

Report from Council

Personal Real Estate Corporation Update

Regulatory Amendments to Take Effect January 1, 2009

Regulatory amendments to the *Real Estate Services Act* that allow individual real estate licensees to form personal real estate corporations (PREC) were approved by the government on January 22, 2008 and take effect on January 1, 2009.

PREC's will allow real estate licensees to access the business advantages of incorporation. This can include better planning of income and tax streams and is similar to options available to other professionals, such as dentists, accountants and lawyers. The Council recommends that licensees, prior to establishing a PREC, obtain professional accounting and legal advice.

PREC's will have no impact on the existing regulatory oversight framework of the Council, nor will they reduce consumer protection standards. British Columbia is the first province to offer this corporate structure to real estate licensees. Currently, licensees operate as either employees or self-employed/independent contractors.

The implementation date of January 1, 2009 aligns with the tax year for individuals, and allows licensees sufficient time to obtain the appropriate professional advice to determine if a PREC will benefit their individual circumstances. PREC licence applications, together with the requisite controlling individual's licence application, will be accepted for processing starting November

12, 2008 and those PRECs eligible for licensing will have their licence issued by the first week of January 2009.

Please be advised that, although an application may be received by the Council in advance of January 1, 2009, if you are submitting an application to become a controlling individual that will require an amendment to your licence (such as a transfer), your licence will not be reissued until at least January 1st, 2009. In this circumstance, you may wish to submit your application to transfer your licence separately from your submission for a PREC and controlling individual licence.

As previously mentioned, 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. Council staff is unable to provide licensees with such advice.

The Council has developed a booklet entitled *Guidelines for Personal Real Estate Corporations* to assist licensees in licensing a PREC. The booklet is available on the Council's website at www.recbc.ca. Licensees with questions about licensing a PREC may contact the Council office by email at info@recbc.ca or by calling 604-683-9664 or toll-free at 1-877-683-9664. ■



The Council recommends that licensees, prior to establishing a PREC, obtain professional accounting and legal advice.

Office Closures

The Council office will be closed on the following dates:

- Tuesday, November 11 for Remembrance Day
- Thursday, December 25 for Christmas Day
- Friday, December 26 for Boxing Day
- Thursday, January 1, 2009 for New Years Day



A Note from the Chair



Judi A. Whyte, RI
Chair

As we head into fall, I hope that you have been able to enjoy this fabulous weather.

As you can see, this newsletter contains the Council's annual statistical summary for the year ended June 30, 2008. You will note that the number of licensing course enrollments declined for the second year in a row while the number of licensees continued to

increase. Since the Council's financial year end in June, the number of licensees in the province continued to increase to a new all-time high of 20,390 in August. However, since then, the number of licensees has decreased, and, as of October 1, 2008, the number stands at 20,304 and appears to be on a downward trend.

You will also note that the number of complaints received by the Council has increased for the fourth year in a row for an all-time high of 563. This increase is reflected in the number of disciplinary hearings and consent orders entered into by the Council over the past year. Not surprisingly, the number of discipline sanctions meted out by the Council has also increased and is once again reflected in the

rather large disciplinary section contained in this Report.

As mentioned in our previous Reports, licensees will be able to license Personal Real Estate Corporations beginning January 2009. In order to assist licensees, the Council has developed a guideline booklet for those considering making application. The guideline booklet can be found on the Council's website at www.recbc.ca or, upon written request to info@recbc.ca, a copy can be mailed to you.

As we move into the last quarter of 2008, I remind those licensees, whose licence will be due for renewal in early 2009, of the importance of not waiting to the last minute to satisfy the Council's Relicensing Education Program requirements. Licensees who wait may find that the course they need to take is full and/or that it may not be available until after their licence renewal date. Individuals who do not meet their REP requirements will not be able to renew their real estate licence and, as a result, this will have severe implications for a licensee's business.

On behalf of the Council,

Judi Whyte, RI, Chair

Important Information About Witnessing Signatures

While the signatures of the parties to a Contract of Purchase and Sale do not have to be witnessed in order to make the contract legally binding, some financial institutions, as part of their due diligence in considering whether to provide financing, are insisting the parties' signatures be witnessed. In order to witness a signature, a person must be present at the time the party, whose signature is to be witnessed, is signing the contract. If a licensee is not present

when the party is signing the contract, that licensee must not witness the signature after the fact. If a licensee knows they will not be present when a contract is going to be signed, they should tell the party to ensure that someone is present to witness the signature. Telling the parties the reason for this will hopefully help them understand the importance of this from the financial institution's perspective. ■



RECBC REAL ESTATE COUNCIL
OF BRITISH COLUMBIA

900-750 West Pender Street
Vancouver, BC, Canada V6C 2T8
Tel 604-683-9664
Toll-free 1-877-683-9664
Fax 604-683-9017
info@recbc.ca
www.recbc.ca

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

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STATISTICS October 2008

Representatives: 17,029
Associate Brokers: 1,804
Managing Brokers: 1,372
Brokerages: 1,428

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.

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Save Your Money

Avoiding Common Advertising Mistakes Means Avoiding a Possible Administrative Penalty

The Council continues to receive complaints relating to licensees failing to comply with the Council Rules on advertising. Licensees are reminded that section 57(1) of the *Real Estate Services Act* allows the Council to impose administrative penalties on licensees who fail to adhere to specific Rules, including various sections that set out the requirements for advertising. In accordance with section 2-23 of the Council Rules, a licensee who fails to comply may be hit in the pocketbook, with a penalty imposed of:

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

The most common advertising contravention, for which a penalty may be imposed,

The most common advertising contravention is failing to display the name of a licensee's brokerage on an advertisement in a "prominent and easily readable way."

is failing to display the name of a licensee's brokerage on an advertisement in a "prominent and easily readable way" as is required under section 4-6(2) of the Council Rules. This means that whether it is a promotional flyer, website, billboard, classified or internet ad, the licensee name of the brokerage must appear, in compliance with section 4-6(2). Corporate logos or general franchise identification, which do not include the complete licensee name of the brokerage, are not sufficient to meet the requirements of the Rule.

The second most common advertising contravention, for which a penalty may be imposed, is the advertising of a team name for a group of related licensees that has not been approved by and registered with the Council, as is required under section 4-6(5) of the Council Rules. To have a team name approved by and registered with Council, licensees simply have to send their written request to the Council's Licensing Department, setting out the name they would like to have approved and listing the members of their team, both licensed and unlicensed. Typically the Council's Licensing Department will be able to advise whether a team name has been approved within one week of receipt of a request. Licensees are reminded that they may only advertise a team name in conjunction with the name of their brokerage.

