



# Report from Council

October 2005 Volume 41, No. 2

## Reminder about Strata Manager Licensing

Effective January 1, 2006, those who provide strata management services will require licensing under the *Real Estate Services Act*. A few noted exceptions to the licensing requirement include self managed strata corporations and caretakers.

The *Real Estate Services Act* defines “strata management services” as

“any of the following services provided to or on behalf of a strata corporation:

- (a) collecting or holding strata fees, contributions, levies or other amounts levied by, or due to, the strata corporation under the Strata Property Act;
- (b) exercising delegated powers and duties of a strata corporation or strata council, including
  - (i) making payments to third parties on behalf of the strata corporation,
  - (ii) negotiating or entering into contracts on behalf of the strata corporation, or
  - (iii) supervising employees or contractors hired or engaged by the strata corporation.”

**If your brokerage is providing strata management services, or intends to do so,**

**the brokerage, managing broker, and all licensees who are to provide those services must take the necessary steps to meet the licensing criteria and comply by the January 1, 2006 deadline.** The qualifications for licensing and whether or not a strata manager is “grandparented” vary depending upon individual circumstances. There are educational requirements that must be met as part of the licensing of strata managers and temporary licences will be issued subject to applicants meeting those requirements.

At its meeting on September 20, 2005, the Council decided not to grant any exemptions from the requirement to pass an examination, whether it is the full strata management licensing examination for those who have never been licensed, or a supplemental strata management examination for those who are currently licensed. The Council strongly believes that, on balance, this policy is essential for consumer protection purposes, and to maintain public confidence in both the licensing process and the strata management industry. This decision was re-affirmed at the Council’s meeting on October 18, 2005.

Council Rules have been approved by the Minister of Finance and include specific requirements for strata management

agreements, trust accounts, and the maintenance of records. These Rules are an important component for licensee conduct.

The 4th Special Report to Licensees circulated to all licensees in July detailed many of the licensing requirements for strata management service providers. This Report, the Council Rules, and a number of other documents related to these new requirements are posted on the Council’s website [www.recbc.ca](http://www.recbc.ca)

Once you have reviewed this information, should you have any questions please do not hesitate to contact the Council office at 604-683-9664, or toll free at 877-683-9664.

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**STATISTICS**

(OCTOBER 2005)

REPRESENTATIVES: 12,989

ASSOCIATE BROKERS: 1,999

MANAGING BROKERS: 1,250

BROKERAGES: 1,296

**Role of the Council**

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

**Report from Council**

The *Report from Council* newsletter is published six times per year. Past issues can be found at [www.realtorlink.ca](http://www.realtorlink.ca)

For further information, contact:

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# A Note From the Chair

This Report contains important information about the licensing of strata managers. As the January 1, 2006 licensing deadline is fast approaching, any licensee who is engaged in strata management (whether residential or commercial) must make application to the Council to have their licence amended and complete the required educational qualifications. As noted on page 1, the Council has decided not to grant any exemptions from the Strata Management Licensing Course examinations.

This month, you will note in the Disciplinary Decisions section that a licensee was suspended for acting in

a conflict of interest situation with their client. As well, two licensees were suspended for failing to properly handle trust funds. I cannot stress too strongly the importance of licensees ensuring that they always operate in the best interests of their clients and ensure that trust funds are dealt with in accordance with the *Real Estate Services Act*. I urge licensees to familiarize themselves with the Act, Regulations and Rules. Reviewing these items will help you to better serve your clients and do the right thing.

Finally, on page 8 of this Report, licensees will find a copy of the Council's Discipline Policy Statement



**Dougal Shewan**

#1: Publication of Disciplinary Orders. While the majority of this policy has been in effect for some time, the official Policy Statement was formally adopted by the Council at its October 18, 2005 meeting and takes effect November 1, 2005.

*On behalf of Council,  
Doug Shewan, Chair*

## Terminology in Advertising

As a result of the new terminology contained in the *Real Estate Services Act*, a number of licensees have contacted the Council with respect to the correct terminology to utilize on business cards and other promotional materials. If licensees choose to utilize a descriptor indicating their licence level in advertising, it is permissible to use the actual category of licence such as "representative", "associate broker" or "managing broker". It is also permissible to use alternate versions such as "sales representative" or "leasing representative".

