



Report from Council

March 2004 Volume 39, No. 4

Agency Advisory Group to be Formed

Each province and territory has a mechanism for licensing and regulating the real estate industry and in British Columbia, it is the Real Estate Council, in conjunction with the Superintendent of Real Estate that performs this function. Over the years, senior staff from each of the regulatory bodies from across the country have met from time to time to discuss common issues. This group is now known within the industry as the Canadian Regulators Group or the "CRG".

One of the core issues for the industry is agency. How agency is interpreted and applied by the industry directly affects consumers and members of the public. Traditional industry practices, the common law, provincial legislation, the standards of conduct adopted and enforced by regulatory agencies, interpretations and guidelines all have a major influence on how agency is applied by individual licensees.

The regulatory approaches and industry practices vary from province to province. As a result, the CRG established an Agency Task Force to examine the issue of agency and to provide recommendations to the CRG. The Task Force will study the application of agency laws in the real estate industry and develop a common or "best practices" approach for regulators across Canada to consider. The Task Force has no authority to impose any practices on the industry or the regulatory

authorities. Its role is to research the issues and make recommendations. Decisions on accepting the recommendations are the responsibility of the regulating group in each province and territory. The participants in the Agency Task Force include real estate regulators, errors and omissions insurance administrators, representatives from the Canadian Real Estate Association, the Real Estate Institute of Canada, the Building Owners Management Association and a buyer brokerage representative. The task force is also receiving advice from Professor William Foster, Faculty of Law at McGill University.

The Task Force expects to produce:

1. A report on current issues, agency law and real estate brokerage in Canada;
2. A report on current industry practices and regulatory approaches to real estate agency issues across Canada;
3. A recommended approach to real estate agency issues for regulators in Canada;
4. Recommendations for real estate licensing education programs (related to the topic of agency and industry practices);
5. An information article or brochure (guidelines) on agency for real estate licensees; and
6. An information article or brochure on agency for consumers.

The Council is in the process of creating an Agency Advisory Group for British

Columbia to broaden the input to the Agency Task Force. The Advisory Group will follow the progress of the Agency Task Force, examine the same issues and provide feedback and ideas to the Task Force to assist it in its work. The Advisory Group will provide an opportunity for a much larger cross-section of licensees and others involved in the industry to participate in the Task Force work.

Licensees may follow the completed work of the Agency Task Force on the CRG website at www.canadianregulators.ca. If you would like to provide comments with respect to how agency operates in BC, please provide any written comments to Larry Buttress, Manager, Industry Practice at the Council office or by email at lbuttress@recbc.ca.

Portions of this article are reprinted with kind permission from the Saskatchewan Real Estate Commission.

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STATISTICS

(MARCH 2004)

SALESPERSONS: 10,542

NOMINEES & 9.15'S: 3,342

AGENTS: 1,215

Role of the Council

The Council is a regulatory body established by the provincial government. In conjunction with the Superintendent of Real Estate, its mandate is to protect the public by enforcing the licensing and licensee conduct requirements of the *Real Estate Act*. The Council is responsible for licensing real estate agents and salespersons, enforcing entry qualifications, investigating complaints against licensees and imposing disciplinary sanctions under the *Real Estate Act*.

Report from Council

The *Report from Council* newsletter is published six times per year with a supplement called *Practice Points* issued as needed. Past issues can be found on the REALTOR Link™ web site at www.realtorlink.ca

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A Note From The Chair

Real estate is a diverse and frequently complex industry that is in a state of constant change. In order to keep licensees aware of these changes, the Council provides new information, updates, and reminders through this Report, as well as through the Licensee Practice Manual (LPM), the most recent edition having been distributed in December 2003.

You will note that this Report contains important information relating to the *Assessment Act*, the *Residential Tenancy Act*, and the *Strata Property Act*. You are encouraged to take the time to review these articles in order to remain current about this legislation.