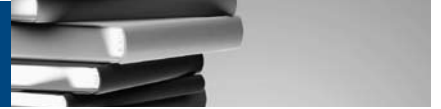
The third most common contravention, for which a penalty may be imposed, relates to the advertising of and signage on personal offices. Section 4-3(2) of the Council Rules sets out that, if a licensee maintains a personal office, there must be no indication (signage) that real estate services are provided from the office nor can the address of the personal office be displayed in any advertising or other records relating to the provision of real estate services. If the per-



sonal office is in a commercial office space, the licensee may indicate on the building directory, "Mary Smith's personal office", but may not indicate "Mary Smith, XYZ Realty."

Managing brokers play an important role in ensuring that the licensees under their supervision are aware of their obligation to comply fully with the advertising requirements of the Council Rules, as well as the advertising guidelines and policies established by the Council. A managing broker's periodic review, with representatives and associate brokers, of examples of appropriate and inappropriate advertising can enhance the licensees' understanding of the requirements and keep their obligations top of mind.

With managing brokers and licensees working together to avoid the most common advertising mistakes outlined above, not only will they ensure compliance in advertising practices, licensees will also avoid the unnecessary expense of an administrative penalty. ■



Reminder to Licensees About Courses

Both a Mandatory and Elective Course Required as a Condition of Licence Renewal

As licensees are aware, the Council's Relicensing Education Program (REP) requires licensees to complete two courses as a condition of licence renewal. For the first cycle of REP (2007–2009), licensees are required to complete a mandatory course called “*What Brokerages and REALTORS® Need to Know about Agency*”, and one elective course to be selected from the list of REP approved courses detailed on the Council's REP web page at: www.recbc.ca/licensee_info/rep.htm. This same page also contains links to the various education providers in order that licensees can register in the appropriate courses.

It should be noted that individuals licensed for rental property management only or rental and strata management services only may substitute a second REP approved elective course for the mandatory agency course “*What Brokerages and REALTORS® Need to Know about Agency*” in the first REP cycle. Individuals licensed to provide only strata management services are exempted from the

mandatory course in the first REP cycle as they have been given credit for completing the Strata Management Licensing Course. Individuals licensed as managing brokers are also exempted from the elective course in the first REP cycle as they will be completing the Broker's Licensing Course and Examination as a requirement of licensing.

There are currently over 20,000 real estate licensees in BC who must fulfill the REP requirements as a condition of relicensing. As a result, the Council urges licensees to complete their REP requirements by taking the mandatory course and elective course at the earliest possible date in order to avoid any possible delay in licence renewal.

It should be noted that licensees will have to provide written confirmation that they have completed their REP requirements on their application for licence renewal. ■



The Council urges licensees to complete their REP requirements at the earliest possible date in order to avoid any possible delay in licence renewal.

Licence Renewal Reminder

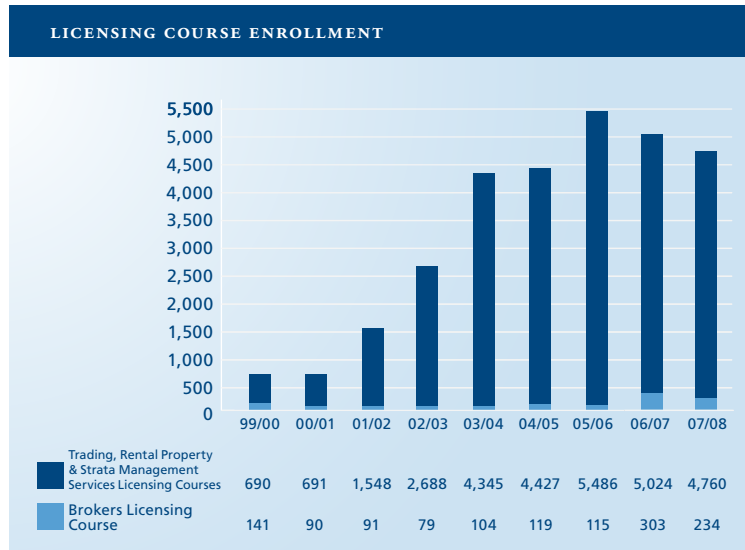
Licensees are reminded that the Council Rules require all licence renewal applications to be delivered to the Council office 30 days prior to the licence renewal date. With this in mind, licensees must not wait until the last minute to try and complete their required Relicensing Education Program (REP) courses. Licensees should have their REP courses completed in advance of sending in their licence renewal form to avoid any delays in the renewal process. ■

STATISTICS

The number of licensees in the province reached an all-time high of 20,264 individuals.

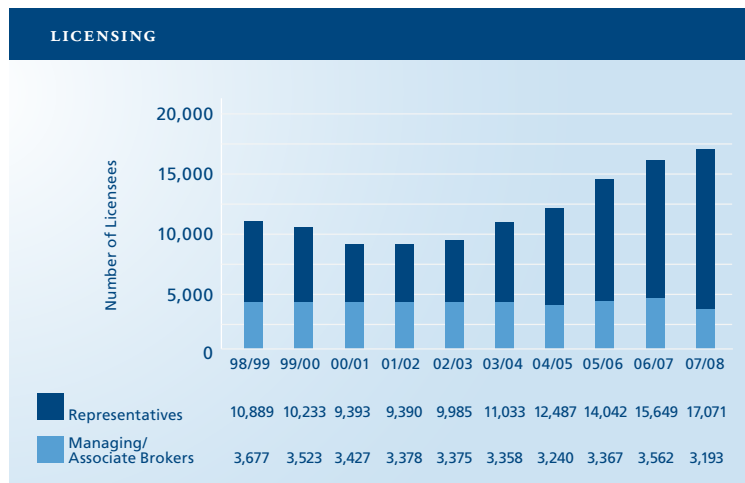
Education

For the second year in a row, enrollments in the licensing courses (Trading Services, Rental Property Management and Strata Management) decreased from the levels reached in 2005/06. This decrease is likely as a result of the reduction in the number of unit sales across the province.



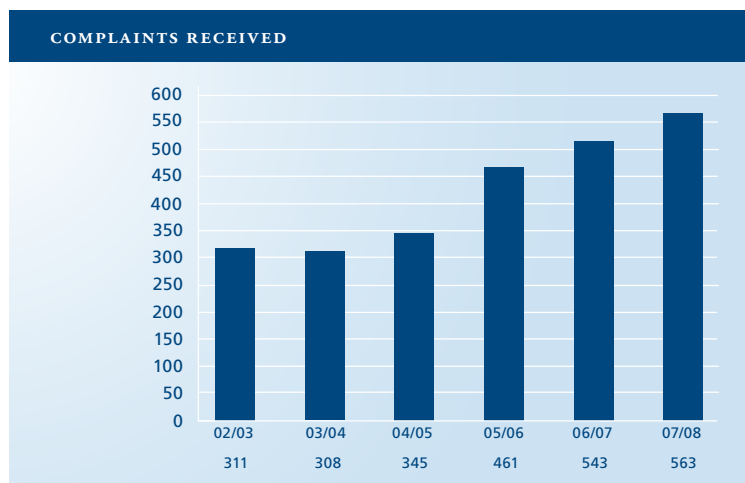
Licensing

The number of licensees in the province reached a new all-time high in May 2008 with 20,149 individuals, surpassing the previous all-time high of 20,143 reached in June of 1994. As of June 30th, the number of licensees was 20,264.