## Managing Brokers: A Key Link to Council Information

The *Report from Council* newsletter often contains critical information that brokerage office staff (eg. administrators and conveyancers) need to know in order that the brokerage can comply with the *Real Estate Services Act*. In this regard, the Council reminds managing brokers to ensure that copies of the newsletter are made available for their unlicensed office staff in order that they may receive this information in a timely manner.

## Consultation on Proposed Rule Amendment

In accordance with section 6.1 of the *Real Estate Services Regulations*, the Real Estate Council of British Columbia hereby gives notice of a proposed amendment to section 7-9(6) of the Council Rules. The Council proposes to amend this section to allow for withdrawals from contingency reserve fund/special levy brokerage trust accounts when authorized by two or more signatories from a prescribed list, including a related managing broker. The proposed Rule amendment may be found on the Council's website at [www.recbc.ca](http://www.recbc.ca).

## RECBC Website

The Council's Annual Report, including audited financial statements for its year ending June 30, 2005 has been posted on its website at [www.recbc.ca](http://www.recbc.ca).

## Office Closures

The Council office will be closed on the following dates:

Friday, November 11, 2005 for Remembrance Day

Monday, December 26, 2005 for Christmas Day

Tuesday, December 27, 2005 for Boxing Day

Monday, January 2, 2006 for New Year's Day

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## New Standard Area Measurements Adopted

As a result of a number of complaints to the Council and what appeared to be differences within the industry, the Council has adopted a new standard for measuring floor area and finished area of properties. Originally developed by the American National Standards Institute (ANSI), the standards serve to ensure that licensees accurately record measurements, including basement areas. The newly approved standards are consistent with the current practice of area measurements within the industry. In the interests of consistency, the Council encourages all licensees to utilize these standards.

### Floor Area:

The ANSI standards base floor area calculations on the exterior dimensions of the building at each floor level, and include all interior walls and voids. For attached units, the outside dimension is the centerline of the common walls. Internal room dimensions aren't used in this system of measuring.

### Finished Area:

The ANSI standards define "finished area" as "an enclosed area in a house suitable for year-round use, embodying walls, floors, and ceilings that are similar to the rest of the house." Measurements must be taken to the nearest inch or tenth of a foot, and floor area must be



reported to the nearest square foot. Garages are specifically excluded.

Generally, when indicating room sizes, all bedrooms, the living room, dining room, kitchen, eating area, family room, den and special-use rooms (such as the laundry room, finished and heated workshop, playrooms, etc.) must be measured. Bathrooms, hallways, foyers and stairways are not usually measured unless they represent special features of the house or are of a significant size.

Some interior dimensions may be of particular importance to certain buyers who have specific furniture which must fit comfortably within the confines of a room. In these instances, the buyer's agent should, for certainty, independently undertake to verify the measurements provided by the listing agent.

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

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## Notice of Resignation of Licensees

Mahasen Amirali Gulamhussein Premji, while licensed with All Points Group Ltd. dba Re/Max All Points Realty, 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. Premji was facing a disciplinary hearing into her professional conduct and would have been required to appear before a hearing panel of the Real Estate Council to respond to certain allegations. Considering the fact that there is likely no greater disciplinary penalty than not being licensed to act again, the Real Estate Council agreed with Ms. Premji's request. The lifetime ban on Ms. Premji's licensing under the *Real Estate Services Act* is effective as of September 19, 2005.

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Anwer Lalani, while licensed with Sutton Centre Realty Ltd. dba Sutton Centre Realty, requested the Real Estate Council of British Columbia to discontinue disciplinary proceedings against him as he has decided to permanently retire from real estate practice. Mr. Lalani was facing a disciplinary hearing into his professional conduct and would have been required to appear before a hearing panel of the Real Estate Council to respond to certain allegations. Considering the fact that there is likely no greater disciplinary penalty than not being licensed to act again, the Real Estate Council agreed with Mr. Lalani's request. The lifetime ban on Mr. Lalani's licensing under the *Real Estate Services Act* is effective as of August 2, 2005.

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## Disciplinary Decisions

Since the August 2005 *Report from Council* newsletter, the following actions have been taken as a result of disciplinary hearings and Consent Orders conducted by the Council.

➤ **Complaint:** Breach of section 16(2) and section 9.12 of Regulation 75/61 under the *Real Estate Act/Negligence*, failure to deliver money received from a buyer to the licensee's related brokerage.