BC Assessment has written to the Council (see below) in order to remind licensees, whose clients are purchasing land classified as a farm for property tax purposes, that specific requirements must be met

for that property to continue to qualify for farm classification. If the requirements are not met, there is a good chance the farm classification may be removed the following year. (For more information, please see www.bcassessment.bc.ca)

On January 1, 2004 a new *Residential Tenancy Act* and the *Manufactured Home Park Tenancy Act* came into effect. Both of these new statutes contain many new provisions that will impact licensees. Further information can be obtained from the Residential Tenancy Office website at www.pssg.gov.bc.ca/rto

Finally, you will read about phased strata developments and view corridors. Licensees involved in the purchase or sale of strata units must be familiar with the unique requirements of this form of real estate, including the provisions of the *Strata Property Act*. Further information can be obtained from



Barry Clark

the Strata Property Information Website at www.fic.gov.bc.ca/strata

As mentioned in my previous Notes from the Chair, the real estate market remains active in many parts of the province. When you combine this with ongoing and complex changes to legislation affecting the real estate industry, it makes for a challenging mix. In that regard, I would encourage you to provide the most competent service you can in all areas in which you render service. The public, which we serve, relies on that expertise and by doing so, everyone benefits.

*On behalf of Council,
Barry Clark, Chair*

A Reminder About Farm Land Classification

BC Assessment wishes to remind licensees whose clients are purchasing land classified as farm for property tax purposes, that specific requirements must be met for that property to continue to qualify for farm classification. Those requirements are set out in the *Assessment Act*. In particular, the regulation requires a specified amount of "primary agricultural products" to be produced and sold by October 31 to qualify the land for farm class in the following year.

The regulation also requires the completion of an application form

by October 31 for any new farm to enable farm class to be granted the next tax year. The assessor may require new owners of existing farms to file an application for farm class. Also, at any time during the year, the assessor may require the provision of farm income details or other information to support the continuation of farm class.

If requirements are not met, the assessor is required to deny or remove farm classification for the following year. Typically this means the land will change to Class 1 (residential) or Class 6 (business

and other). These classes typically have higher tax rates and higher land values than farm land. Land classified as farm is valued by rates set by the assessment commissioner, reflecting only the value of the land in farm use, not necessarily highest and best use.

Further information on farm assessment can be obtained from the BC Assessment website at www.bcassessment.bc.ca, through a local assessor, or by contacting the farm appraiser in Cost and Legislated Assessment Services, BC Assessment Head Office at Tel 250-595-6211.

Office Closures

The Council office will be closed April 9th and April 12th, 2004 for the Good Friday and Easter Monday holidays.

Use Care When Selling Units in Phased Strata Developments

Licensees who engage in the sale of strata properties must be aware of the legal meaning and implications of phased developments and what impact this may have on their client purchasers.

Suppose a developer has a piece of land large enough for five buildings, with each one containing 10 strata lots. To start, the developer may choose to only develop one building. The developer may need the proceeds from the sale of the 10 units in the first building to finance construction of the second building and so on. In this case, the developer proceeds with a phased strata development. With each phase, the developer adds a new building to the development.

When a developer deposits the strata plan for the first phase of a development with the Land Title Office, the strata corporation is created. As the strata plan for each subsequent phase is deposited, the owners in that phase become members of the strata corporation that was created when the first phase was deposited. In that regard, licensees must be aware of the fact that purchasers of units in subsequent phases could be affected by any problems in older phases of the development.

Consider the situation where a developer may have constructed and sold all the units in

the first building of a phased strata development a number of years ago. Since that time, the developer may have received approvals and filed a disclosure statement for construction of the second building in the phased strata development. However, at or around the time of pre-sale marketing for the second building, it is found that the first



building has water leakage problems through its envelope and repairs have been ordered or are about to be ordered. Licensees must be aware of the fact that, although the buildings were built at different times and may, in fact, be several hundred feet apart, they are still part of the same strata plan. Because of this, the purchasers of the newer building would fall within the same strata corporation as the older building. In that regard, any repair costs associated with the original building that is leaking would now be shared with the

purchasers of the second building in the phased strata development. **Licensees must exercise extreme caution not to put their clients in this situation without properly advising them of the potential for costly repair assessments.**

When writing offers for units in new phases of phased strata developments, licensees should include the usual new construction clauses (found in the 5th Edition Licensee Practice Manual (the “LPM”)). In addition, licensees should also include clauses that are normally used for resale units. This would include clauses related to receiving the Form B Information Certificate, meeting minutes from all meetings during the past two years (minimum) as well as the other critical documents listed on page 86 of the LPM.