Complaints Received

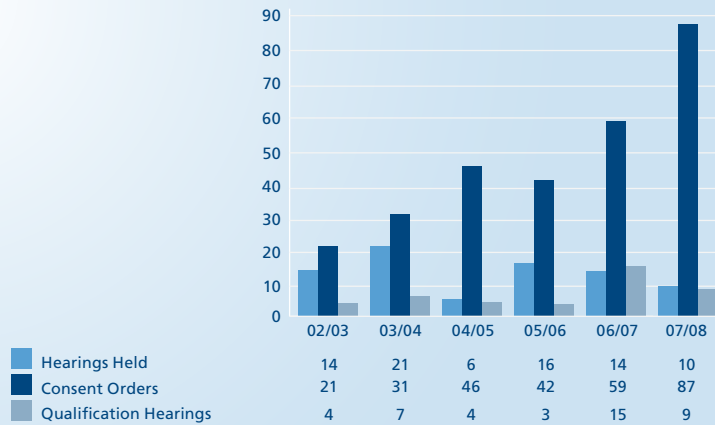
As shown in the chart, the number of complaints received at the Council increased again this past year. The increase is due in part to the active real estate market over the past several years, as well as the Council's increased regulatory responsibilities with respect to strata manager licensing.



Hearings and Consent Orders

The number of Consent Orders entered into by the Council increased dramatically for the second year in a row. This increase is due in large part to the high number of complaint files received by the Council. Consent Orders avoid the necessity of a formal hearing and can save considerable time and expense.

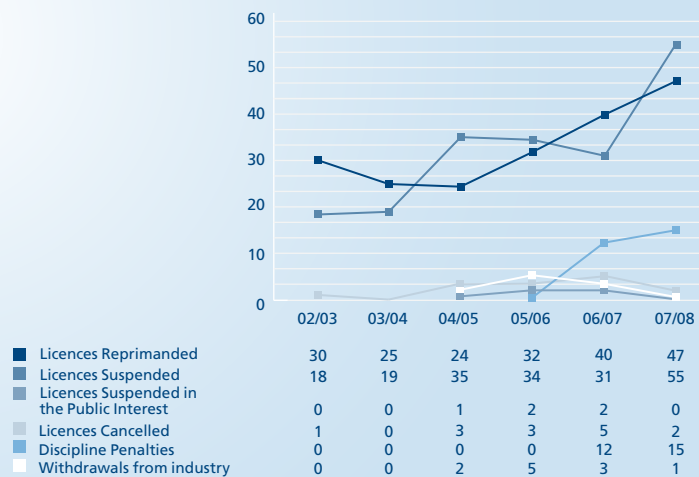
HEARINGS AND CONSENT ORDERS



Discipline

This chart reflects the penalties agreed to by Consent Order Review Committees and Hearing Committees over the past several years. The number of discipline penalties increased again this past year, reflecting the Council's commitment to ramp up the severity of the sanctions it imposes. In particular, the number of licence suspensions increased dramatically as compared with previous years. As reported last year, this chart shows the number of withdrawals from the industry and discipline penalties. Withdrawals from the industry occur in situations where an individual requests that the Real Estate Council discontinue disciplinary proceedings against them as they have decided to permanently retire from real estate practice. Discipline penalties may be levied pursuant to the *Real Estate Services Act* in amounts up to \$20,000.

DISCIPLINE



NOTICE OF RESCISSION ORDER Paul Song Wu

Whereas on November 8, 2007 an Order was made by a Discipline Committee of the Real Estate Council

suspending the licence of Paul Song Wu under section 43(4) of the *Real Estate Services Act* for failure to comply with an Order by the Council requiring him to complete certain disciplinary education assignments and whereas it is no longer

necessary to suspend the licence of Paul Song Wu as he has completed these assignments, it was ordered by the Council that the Order dated November 8, 2007 be rescinded effective July 28, 2008. ■

Disciplinary Decisions

Since the August 2008 *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], 35(1)(c) [deceptive dealing], 27(4) [payment into trust], and 37(4) [investigations] of the *Real Estate Services Act*, and sections 3-3(1)(i) [duties to clients], 5-4 [acceptance of offer], 5-8 [disclosure], and 5-9 [disclosure of interest in trade] of the Council Rules

ISSUE: Amarjit Singh Gill, representative, Global Force Realty Ltd., Surrey, while licensed with United Realty RCK & Associates Ltd., Surrey, committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that he: (a) contravened section 3-3(1)(i) of the Council Rules by failing to disclose to the sellers of the property that his spouse was the sole director and shareholder of the buyer 0718458 B.C. Ltd. in order to avoid a conflict of interest as a limited dual agent; (b) contravened sections 5-8 and 5-9 of the Council Rules by failing to provide the sellers of the property with a completed Disclosure of Interest in Trade form disclosing that an associate of the said licensee was acquiring real estate prior to the agreement dated January 5, 2006 being entered into; (c) contravened section 5-8 and 5-9 of the Council Rules by failing to provide the buyers of the said property by Contract of Purchase and Sale dated February 28, 2006 with a completed Disclosure of Interest in Trade form disclosing that his associate was disposing of her interest in the said property; (d) contravened section 35(1)(c) of the *Real Estate Services Act* by failing to disclose to the said buyers in the Contract of Purchase and Sale dated February 28, 2006 that the deposit, which was to be paid directly to the seller in accordance with the said contract, was going to be transferred by the seller to a joint bank account in the name of himself and his spouse; (e) contravened section 27(4) of the *Real Estate Services Act* by failing to obtain a separate written agreement between the parties to the Contract of Purchase and Sale dated February 28, 2006 that the deposit was to be paid directly to the seller; (f) contravened section 5-4 of the Council Rules

by failing to deliver a copy of the accepted Contract of Purchase and Sale dated February 28, 2006 to his related brokerage; and (g) contravened section 37(4) of the *Real Estate Services Act* in that he misled the Council by advising the Council in a letter dated July 26, 2006 in response to the complaint that his wife and daughter went to an accountant on September 15, 2005 to transfer the shares of 0718458 B.C. Ltd., which in fact occurred at a later date.