■ **Issue:** David Ford, representative, Royal LePage Nanaimo Realty, Nanaimo was negligent within the meaning of section 9.12 of Regulation 75/61 under the *Real Estate Act* in that he

- (i) failed to advise the seller and/or his listing agent in a timely fashion that he had not received the buyer's deposit which was required pursuant to the contract by a specific date;
- (ii) failed to advise the seller and/or his listing agent that while he later received the deposit cheque, he had not delivered it to his employing agent on receipt and he had not advised that it had been removed from his custody, without his knowledge or consent;
- (iii) failed to deliver the deposit cheque to his employing agent on receipt in accordance with section 16(2) of the Act; and
- (iv) failed to submit the subject transaction to his agent in a timely manner.

✍ **Penalty:** David Ford was suspended for forty-five (45) days from September 21, 2005 to November 4, 2005 (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 David Ford, and a Consent Order was

issued. In addition, as a condition of continued licensing he is required to successfully complete Chapter 2 (*Real Estate Services Act*), Chapter 10 (The Law of Contract) and Chapter 11 (Contracts for Real Estate Transactions) of the Real Estate Trading Services Licensing Course, and to enroll in and attend the first available Legal Update Course and to pay enforcement expenses to the Council in the amount of \$500.00.

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

■ **Issue:** Alexander Corwin Westeringh, representative, Homelife Glenayre Realty Chilliwack Ltd., Chilliwack was negligent within the meaning of section 9.12 of Regulation 75/61 under the *Real Estate Act* in that he failed to comply in the circumstances with the Council's policy to recommend to each of the buyers that they seek separate, independent legal advice about the deposit arrangements before entering into the Contract of Purchase and Sale.

✍ **Penalty:** Alexander Corwin Westeringh was suspended for forty-five (45) days from September 14, 2005 to October 28, 2005 (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. Westeringh, and a Consent Order was issued. In addition, as a condition of continued licensing he is required to enroll in and attend the first available Legal Update Course and to pay enforcement expenses to the Council in the amount of \$500.00.

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

■ **Issue:** Brent Edgar Eric Heska, representative, Century 21 Apex International, Surrey, who while licensed with Royal LePage-Wolstencroft, Langley

- (a) was incompetent within the meaning of section 9.12 of Regulation 75/61 under the *Real Estate Act* in that he failed to provide a disclosure in writing in the form and manner prescribed by the Superintendent to the sellers prior to offering to purchase the subject property as required by section 38 of the *Real Estate Act*; and
- (b) was negligent within the meaning of section 9.12 of Regulation 75/61 under the *Real Estate Act* in that he
  - (i) acted in a conflict of interest in that he failed to withdraw from representing the sellers when he offered to purchase the property, and thereafter allowed his personal interests as a principal in a transaction to conflict with his duties as a licensee, and in particular as a salesperson for the limited dual agent
  - (ii) failed to advise the sellers to obtain independent representation, or alternatively independent legal advice, concerning the proposed transaction, and
  - (iii) while continuing to be in a position of conflict of interest, insisted that the transaction proceed, notwithstanding the objections of the sellers.

✍ **Penalty:** Brent Edgar Eric Heska was suspended for thirty (30) days from October 12, 2005 to November 10, 2005 (inclusive) for negligence and incompetence. As a condition of continued licensing he is required to successfully complete Chapter 2 (*Real Estate Services Act*), Chapter 11 (Contracts for Real Estate Transactions) and Chapter 12 (The Law of Agency) of the Real

Estate Trading Services Licensing Course. Further, he is required to pay enforcement expenses to the Council in the amount of \$5,710.20. Also, as a condition of continued licensing, for a period of two years from the date of the decision, Mr. Heska is not permitted to enter into any agreement to acquire property without first advising the managing broker of his related brokerage in writing of his intention to do so.

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

■ **Issue:** Clifford Edward Wenger, managing broker, Re/Max Norm Brenner, Vernon, who, while licensed as an associate broker with Re/Max Vernon, in Vernon was negligent within the meaning of section 9.12 of Regulation 75/61 under the *Real Estate Act* in that he failed to adequately ensure that the buyers were made aware of the risk of incurring extra costs if they proceeded with the financial consultants' business plan as a prerequisite to obtaining financing if only one of the sellers had executed the said contract and the other seller refused to sign.