Page 101 of the LPM identifies warranties as another aspect of phased developments that can present problems, especially if the phases were constructed over a period of time that spans the introduction of the *Homeowner Protection Act*. In that regard, the Council recommends that, when assisting buyers with the purchase of a strata lot within a phased strata plan, licensees should advise buyers to seek legal advice.

Portions of this article are obtained from The Condominium Manual and used with kind permission from its author, Mike Mangan.

A Warning About View Corridors

As the number of high rise buildings in downtown Vancouver and other regions of the province increase, the view corridors of existing buildings continually change. In some cases, views are minimized while, in others, views are eliminated altogether. Licensees engaging in the sale of residential units in these types of areas must be careful not to make any representations that would mislead a buyer into believing that views will remain in

perpetuity.

Page 70 of the 5th Edition Licensee Practice Manual states:

“Licensees must exercise reasonable care and skill in the performance of their duties. They should take special precautions in the sale of any strata property to ensure that they are not involved in any misrepresentation either by omission or by incorrect statements.”

A prudent licensee, therefore, will not make any representations about the longevity of existing views without first checking with the local municipality or regional district. Even if these checks are done, licensees should caution buyers about the potential for loss of views due to unanticipated zoning or density changes that may occur in the future, and the possibility of the transfer or air rights from one property to another.

New Laws Governing B.C.'s Rental Community In Effect

The new *Residential Tenancy Act*, *Manufactured Home Tenancy Act* and their respective regulations came into effect on January 1, 2004. The *Residential Tenancy Act* applies to residential tenancies in British Columbia and most residential licences to occupy. Manufactured home park tenancies fall under the *Manufactured Home Park Tenancy Act*, unless the tenant rents the home and the home site from the same landlord. Some highlights of the new *Residential Tenancy Act* include:

Simpler rent increase provisions

·Landlords are able to increase rent annually by a percentage equal to CPI plus 2%, without tenants disputing the increase at arbitration. For any rent increase given on or after January 1, 2004 that takes effect in 2004, the allowable increase is 4.6%.

Pets

·Landlords may prohibit pets or restrict the size, kind, or number of pets, create rules regarding pets, and charge a one-time pet deposit of one-half month's rent if a pet is allowed. Guide animals and existing pets are exempt from the pet deposit provision.

Penalties for not returning deposits on time

·Landlords who don't return or file claims against deposits within 15 days of the end of the tenancy must pay the tenant double the amount of the deposit.
·The 15-day period does not start until the tenant provides the landlord with a forwarding address in writing.

Condition inspections at start and end of tenancy with condition reports

·Tenants and landlords must inspect the rental unit and sign condition reports at the start and end of each tenancy.
·Failure to do so will result in the landlord

losing the right to claim damage against the security deposit or the tenant losing the right to the return of the deposit.

·The initial inspection report is not required of tenancies that started before the Act came into force except in case of a pet damage deposit if a tenant starts keeping a pet for the first time after the Act was proclaimed.

Tenancies may be ended for illegal activities

·Landlords may end tenancies for illegal activity that has, or is likely to:

- cause damage to the landlord's property,
- adversely affect the quiet enjoyment, security, safety, or physical well-being of another occupant, or
- jeopardize a lawful right or interest of the landlord or another occupant.

Other improvements for landlords

·Landlords will be allowed to collect deposits for things such as electronic garage door openers.
·Landlords can inspect the rental unit monthly with proper notice to the tenant.
·Landlords can require post dated cheques for rent.
·Landlords may eliminate or restrict non-essential services or facilities if the tenant is compensated.
·Landlords may obtain orders of possession without making a separate application if an arbitrator upholds a notice ending a tenancy.
·Tenancies end at 1 p.m. on the last day of the tenancy, unless otherwise specified, to permit landlords to clean or make necessary repairs before the next tenant moves in.