RESULT: Amarjit Singh Gill was suspended for one hundred and eighty (180) days from September 17, 2008 to March 15, 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 Amarjit Singh Gill, and a Consent Order was issued. Further, Amarjit Singh Gill was ordered to successfully complete the disciplinary education assignments applicable to Chapter 2 (*Real Estate Services Act*) and Chapter 9 (Professional Ethics) of the Real Estate Trading Services Licensing Course, and pay to the Council a discipline penalty in the amount of \$5,000.00 and enforcement expenses in the amount of \$750.00.

COMPLAINT: Contravention of sections 35(1)(a) [professional misconduct], 7(3)(a) [providing real estate services outside of brokerage], 27(1)(a) [money received from a principal in relation to real estate services], and 27(4) [separate written agreement] of the *Real Estate Services Act*, sections 3-2(2)(a) [keeping managing broker informed], 3-3(1)(i) and (j) [avoid conflict of interest] and 3-4 [duty to act with reasonable care and skill] of the Council Rules and section 40 of the *Real Estate Development Marketing Act*.

ISSUE: Raj Kumar Gupta, representative, Nechako Real Estate Ltd. dba Century 21 In Town Realty, Vancouver, committed professional misconduct within the meaning of section 35 of the *Real Estate Services Act* by contravening section 35(1)(a) of the *Real Estate Services Act* in that: (a) in relation to a Contract of Purchase and Sale dated February 17, 2006 regarding property at 68th Street, Surrey between Raj Kumar Gupta and the buyers and ten sellers, Mr.

Gupta failed to take reasonable steps to avoid a conflict of interest in that he was a principal in the transaction and acted as a buyer's agent in the purchase, contrary to section 3-3(1)(i) and 3-3(1)(j) of the Council Rules; (b) in relation to an Assignment of Purchase Contract dated February 25, 2006 between Raj Kumar Gupta and HG as Assignors and RA as Assignee, and/or in relation to three Assignments of Purchase Contracts dated February 22, 2006 between Raj Kumar Gupta and HG as Assignors and RA, AB and GB as Assignees, Mr. Gupta: (i) received assignment fees and deposits directly from the Assignees, which fees and deposits ought to have been paid into trust with the brokerage, contrary to section 27(1)(a) of the *Real Estate Services Act*; (ii) failed to ensure that the parties entered into a separate written agreement that money held or received from the Assignees would be paid or delivered to other than the trust account of the brokerage, contrary to section 27(4) of the *Real Estate Services Act*; (iii) provided real estate services separate from his brokerage, contrary to section 7(3)(a) of the *Real Estate Services Act*; (iv) failed in his duty to keep his managing broker informed of the real estate services he was providing to HG, contrary to section 3-2(2)(a) of the Council Rules; (v) failed to advise RA, AB and GB to seek independent legal advice regarding the Assignment of Contract and the payment of the deposit directly to himself as the Assignor, contrary to section 3-3(1)(i) of the Council Rules; (vi) failed to act with reasonable care and skill when he did not record the full details of the Agreement between himself and HG as Assignors and RA, RA and/or GB as Assignees, contrary to section 304 of the Council Rules; (vii) failed to use reasonable care and skill by marketing subdivision lots when there was no disclosure statement filed with the Superintendent of Real Estate, contrary to section 40 of the *Real Estate Development Marketing Act*; (c) failed to take reasonable steps to avoid a conflict of interest, contrary to section 3-3(1)(i) and section 3-3(1)(j) of the Council Rules in five transactions in which he was a principal and acted as limited dual agent in relation to his purchase of the properties; (d) failed to take reasonable steps to avoid a conflict of interest, contrary to section 3-3(1)(i) and section 3-3(1)(j) of the Council Rules when

Disciplinary Decisions, *cont'd*

he, while a principal in the transaction, acted as a limited dual agent in relation to seven properties he owned.

RESULT: Raj Kumar Gupta was suspended for one hundred and eighty (180) days from October 1, 2008 to March 29, 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 Raj Kumar Gupta, and a Consent Order was issued. Further, Mr. Gupta was ordered to successfully complete the disciplinary education assignments applicable to Chapter 2 (*Real Estate Services Act*), Chapter 9 (Professional Ethics) and Chapter 12 (Law of Agency) of the Real Estate Trading Services Licensing Course, enroll in and attend the first available CPE course “Professionalism It Pays! Be Safe or Be Sued!” or “Legal Update”, to pay a discipline penalty in the amount of \$5,000.00 to the Council and to pay enforcement expenses to the Council in the amount of \$1,000.00.

COMPLAINT: Contravention of sections 35 [professional misconduct], 35(1)(a) [breach of Act, Regulations or Rules], 7(3)(a) [acting outside of brokerage], and 27(4) [trust funds] of the *Real Estate Services Act*, and sections 3-2(1) and (2) [duties to clients], and 5-9(1) and (3) [disclosure] of the Council Rules

ISSUE: Tarsem Thind, representative, Apex International Services Ltd. dba Century 21 Apex International, Delta, committed professional misconduct within the meaning of section 35 of the *Real Estate Services Act* by contravening sections 35(1)(a), 27(4), and 7(3)(a) of the *Real Estate Services Act* and sections 3-2(1) and (2), and 5-9(1) and (3) of the Council Rules in that he: (a) in relation to a Contract of Purchase and Sale dated December 11, 2005 relating to an assignment of interest between RD and ten buyers of a property, failed in his duty to keep his managing broker informed of the real estate services he was providing, contrary to section 3-2(1) and 3-2(2) of the Council Rules and failed to provide to his managing broker the copy of the Disclosure of Interest in Trade as required by section 5-9(1) of the Council Rules,

contrary to section 3-2(1) of the Council Rules; and (b) in relation to a Contract of Purchase and Sale dated February 17, 2006 relating to a property, between RG and HG as buyers and ten sellers: (i) failed to ensure that there was a separate written agreement between the parties to the transaction that money held on behalf of or received from the buyers would be paid or delivered to other than the trust account of a brokerage, contrary to section 27(4) of the *Real Estate Services Act*; (ii) provided real estate services outside of his brokerage, contrary to section 7(3)(a) of the *Real Estate Services Act*; (iii) failed in his duty to keep his managing broker informed of the real estate services he was providing, contrary to section 3-2(1) and 3-2(2) of the Council Rules and failed to provide to his managing broker the copy of the disclosure required by section 5-9(3) of the Council Rules, contrary to section 3-2(1) of the Council Rules; and (iv) acted in a conflict of interest when he acted as a representative of the sellers in a transaction in which he was also one of the principals.