✍ **Penalty:** Clifford Edward Wenger, was suspended for fourteen (14) days from October 5, 2005 to October 18, 2005 (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 Clifford Edward Wenger, and a Consent Order was issued. In addition, as a condition of continued licensing he is required to enroll in and attend the first available Legal Update Course and pay enforcement expenses to the Council in the amount of \$500.00.

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

■ **Issue:** Gopal Paul Reddy, representative, Amex-Fraseridge Realty,

Vancouver was negligent pursuant to section 9.12 of Regulation 75/61 under the *Real Estate Act* in that he

- (i) represented to a listing agent that the buyer had accepted the seller's counter-offer when same was untrue or misleading;
- (ii) failed to deliver the accepted contract, once it was secured, to the seller or the seller's agent;
- (iii) failed to advise the seller and/or his listing agent in a timely fashion that he had not received the buyer's deposit within twenty-four hours of subject removal;
- (iv) failed to advise the seller and/or his listing agent in a timely fashion that while he had received the buyer's deposit cheque it could not be immediately deposited as it had to be certified; and
- (v) failed to submit the subject transaction to his agent in a timely manner.

✍ **Penalty:** Gopal Paul Reddy was suspended for fourteen (14) days from September 21, 2005 to October 4, 2005 (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 Gopal Paul Reddy, and a Consent Order was issued. In addition, as a condition of continued licensing he is required to successfully complete Chapter 5 (The Professional Liability of Real Estate Licensees) and Chapter 9 (Professional Ethics) of the Real Estate Trading Services Course and pay enforcement expenses to the Council in the amount of \$500.00.

➤ **Complaint:** Breach of sections 3(1) and 16(2) of the *Real Estate Act*, section 9.12 of Regulation 75/61 under the *Real Estate Act*/Incompetence and breach of sections 3(1), 27(1) and 35 of the *Real Estate Services Act*/Professional Misconduct

■ **Issue:** Olive Jeannette Gorringer, representative, Willow Point Realty, Campbell River who, while licensed with New Way Realty Inc., Campbell River, was incompetent within the meaning of section 9.12 of Regulation 75/61 under the *Real Estate Act* in that she, as a representative carrying out property management on behalf of New Way Realty Inc.

- (i) failed to pay or deliver to her brokerage all monies held for or received on behalf of property management clients, contrary to section 16(2) of the *Real Estate Act*;
- (ii) held herself out as a managing broker without being a holder of a valid and subsisting managing broker's licence, contrary to section 3(1) of the *Real Estate Act* and section 3(1) of the *Real Estate Services Act* in that she conducted rental property management services independent of her employing brokerage.

Further, she misconducted herself within the meaning of section 35 of the *Real Estate Services Act* in that she, as a representative conducting property management on behalf of New Way Realty Inc.

- (iii) held herself out as a managing broker without being a holder of a valid and subsisting managing broker's licence contrary to section 3(1) of the *Real Estate Services Act* in that she conducted rental property management services independent of her related brokerage;
- (iv) failed to pay or deliver to her brokerage all monies held or received on behalf of rental property management services, contrary to section 27(1) of the *Real Estate Services Act*.

✍ **Penalty:** Olive Jeannette Gorringer was suspended for fourteen (14) days, from September 14, 2005 to September 27, 2005

(inclusive) for incompetence and professional misconduct as described above after an Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver was entered into between the Real Estate Council and Ms. Gorringer, and a Consent Order was issued. In addition, as a condition of continued licensing, she is required to successfully complete Chapter 2 (*Real Estate Services Act*) of the Real Estate Trading Services Licensing Course and to pay enforcement expenses to the Council in the amount of \$400.00.

➤ **Complaint:** Breach of section 35(1)(a) of the *Real Estate Services Act* by a contravention of section 3-1(3)(b) (failed to ensure Accountant's Report filed) and section 7-7(1)(b) (failed to file an Accountant's Report) of the Council Rules/Professional Misconduct

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

■ **Issue:** Paddi Anne Moore, managing broker, Zen Property Management committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* by contravening section 3-1(3)(b) of the Council Rules in that she failed to ensure that the brokerage had filed an Accountant's Report in the prescribed form with the Real Estate Council on or before the prescribed date.