Other improvements for tenants

·Tenants' right to quiet enjoyment established in the Act.
·Landlords are not permitted to charge prospective tenants an application or processing fee.

·Landlords are not permitted to charge additional fees for visitors or overnight guests.
·Tenants may obtain an arbitrator's order for the return of possessions taken by the landlord.

·Landlords are required to issue receipts for rent paid in cash.

·Rules are changed for ending a tenancy for owner occupation.

Other Changes to the Act

·Simpler compensation entitlements for tenants who are required to vacate so that the landlord can change the use of the property. In particular, licensees should be aware of Section 51(1) which provides that: A landlord who gives a tenant notice to end a tenancy under Section 49 [*landlord's use of property*] must pay the tenant, on or before the effective date of the notice, an amount that is equivalent to one month's rent payable under the tenancy agreement.

(2) In addition to the amount payable under subsection (1), if (a) steps have not been taken to accomplish the stated purpose for ending the tenancy under Section 49 within a reasonable period after the effective date of the notice, or (b) the rental unit is not used for that stated purpose for at least 6 months beginning within a reasonable period after the effective date of the notice, the landlord, or the purchaser, as applicable under Section 49, must pay the tenant an amount that is the equivalent of double the monthly rent payable under the tenancy agreement.

The Council recommends that licensees who deal with rental properties or manufactured homes familiarize themselves with the provisions of the new legislation. For further information, including an electronic version of the new Acts, please visit the Residential Tenancy Office website at www.pssg.gov.bc.ca/rto or call 604-660-1020 or toll-free 1-800-661-4886.

Disciplinary Action

Since the December 2003 *Report from Council* newsletter, the following actions have been taken as a result of disciplinary hearings conducted by the Council.

➤ **Complaint:** Breach of Section 31(1)(c) of the *Real Estate Act*, Section 9.12 of Regulation 75/61/Misconduct/Negligence

■ **Issue:** Jai Vinesh Shankar, currently unlicensed who, while licensed as a salesperson with Sutton Centre Realty, Burnaby, as admitted, committed misconduct within the meaning of Section 31(1)(c) of the *Real Estate Act* in that he

(i) arranged to obtain a false or misleading employment letter for a buyer in order to assist the buyer to obtain financing;

(ii) failed to turn the Contract of Purchase and Sale into his agent. Mr. Shankar also admits that he was negligent within the meaning of Section 9.12 of Regulation 75/61 under the *Act* in that he prepared the Contract of Purchase and Sale in circumstances in which he ought to have known were false or misleading to the financial institution.

✍ **Penalty:** Jai Vinesh Shankar agreed that no application for relicensing will be considered by the Real Estate Council for a period of eighteen (18) months commencing from September 23, 2002, which was the date that he surrendered his licence, until March 23, 2004 for misconduct and negligence as described above, after an Agreed Statement of Facts, Admission and Waiver was entered into between the Real Estate Council and Mr. Shankar and a Consent Order was issued. In addition, as a condition of relicensing, he is required to successfully complete Chapter 2 (The *Real Estate Act* and The Code of Ethics and Standards of Business Practice) and Chapter 5 (The Professional Liability of Real Estate Licensees) in the Real Estate Salesperson's Pre-Licensing Course.

➤ **Complaint:** Breach of Sections 3(1), 31(1)(c), 43(2) of the *Real Estate Act*

and Misconduct

■ **Issue:** Yvonne Yuk-Yan Cheung, agent 9.15, Sutton Group-Killarney Realty, Vancouver who, while licensed with President Canada Real Estate Services Inc., Burnaby, as admitted, misconducted herself

(i) within the meaning of Section 31(1)(c) of the *Real Estate Act* in that she substituted the name of another licensee for her own, on the top of a contract that was sent to the seller, in order to mislead the seller as to who the buyer's agent was, so to not have to reduce her commission in the event that she "double ended" the sale;

(ii) engaged in property management independent of her agent without being the holder of a valid agent's licence contrary to Section 3(1) of the *Act*;

(iii) received payment for her property management services by a person other than her employing agent contrary to Section 43(2) of the *Act*.

