Brown
EXECUTIVE OFFICER—Robert O. Fawcett

COUNCIL MEMBERS

William (Bill) Binnie
Bryon Brandle
Cynthia A. Chen
Marshall Cowe
John Finlayson
Danny Leung
Gerry Martin
Jim McNeal
Ann Petrone
W. B. (Bill) Phillips
Ramesh Rihki
Wayne Strandlund
Bruce Turner
Liz Tutt

STATISTICS

June 2009

Representatives: 16,144
Associate Brokers: 1,759
Managing Brokers: 1,356
Total Licensees: 19,259
Brokerages (including branch offices
and sole proprietors): 1,403

Role of the Council

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

Report from Council

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

Canada Post

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

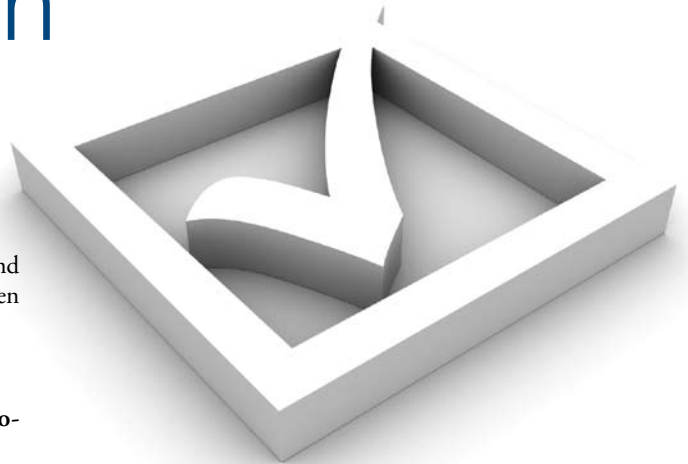
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Office Closures

The Council office will be closed on **Wednesday, July 1, 2009** for Canada Day and **Monday, August 3, 2009** for BC Day.

Council Election Results



Each year, the term of six or seven Council members expires and elections are held to fill the vacancies. The following have been elected for a two-year term commencing July 1, 2009.

New Council Members

District #1 — County of Vancouver (managing/associate broker member)

Patrick J. O'Donnell, Prudential Sussex Realty (WVan), West Vancouver (licensed for 25 years)

District #1 — County of Vancouver (representative member)

Abdul R. Ghouri, Royal Pacific Realty (Kingsway) Ltd., Vancouver (licensed for 25 years)

District #2 – County of Victoria (managing/associate broker member)

Michael Ziegler, Newport Realty Ltd., Victoria (licensed for 33 years)

Re-elected Council Members

All Districts (rental property/strata management member)

William R. Brown, Brown Bros. Agencies Limited, Victoria (licensed for 32 years)

District #4 & #5 – Counties of Westminster (N. & S. of the Fraser River) (representative member)

Elizabeth (Liz) C. Tutt, Re/Max Nyda Realty Inc., Chilliwack (licensed for 24 years)

District #6 – County of Yale (managing/associate broker member)

Bryon R. Brandle, Re/Max Armstrong, Armstrong and Re/Max –Vernon (SlvrStr), Silver Star (licensed for 22 years)

District #7 – Combined Counties of Kootenay, Cariboo and Prince Rupert (managing/associate broker member)

James (Jim) Gordon McNeal, Royal LePage Prince George, Prince George (licensed for 31 years)

The following Council members have a further year to serve

District #1 — County of Vancouver (managing/associate broker members)

William (Bill) Binnie, Royal LePage Northshore, West Vancouver (licensed for 34 years)

William (Bill) Phillips, Whistler Real Estate Company Limited, Whistler (licensed for 34 years)

Districts #2, #3, #6, #7 — Combined Counties of Victoria, Nanaimo, Yale, Kootenay, Cariboo & Prince Rupert (representative member)

Ann Petrone, Re/Max Kelowna, Kelowna (licensed for 18 years)

District #3 — County of Nanaimo – (managing/associate broker member)

John Finlayson, Osborne Realty Services (1992) Ltd., Duncan (licensed for 25 years)

District #4 — County of Westminister (North of the Fraser River) (managing/associate broker member)

Marshall Cowe, Royal LePage Coronation West Realty, Coquitlam (licensed for 36 years)

District #5 — County of Westminister (South of the Fraser River) (managing broker member)

Gerry Martin, B.C. Farm & Ranch Realty Corp., Abbotsford (licensed for 30 years)

Government Appointed Public Members

The Council's government appointed public members are: Danny Leung, Ramesh Rikhi and Bruce Turner.

Retiring from Council

Cynthia Chen, Macdonald Realty Westmar, Richmond, after eight years of service.

Wayne Strandlund, Fisgard Asset Management, Victoria, after six years of service.

Judi Whyte, Prudential Sussex Realty (WVan), West Vancouver, after six years of service.

Ramesh Rikhi, public member, Summerland, after 13 years of service. ■

Licensees Must Promptly Provide Records to Their Related Brokerage

Section 3-2 of the Council Rules details general responsibilities of licensees in relation to their brokerages. An important aspect of those responsibilities includes promptly providing the brokerage with the original or copies of records related to the real estate services provided by the licensees. The obligation to provide these records to a brokerage 'promptly' means they must be provided without delay.

This enables the brokerage to fulfill its obligation to maintain timely, accurate, and complete records, and enables the managing broker to fulfill his or her obligation to be in active charge of the business of the brokerage. **For example, it is not acceptable to provide the brokerage with a copy of a Contract of Purchase and Sale only after subjects have been removed or the deposit is received; once it has been accepted by all parties, it must be provided to the brokerage without delay.**

The records to be provided include all the records identified in sections 8-4, 8-5,

8-6, and 8-7.1 of the Council Rules that are in the possession of the licensee and were either

- prepared by or on behalf of the licensee, or
- received from or on behalf of a principal.

While the following list is not complete in terms of records that must be provided to the brokerage, it represents records related to trading services that some licensees have not promptly provided:

- Written disclosure statements (e.g. Disclosure of Remuneration, Disclosure of Interest in Trade, etc.)
- Written service agreements (e.g. listing contracts, buyer agency contracts, etc.) and other records that establish the scope of authority (e.g. fee agreements, etc.)
- Contracts for the acquisition and disposition of real estate (e.g. Contracts of Purchase and Sale, Offers to Lease, Tenancy Agreements, etc.)
- Information necessary to complete the Trade Record Sheet



Licensees who are uncertain about their obligations in this regard should review those sections of the Council Rules identified above. The current Council Rules are available at www.recbc.ca. Follow the links to 'Licensee Information' > 'Real Estate Legislation' > 'Council Rules'.

Further information about a licensee's responsibilities is also available on pages 37-40 of the *Licensee Practice Manual*. ■

Licensing Forms Amended

The Council recently amended its individual licensing form (*Application for Representative, Associate or Managing Broker Licence*) and individual licence renewal form to include a new question #7 in the disclosures section of the form. The new question asks licensees to disclose ongoing investigations by regulatory agencies as follows:

- (7) *Are you the subject of an investigation or discipline proceedings under real estate, insurance, mortgage broker or securities legislation, or by a professional body, in British Columbia or another jurisdiction?*

To enable this change, the Council modified section 4-4(1)(d) of the Council Bylaws to include this new question effective May 1, 2009.

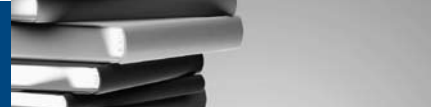
These forms were also amended to ask licensees to provide their email addresses to the Council. This initiative is being undertaken in order to assist the Council in finding alternative and less expensive ways of communicating with licensees for initiatives such as the annual Council member elections. To allow for this change, sections 4-4(2), 4-4(4), 4-6(2) and 4-6(4) of the Council Bylaws were amended also effective May 1, 2009.

The Council requests that licensees, managing brokers and brokerage administrative staff ensure that they download the updated *Application for Representative, Associate or Managing Broker Licence* form from the Council's website at www.recbc.ca.



Please note that licence renewal application forms that have already been sent to licensees will not contain the new question, however, they are still acceptable for submission to the Council for licence renewal.

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



False or Misleading Statements on a Licence Renewal Application

The Application for Licence Renewal form has been amended and, since January 1, 2009, licence renewal applicants have been required to certify that they have completed the Council's Relicensing Education Program (REP) course requirements. The Council has noticed, as a result of random spot-checks, however, that some licence renewal applicants have signed the licence renewal form certifying that they have completed the REP requirements when, in fact, they had not, and that some managing brokers have signed the renewal form without ascertaining whether the licence renewal applicant has completed the required REP courses.

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

Managing brokers are reminded that, in signing an application, a managing broker certifies that they are satisfied from personal knowledge or from inquiries, that the licence renewal applicant is of good reputation and is suitable for licensing (including the completion of REP requirements), and thereby approves the application. If an applicant for licence renewal has not completed the REP course requirements, the licence renewal applicant should take immediate steps to complete them PRIOR to their licence renewal date and PRIOR to submitting the Application for Licence Renewal form. Do not submit the application to Council if the licence renewal applicant is only registered in a course; the courses must be completed before applying. If the licence renewal applicant is not eligible for renewal because they have not completed the REP course requirements, they should notify the Council, in writing, that they do not intend to renew their licence at this time and that they will cease



to operate effective the date that their current licence expires.