RESULT: Tarsem Thind was suspended for sixty (60) days from August 27, 2008 to October 25, 2008 (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 Tarsem Thind, and a Consent Order was issued. Further, Tarsem Thind was ordered to successfully complete the disciplinary education assignments applicable to Chapter 9 (Professional Ethics) and Chapter 12 (Law of Agency) 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) [professional misconduct], 35(1)(d) [incompetence], and 27(1)(a) [payment into trust] of the *Real Estate Services Act*, section 16(2) [payment into trust] of the former *Real Estate Act*, and section 9.12(a) of Regulation 75/61 under the former *Real Estate Act* [negligence or incompetence]

ISSUE: Edward Gee Ming Jang, currently unlicensed, while licensed as a representative with Cypress Properties Ltd., Vancouver, committed professional misconduct

within the meaning of section 35(1) of the *Real Estate Services Act* in that he: (a) failed to promptly pay or deliver all money held or received from, for or on behalf of a principal to the brokerage, contrary to section 16(2) of the former *Real Estate Act* and/or section 27(1)(a) of the *Real Estate Services Act*; (b) demonstrated negligence or incompetence in that he failed to ensure that all money held or received from, for or on behalf of a principal was promptly paid or delivered to the brokerage, contrary to section 9.12(a) of Regulation 75/61 of the former *Real Estate Act*; and (c) demonstrated incompetence in that he failed to ensure that all money held or received from, for or on behalf of a principal was promptly paid or delivered to the brokerage, contrary to section 35(1)(d) of the *Real Estate Services Act*.

RESULT: Edward Gee Ming Jang was ordered that, as he is currently unlicensed, he will not make an application to be relicensed in any capacity until after July 21, 2009 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 Edward Gee Ming Jang, and a Consent Order was issued. Further, Edward Gee Ming Jang, upon relicensing, will be subject to the condition that he be under the direct supervision of a managing broker for a period of two (2) years following licensing, during which time the managing broker will report to the Council anything of an adverse nature with respect to his activities. After relicensing, should Edward Gee Ming Jang apply to be licensed as a managing broker, that application would be subject to a qualification hearing. Upon relicensing as a representative, Edward Gee Ming Jang was ordered to successfully complete the disciplinary education assignments applicable to Chapter 3 (Professional Ethics) and Chapter 12 (Law of Agency) of the Strata Management Licensing Course and pay enforcement expenses to the Council in the amount of \$750.00.

COMPLAINT: Contravention of sections 35(1) [professional misconduct], 35(1)(a) [contravention of Act, Regulations or Rules], 7(3)(a) [relationship between brokerage and licensee], and 27(1) and (4) [payment into trust account] of the *Real*

Disciplinary Decisions, *cont'd*

Estate Services Act, and sections 3-2(1) [delivery of records], 3-2(2)(a) [keeping managing broker informed], 3-3(1)(d) [independent advice], 5-4 [delivery of accepted offer], 5-9 [disclosure of interest in trade], and 5-10 [disclosure of representation and relationship] of the Council Rules

ISSUE: Chang Il Son, representative, Park Georgia Realty Ltd. (Coq), Coquitlam, committed professional misconduct within the meaning of section 35 of the *Real Estate Services Act* in that he: (a) contravened section 35(1) of the Act including without limitation subsection (1)(a) and section 5-9 of the Council Rules in that he failed to disclose to the seller of the property in a form approved by the Council that he owned one-half of the shares in the buyer of the property named in the offer; (b) contravened section 35(1) of the Act including without limitation subsection (1)(a) and section 3-3(1)(d) of the Council Rules in that he failed to recommend to the seller that the seller should obtain either independent legal advice or independent appraisal advice or both before accepting the offer; (c) contravened section 35(1) of the Act including without limitation subsection (1)(a) and section 5-10 of the Council Rules in that he failed to disclose the nature of the representation he would be providing to either the seller or the buyer in connection with the sale and purchase of the property; (d) contravened section 35(1) of the Act including without limitation subsection (1)(a) and section 7, subsection (3)(a) of the Act in that he provided real estate services as defined in the Act other than on behalf of his brokerage; (e) contravened section 35(1) of the Act including without limitation subsection (1)(a) and section 27, subsections (1) and (4) of the Act in that he failed to pay or deliver promptly to his brokerage money held or received on behalf of the buyer without obtaining a written agreement from the seller and the buyer excluding the application of section 27, subsection (1) of the Act as is required by section 27, subsection (4) of the Act; (f) contravened section 35(1) of the Act including without limitation subsection (1)(a) and section 3-2(1) of the Council Rules in that he failed to deliver to his managing broker a copy or the original of all records related to the sale and purchase of the property that were in his

possession and prepared by or on his behalf or that had been received by or on behalf of a principal; (g) contravened section 35(1) of the Act including without limitation subsection (1)(a) and section 5-4 of the Council Rules in that he failed to deliver to his managing broker a copy of the offer after it had been accepted by the seller; and (h) contravened section 35(1) of the Act including without limitation subsection (1)(a) and section 3-2(2)(a) of the Council Rules in that he failed to inform his managing broker of the real estate services he was providing in connection with the sale and purchase of the property.

RESULT: Chang Il Son was suspended for twenty-one (21) days from August 27, 2008 to September 16, 2008 (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 Chang Il Son, and a Consent Order was issued. Chang Il Son was ordered to successfully complete the disciplinary education assignments applicable to Chapter 9 (Professional Ethics) of the Real Estate Trading Services Licensing Course, enroll in and attend the first available CPE course “What Brokerages and Realtors Need to Know About Agency”, and pay enforcement expenses to the Council in the amount of \$750.00.

COMPLAINT: Contravention of section 35(1)(a) [professional misconduct] of the *Real Estate Services Act*, and sections 3-3(1)(a) [best interests of clients], 3-3(1)(h) [reasonable efforts to discover relevant facts], 3-2(4) [supervision of employees], 3-4 [duty to act with reasonable care and skill] and 6-1(1) [pay remuneration to unlicensed individual] of the Council Rules

ISSUE: Lester Twarog, representative, Crest Realty Westside Ltd. (VanW7) dba Re/Max Crest Realty, (VanW7), Vancouver, while licensed with Crest Realty Westside Ltd. (VanBch) dba Re/Max Crest Realty, (VanBch), Vancouver, committed professional misconduct under section 35(1)(a) of the *Real Estate Services Act* in that he, in the purchase of three properties on Howe Street, Vancouver, by a buyer and in the supervision of an unlicensed individual with respect to the proposed purchase of

the units: (a) contravened sections 3-3(1)(a), 3-3(1)(h) and 3-4 of the Council Rules by failing to make appropriate inquiries to discover and ascertain whether permits were obtained to renovate one or more of the units being purchased by the buyer; (b) contravened section 3-2(4) of the Council Rules when he: (i) permitted an unlicensed individual to show the units to the buyer; (ii) permitted an unlicensed individual to draft offers to acquire the units; (iii) permitted an unlicensed individual to present the offers; and (iv) permitted an unlicensed individual to advise the buyer with respect to the offers; and (c) contravened section 6-1(1) of the Council Rules by paying remuneration to an unlicensed individual for performing one or more of the real estate services referred to above.