✍ **Penalty:** Yvonne Yuk-Yan Cheung was suspended for sixty (60) days, from December 16, 2003, to February 13, 2004 (inclusive) for 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 Ms. Cheung and a Consent Order was issued. In addition, as a condition of continued licensing, she be required to successfully complete Chapter 2 (The *Real Estate Act* and The Code of Ethics and Standards of Business Practice) of the Real Estate Salesperson's Pre-Licensing Course and to enroll in and attend the first available course "Professionalism - It Pays! Be Safe or Be Sued".

➤ **Complaint:** Breach of Sections 31(1)(b), 37(1) of the *Real Estate Act*, Section 9.12 of Regulation 75/61/Negligence

■ **Issue:** Pebbles Realty Property Management Ltd., Gibsons, as admitted, breached Section 31(1)(b) and 37(1) of the *Real Estate Act* and Section 9.12 of Regulation 75/61 under the *Act* in that it:

(i) failed to report to a client in a timely fashion when rent payments and other payments had gone into arrears;

(ii) failed to account for expenses made by it on behalf of a client in a timely manner;

(iii) failed to ensure that a client was aware that the BC Hydro account had been placed in their names;

(iv) failed to ensure the BC Hydro account was transferred to new tenants at the beginning of their tenancy;

(v) failed to ensure that copies of the lease agreements were provided to a client upon their execution in a timely manner and in accordance with Section 37(1) of the *Act*.

■ **Issue:** Pebbles Realty Property Management Ltd. was negligent within the meaning of Section 31(1) of the *Act* in that it failed to ensure that competent property management services were provided to another client within the meaning of Section 31(1)(b) of the *Act* and Section 9.12 of Regulation 75/61 in that it:

(i) failed to promote and protect the interests of this client in that it did not withhold the appropriate non-resident taxes required under the *Income Tax Act* with respect to this client's rental income or ensure that this client was aware of her duty to comply;

(ii) failed to ensure that copies of the lease agreements were provided to this client upon their execution in a timely manner and in accordance with Section 37(1) of the *Act*.

■ **Issue:** Mr. Brian Earl Christoff, salesperson, Pebbles Realty Property Management Ltd., Gibsons, as admitted, failed to provide competent property management services to a client within the meaning of Section 31(1)(b) of the *Act* and Section 9.12 of Regulation 75/61 in that he:

(i) failed to report to a client in a timely

fashion when rent payments and other payments had gone into arrears;

(ii) failed to account for expenses made by his agent on behalf of a client in a timely manner;

(iii) failed to ensure that a client was aware that the BC Hydro account had been placed in their names;

(iv) failed to ensure the BC Hydro account was transferred to new tenants at the beginning of their tenancy;

(v) failed to ensure that copies of the lease agreements were provided to a client upon their execution in a timely manner and in accordance with Section 37(1) of the *Act*.

■ **Issue:** Mr. Christoff failed to provide competent property management services to another client within the meaning of Section 31(1)(b) of the *Act* and Section 9.12 of Regulation 75/61 in that he:

(i) failed to promote and protect the interests of another client in that he did not withhold the appropriate non-resident taxes required under the *Income Tax Act* with respect to this client's rental income or ensure that this client was aware of her duty to comply;

(ii) failed to ensure that copies of the lease agreements were provided to this client upon their execution in a timely manner and in accordance with Section 37(1) of the *Act*.

✍ **Penalty:** Pebbles Realty Property Management Ltd. was reprimanded for breach of the *Act* as described above after an Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver was entered into between the Real Estate Council and Mr. Robert Barry Lang, nominee, on behalf of Pebbles Realty Property Management Ltd. and a Consent Order was issued.