The Council appreciates the diligence of licensees and managing brokers in ensuring that licence renewal applicants have completed the REP course requirements prior to licence renewal and completed the Application for Licence Renewal properly. Should you require any further information with respect to REP, please visit the Council's website at www.recbc.ca or contact the Council at 604-683-9664 or toll-free 1-877-683-9664. ■

Did you know that:

- 3636 licensees have completed their first REP cycle.
- There are currently two courses currently under development by PAMA for rental property and strata managers (*Agency for Property Managers and Residential Tenancy Law*). Further information on these courses will be coming soon. Please visit www.pama.ca.
- The Council recently approved 7 new courses for REP elective course credit with 7 more under review.
- If you are working toward your CPM designation, your courses may be REP approved.
- The Council recently amended the REP Statement of Course Principles allowing REP credit for repeated courses taken in successive cycles.
- Licensees who take *Real Estate Errors and Omissions Insurance Corporation Legal Updates* once a year in the 2009/2010 cycle of REP may receive REP mandatory and REP elective course credit.
- The *Residential/Trading Services Applied Practice Course* satisfies the REP elective course requirement for first-time licensees.

Importance of Regulated Electrical and Gas Work Being Done Properly in Homes



The following information is published at the request of the BC Safety Authority.

It is a legal requirement in the province that regulated electrical and gas work is done properly by licensed contractors who take out permits. Homeowners can do the work themselves, provided they have the required knowledge and skills and that the home is a single family residence and does not contain a suite. In both instances permits must be taken out for the work—these are separate permits to municipal building permits and, in most cases, are obtained through the BC Safety Authority. Prospective new homeowners should always be encouraged to check that those permits are in place, especially if there are indications that recent electrical or gas work was done in the home. This will give them peace of mind that it was done properly and is safe.

The BC Safety Authority (BCSA) is responsible for licensing contractors, making sure they are qualified to do regulated work, and issuing permits for electrical and gas installations in most municipalities in BC.

Regulated work includes all work where electrical wiring or gas piping is extended or modified in any way, or where new or replacement gas fireplaces, water heaters, furnaces, ranges or cook tops are installed; such work requires a permit issued by the BCSA. Connecting gas barbecues to existing gas outlets and replacement of receptacles, dimmer switches, residential furnace thermostats, lamps and lighting fixtures do not require a permit.

Regulated electrical and gas work can be done by certified or qualified electricians or gas fitters, however, they must either be licensed contractors or working for a

licensed contractor to do this work. Only a licensed contractor can take out the required permit. The licensed contractor must also be bonded and the BCSA can call in that bond to have any unsafe installation work made safe.

BCSA inspects all work done by homeowners, thus providing assurance the work is done safely and to required codes.

For a list of licensed contractors or information about permits, visit the BCSA's website at www.safetyauthority.ca and click on the Homeowners tab. You can also call the BCSA toll-free at 1-866-566-7233. ■

Material Latent Defects

Licensees should be aware that the definition of material latent defect found in section 5-13 of the Council Rules includes "a lack of appropriate municipal building and other permits respecting the real estate". All known material latent defects must be disclosed by a seller or their licensee before an agreement for the sale of real estate is entered into. ■

Interested in Providing Short Term Accommodation Rentals? You May Need to Be Licensed

The following information was provided by the Business Practices and Consumer Protection Authority.

The Business Practices and Consumer Protection Authority (BPCPA) and the Real Estate Council of British Columbia (RECBC) have parallel mandates to protect consumers by regulating businesses that engage in the rental of third party accommodation.

There is often a misunderstanding of the term "property management" as it relates to long term rental of accommodation (typically over 30 days) versus the short term rental of accommodation for the benefit of travelers, tourists and sightseers (typically less than 30 days).

While companies and individuals who provide rental property management services need to be licensed under the *Real Estate Services Act*, this licence is related to the rental of units to the public under tenancy agreements, usually involving longer term

rental situations. Such a licence does not enable the business to engage in the short term rental of accommodation (often called vacation accommodation or vacation rentals) covered under the Business Practices & Consumer Protection Act administered by the Business Practices & Consumer Protection Authority (BPCPA).

Businesses, including property managers, may be required to be licensed as either a travel agent or travel wholesaler through the BPCPA if they rent accommodation or short term vacation properties they do not own.

Travel agents and travel wholesalers provide travel services to tourists, travelers and sightseers, which includes short term accommodation rentals. The BPCPA ensures that these consumers are protected when they book with a licensed business offering short term accommodation rental.

Under the legislation administered by the BPCPA, a "travel service" includes transportation, accommodation, or another service combined with transportation or accommodation that is for the use or benefit of a traveler, tourist or sightseer.

A "travel agent" is a person who engages in the business or occupation of selling or otherwise providing to the public travel services supplied by another person. Similarly, a "travel wholesaler" means a person who engages in the business or occupation of purchasing or acquiring from another person rights to travel services for the purpose of resale, or dealing with travel agents or other travel wholesalers for the sale of travel services supplied by another person.

If you plan to or are already engaged in the rental or supply of short term or vacation accommodation which you do not own, and you do not hold a travel agent or travel wholesaler licence, visit www.bpcpa.ca or contact the BPCPA at 1-888-777-4393 to learn more about licensing qualifications. ■

Advertising of Personal Real Estate Corporations

The following policy with respect to advertising personal real estate corporations was approved by the Council at its meeting in April and took effect May 1, 2009. Licensees were notified of this policy by way of a fax notice to all brokerages in May. The full policy statement may be found on the Council's website at www.recbc.ca under the Licensee Information tab.

Section 4-6 of the Council Rules establishes the following requirements with respect to real estate advertising that identifies a personal real estate corporation:

- "(3) If real estate advertising identifies a managing broker, associate broker or representative, this must be done*
- (a) if that person is an individual, by using the licensee name of the individual, or*
 - (b) if that person is a personal real estate corporation or a controlling individual of a personal real estate corporation, by using the licensee name of the personal real estate corporation only."*

Section 4-4 of the Council Rules states that the licensee name of a personal real estate corporation is its legal name. Sec-

tion 10.3 of the Regulation under the *Real Estate Services Act* requires that the legal name of a personal real estate corporation must include both, but nothing other than,

- (a) the legal name, a recognizable short form of the legal name, or the licensee name of the controlling individual, and
- (b) the term "personal real estate corporation".

The Council is aware that some MLS® systems, due to space limitations in their data fields, are not able to show the full licensee name of a personal real estate corporation. For this reason, the Council has adopted the following administrative policy:

An advertisement where the name of a personal real estate corporation is generated by an MLS® data base may use an asterisk after the name of the related controlling individual, so long as that asterisk is displayed in a prominent and easily readable way elsewhere in the advertisement followed by the term 'personal real estate corporation'.

For example, an MLS® generated advertisement identifying the licensee name of



'Susan Wong Personal Real Estate Corporation' could display that name in the following manner:

Susan Wong*

with the term "*personal real estate corporation" being displayed in a prominent and easily readable way elsewhere in the advertisement.

This policy applies only to advertisements that are generated by an MLS® data base. **All other forms of advertising, which identify a personal real estate corporation, must do so using its licensee name.** In the above example, this would be

Susan Wong Personal Real Estate Corporation

Licensees requiring further information in this regard should contact the Council office at 604-683-9664 or toll free at 1-877-683-9664. ■

Administrative Penalties Policy Statement Amended

As reported in the April 2009 *Report from Council* newsletter, the provincial government amended the Real Estate Services Regulation to include a number of additional contraventions for which an administrative penalty may be applied. The changes are applicable to complaints received after July 1, 2009 for conduct that occurred after March 5, 2009 when the Regulation was amended. The newly added contraventions for which an administrative penalty may be applied are in addition to those which are already contained in the Administrative Penalties Policy Statement #1 that has been in effect since 2005 when the *Real Estate Services Act* came into effect.

The following is a summary of the sections that have been added to the Administrative Penalties Policy Statement #1.

The full Administrative Penalties Policy Statement #1, as well the Council Rules, are available on the Council's website at www.recbc.ca.

1. Section 4.7 is amended

- a) **by repealing paragraphs (a), (i) and (j) and substituting the following:**
- (a.6) Rule 4-1 [display and keeping of licences];
- (i) Rule 8-2 [trust account and general account records];
- (j) Rule 8-3 [pooled trust account records]; and
- (b) **by adding the following paragraphs:**
- (a) Rule 2-17 [mailing address for delivery];
- (a.1) Rule 2-19 [licensee must reply promptly to council];
- (a.2) Rule 2-20 [brokerage must give

immediate notice respecting solvency];

- (a.3) Rule 2-21 [licensee must give notice of discipline, bankruptcy or criminal proceedings];
- (a.4) Rule 2-22 [brokerage must give notice of business changes];
- (a.5) Rule 3-1(3) [managing broker responsibilities], except as it relates to the maintenance of trust accounts;
- (j.1) Rule 8-3.1 [preparation of records after termination];
- (m.1) Rule 8-7.1 [strata management records];
- (n.1) Rule 8-9.1 [electronic records];

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

Relationships Between Brokerages Operating From the Same Location

The following information was first published in December 2006 and is being reprinted again to ensure that licensees are aware of the relationship between brokerages operating from the same location.

Separate brokerages may choose to operate from the same location for a variety of reasons, including convenience. For example, ABC Realty may have a licensee who wishes to form their own brokerage but continue to provide real estate services from the ABC Realty location. This could result in separately licensed brokerages, e.g. ABC Realty and ABC Sally Smith Realty, operating from one location.

It is very important that licensees in these circumstances understand that these are separately licensed brokerages. These brokerages are independently accountable to comply with all aspects of the *Real Estate Services Act (RESA)* related to the operation of brokerages, e.g. separate trust accounts and books and records, annual reporting, etc.

RESA requires that an individual licensee only provides real estate services in the name of and on behalf of the brokerage with which that licensee is engaged. This means that a licensee engaged by ABC Realty must only provide real estate services on behalf of ABC Realty. That licensee must not provide services on behalf of ABC Sally Smith Realty; nor should any licensee engaged by ABC Sally Smith Realty provide real estate services on behalf of ABC Realty.