RESULT: Lester Twarog was suspended for fourteen (14) days from October 22, 2008 to November 4, 2008 (inclusive) for professional misconduct as described above. In addition, he was required to successfully complete the disciplinary education assignments applicable to Chapter 2 (The *Real Estate Services Act*) and Chapter 12 (Law of Agency) of the Real Estate Trading Services Licensing Course, to enroll in and attend the first available CPE course “Professionalism it Pays! Be Safe or Be Sued” or “Legal Update” and to enroll in and attend Unit One (Agency Disclosure, Privacy and the Realtor Code) of the Residential Trading Services Applied Practice Course. Further, Lester Twarog was required to pay enforcement expenses to the Council in the amount of \$3,953.00.

COMPLAINT: Contravention of section 35(1)(a) [professional misconduct] of the *Real Estate Services Act*, and sections 3-2(2) [keep managing broker informed] and 3-4 [duty to act with reasonable care and skill] of the Council Rules

ISSUE: Frederick Allan Welyk, representative, Westcan Realty Inc. dba Sutton Group – Westcan Realty, Victoria, committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* by contravening sections 3-2(2) and 3-4 of the Council Rules in that he: (a) failed to clarify in a fax sent to the listing representative that the second deposit had not been deposited in trust by the brokerage

Disciplinary Decisions, *cont'd*

when instructing the conveyancer person to fax a copy of the said deposit cheque to the listing representative; and (b) failed to advise his managing broker on August 21, 2006 that the said deposit cheque that was received was to be held and would not be promptly deposited into the trust account of the brokerage until an environmental issue was resolved by the buyer.

RESULT: Frederick Allan Welyk was suspended for fourteen (14) days from October 22, 2008 to November 4, 2008 (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 Frederick Allan Welyk, and a Consent Order was issued. Further, Frederick Allan Welyk was ordered to successfully complete the disciplinary assignment applicable to Chapter 2 (*The Real Estate Services Act*) of the Real Estate Trading Services Licensing Course, to enroll in and attend the first available “Legal Update” course, and to pay enforcement expenses to the Council in the amount of \$750.00.

COMPLAINT: Contravention of sections 35(1)(a) [professional misconduct] and 35(1)(d) [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 5-9 [disclosure of interest in trade] of the Council Rules

ISSUE: Scarlet Rose Armstrong, representative, Tri-Tel Realty Ltd. dba Coldwell Banker Tri-Tel Realty, Maple Ridge, committed professional misconduct within the meaning of sections 35(1)(a) and 35(1)(d) of the *Real Estate Services Act* by contravening sections 3-3, 3-4, 5-8 and 5-9 of the Council Rules in that she: (a) failed to act with reasonable care and skill and in the best interests of her client when she failed to include an adequate condition in the Contract of Purchase and Sale with respect to the said property to protect her client from liability to pay any special assessments approved by the strata corporation prior to the completion date and a provision for a hold-back from the purchase price in order to pay any special assessments occurring after completion, contrary to section 3-3(1)(a) and section 3-4 of the Council Rules; and (b) failed to promptly and fully disclose to

the seller of property that the said licensee acquired an interest in the said property, as required by section 5-9 and section 5-8(2) of the Council Rules.

RESULT: Scarlet Rose Armstrong was suspended for fourteen (14) days from August 27, 2008 to September 9, 2008 (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 Scarlet Rose Armstrong, and a Consent Order was issued. Further, Scarlet Rose Armstrong was required to successfully complete the disciplinary education assignment applicable to Chapter 2 (*Real Estate Services Act*) of the Real Estate Trading Services Licensing Course, enroll in and attend the first available CPE course “Condo 101: Strata Law for Realtors” and pay enforcement expenses to the Council in the amount of \$750.00.

COMPLAINT: Contravention of section 35(1)(d) [incompetence] of the *Real Estate Services Act*

ISSUE: Dale Richard Shortt, representative, Ocean Pointe Realty Ltd. (Ldy) dba Re/Max Ocean Pointe Realty (Ldy), Ladysmith, while licensed with Nanaimo Realty Co. Ltd. dba Royal LePage Nanaimo Realty, Nanaimo, committed professional misconduct, contrary to section 35(1)(d) of the *Real Estate Services Act* in that he, as a limited dual agent in the listing and sale of property from one company, as seller, to another company, as buyer, by Contract of Purchase and Sale dated January 6, 2006, as amended from time to time: (a) failed to follow up with his brokerage to ensure a property search had been conducted of the subject property or ensure that he did a search himself; (b) failed to document that neither party was aware of the municipality’s position on the proposed number of building lots and what the consequences of municipal approval or rejection of a defined number of building lots; (c) failed to draft a contract with reasonable care and skill, including: (i) failed to ensure the contract referred to the registered owner, the seller, and instead referred to an officer and director of the seller; (ii) failed to ensure that the contract referenced the parties’ awareness that the Municipal By-laws had recently changed and that neither party

could identify how long it would take to obtain preliminary layout or other municipal approval; and the consequences thereof and conduct required of the parties; and (d) failed to document his advice and the fact that the parties were advised to seek independent legal advice as to financing, mortgage and development issues.

RESULT: Dale Richard Shortt was suspended for fourteen (14) days from September 3, 2008 to September 16, 2008 (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 Dale Richard Shortt, and a Consent Order was issued. Further, Dale Richard Shortt was ordered to pay enforcement expenses to the Council in the amount of \$750.00.

COMPLAINT: Contravention of sections 35(1)(a) [professional misconduct] and 35(1)(d) [incompetence] of the *Real Estate Services Act*, sections 3-3 [duties to clients] and 3-4 [duty to act with reasonable care and skill] of the Council Rules

ISSUE: Susan Viola Lyle, managing broker, D.F.H. Real Estate Ltd. (ShwnLk), Shawnigan Lake, committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* by contravening section 35(1)(d) of the *Real Estate Services Act* and sections 3-3 and 3-4 of the Council Rules in that she: (a) failed to advise the said buyers to seek independent professional advice on matters outside her expertise by advising them that they could work with the land and make changes when asked by the buyers if they could add some fill to the property to make the property more suitable for their needs; (b) failed to use reasonable efforts to discover relevant facts respecting the said property; and (c) failed to recommend to the said buyers to contact the District prior to making an offer on the said property to ascertain if the plans they had for the property would be permitted, or, in the alternative, recommend to the said buyers to make their offer subject to confirming that their intended house plans and infill would be permitted.