✍ **Penalty:** Zen Property Management 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 Zen Property Management and a Consent Order was issued. The licence

would have been suspended for one hundred and eighty (180) days but for the fact that an acceptable Accountant's Report was filed.

✍ **Penalty:** Paddi Anne Moore, managing broker, Zen Property Management 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 Ms. Moore, and a Consent Order was issued.

In addition, as a condition of continued licensing, Zen Property Management and Paddi Anne Moore are jointly and severally liable to pay enforcement expenses to the Council in the amount of \$500.00

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

■ **Issue:** Frank Von Niessen, representative, Landmark Realty Corp., Abbotsford breached section 31(1)(c) of the *Real Estate Act* in that he misconducted himself as a licensee by using three show homes for the purpose of carrying on a romantic relationship with a woman without the knowledge or consent of the owners of the said properties.

✍ **Penalty:** Frank Von Niessen was reprimanded 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 Frank Von Niessen, and a Consent Order was issued. In addition, as a condition of continued licensing he is required to successfully complete Chapter 9 (Professional Ethics) of the Real Estate Trading Services Licensing Course and to pay enforcement expenses to the Council in the amount of \$1,000.00.

➤ **Complaint:** Breach of section 35(1)(a) of the *Real Estate Services Act* by a contravention of section 3-1(3)(b) (failed

to ensure Accountant's Report filed) and 7-7(1)(b) (failed to file an Accountant's Report) of the Council Rules/Professional Misconduct

■ **Issue:** West Kootenay Homes Ltd. dba Homelife Interior Realty, Lake Country committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* by contravening section 7-7(1)(b) of the Council Rules in that it failed to file an Accountant's Report in the prescribed time with the Real Estate Council by the prescribed date.

■ **Issue:** Daniel Donovan Ferguson, managing broker, West Kootenay Homes Ltd. dba Homelife Interior Realty committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* by contravening section 3-1(3)(b) of the Council Rules in that he failed to ensure that the brokerage had filed an Accountant's Report in the prescribed form with the Real Estate Council on or before the prescribed date.

✍ **Penalty:** Homelife Interior Realty 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 Homelife Interior Realty and a Consent Order was issued. The licence would have been suspended for one hundred and eighty (180) days but for the fact that an acceptable Accountant's Report was filed.

✍ **Penalty:** Daniel Donovan Ferguson, managing broker, Homelife Interior Realty 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 Mr. Ferguson, and a Consent Order was issued.

In addition, as a condition of continued licensing Homelife Interior Realty and Daniel

Donovan Ferguson are jointly and severally liable to pay enforcement expenses to the Council in the amount of \$500.00

➤ **Complaint:** Breach of section 35(1)(a) of the *Real Estate Services Act* by a contravention of section 3-1(3)(b) (failed to ensure Accountant's Report filed) and 7-7(1)(b) (failed to file an Accountant's Report) of the Council Rules/ Professional Misconduct.

■ **Issue:** Coronet Property Management Ltd., Vancouver committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* by contravening section 7-7(1)(b) of the Council Rules in that it failed to file an Accountant's Report in the prescribed time with the Real Estate Council by the prescribed date.

■ **Issue:** William Cantlie Chipman, managing broker, Coronet Property Management Ltd. committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* by contravening section 3-1(3)(b) of the Council Rules in that he failed to ensure that the brokerage had filed an Accountant's Report in the prescribed form with the Real Estate Council on or before the prescribed date.

✍ **Penalty:** Coronet Property Management Ltd. 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 Coronet Property Management Ltd. and a Consent Order was issued. The licence would have been suspended for one hundred and eighty (180) days but for the fact that an acceptable Accountant's Report was filed.

✍ **Penalty:** William Cantlie Chipman, managing broker, Coronet Property Management 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 Mr. Chipman, and a Consent Order was issued.

In addition, as a condition of continued licensing Coronet Property Management Ltd. and William Cantlie Chipman are jointly and severally liable to pay enforcement expenses to the Council in the amount of \$500.00

➤ **Complaint:** Breach of section 27(1)(b) and section 35(1)(a) of the *Real Estate Services Act*/failure to pay or deliver remuneration to brokerage and professional misconduct

■ **Issue:** Brian Joseph White, representative, Re/Max Performance Realty, Delta committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that he failed to pay or deliver to his brokerage money payable to his brokerage which he received on account of remuneration for real estate services, which funds were inadvertently deposited into his personal bank account.