What happens when Sally Smith of ABC Sally Smith Realty enters into a service agreement (a listing contract) to market a seller's home? That listing is taken in the name of ABC Sally Smith Realty, which becomes the agent of the seller. Neither ABC Realty nor any licensee engaged by ABC Realty has an agency relationship with that seller. So if a licensee engaged by ABC Realty finds a buyer interested in this listing, ABC Realty typically acts as agent for the buyer, and ABC Sally Smith Realty acts as agent for the seller. This is not dual agency—there are two separate

brokerages involved in this trade in real estate and both the seller and the buyer have independent representation.

This is based on a number of assumptions, including:

- the licensees engaged by these two brokerages understand these are distinct brokerages and do not act as though they are engaged by the same brokerage;
- there is no sharing of personal or confidential information between licensees engaged by these separate brokerages regarding their respective clients (e.g. at joint sales meetings); and
- there is an effective separation of the files and activities of the two brokerages.

While these assumptions would reflect common practice when brokerages operate from different locations, they are practices that are not always easy to maintain when two or more brokerages operate from the same location. Often these brokerages share resources such as receptionists, sales administrators, fax machines, training, sales meetings, and accounting services, which can further blur the separation.

If, when Sally Smith takes this listing, it is the intention or indeed the practice that licensees from ABC Sally Smith Realty and ABC Realty are going to share information as they would if they were all engaged by one brokerage, then this should be reflected in the listing agreement. That is, this listing should be a co-listing with ABC Sally Smith Realty and ABC Realty both acting as agents for the seller. It would then follow that if a buyer who is represented by a licensee engaged by either of these brokerages wishes to make an offer on this co-listing, a dual



agency situation exists that must be disclosed and consented to by both the seller and the buyer.

It is acceptable for brokerages operating from the same location to establish either of these two approaches so long as the clients of the brokerages are in agreement, and the brokerages and their related licensees act consistently with whichever approach is taken.

Brokerages that share office space should review their practices to determine which approach would best suit their collective needs, and the needs of their clients. Once that decision is made, care must be taken to ensure that service agreements, related agency disclosures, and licensee/administrative practices accurately reflect the chosen approach.

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

The Most Common Complaints Received by the Council

Licenses will note from the Disciplinary Decisions section of this *Report* that complaint administration is an integral part of the Council's mandate and, from time to time, the Council is asked about the most common complaints received. This information was recently provided to the BC Real Estate Association and published in the Association's May 2009 newsletter.

The following themes represent the most common complaints received at the Council office. While this list is not exhaustive of the various complaint themes received by the Council, it highlights for licenses the most common areas to watch for in the course of providing real estate services to consumers.

1. Conflicts of interest

- a. Limited dual agency
 - i. Allegation that the licensee preferred the interests of one party over another
 - ii. Licensee acting as a limited dual agent when they are a principal in the trade
- b. Undisclosed relationships
- c. Undisclosed benefit(s)

2. Scope of Authority

Signing on behalf of a client (section 5-3 of the Council Rules)

- a. Without written authority
- b. Without client's knowledge
- c. Forged signatures

3. Material information/relevant facts

- a. Failed to disclose all known material information about the real estate, the real estate services and the trade
- b. Failed to ascertain relevant facts about real estate a client is considering buying
- c. Failed to apply reasonable care and skill

4. Prompt delivery of documents and deposits

- a. Failed to provide a copy of listing agreement or Contract of Purchase and Sale to client
- b. Failed to deliver the Contract of Purchase and Sale to the brokerage in a prompt time frame
 - ie: Did not submit the contract until after subject removal
- c. Didn't receive the deposit on time and failed to advise the managing broker, the seller or the seller's agent

5. Providing Services Separate from Brokerage (section 7(3) of the Real Estate Services Act)

- a. Rental Property management
- b. "Private" transactions
- c. Project marketing

6. Advertising

- a. Failed to display name of brokerage in prominent and easily readable manner

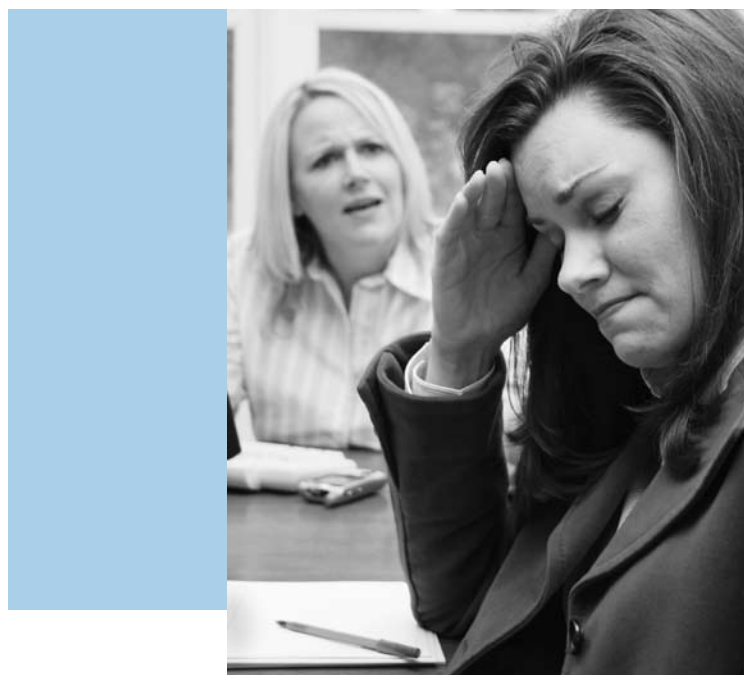
- b. Licensee has indulged in puffery, exaggerated unfounded claims

7. False Application

License renewal forms are being signed certifying completion of REP courses when the courses have not been completed. This is considered misconduct under section 35(1)(g) of the *Real Estate Services Act* – makes or allows to be made any false or misleading statement in a document required to be submitted under the *Real Estate Services Act*.

Licenses are encouraged to carefully review this list and, where appropriate, discuss the issue with their managing broker. Licenses may also want to consider reviewing the Council's website and the Licensee Practice Manual.

For further information, please contact the Council office at 604-683-9664, toll-free 1-877-683-9664 or email info@recbc.ca. ■



Notice of Licensee Resignation

Marie Therese Denise Lachaine, while licensed as an associate broker with Westmar Realty Ltd. dba Macdonald Realty Westmar, Richmond, requested the Real Estate Council of British Columbia to discontinue disciplinary proceedings against her as she has decided to permanently retire from real estate practice. Ms. Lachaine

was facing a disciplinary hearing into her professional conduct and would have been required to appear before a hearing committee of the Real Estate Council to respond to these allegations.

Considering the fact that there is likely no greater disciplinary penalty

than not being licensed again, the Real Estate Council agreed with Ms. Lachaine's request. Ms. Lachaine surrendered her licence on November 30, 2008 and the lifetime ban on Ms. Lachaine's licensing under the *Real Estate Services Act* was effective as of March 6, 2009. ■

Disciplinary Decisions

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

COMPLAINT: Contravention of sections 35(1)(a) [professional misconduct – breach of Act or Rules], 35(1)(d) [professional misconduct – incompetence], 6 [brokerage must have managing broker], 30 [withdrawals from trust account] and Division 4, Part 3 [maintain trust records] of the *Real Estate Services Act*, and sections 3-1(1), (2) and (3) [managing broker responsibilities], Parts 7 and 8 [maintain trust records], 7-5 [shortages in trust accounts], 7-7(1) [annual financial statements, accountant's report and brokerage activity report], 8-2 [trust account and general account records], 8-3 [pooled trust account records], 8-7.1(1) [maintain separate books, accounts and other records], 8-7.1(2), (3) and (4) [residential strata records], and 8-10 [retention of records] of the Council Rules

ISSUE: Pratten Realty Inc., Victoria, formerly a licensed brokerage, committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that it contravened various provisions of the *Real Estate Services Act* and the Council Rules in that it: (a) in respect to the failure to file an Accountant's Report with the Real Estate Council, contravened section 7-7(1) of the Council Rules and in that it failed to file an Accountant's Report with the Council

by the prescribed date; (b) with respect to Strata Corporations VIS1797 and VIS68, Pratten Realty Inc. failed to: (i) maintain its trust accounts and other financial matters in accordance with Division 4, Part 3 of the Act and Parts 7 and 8 of the Council Rules; (ii) maintain separate books, accounts and other records with respect to VIS1797 and VIS68, former strata corporation clients, for which the brokerage provided strata management services, contrary to section 8-7.1(1) of the Council Rules; (iii) retain the records enumerated in section 8-7.1(2) of the Council Rules for VIS1797 and VIS68, in accordance with section 8-7.1(2) and 8-10 of the Council Rules; (iv) provide to VIS1797 and VIS68, upon their request, the financial records referred to in section 8-2 of the Council Rules relative to trust accounts maintained on behalf of VIS1797 and VIS68, contrary to section 8-7.1(3) and (4) of the Council Rules; (c) failed to have a managing broker actively engaged in the management and supervision of the conduct of JH, an unlicensed employee, in that it failed to monitor her oversight of the trust books and records of the brokerage, and failed to ensure that she promptly deposited trust funds into the brokerage trust account; and (d) failed to maintain proper books, accounts and other records in accordance with Division 4, Part 3 of the Act and Part 7 and 8 of the Council Rules, including: (i) failing to prepare general account reconciliations in accordance with section 8-2(c) of the Council Rules, (ii) failing to keep separate trust ledgers and to prepare timely monthly trust liability and asset reconciliations in accordance with sec-

tion 8-3 of the Council Rules; and, (iii) failing to make proper withdrawals from a trust account, including ensuring that there were no shortages in trust accounts creating overdrafts, in accordance with section 30 of the *Real Estate Services Act* and section 7-5 of the Council Rules.