RESULT: Susan Viola Lyle was suspended for fourteen (14) days from October 1,

Disciplinary Decisions, *cont'd*

2008 to October 14, 2008 (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 Susan Viola Lyle, and a Consent Order was issued. Susan Viola Lyle was further ordered to successfully complete the disciplinary education assignments applicable to Chapter 5 (The Professional Liability of Real Estate Licensees) of the Real Estate Trading Services Licensing Course and to enroll in and attend the first available CPE Course "Legal Update". Further, Susan Viola Lyle was ordered to pay enforcement expenses to the Council in the amount of \$750.00.

COMPLAINT: Contravention of sections 35(1)(d) [incompetence] and 6(2) [managing broker responsibilities] of the *Real Estate Services Act*, and section 3-1 [managing broker responsibilities] of the Council Rules

ISSUE: Ronald Illsley Limer, associate broker, 707874 B.C. Ltd. dba Re/Max First Realty, Parksville, while licensed as managing broker with Estate Realty Ltd. dba Coldwell Banker Comox Valley, now known as Coldwell Banker Island Coastal, Courtenay, committed professional misconduct within the meaning of section 35(1)(d) of the *Real Estate Services Act* in that he: (a) failed to ensure that the seller was immediately notified in writing that the deposit that was contemplated by the second contract had not been received, in accordance with his duties as a managing broker under section 3-1(4)(a) and 3-1(5) of the Council Rules; and (b) failed to ensure the assignment of the contract from JK to JC was competently drafted, in accordance with his duties as a managing broker under section 6(2) of the *Real Estate Services Act* and section 3-1 of the Council Rules.

RESULT: Ronald Illsley Limer was suspended for fourteen (14) days from October 29, 2008 to November 11, 2008 (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 Illsley Limer, and a Consent Order was issued. Further, Ronald Illsley Limer and Robert Scott Joiner were

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

COMPLAINT: Contravention of section 35(1)(d) [incompetence] of the *Real Estate Services Act* and section 3-4 [reasonable care and skill] of the Council Rules

ISSUE: Robert Scott Joiner, representative, Estate Realty Ltd. dba Coldwell Banker Comox Valley, now known as Coldwell Banker Island Coastal, Courtenay, committed professional misconduct within the meaning of section 35(1)(d) of the *Real Estate Services Act* in that he failed to ensure that the assignment of the contract from JK to JC was properly documented, in accordance with section 3-4 of the Council Rules.

RESULT: Robert Scott Joiner was suspended for seven (7) days from October 1, 2008 to October 7, 2008 (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 Robert Scott Joiner, and a Consent Order was issued. Robert Scott Joiner was also ordered to enroll in and attend the first available CPE Course "Contracts: Keep on Top of Changes" or "Risk Management for Realtors". Further, Robert Scott Joiner and Ronald Illsley Limer were ordered to be jointly and severally liable to pay enforcement expenses to the Council in the amount of \$750.00.

COMPLAINT: Contravention of section 35(1)(d) [incompetence] of the *Real Estate Services Act* and section 3-4 [reasonable care and skill] of the Council Rules

ISSUE: Virginia Arlene D'arcangelo Mackie, representative, Estate Realty Ltd. dba Coldwell Banker Comox Valley, now known as Coldwell Banker Island Coastal, Courtenay, committed professional misconduct within the meaning of section 35(1)(d) of the *Real Estate Services Act* in that she failed to ensure that the assignment of the contract from JK to JC was properly documented, in accordance with section 3-4 of the Council Rules.

RESULT: Virginia Arlene D'arcangelo Mackie 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 Virginia Arlene D'arcangelo Mackie, and a Consent Order was issued.

COMPLAINT: Contravention of sections 35 [professional misconduct] and 35(1)(a) [breach of Act, Regulations or Rules] of the *Real Estate Services Act*, and section 3-2(1) [duties to clients] of the Council Rules

ISSUE: Gurcharan Singh Sekhon, representative, Apex International Services Ltd. dba Century 21 Apex International, Delta, committed professional misconduct within the meaning of section 35 of the *Real Estate Services Act* by contravening section 35(1) (a) of the *Real Estate Services Act* and section 3-2(1) of the Council Rules in that he: (a) in relation to a Contract of Purchase and Sale dated December 11, 2005 relating to an assignment of interest between RD and ten buyers of a property, failed to provide his managing broker the copy of the Disclosure of Interest in Trade required by section 5-9(1) of the Council Rules, contrary to section 3-2(1) of the Council Rules; and (b) in relation to a Contract of Purchase and Sale dated February 17, 2006 regarding property between RG and HG as buyers and ten sellers, failed to provide to his managing broker the copy of the Disclosure of Interest in Trade required by section 5-9(3) of the Council Rules, contrary to section 3-2(1) of the Council Rules.

RESULT: Gurcharan Singh Sekhon was suspended for seven (7) days from August 27, 2008 to September 2, 2008 (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 Gurcharan Singh Sekhon, and a Consent Order was issued. Further, Gurcharan Singh Sekhon 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 \$750.00.

COMPLAINT: Contravention of sections 35(1) (a) [professional misconduct] and 35(1)(d) [incompetence] of the *Real Estate Services Act*

Disciplinary Decisions, *cont'd*

ISSUE: Susan Mae Perrey, formerly known as Susan Mae Perron, representative, Island Homes Realty Corp. dba Island Homes Realty, Ladysmith, committed professional misconduct within the meaning of section 35(1)(a) and section 35(1)(d) of the *Real Estate Services Act* in that she: (a) undertook to act as a limited dual agent when she was the buyer in the subject transaction, which conflicted with the interests of her client, the said sellers; and (b) failed to make the said Contract of Purchase and Sale subject to the sellers seeking independent advice and/or independent legal advice with respect to the value of the said property and/or the terms and conditions of the said contract.

RESULT: Susan Mae Perrey was suspended for seven (7) days from October 22, 2008 to October 28, 2008 (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 Susan Mae Perrey, and a Consent Order was issued. Further, Susan Mae Perrey was ordered to successfully complete the disciplinary assignments applicable to Chapter 2 (The *Real Estate Services Act*) and Chapter 10 (The Law of Contract) of the Real Estate Trading Services Licensing Course, and to pay enforcement expenses to the Council in the amount of \$750.00.

COMPLAINT: Contravention of sections 35(1) [professional misconduct], 35(1)(a) [contravention of Act or Rules], and 3(1)(a) [requirement for licence to provide real estate services] of the *Real Estate Services Act*, and sections 5-1(4), 5-1(5), and 5-1(6) [written service agreements] of the Council Rules

ISSUE: Pacifica First Management Ltd., Vancouver, committed professional misconduct within the meaning of section 35 of the *Real Estate Services Act* by: (a) contravening section 35(1) of the Act including without limitation subsection (1)(a) in that it failed to ensure that the written service agreement between Pacifica and the owner with respect to the provision of rental property management services for the property included the content required by section 5-1(4) and (5) of the Council Rules; and (b) contravening section 5-1(6) of the Council Rules in that it failed to ensure that any amendment or

alteration to the written service agreement between Pacifica and the owner was made in writing and signed by the client and an authorized signatory of Pacifica.