Brian Earl Christoff was suspended for forty-five (45) days from January 14 to February 27, 2004 (inclusive) for negligence as described above, after an Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver was entered into between the Real Estate Council and Mr. Christoff and a Consent

Order was issued.

In addition, Mr. Christoff was ordered to successfully challenge the Property Management Supplemental Examination. In the event that he does not successfully challenge the Property Management Supplemental Examination, his real estate licence will be restricted to real estate sales.

➤ **Complaint:** Breach of Sections 3(1), 31(1)(c) of the *Real Estate Act*/Misconduct

■ **Issue:** Christine Genevieve Schaflick, salesperson, Hugh & McKinnon Realty Ltd., Surrey who, while licensed with Royal LePage Northstar Realty, Surrey, miscondacted herself contrary to Section 31(1)(c) of the *Real Estate Act* in that she

(i) failed to act in the best interest of the seller by having the seller execute a marketing and commission agreement between the seller and herself when she knew or ought to have known that the property was already listed with another agent by a listing dated approximately a year before;

(ii) failed to include her employing agent as a signing party to the said marketing and commission agreement;

(iii) held herself out as an agent without a valid agent's licence contrary to Section 3(1) of the *Real Estate Act* by having the seller execute a marketing and commission agreement between the seller and the licensee directly in which her agent was not a party;

(iv) failed to turn in the marketing and commission agreement to her agent.

✍ **Penalty:** Christine Genevieve Schaflick was suspended for thirty (30) days, from January 28 to February 26, 2004 (inclusive) and, as a condition of continued licensing, ordered to successfully complete Chapter 12 (The Law of Agency) in the Real Estate Salesperson's Pre-Licensing Course and to enroll in and attend the first available Condo 101 "Strata Law for REALTORS" and

Condo 202 "Advanced Strata Law for REALTORS". In addition, hearing costs in the amount of \$3,965.71 were assessed as a condition of continued licensing.

➤ **Complaint:** Breach of Section 61(9) of the *Real Estate Act*, Section 9.12 of Regulation 75/61/Incompetence

■ **Issue:** Jarnail Singh Saran, agent 9.15, United Realty RCK & Associates Ltd., Surrey, breached Section 61(9) of the *Real Estate Act* in that he failed to provide a prospectus or disclosure statement to a buyer prior to the buyer signing the Contract of Purchase and Sale. He was also found incompetent within the meaning of Section 9.12 of Regulation 75/61 under the *Act* in that he represented to a buyer that a property was subdivided, which was untrue or misleading, without checking with the Municipality of Surrey to ascertain if this information was correct.

✍ **Penalty:** Jarnail Singh Saran was suspended for thirty (30) days, from December 17, 2003 to January 17, 2004 (inclusive) and, as a condition of continued licensing, ordered to successfully complete Chapter 2 (The *Real Estate Act* and The Code of Ethics and Standards of Business Practice) of the Real Estate Salesperson's Pre-Licensing Course and to enroll in and attend the first available course "Professionalism – It Pays! Be Safe or Be Sued".

In addition, Mr. Saran was ordered to pay hearing costs in the amount of \$2,142.60 also as a condition of continued licensing.


➤ **Complaint:** Breach of Section 9.12 of Regulation 75/61/Negligence

■ **Issue:** Alan Wilson Easton, agent 9.15, Prudential Sterling Realty, Burnaby, as admitted, was negligent within the meaning of Section 9.12 of Regulation 75/61 under the

Real Estate Act in that:

(i) when he received the Form B in connection with a property he failed to ascertain or inquire about the purpose of the Special General Meeting which was noted on the Form B before he had the buyer remove the subject clause with respect to receiving and approving the current information certificate (Form B);

(ii) he failed to ensure that he received all seven pages of the fax which included the agenda for the Special General Meeting.


 **Penalty:** Alan Wilson Easton was suspended for thirty (30) days, from February 4 to March 4, 2004 (inclusive) for the breach described above, after an Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver was entered into between the Real Estate Council and Mr. Easton and a Consent Order was issued. In addition, as a condition of continued licensing, he is ordered to enroll in and attend the first available course “Professionalism it Pays! Be Safe or Be Sued” and “Condo 202: Advanced Strata Law for REALTORS”.