ISSUE: Alan Geoffrey Pratten, associate broker, Fair Realty Ltd. dba Fair Realty, Victoria, while licensed as managing broker with Pratten Realty Inc. demonstrated incompetence and he thereby committed professional misconduct within the meaning of section 35(1)(d) of the *Real Estate Services Act*, in that he, contrary to his duties as managing broker, as set out in section 6(2)(c) of the Act and section 3-1(1), (2) and (3) of the Council Rules: (a) in respect of the filing of the Accountant's Report with the Council, Mr. Pratten failed to fulfil his responsibilities as a managing broker for the performance of the duties imposed on the brokerage by its licence within the meaning of section 6(2)(b) of the *Real Estate Services Act* and 3-1(3) of the Council Rules; (b) in respect of Strata Corporations VIS1797 and VIS68, Mr. Pratten failed to ensure the brokerage: (i) maintained its trust accounts and other financial matters in accordance with Division 4, Part 3 of the Act and Parts 7 and 8 of the Council Rules; (ii) maintained separate books, accounts and other records with respect to VIS1797 and VIS68, former strata corporation clients, for which the brokerage provided strata management services, contrary to section 8-7.1(1) of the Council Rules; (iii) retained the records

Disciplinary Decisions, *cont'd*

enumerated in section 8-7.1(2) of the Council Rules for VIS1797 and VIS68, in accordance with section 8-7.1(2) and 8-10 of the Council Rules; (iv) provided to VIS1797 and VIS68, upon their request, the financial records referred to in section 8-2 of the Council Rules relative to trust accounts maintained on behalf of VIS1797 and VIS68, contrary to section 8-7.1(3) and (4) of the Council Rules; (v) failed to be actively engaged in the management and supervision of the conduct of JH, the brokerage's unlicensed assistant/bookkeeper, and (c) failed to ensure that Pratten Realty Inc. maintained proper books, accounts and other records in accordance with Part 3 of the Act and Part 7 and 8 of the Council Rules, and in accordance with his duties under section 6 of the Act and section 3-1 of the Council Rules.

RESULT: Pratten Realty Inc.'s licence was cancelled 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 Pratten Realty Inc., and a Consent Order was issued. Further, Pratten Realty Inc. and Alan Geoffrey Pratten are ordered to be jointly and severally liable to pay a discipline penalty to the Council in the amount of \$1,000.00 and to be jointly and severally liable to pay enforcement expenses to the Council in the amount of \$1,000.00.

RESULT: Alan Geoffrey Pratten's licence as a managing broker was cancelled 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 Alan Geoffrey Pratten, and a Consent Order was issued. Alan Geoffrey Pratten will not be permitted to apply to act as a managing broker for two years from February 26, 2009 to February 25, 2011 and any application for relicensing as a managing broker will be subject to Mr. Pratten successfully completing the Broker's Licensing Course. Upon cancellation of Mr. Pratten's managing broker's licence,

he will be immediately eligible to be licensed as an associate broker. Further, Alan Geoffrey Pratten and Pratten Realty Inc. are jointly and severally liable to pay a discipline penalty to the Council in the amount of \$1,000.00 and are also jointly and severally liable to pay enforcement expenses to the Council in the amount of \$1,000.00.

COMPLAINT: Contravention of sections 35(1)(a) [professional misconduct – contravention of Act or Rules] and 35(1)(d) [professional misconduct – incompetence], 6 [managing broker responsibilities], 7(5) [must not allow unlicensed person to provide services], 25 [brokerage records], and 27 [payment into trust] of the *Real Estate Services Act*, and sections 3-1 [managing broker responsibilities], 3-3(1) [duties to clients], 3-4 [duty to act honestly and with reasonable care and skill], 5-7 [definition of associate], 5-8 [disclosure], 5-9 [disclosure of interest in trade], 5-10 [disclosure], 5-11 [disclosure of remuneration], 6-1 [payment to unlicensed persons prohibited], 8-4 [general records], and 8-5 [trading records] of the Council Rules

ISSUE: Alan Gordon Cavin, associate broker, Neil Realty Services Inc. dba Realty Executives Mid-Island, Nanaimo, while licensed as managing broker for Roger McKinnon & Associates Ltd. dba McKinnon & Associates Real Estate Services, Nanaimo, committed professional misconduct within the meaning of section 35(1)(d) of the *Real Estate Services Act* in that he demonstrated incompetence by failing to fulfill his responsibilities as managing broker for the performance of the duties imposed on the brokerage by its licence within the meaning of section 6 of the *Real Estate Services Act* and section 3-1 of the Council Rules and without restricting the generality of the foregoing he: (a) when acting as limited dual agent, failed to promptly and fully disclose to the buyers of a property located on Jesters Way, Nanaimo, under a Contract of Purchase and Sale dated September 6, 2006, that he was acting in a conflict of interest in that the seller of the property, was an officer and director of

McKinnon & Associates and he failed to take reasonable steps to avoid the conflict of interest, contrary to sections 3-3(1)(i) and 3-3(1)(j) of the Council Rules and section 35(1)(d) of the Act; (b) failed to disclose to the buyers and sellers of a property on Jesters Way, Nanaimo, under a Contract of Purchase and Sale dated September 6, 2006, prior to providing any trading services, that he was acting as a limited dual agent and the nature of that representation, contrary to sections 5-8 and 5-10 of the Council Rules; (c) failed to disclose to the buyer and seller of a property on Riverside Lane, Courtenay, under a Contract of Purchase and Sale dated September 9, 2006, prior to providing any trading services, that he was acting as a limited dual agent and the nature of that representation or, in alternative, if he was not acting as a limited dual agent, he failed to sufficiently disclose to the parties the nature of his representation, contrary to sections 5-8 and 5-10 of the Council Rules; (d) failed to provide to the buyer of a property on Riverside Lane, Courtenay, under a Contract of Purchase and Sale dated September 9, 2006, with a Notice of Interest in Trade in circumstances where an officer and director of the brokerage was also an officer and director of the seller of the property, such that the seller was an associate of the brokerage as defined under section 5-7 of the Council Rules, and trading services were provided by the brokerage to the seller, contrary to sections 5-8 and 5-9 of the Council Rules; (e) failed to disclose to the buyer and seller of a property on Riverside Lane, Courtenay, under a Contract of Purchase and Sale dated August 30, 2006, prior to providing any trading services, the nature of his representation, contrary to sections 5-8 and 5-10 of the Council Rules; (f) failed to provide to the buyer of a property on Riverside Lane, Courtenay, under a Contract of Purchase and Sale dated August 30, 2006, with a Notice of Interest in Trade in circumstances where an officer and director of the brokerage was also an officer and director of the seller, such that the seller was an associate of the brokerage as defined under section 5-7 of the Council Rules, and trading services were provided by the brokerage through the said licensee to the seller, contrary

Disciplinary Decisions, *cont'd*

to sections 5-8 and 5-9 of the Council Rules, (g) failed to promptly disclose to the buyers, under a Contract of Purchase and Sale dated October 18, 2006 with respect to a property on Riverside Lane, Courtenay, when acting in the capacity of agent for the buyers, the source and amount of remuneration received other than that paid directly by the buyers, in that the said licensee received commission from the sellers of the property as a result of the sale, contrary to sections 5-8 and 5-11 of the Council Rules; (h) when acting as agent for the buyers, failed to ensure that the parties to the Contract of Purchase and Sale dated October 18, 2006 with respect to a property on Riverside Lane, Courtenay, entered into a separate written agreement with respect to the deposit being paid to the vendor's solicitor and failed to advise the purchasers to obtain independent legal advice with respect to the deposit arrangements, contrary to sections 3-3(1)(a), 3-3(1)(d) and 3-4 of the Council Rules, and sections 27 and 35(1)(d) of the Act; (i) in his capacity as managing broker, failed to ensure that the brokerage maintained a register of trades for each fiscal year and trade record sheets in a form required by the Council, contrary to sections 3-1(1), 3-4, 8-4 and 8-5 of the Council Rules, and sections 25 and 6(2) of the Act; (j) in his capacity as managing broker, failed to provide immediate notice in writing or notice confirmed in writing, to the parties to the Contract of Purchase and Sale dated September 6, 2006 with respect to a property located on Jesters Way, Nanaimo, that the purchasers had not paid the \$5,000.00 deposit due to the brokerage within 24 hours of the contract being accepted on or about September 9, 2006 as required, in that the deposit was not paid to the brokerage until October 27, 2006, contrary to sections 3-1(4), 3-1(5) and 3-4 of the Council Rules, and section 35(1)(d) of the Act; (k) in his capacity as managing broker, failed to provide a notice confirmed in writing, to the parties to the Contract of Purchase and Sale dated July 17, 2006 and accepted on or about July 18, 2006 with respect to a property located on Ross Road, Nanaimo, that the purchaser had not paid the \$20,000.00 deposit due to the brokerage within 24

hours of acceptance in that \$10,000.00 of the deposit was not paid to the brokerage until August 14, 2006, contrary to sections 3-1(4), 3-1(5) and 3-4 of the Council Rules, and section 35(1)(d) of the Act; (l) in his capacity as managing broker, failed to ensure that a \$10,000.00 deposit under a Contract of Purchase and Sale dated September 9, 2006 with respect to a property on Riverside Lane, Courtenay, required under the terms of the Contract of Purchase and Sale to be held in trust by the brokerage, was paid into the brokerage trust account, in that the deposit was paid to the seller's solicitors, contrary to sections 3-1(1) and 3-4 of the Council Rules, and sections 6(2) and 27 of the Act; (m) in his capacity as managing broker, failed to ensure that the deposit under the Contract of Purchase and Sale dated August 4, 2006 for a property on Riverside Lane, Courtenay, was paid to the vendor's solicitor, as required under the Contract of Purchase and Sale, but permitted that deposit to be paid into the brokerage's trust account, contrary to sections 3-1(1) and 3-4 of the Council Rules, and sections 6(2), 27 and 35(1)(d) of the Act; (n) in his capacity as managing broker, failed to ensure with respect to services provided by an unlicensed individual on behalf of the brokerage, that he obtained written authorization as required by section 5-3 of the Council Rules when he signed acceptance on behalf of the seller under the Contract of Purchase and Sale dated August 4, 2006 with respect to a property on Riverside Lane, Courtenay, contrary to sections 3-1(1) and 3-4 of the Council Rules, and sections 6(2) and 35(1)(d) of the Act; and (o) failed to ensure that an unlicensed representative was properly licensed to provide real estate services on behalf of the brokerage, in accordance with section 7(5)(a) of the Act(?) from on or about March 1, 2006 until on or about June 18, 2007, contrary to sections 3-1(1) and 3-4 of the Council Rules, and sections 6(2) and 35(1)(d) of the Act.