✍ **Penalty:** Brian Joseph White, representative, was reprimanded for the breach described above and, as a condition of continued licensing, he is required to enroll in and attend the next available British Columbia Real Estate Association CPE seminar, The New *Real Estate Services Act* and pay enforcement expenses to the Council in the amount of \$2,196.30.

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

■ **Issue:** John Michael Zaikow, managing broker, Westview Zaikow Realty, Powell River was negligent within the meaning of section

9.12 of Regulation 75/61 under the *Real Estate Act* in that he failed to ensure specific disclosure regarding the water supply was made and acknowledged in writing by both the buyer and the seller.

✍ **Penalty:** John Michael Zaikow 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 John Michael Zaikow and a Consent Order was issued. Further, as a condition of continued licensing, he is required to successfully complete Chapter 2 (Mandatory Requirements Under the *Real Estate Services Act*) of the Broker's Licensing Course and to pay enforcement expenses to the Council in the amount of \$250.00.

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

■ **Issue:** Gregory Allan Bullock, representative, Re/Max of Nanaimo, Nanaimo, was negligent within the meaning of section 9.12 of Regulation 75/61 under the *Real Estate Act* in that he placed himself in a conflict of interest when he acted as a limited dual agent while he was also one of the sellers of the property.

✍ **Penalty:** Gregory Allan Bullock 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 Gregory Allan Bullock and a Consent Order was issued. Further, as a condition of continued licensing, he is required to successfully complete Chapter 2 (*Real Estate Services Act*) of the Real Estate Trading Services Licensing Course and to pay enforcement expenses to the Council in the amount of \$500.00.



The following Discipline Policy Statement #1 was approved at the Council's October, 2005 meeting and takes effect November 1, 2005.

## **DISCIPLINE POLICY STATEMENT #1 EFFECTIVE NOVEMBER 1, 2005 PUBLICATION OF DISCIPLINARY ORDERS**

### **INFORMAL ORDERS**

As Letters of Warning are not considered disciplinary orders under section 47 of the *Real Estate Services Act* (the "Act"), they are not published in the *Report from Council* newsletter or posted on the Council's website [www.recbc.ca](http://www.recbc.ca). Letters of Warning, however, are available to members of the public upon request 30 days from the date they are issued, if not appealed by the licensee(s). Members of the public are advised that Letters of Warning are issued when the Complaints Committee of the Council has decided that there has only been a minor or technical contravention of the Act and that no member of the public has been harmed. In these circumstances, no hearing will be held. Members of the public making an inquiry about a Letter of Warning are advised of the category of licence the individual held when the Letter of Warning was issued. Letters of warning relating to audit files are only available by way of a request under the *Freedom of Information and Protection of Privacy Act*.

### **FORMAL ORDERS**

Section 4.3 of the Real Estate Services Regulation states that orders published under section 47 of the Act must be published on the Council's website ([www.recbc.ca](http://www.recbc.ca)) and may be published by any method the Council considers appropriate. In addition, all Council disciplinary decisions resulting from a formal discipline hearing or consent order are published in the *Report from Council* newsletter.

Any disciplinary order made under section 43(2) of the Act will be posted on the Council's public website for a period of one year after the order is issued. This applies to the following orders:

- A reprimand of the licensee;
- A licence suspension of less than one year;
- The imposition of restrictions or conditions on the licensee's licence or the variance of any restrictions or conditions applicable to the licence;
- A requirement for the licensee to cease or to carry out any specified activity related to the licensee's real estate business;
- A requirement for the licensee to enroll in and complete a course of studies or training specified in the order;
- A prohibition of the licensee from applying for a licence for a specified period of time or until specified conditions are fulfilled;
- A requirement for the licensee to pay amounts in accordance with section 44 (1) and (2) [*recovery of enforcement expenses*] of the Act.

Licence suspensions over one year and licence cancellations are posted on the Council's website in perpetuity. Posting is to occur after any appeal period has expired.

In situations where a licensee permanently resigns from the industry in the face of disciplinary proceedings, a notice is included in the *Report from Council* newsletter and posted in perpetuity on the Council's website.

In situations involving licence suspensions of more than one year, licence cancellations, orders in urgent circumstances, and orders to freeze property, the Council may also issue a media release and/or paid advertisement.