➤ **Complaint:** Breach of Section 59 of the *Real Estate Act*, Section 9.12 of Regulation 75/61/Negligence

■ **Issue:** Edward Paul Werthner, salesperson, Coast Capital Real Estate Ltd., Victoria, as admitted, was negligent within the meaning of Section 9.12 of Regulation 75/61 under the *Real Estate Act* in that he:

(i) failed to report a transaction to his agent;

(ii) failed to obtain an agreement, in writing, from the buyer and seller in the above transaction as required by Section 59 of the *Act* in order to release the deposit to the buyer so that the deposit could be applied to another transaction on behalf of the buyer.

 **Penalty:** Edward Paul Werthner was suspended for seven (7) days from January 21 to 27, 2004 (inclusive) for the breaches


described above after an Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver was entered into between the Real Estate Council and Mr. Werthner and a Consent Order was issued. As a condition of continued licensing he must successfully complete Chapter 2 (The *Real Estate Act* and The Code of Ethics and Standards of Business Practice) of the Real Estate Salesperson’s Pre-Licensing Course and enroll in and attend the first available “Professionalism - It Pays! Be Safe or Be Sued” course.

➤ **Complaint:** Breach of Section 9.12 of Regulation 75/61/Negligence

■ **Issue:** Raymond Durnin Inkster, salesperson, Royal LePage Northstar Realty, Surrey, admitted that

(i) he provided a cheque for a sum of money in US funds and a US bank draft to a salesperson for the listing agent prior to the buyer and sellers agreeing, in writing, on the terms under which the said funds would be paid directly to the sellers;

(ii) he failed to ensure that either the original uncertified US cheque had a stop payment placed on it or that the said cheque had been returned to him or the buyer prior to providing the US bank draft to the salesperson for the listing agent.

 **Penalty:** Raymond Durnin Inkster was found to be negligent and was reprimanded for the breach described above after an Agreed Statement of Facts, Admission and Waiver was entered into between the Real Estate Council and Mr. Inkster and a Consent Order was issued. In addition, as a condition of continued licensing, he is required to successfully complete Chapter 10 (The Law of Contract) in the Real Estate Salesperson’s Pre-Licensing Course as well as enroll in and attend the first available course “Professionalism it Pays! Be Safe or Be Sued”.

➤ **Complaint:** Breach of


Section 5.01 and Section 9.12 of Regulation 75/61/Negligence

■ **Issue:** Eric Guido Putoto, salesperson, Prudential Desert Hills Realty, Kamloops, as admitted, breached Section 5.01 of Regulation 75/61 under the *Real Estate Act* by failing to ensure that all of his newspaper ads contained the name of his employing agent.

■ **Issue:** Eric Guido Putoto was negligent within the meaning of Section 9.12 of Regulation 75/61 under the *Act* in that

(i) he made representations or promises in advertisements as an inducement to owners of properties to list or sell their properties, without, at the time of making these representations or promises, adequately disclosing in the ads that certain restrictions, terms and conditions may apply;

(ii) represented in ads that a property sold for an amount of money more than the asking price which he knew or ought to have known was untrue or misleading in that he failed to accurately calculate the additional amount netted by the seller when the purchaser, who was a licensee, waived her commission.

 **Penalty:** Eric Guido Putoto was reprimanded for the breaches described above, after an Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver was entered into between the Real Estate Council and Mr. Putoto and a Consent Order was issued. In addition, as a condition of continued licensing, he is required to successfully complete Chapter 2 (The *Real Estate Act* and The Code of Ethics and Standards of Business Practice) in the Real Estate Salesperson’s Pre-Licensing Course.