ISSUE: Roger McKinnon & Associates Ltd. dba McKinnon & Associates Real Estate Services, Nanaimo, brokerage, currently unlicensed, committed professional misconduct within the mean-

ing of section 35(1)(a) of the *Real Estate Services Act* in that it permitted an unlicensed representative to provide real estate services on its behalf from on or about March 1, 2006 until on or about February 16, 2007, contrary to section 7(5) of the Act and section 6-1 of the Council Rules.

RESULT: Alan Gordon Cavin's licence as a managing broker was suspended for three (3) years from February 16, 2007 to February 15, 2010 (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 Alan Gordon Cavin, and a Consent Order was issued, although during the suspension period he is eligible to be licensed as an associate broker. In addition, as a condition of relicensing as a managing broker, he was ordered to successfully complete the Broker's Licensing Course. Further, Alan Gordon Cavin and McKinnon & Associates Real Estate Services are jointly and severally liable to pay enforcement expenses to the Council in the amount of \$750.00.

RESULT: McKinnon & Associates Real Estate Services was ordered to pay a discipline penalty to the Council in the amount of \$1,000.00 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 McKinnon & Associates Real Estate Services, and a Consent Order was issued. Further, McKinnon & Associates Real Estate Services and Alan Gordon Cavin are jointly and severally liable to pay enforcement expenses to the Council in the amount of \$750.00.

COMPLAINT: Contravention of sections 35(1)(a) [professional misconduct – contravention of Act or Rules], 27(4)(a) [separate written agreements] of the *Real Estate Services Act*, and sections 3-3(1)(d) [independent professional advise], 3-3(1)(e) [maintain confidentiality], 3-3(1)(f) [disclosure of known information], 3-3(1)

Disciplinary Decisions, *cont'd*

(h) [discover relevant facts], 3-4 [duty to act with reasonable care and skill], 5-10 [disclosure of representation], and 5-13 [disclosure of material latent defects] of the Council Rules

ISSUE: Ronald David Hall, representative, Homelife Glenayre Realty Chilliwack Ltd., Chilliwack, committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that he: (a) contravened section 5-10 of the Council Rules by failing to clarify his agency relationships with the said buyers and seller and also in the Contract of Purchase and Sale dated May 3, 2007 in that he stated that he had an agency relationship with the buyer, and also stated that the buyers and seller had consented to a limited dual agency relationship with him, when, in fact, he only represented the buyer; (b) contravened section 27(4)(a) of the *Real Estate Services Act* by failing to have the parties to the said contract dated May 3, 2007 execute a separate agreement that the deposit would be paid directly to the seller by the said buyers; (c) contravened section 3-4 of the Council Rules by failing to ensure that the said buyers had a subject to finance clause in the said Contract of Purchase and Sale dated May 3, 2007 as financing was dependent upon the results of an environmental study; (d) contravened section 3-3(1)(d) of the Council Rules by failing to advise the said buyers to seek independent legal advice both in regards to the risk involved in having their deposit paid directly to the seller, and by taking possession of the subject property prior to the completion date in order to make renovations; (e) contravened section 3-3(1)(h) and section 3-4 of the Council Rules by failing to determine the details of the pending applications on the title search for the subject property which resulted in judgments being registered against the title to the said property that were greater than the purchase price; (f) contravened section 5-13 of the Council Rules by failing to disclose in writing to the buyers that the property had previously operated as a gas station which resulted in an environmental study being required as a condition of obtaining financing; (g) contravened section 3-3(1)(e) of the Council Rules by

disclosing to the seller, prior to the completion date, how much money the said buyers had spent on renovations, thereby breaching his duty to keep this information confidential; (h) contravened section 3-3(1)(f) of the Council Rules by failing to advise the buyers in a timely manner that the seller had made violent threats against them; and (i) contravened section 3-4 of the Council Rules by having the said buyers sign two addendums, to change the completion date from August 25 to August 24, 2007 and only included the clause in one of the said addendums “Buyers to pay by separate cheque \$3,675 to NK for interest from May 24 – August 24, 2007” which addendum was withheld from the seller’s lawyer in order for the seller to protect himself from his creditors.

RESULT: Ronald David Hall was suspended for sixty (60) days from June 10, 2009 to August 8, 2009 (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 Ronald David Hall, and a Consent Order was issued. Further, Ronald David Hall was ordered to successfully complete the disciplinary education assignments applicable to Chapter 2 (The *Real Estate Services Act*), Chapter 5 (The Professional Liability of Real Estate Licensees), Chapter 9 (Professional Ethics) and Chapter 11 (Contracts for Real Estate Transactions) of the Real Estate Trading Services Licensing Course, to enrol in and attend the first available “Real Estate E&O Insurance Legal Update 2009” course, and pay enforcement expenses to the Council in the amount of \$750.00.

COMPLAINT: Contravention of sections 35(1)(a) [professional misconduct – contravention of Act or Rules], and 27(1)(a) [promptly pay or deliver to brokerage] of the *Real Estate Services Act*, and sections 3-2(2) [keep managing broker informed], 3-3(1)(a) [act in best interest of clients], 3-3(1)(h) [use reasonable efforts to discover relevant facts], 5-3(1) [signing agreements on behalf of clients] and

5-4(b) [promptly deliver copy to brokerage] of the Council Rules

ISSUE: Michael Hanus, representative, West Coast Realty Ltd. (Vic) dba Sutton Group-West Coast Realty (Vic), Victoria, while licensed with Camosun Properties Ltd. dba Re/Max Camosun, Victoria, committed professional misconduct under section 35(1)(a) of the *Real Estate Services Act* in that (a) in relation to the purchase of property on Humboldt Street, Victoria, while acting for buyers, he: (i) contravened section 3-3(1)(a) of the Council Rules by failing to act in the best interests of his clients, when he did not ensure the clients received and acknowledged information regarding the title search, mostly particularly the restrictive covenant on the title prior to removing subject conditions; (ii) contravened section 3-3(1)(h) of the Council Rules by failing to use reasonable efforts to discover relevant facts about the property, namely a restrictive covenant registered on the title to the property which limited the use of the property and which rendered the property unsuitable for the buyers’ use; (b) in the proposed purchase of property on Craighflower Road, Victoria, while acting for the buyer: (i) contravened section 5-4(b) of the Council Rules by failing to promptly provide a copy of the contract to the brokerage; (ii) contravened section 27(1)(a) of the *Real Estate Services Act* by failing to promptly pay or deliver to the brokerage the deposit of \$5000.00 paid under the contract being money received from, for or on behalf of a principal in relation to real estate services; (iii) contravened section 5-3(1) of the Council Rules by failing to obtain written authorization from the buyer prior to signing a release on behalf of the buyer; (iv) contravened section 3-2(2) of the Council Rules by failing to keep his managing broker informed that the deposit had been received by Mr. Hanus but inadvertently not turned in to his brokerage until some time later when Mr. Hanus was advised by the buyer that the buyer did not wish to proceed with the purchase.

RESULT: Michael Hanus was suspended for twenty-one (21) days from May 27,

Disciplinary Decisions, *cont'd*

2009 to June 16, 2009 (inclusive) for professional misconduct as described above. In addition, he was required to successfully complete the disciplinary education assignment applicable to Chapter 9 (Professional Ethics) of the Real Estate Trading Services Licensing Course, to enrol in and attend the first available CPE course “Real Estate E&O Insurance Legal Update 2009” and to pay enforcement expenses to the Council in the amount of \$3,000.00.

COMPLAINT: Contravention of sections 35(1)(a) [professional misconduct – contravention of Act or Rules], 35(1)(d) [professional misconduct – incompetence] of the *Real Estate Services Act*, and sections 3-3 [duties to clients], 3-4 [duty to act with reasonable care and skill], 5-8 [disclosure] and 5-10 [disclosure of interest in trade] of the Council Rules

ISSUE: Stella Suk Chun Tse, associate broker, Royal Pacific Riverside Realty Ltd., Richmond, while licensed with Langara Realty Corp. dba Sutton Group - Langara Realty, Vancouver, committed professional misconduct within the meaning of section 35 of the *Real Estate Services Act* by contravening sections 35(1)(a) and 35(1)(d) of the *Real Estate Services Act* and sections 3-3, 3-4, 5-8 and 5-10 of the Council Rules in that she: (a) failed to disclose to her first buyer client, prior to providing trading services, that she expected to provide trading services on behalf of other parties to the same trade in real estate; (b) failed to disclose to her first buyer client a substantive change in the representation that was being offered; (c) failed to act with reasonable care and skill in the drafting of the Contract of Purchase and Sale for the first buyers; and (d) acted in a conflict of interest when she continued to act as a limited dual agent for the seller and three buyers in the subject transaction without obtaining the consent of all of the buyers to so act.

RESULT: Stella Suk Chun Tse was suspended for twenty-one (21) days from

June 10, 2009 to June 30, 2009 (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 Stella Suk Chun Tse, and a Consent Order was issued. Further, Stella Suk Chun Tse was ordered to successfully complete the disciplinary education assignment applicable to Chapter 2 (The *Real Estate Services Act*) of the Real Estate Trading Services Licensing Course, to enrol in and attend the first available “What Brokerages and REALTORS® Need to Know about Agency” course, and pay enforcement expenses to the Council in the amount of \$750.00.

COMPLAINT: Contravention of section 35(1) [professional misconduct] of the *Real Estate Services Act*, sections 3-2(2) (b) [keep managing broker informed], 3-4 [duty to act with reasonable care and skill], 5-1(a) [written service agreements] and 5-10 [disclosure of representation] of the Council Rules, sections 16 [payment into trust], 36 [disclosure of agency status] and 57 [exclusive listing agreements] of the former *Real Estate Act*, and section 9.12 of Regulation 75/61 of the former *Real Estate Act*

ISSUE: Douglas John Rempel, representative, Homelife Glenayre Realty Company Ltd., Abbotsford, committed professional misconduct within the meaning of section 35(1) of the *Real Estate Services Act* by contravening sections 16, 36, 57 of the former *Real Estate Act*, section 9.12 of Regulation 75/61 under the former *Real Estate Act*, sections 3-2(2)(b) 3-4, 5-1(a) and 5-10 of the Council Rules in that Douglas John Rempel, in transactions relating to the development of a subdivision known as “Falconbridge”: (a) in each transaction where the deposit was to be held by a party other than the brokerage, failed to ensure that a clause was contained within each Contract of Purchase and Sale that recommended the buyer obtain independent legal advice with regard to the deposit arrangement; (b) failed to adequately disclose the nature of the

representation he would be providing to buyers and/or the relationship he had to the seller, contrary to section 5-10 of the Council Rules and/or section 36 of the former *Real Estate Act*; (c) failed to ensure that prior to providing trading services to the seller, there was a written service agreement, pursuant to section 5-1(a) of the Council Rules and/or section 57 of the former *Real Estate Act*; (d) demonstrated negligence or incompetence in failing to draft the Contracts of Purchase and Sale with reasonable care and skill, contrary to section 9.12 of Regulation 75/61 under the former *Real Estate Act* and/or contrary to section 3-4 of the Council Rules; and (e) failed to immediately notify his managing broker of the fact that a deposit had not been received, contrary to section 3-2(2)(b) of the Council Rules.

ISSUE: Patricia Ann Brown, managing broker, Homelife Glenayre Realty Company Ltd., Abbotsford, committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that she: (a) failed to ensure that the said business of the brokerage was carried out competently and in accordance with the Act, Regulations, Rules and/or Bylaws; and (b) failed to ensure that there was an adequate level of supervision for related representatives.

RESULT: Douglas John Rempel was suspended for fourteen (14) days from June 10, 2009 to June 23, 2009 (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 Douglas John Rempel, and a Consent Order was issued. Further, Douglas John Rempel was ordered to successfully complete the disciplinary education assignment applicable to Chapter 2 (The *Real Estate Services Act*) of the Real Estate Trading Services Licensing Course, to enrol in and attend the first available “Real Estate E&O Insurance Legal Update 2009” course and “Contracts Keep on Top of Changes” course. Further, Douglas John Rempel and Patricia Ann Brown are jointly

Disciplinary Decisions, *cont'd*

and severally liable to pay enforcement expenses to the Council in the amount of \$750.00.

RESULT: Patricia Ann Brown 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 Patricia Ann Brown, and a Consent Order was issued. Further, Patricia Ann Brown was ordered to successfully complete the disciplinary education assignment applicable to Chapter 2 (Mandatory Requirements Under the *Real Estate Services Act*) of the Broker's Licensing Course. Further, Patricia Ann Brown and Douglas John Rempel are jointly and severally liable to pay enforcement expenses to the Council in the amount of \$750.00.

COMPLAINT: Contravention of section 35(1)(a) [professional misconduct – contravention of Act or Rules] of the *Real Estate Services Act*, and sections 3-1 [managing broker responsibilities], 8-2 [trust account and general account records], 8-3 [pooled trust account records], 8-4 [general records], and 8-5 [trading records] of the Council Rules.

ISSUE: David Read Cochrane, managing broker, Courtenay Comox Realty Ltd., Courtenay, while licensed as managing broker with New Way Realty Ltd., Campbell River, committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that he failed to fulfill his managing broker responsibilities in that he failed to ensure that the brokerage kept proper books, accounts and other records, contrary to sections 3-1, 8-2, 8-3, 8-4 and 8-5 of the Council Rules.

RESULT: David Read Cochrane was reprimanded for professional misconduct as described above after an Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver was entered into between the Real Estate Council and

David Read Cochrane, and a Consent Order was issued. Further, David Read Cochrane was ordered to enrol in and attend the first available “Real Estate E&O Insurance Legal Update 2009” course and pay enforcement expenses to the Council in the amount of \$750.00.

COMPLAINT: Contravention of sections 35 [professional misconduct] and 3(1) [requirement for licence to provide real estate services] of the *Real Estate Services Act*, and section 3-2(5) [knowledge of improper conduct] of the Council Rules

ISSUE: Marion Wai Wah Ng, representative, SUNNUS Group Development Inc. dba SUNNUS Properties, Vancouver, while licensed as representative Royal Pacific Realty Corp., Vancouver, committed professional misconduct within the meaning of section 35 of the *Real Estate Services Act* by contravening section 3(1) of the *Real Estate Services Act* in that she provided rental management services without being licensed to do so.

ISSUE: Dominic Kwok-Kwong Fung, managing broker, Interlink (2008) Realty Corporation dba Interlink Realty, Richmond, while licensed as associate broker with Royal Pacific Realty Corp., Vancouver, committed professional misconduct within the meaning of section 35 of the *Real Estate Services Act* by contravening section 3-2(5) of the Council Rules in that he failed to advise the managing broker for Royal Pacific that Ms. Ng was providing rental property management services on behalf of Royal Pacific without being licensed to do so.

RESULT: Marion Wai Wah Ng 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 Marion Wai Wah Ng, and a Consent Order was issued. Further, Marion Wai Wah Ng was ordered to successfully complete the disciplinary education as-

ignment applicable to Chapter 2 (The *Real Estate Services Act*) of the Real Estate Trading Services Licensing Course, and pay enforcement expenses to the Council in the amount of \$750.00.

RESULT: Dominic Kwok-Kwong Fung 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 Dominic Kwok-Kwong Fung, and a Consent Order was issued. Further, Dominic Kwok-Kwong Fung was ordered to successfully complete the disciplinary education assignment applicable to Chapter 2 (The *Real Estate Services Act*) of the Real Estate Trading Services Licensing Course, and pay enforcement expenses to the Council in the amount of \$750.00.

COMPLAINT: Contravention of sections 35(1)(a) [professional misconduct – contravention of Act or Rules], 35(1)(d) [professional misconduct – incompetence], and 27(1) [payment into trust] of the *Real Estate Services Act*, and sections 3-1(4)(a) [notice to parties respecting deposits], 3-1(5) [notice in writing], 3-2(2)(b) [keep managing broker informed], 3-3(1)(a) [act in best interests of client], 3-3(1)(i) avoid conflict of interest], 3-3(1)(j) [promptly and fully disclose conflict of interest], 3-4 [duty to act honestly and with reasonable care and skill], and 5-10 [disclosure of representation] of the Council Rules

ISSUE: Richard Leigh Maidment, currently unlicensed, while licensed as a representative with 707099 B.C. Ltd. dba Realty Executives of Prince George, Prince George, committed professional misconduct within the meaning of section 35(1)(d) of the *Real Estate Services Act* in that he, as a purported limited dual agent in the sale of property by the seller to the buyer by Contract of Purchase and Sale dated July 2, 2007 (“contract”): (a) failed to clarify the nature of the representation that he would provide to the seller prior to providing trading

Disciplinary Decisions, *cont'd*

services and prior to the seller agreeing to the terms of the contract which included him also acting on behalf of the buyer, including his failure to incorporate a limited dual agency agreement in the contract, in accordance with section 5-10 of the Council Rules; (b) failed to monitor the contract to ensure that the buyer provided the deposit contemplated in the contract, in accordance with section 3-3(1)(a) and section 3-4 of the Council Rules; (c) failed to promptly advise his managing broker that the deposit contemplated in the Contract had not been received, in accordance with his duties under section 3-2(2)(b) of the Council Rules; (d) when the deposit was received, albeit late, failed to promptly pay or deliver same to his brokerage, in accordance with section 27(1) of the *Real Estate Services Act*; and (e) failed to ensure that the seller was advised to seek independent legal advice prior to signing the contract, especially in light of Mr. Maidment's close relationship with the buyer, as required by section 3-3(1)(i) and (j) of the Council Rules.

ISSUE: Stanley Peter Aksenchuk, managing broker, 707099 B.C. Ltd. dba Realty Executives of Prince George, Prince George, committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* by contravening section 3-1(4)(a) and 3-1(5) of the Council Rules in that he failed to ensure that the seller was immediately notified in writing that the deposit that was contemplated by the contract had not been received, in accordance with his duties as a managing broker.