➤ **Complaint:** Breach of Section 9.12 of Regulation 75/61 of the *Real Estate Act*/Negligence

■ **Issue:** William James Thompson,

currently unlicensed, who while licensed as the nominee, Prudential Sussex Realty – Jason Soprovich, West Vancouver, as admitted, was negligent within the meaning of Section 9.12 of Regulation 75/61 under the *Real Estate Act* in that he

(i) delegated his responsibilities as a nominee for Prudential Sussex Realty – Jason Soprovich during his leave of absence to a nominee for another agent;

(ii) failed to advise the Real Estate Council that he was taking a lengthy leave of absence.

✍️ Penalty: William James Thompson was reprimanded for the breach described above after an Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver was entered into between the Real Estate Council and Mr. Thompson and a Consent Order was issued. In addition, as a condition of becoming relicensed as a nominee, he is required to successfully complete Chapter 2 of the Real Estate Agent's Pre-Licensing Course.

➤ **Complaint:** Breach of Section 38 of the *Real Estate Act*, Section 9.12 of Regulation 75/61/Negligence

■ **Issue:** Grant William Dutchek, salesperson, Sutton Group – Westcan Realty, Victoria, as admitted, was negligent within the meaning of Section 9.12 of Regulation 75/61 under the *Real Estate Act* in that he

(i) failed to disclose in writing, in the form and manner prescribed by the Superintendent, to an owner of property, prior to offering to acquire the property;

(ii) on another property owned by the same owner indicated in (i) above, failed to disclose in writing, in the form and manner prescribed by the Superintendent, prior to offering to acquire that property;

(iii) failed to have the Section 38 Disclosure in respect to another property, signed by his nominee and filed with the Real Estate Council in accordance with Section 38 of the *Real Estate Act* and the requirements of the Superintendent of Real Estate and the Council.

✍️ Penalty: Grant William Dutchek was reprimanded for negligence as described above, after an Agreed Statement of Facts, Admission and Waiver was entered into between the Real Estate Council and Mr. Dutchek and a Consent Order was issued. In addition, as a condition of continued licensing, he will not enter into any agreement to acquire property without first advising the nominee of his employing agent, in writing, of his intention to do so.

➤ **Complaint:** Breach of Section 9.12 of Regulation 75/61/Negligence

■ **Issue:** Victor Keith Chancellor, nominee, Chancellor Real Estate Group, Salmon Arm, as admitted, while he was an agent under Regulation 9.15 with Re/Max Shuswap, Salmon Arm, was negligent within the meaning of Section 9.12 of Regulation 75/61 under the *Real Estate Act* in that as a buyer's agent and as a buyer or as an assignee of a buyer's interest in respect of a contract involving a property in Salmon Arm, he failed to provide the Contract of Purchase and Sale and the Section 38 Disclosure Form in a timely manner in the form and manner prescribed by the Superintendent of Real Estate to his then nominee, for his signature when Mr. Chancellor offered to acquire the property in question.

✍️ Penalty: Victor Keith Chancellor was reprimanded for negligence as described

above, after an Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver was entered into between the Real Estate Council and Mr. Chancellor and a Consent Order was issued.

➤ **Complaint:** Breach of Section 42 of the *Real Estate Act* and Section 9.12 of Regulation 75/61 under the *Act*/Negligence

■ **Issue:** 430871 B.C. Ltd. and 430873 B.C. Ltd. dba Sutton Group – Skaha Realty, Penticton, as admitted, breached Section 42 of the *Real Estate Act* (employment of an unlicensed person).

■ **Issue:** Evelyn Grace Palmer, nominee, Sutton Group – Skaha Realty, Penticton, as admitted, was negligent within the meaning of Section 9.12 of Regulation 75/61 under the *Real Estate Act* in that she failed to ensure that a salesperson was licensed under the *Act* before permitting that person to engage in any real estate activity which required licensing.

✍️ Penalty: Sutton Group – Skaha Realty was reprimanded for breach of the *Act* as described above after an Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver was entered into between the Real Estate Council and Evelyn Grace Palmer on behalf of Sutton Group – Skaha Realty and a Consent Order was issued.

Evelyn Grace Palmer was reprimanded for negligence as described above after an Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver was entered into between the Real Estate Council and Ms. Palmer and a Consent Order was issued.