RESULT: Richard Leigh Maidment was suspended for fourteen (14) days upon licence reissuance for professional misconduct as described above after an Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver was entered into between the Real Estate Council and Richard Leigh Maidment, and a Consent Order was issued. Further, Richard Leigh Maidment was ordered to successfully complete the disciplinary education assignment applicable to Chapter 12 (The Law of Agency) of the Real Estate

Trading Services Licensing Course and pay enforcement expenses to the Council in the amount of \$500.00 as a condition of licence reissuance.

RESULT: Peter Stanley Aksenchuk was reprimanded for professional misconduct as described above after an Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver was entered into between the Real Estate Council and Peter Stanley Aksenchuk, and a Consent Order was issued. Further, Peter Stanley Aksenchuk was ordered to pay enforcement expenses to the Council in the amount of \$500.00.

COMPLAINT: Contravention of section 35(1)(a) [professional misconduct – contravention of Act or Rules] of the *Real Estate Services Act*, and section 3-4 [duty to act honestly and with reasonable care and skill] of the Council Rules

ISSUE: Trent Llewellyn Bouckley, currently unlicensed, while licensed as a representative with Pemberton Holmes Ltd., Victoria, 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 he: (a) knowingly took out an advance of his commission in the subject transaction prior to the completion of the sale, which included the portion that was to be rebated to the sellers; (b) failed to advise the brokerage of the said rebate on completion of the transaction; and (c) failed to honour his commitment to rebate a portion of his commission to the sellers upon completion of the said transaction.

RESULT: Trent Llewellyn Bouckley was suspended for fourteen (14) days 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 Michael Philip Andrew Holmes, and a Consent Order was issued. However, as Trent Llewellyn Bouckley voluntarily remained unlicensed from July 9, 2008 to the present date, the fourteen

days' suspension is considered completed and no further suspension will be necessary in these circumstances. In addition, Trent Llewellyn Bouckley was ordered to successfully complete the disciplinary education assignment applicable to Chapter 9 (Professional Ethics) of the Real Estate Trading Services Licensing Course and pay enforcement expenses to the Council in the amount of \$1,000.00.

COMPLAINT: Contravention of section 35(1)(a) [professional misconduct – contravention of Act or Rules] of the *Real Estate Services Act*, and sections 3-3(1)(i) and 3-3(1)(j) [duties to clients – conflict of interest], and 5-10(b)(i) [disclosure of representation] of the Council Rules

ISSUE: Douglas Wayne Sawchuk, representative, Homelife Glenayre Realty Chilliwack Ltd., Chilliwack, committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that he: (a) acted as the listing representative on behalf of the seller in the sale of property on Vedder Road, Chilliwack and undertook to act as selling agent on behalf of buyers without the consent of his client, the seller, to act as a limited dual agent, contrary to section 3-3(1)(i) of the Council Rules; (b) failed to disclose, prior to providing trading services to or on behalf of another party to a transaction in real estate that he expected to provide trading services to another party in relation to the same trade in real estate, contrary to section 5-10(b)(i) of the Council Rules; and (c) acted as a limited dual agent while he was a principal to the sale of his own unit at Vedder Road, Chilliwack contrary to section 3-3(1)(i) and 3-3(1)(j) of the Council Rules.

RESULT: Douglas Wayne Sawchuk was suspended for seven (7) days from April 29, 2009 to May 5, 2009 (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 Douglas Wayne Sawchuk, and a Consent Order was is-

Disciplinary Decisions, *cont'd*

sued. Further, Douglas Wayne Sawchuk was ordered to successfully complete the disciplinary education assignment applicable to Chapter 2 (The *Real Estate Services Act*) of the Real Estate Trading Services Licensing Course, and pay enforcement expenses to the Council in the amount of \$750.00.

COMPLAINT: Contravention of section 35 [professional misconduct] of the *Real Estate Services Act*, sections 2-19 [licensee must reply promptly to the Council] and 7-7 [failure to file Accountant's Report] of the Council Rules, and sections 4-9 [annual accountant's report] and 4-10 [annual brokerage activity report] of the Council Bylaws.

ISSUE: Royal Pacific Realty Corp., Vancouver, committed professional misconduct within the meaning of section 35 of the *Real Estate Services Act* in that it: (a) contravened section 7-7 of the Council Rules and section 4-9 of the Council Bylaws, in that the Accountant's Report delivered to the Council did not contain a list of all brokerage accounts, as required by section 4-9(2) of the Council Bylaws; (b) failed to file a Brokerage Activity Report within 120 days of its fiscal year end, contrary to section 7-7 of the Council Rules; (c) failed to file a Brokerage Activity Report for 2006, in accordance with section 4-10 of the Council Bylaws, in that the Brokerage Activity Report delivered to the Council did not contain: (i) the signature of a director/officer, partner or sole proprietor; (ii) the date signed by the brokerage's managing broker; (iii) the approximate percentages of the brokerage's total business by activity; (iv) the approximate number of transactions of the brokerage's business by type of business; (v) the approximate number of rental and strata units managed; and (iv) the average monthly trust balance in all trust accounts relating to commission; (d) failed to file an Accountant's Report for the year ending July 31, 2007, in accordance with section 7-7 of the Council Rules and section 4-9 of the Council Bylaws, in that the Accountant's Report delivered to the Council did not contain the list of all brokerage ac-

counts, as required by section 4-9(2) of the Council Bylaws; and (e) failed to file a Brokerage Activity Report within 120 days of its fiscal year end, contrary to section 7-7 of the Council Rules.

ISSUE: Andrew Robert Peck, managing broker, Royal Pacific Realty Corp., Vancouver, committed professional misconduct within the meaning of section 35 of the *Real Estate Services Act* by contravening section 2-19 of the Council Rules in that he failed to respond promptly to inquiries made by the Council.

RESULT: Royal Pacific Realty Corp. and Andrew Robert Peck were ordered to be jointly and severally liable to pay a discipline penalty to the Council in the amount of \$5,000.00 for the contravention described above after an Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver was entered into between the Real Estate Council and Royal Pacific Realty Corp., and a Consent Order was issued. In addition, Andrew Robert Peck must successfully complete the discipline education assignment applicable to Chapter 2 (Mandatory Requirements Under the *Real Estate Services Act*) of the Broker's Licensing Course. Further, Royal Pacific Realty Corp. and Andrew Robert Peck are jointly and severally liable to pay enforcement expenses to the Council in the amount of \$1,000.00.

COMPLAINT: Contravention of section 35 [professional misconduct] of the *Real Estate Services Act*, sections 2-19 [licensee must reply promptly to the Council] and 7-7 [failure to file Accountant's Report] of the Council Rules, and sections 4-9 [annual accountant's report] and 4-10 [annual brokerage activity report] of the Council Bylaws.

ISSUE: Royal Pacific Realty (Kingsway) Ltd., Vancouver, committed professional misconduct within the meaning of section 35 of the *Real Estate Services Act* in that it: (a) contravened section 7-7 of the Council Rules and section 4-9 of the

Council Bylaws, in that the Accountant's Report delivered to the Council did not contain a list of all brokerage accounts, as required by section 4-9(2) of the Council Bylaws; (b) failed to file a Brokerage Activity Report within 120 days of its fiscal year end, contrary to section 7-7 of the Council Rules; (c) failed to file a Brokerage Activity Report for 2006, in accordance with section 4-10 of the Council Bylaws, in that the Brokerage Activity Report delivered to the Council did not contain: (i) the signature of a director/officer, partner or sole proprietor; (ii) the date signed by the brokerage's managing broker; (iii) the approximate percentages of the brokerage's total business by activity; (iv) the approximate number of transactions of the brokerage's business by type of business; (v) the approximate number of rental and strata units managed; and (iv) the average monthly trust balance in all trust accounts relating to commission; (d) failed to file an Accountant's Report for the year ending July 31, 2007, in accordance with section 7-7 of the Council Rules and section 4-9 of the Council Bylaws, in that the Accountant's Report delivered to the Council did not contain the list of all brokerage accounts, as required by section 4-9(2) of the Council Bylaws; and (e) failed to file a Brokerage Activity Report within 120 days of its fiscal year end, contrary to section 7-7 of the Council Rules.

ISSUE: Tak Kun (Ed) Fung, managing broker, Royal Pacific Realty (Kingsway) Ltd., Vancouver, committed professional misconduct within the meaning of section 35 of the *Real Estate Services Act* by contravening section 2-19 of the Council Rules in that he failed to respond promptly to inquiries made by the Council.

RESULT: Royal Pacific Realty (Kingsway) Ltd. and Tak Kun (Ed) Fung were ordered to be jointly and severally liable to pay a discipline penalty to the Council in the amount of \$5,000.00 for the contravention described above after an Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver was entered into the between the Real Estate Council and Royal Pacific Realty (King-

Disciplinary Decisions, *cont'd*

sway) Ltd., and a Consent Order was issued. In addition, Tak Kun (Ed) Fung must successfully complete the discipline education assignment applicable to Chapter 2 (Mandatory Requirements Under the *Real Estate Services Act*) of the Broker's Licensing Course. Further, Royal Pacific Realty (Kingsway) Ltd. and Tak Kun (Ed) Fung are jointly and severally liable to pay enforcement expenses to the Council in the amount of \$1,000.00.

COMPLAINT: Contravention of section 35 [professional misconduct] of the *Real Estate Services Act*, sections 2-19 [licensee must reply promptly to the Council] and 7-7 [failure to file Accountant's Report] of the Council Rules, and section 4-9 [annual accountant's report] of the Council Bylaws

ISSUE: New World Realty Ltd., Vancouver, committed professional misconduct within the meaning of section 35 of the *Real Estate Services Act* in that it: (a) contravened section 7-7 of the Council Rules and section 4-9 of the Council Bylaws, in that the Accountant's Report delivered to the Council did not contain the list of all brokerage accounts, as required by section 4-9(2) of the Council Bylaws; and (b) failed to file a Brokerage Activity Report within 120 days of its fiscal year end, contrary to section 7-7 of the Council Rules.

ISSUE: Andrew Robert Peck, managing broker, New World Realty Ltd., Vancouver, committed professional misconduct within the meaning of section 35 of the *Real Estate Services Act* in that he contravened section 2-19 of the Council Rules in that he failed to respond promptly to inquiries made by the Council.

RESULT: New World Realty Ltd. and Andrew Robert Peck were ordered to be jointly and severally liable to pay a discipline penalty to the Council in the amount of \$2,500.00 for the contravention described above after an Agreed Statement of Facts, Proposed

Acceptance of Findings and Waiver was entered into between the Real Estate Council and New World Realty Ltd., and a Consent Order was issued. In addition, Andrew Robert Peck was ordered to successfully complete the disciplinary education assignment applicable to Chapter 2 (Mandatory Requirements Under the *Real Estate Services Act*). Further, New World Realty Ltd. and Andrew Robert Peck are jointly and severally liable to pay enforcement expenses to the Council in the amount of \$750.00.

COMPLAINT: Contravention of sections 35(1)(a) [professional misconduct – contravention of Act or Rules], 6(2) [managing broker responsibilities], 27(2) [promptly pay into trust] of the *Real Estate Services Act*, and section 3-1 [managing broker responsibilities] of the Council Rules

ISSUE: Michael Randolph Cowling, managing broker, S-376 Holdings Ltd. dba Re/Max Michael Cowling and Associates Realty, Richmond, committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that he: (a) contravened section 27(2) of the *Real Estate Services Act* in that he failed to promptly deposit four trust cheques received by the brokerage into the brokerage trust account; and (b) contravened section 6(2) of the *Real Estate Services Act* and section 3-1 of the Council Rules by failing to ensure that the said business of the brokerage was carried out competently and in accordance with the Act, Regulation, Rules and/or Bylaws.

RESULT: Michael Randolph Cowling 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 Michael Randolph Cowling, and a Consent Order was issued. Further, Michael Randolph Cowling was ordered to pay a discipline penalty to the Council in the amount of \$2,000.00, to success-

fully complete the disciplinary education assignment applicable to Chapter 2 (Mandatory Requirements Under the *Real Estate Services Act*) of the Broker's Licensing Course, and pay enforcement expenses to the Council in the amount of \$1,000.00.

COMPLAINT: Contravention of sections 35(1)(a) [professional misconduct – contravention of Act or Rules], 6(2)(b) [managing broker responsibilities] and 25 [brokerage records] of the *Real Estate Services Act*, sections 3-1(1)(a) and (b), 3-1(3) [managing broker responsibilities], 7-7(1)(b) [failure to file Accountant's Report] and 8-9 [records must be kept up to date] of the Council Rules

ISSUE: 494888 B.C. Ltd. dba Strata Pro Property Management Services, Osoyoos, committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* by contravening section 7-7(1)(b) of the Council Rules in that it (a) failed to file an Accountant's Report with the Council by the prescribed date, and (b) failed to ensure its records were kept up to date, in accordance with section 25 of the *Real Estate Services Act* and section 8-9 of the Council Rules

ISSUE: Kenneth Joseph Cameron Davreux, managing broker, 494888 B.C. Ltd. dba Strata Pro Property Management Services, Osoyoos, committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* by (a) 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 and (b) failing to ensure that the brokerage records were kept up to date, in accordance with section 25 of the *Real Estate Services Act* and section 8-9 of the Council Rules.

Disciplinary Decisions, *cont'd*

RESULT: Strata Pro Property Management Services was reprimanded for the contravention described above after an Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver was entered into between the Real Estate Council and Strata Pro Property Management Services, and a Consent Order was issued. Further, Strata Pro Property Management Services and Kenneth Joseph Cameron Davreux are jointly and severally liable to pay a discipline penalty to the Council in the amount of \$1,000.00 and pay enforcement expenses to the Council in the amount of \$1,000.00.

RESULT: Kenneth Joseph Cameron Davreux 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 Kenneth Joseph Cameron Davreux, and a Consent Order was issued. Kenneth Joseph Cameron Davreux was ordered to successfully complete Chapter 4 (Introduction to Financial Statements) of the Broker's Licensing Course. Further, Kenneth Joseph Davreux and Strata Pro Property Management Services are jointly and severally liable to pay a discipline penalty to the Council in the amount of \$1,000.00 and pay enforcement expenses to the Council in the amount of \$1,000.00.

COMPLAINT: Contravention of section 35(1)(a) [professional misconduct – contravention of Act or Rules] of the *Real Estate Services Act*, and section 3-1 [managing broker responsibilities] of the Council Rules

ISSUE: Michael Philip Andrew Holmes, managing broker, Pemberton Holmes Ltd. Victoria, committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* by contravening section 3-1 of the Council Rules in that he failed to ensure that he was aware of the terms and conditions of the written services agreement before authorizing the commission advance

in the subject transaction to a licensee, which included a portion of the commission that was to be rebated to the sellers.

RESULT: Michael Philip Andrew Holmes 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 Michael Philip Andrew Holmes, and a Consent Order was issued. Further, Michael Philip Andrew Holmes was ordered to pay enforcement expenses to the Council in the amount of \$1,000.00.

COMPLAINT: Contravention of sections 35(1)(a) [professional misconduct – contravention of Act or Rules], 6(2)(c) [brokerage must have managing broker] and 7(5)(a) [relationships between brokerages and other licensees] of the *Real Estate Services Act*, and section 3-1(1) [managing broker responsibilities] of the Council Rules

ISSUE: Coast Pacific Property Services Ltd., Courtenay, committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that Coast Pacific Property Services Ltd. provided trading services, namely rental property management services, through an unlicensed individual, who was not licensed in relation to the brokerage to provide rental property management services, contrary to section 7(5)(a) of the *Real Estate Services Act*.

ISSUE: Cristine Ann Tames, managing broker, Coast Pacific Property Services Ltd., Courtenay, committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that she: (a) permitted the brokerage to provide real estate services, namely rental property management, through an unlicensed individual, who was 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; (b) failed to ensure that the business of

the brokerage was carried out competently and in accordance with the Act, Regulations, Rules and Bylaws; and (c) failed to ensure that there was an adequate level of supervision for related associate brokers, representatives and brokerage employees that perform duties on behalf of the brokerage, pursuant to section 6(2)(c) of the *Real Estate Services Act* and section 3-3(1)(c) of the Council Rules.

RESULT: Coast Pacific Property Services 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 Coast Pacific Property Services Ltd., and a Consent Order was issued. Further, Coast Pacific Property Services Ltd. and Cristine Ann Tames are jointly and severally liable to pay enforcement expenses to the Council in the amount of \$750.00.

RESULT: Cristine Ann Tames 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 Cristine Ann Tames, and a Consent Order was issued. Further, Cristine Anne Tames was ordered to pay a discipline penalty to the Council in the amount of \$1,000.00. Further, Cristine Ann Tames and Coast Pacific Property Services Ltd. are jointly and severally liable to pay enforcement expenses to the Council in the amount of \$750.00.

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

ISSUE: G.C. Management (1991) Ltd., Abbotsford, committed professional misconduct within the meaning of sec-

Disciplinary Decisions, *cont'd*

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

ISSUE: William Powless Muxlow, managing broker, G.C. Management (1991) Ltd., Abbotsford, committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* by: (a) 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: G.C. Management (1991) Ltd. was reprimanded for the contravention described above after an Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver was entered into between the Real Estate Council and G.C. Management (1991) Ltd., and a Consent Order was issued. Further, G.C. Management (1991) Ltd. and

William Powless Muxlow are jointly and severally liable to pay a discipline penalty to the Council in the amount of \$1,000.00 and pay enforcement expenses to the Council in the amount of \$1,000.00.

RESULT: William Powless Muxlow was reprimanded for professional misconduct as described above after an Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver was entered into between the Real Estate Council and William Powless Muxlow, and a Consent Order was issued. Further, William Powless Muxlow and G.C. Management (1991) Ltd. are jointly and severally liable to pay a discipline penalty to the Council in the amount of \$1,000.00 and pay enforcement expenses to the Council in the amount of \$1,000.00.

COMPLAINT: Contravention of sections 35(1)(a) [professional misconduct – breach of Act or Rules], 35(1)(d) [professional misconduct – incompetence], 3(1)(a) [requirement for licence to provide real estate services], and 7(3)(a) and (b) [providing strata management services outside of brokerage] of the *Real Estate Services Act*

ISSUE: Donald Scott McDermid, representative, Royal Pacific Riverside Realty Ltd., Richmond, while licensed with Broadway West Realty Ltd. dba Amex Broadway West Realty, Vancouver, committed professional misconduct within the meaning of section 35(1)(a) or section 35(1)(d) of the *Real Estate Services Act* in that he: (a) provided strata management services separate from the brokerage with which he was licensed and accepted remuneration in relation to strata management services from a person other than the brokerage with which he was licensed, contrary to section 7(3)(a) and (b) of the *Real Estate Services Act*; and (b) provided strata management services without being licensed to provide those services, contrary to section 3(1)(a) of the *Real Estate Services Act*.

RESULT: Donald Scott McDermid 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 Donald Scott McDermid, and a Consent Order was issued. Further, Donald Scott McDermid was ordered pay enforcement expenses to the Council in the amount of \$750.00. ■

Feedback?

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

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