ISSUE: Franklin Derek Lew, representative, Pacifica First Management Ltd., Vancouver, committed professional misconduct within the meaning of section 35 of the *Real Estate Services Act* by contravening section 3(1)(a) of the *Real Estate Services Act* in that he undertook duties in connection with Pacifica's provision to the owner of rental property management services for the property by supervising an individual when his licence did not permit him to do so.

RESULT: Pacifica First Management Ltd. was ordered to pay a discipline penalty in the amount of \$2,500.00 to the Council 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 Pacifica First Management Ltd., and a Consent Order was issued. Further, Pacifica First Management Ltd. acknowledged and agreed that the Council is entitled to perform a spot audit at Pacifica's expenses without further notice to Pacifica within six months of the date of the Order. Further, Pacifica First Management Ltd. and Franklin Derek Lew are jointly and severally liable to pay enforcement expenses to the Council in the amount of \$750.00.

RESULT: Franklin Derek Lew 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 Franklin Derek Lew, and a Consent Order was issued. Further, Franklin Derek Lew 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, Franklin Derek Lew and Pacifica First Management 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) [professional misconduct], 6(2), [supervision of associate brokers and represen-

tatives], and 7(5)(a) [provision of real estate services by unlicensed representative] of the *Real Estate Services Act*, and section 3-1 [managing broker responsibilities] of the Council Rules

ISSUE: Home Team Realty Ltd., Victoria, committed professional misconduct within the meaning of section 35(1) of the *Real Estate Services Act* in that it: (a) failed to have a managing broker ensuring that the business of the brokerage was carried out in compliance with the provisions of the *Real Estate Services Act*, contrary to section 6(2) of the *Real Estate Services Act* and section 3-1 of the Council Rules; and (b) permitted an unlicensed individual to provide real estate services to Home Team Realty Ltd., contrary to section 7(5)(a) of the *Real Estate Services Act*.

ISSUE: John Gary Davis, associate broker, Camosun Properties Ltd. dba Re/Max Camosun, Victoria, while licensed as managing broker, Home Team Realty Ltd., Victoria, committed professional misconduct within the meaning of section 35(1) of the *Real Estate Services Act* in that he: (a) permitted the brokerage to provide real estate services through an individual who was not licensed in relation to or engaged by Home Team Realty Ltd., contrary to section 7(5)(a) of the *Real Estate Services Act*; (b) failed to ensure the business of the brokerage was carried out competently and in accordance with the *Real Estate Services Act* and the Council Rules; and (c) failed to ensure that there was an adequate level of supervision for related associate brokers and representatives who performed services on behalf of the brokerage, contrary to section 3-1(1) or 3-1(2) of the Council Rules.

RESULT: Home Team Realty 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 Home Team Realty Ltd., and a Consent Order was issued. Further, Home Team Realty Ltd. and John Gary Davis are jointly and severally liable to pay enforcement expenses to the Council in the amount of \$750.00.

RESULT: John Gary Davis was reprimanded for professional misconduct as described

Disciplinary Decisions, *cont'd*

above after an Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver was entered into between the Real Estate Council and John Gary Davis, and a Consent Order was issued. Further, John Gary Davis must successfully 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 a discipline penalty to the Council in the amount of \$2,000.00. In addition, John Gary Davis and Home Team Realty Ltd. 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] of the *Real Estate Services Act*

ISSUE: Sharron Maxien Billey, managing broker, Sharron Billey Holdings Ltd. dba Realty Executives Cranbrook Agencies Real Estate, Cranbrook, committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that she, in the provision of certain rental property management services: (a) provided rental property management services on behalf of an unlicensed entity, being Sharron Billey Holdings Ltd. dba The Land Company; and (b) provided certain rental property management services on behalf of Sharron Billey Holdings Ltd. dba The Land Company without disclosing to the principals that an associate of Ms. Billey would receive a benefit by reason of that individual being a shareholder of The Land Company; and, in the provision of trading services for an individual in the purchase of property in May 2007, (c) failed to include a clause in the contract recommending that the individual obtain independent legal advice with respect to the deposit being paid directly to the legal representative of a developer and not to the trust account of Realty Executives Cranbrook.

RESULT: Sharron Maxien Billey 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 Sharron Maxien Billey, and a Consent Order was issued. Further, Sharron Maxien Billey was ordered

to pay a discipline penalty in the amount of \$2,000.00, 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 in the amount of \$750.00 to the Council.

COMPLAINT: Contravention of sections 35(1)(a) [professional misconduct], 3 [requirement for licence to provide real estate services], 6 [brokerage must have managing broker], 7(3)(a) [must not provide real estate services other than on behalf of the brokerage to which licensed], 7(5)(a) [provision of real estate services by unlicensed representative], 7(5)(b) [must not engage a licensee who is licensed to another brokerage] of the *Real Estate Services Act*, and sections 2-22(1)(d) [brokerage must give notice of change of directors or officers] and 6-1 [payment to unlicensed persons prohibited] of the Council Rules

ISSUE: Sheridan Property Management Ltd., Kamloops, currently unlicensed, committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that it permitted licensees engaged by the brokerage to provide trading services on behalf of another brokerage.

ISSUE: Mona Marlene Murray, associate broker, Gateway Property Management Corporation (Kam), Kamloops, while licensed as managing broker, Sheridan Property Management Ltd., Kamloops, committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act*, by contravening section 7(3)(a) of the *Real Estate Services Act* in that she acted on behalf of Gateway while licensed with Sheridan, contrary to section 7(3)(a) of the *Real Estate Services Act*.

ISSUE: Gateway Property Management Corporation, Kamloops, committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* by contravening section 6 of the *Real Estate Services Act* in that it: (a) failed to have a managing broker in active charge of the business of the brokerage by reason of the facts described in Part G, sub-paragraphs 10, 11, 12(a) and (b), 14, 18-21, and 26-30 of the Agreed Statement of Facts; (b) operated unlicensed branch offices at

three locations, contrary to section 3 of the *Real Estate Services Act*; and (c) engaged an individual to act as a managing broker for the unlicensed branch office in Kelowna and another individual to act on its behalf as a licensee while they were licensed with Sheridan, contrary to section 7(5)(b) of the *Real Estate Services Act*.

ISSUE: Randall Scott Ullrich, managing broker, Gateway Property Management Corporation, Delta, committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that he: (a) permitted the brokerage to provide real estate services through individuals who were licensed in relation to another brokerage, contrary to section 7(5)(a) of the *Real Estate Services Act*; (b) engaged a managing broker for Sheridan to act as a managing broker for an unlicensed branch office of Gateway in Kelowna; (c) permitted an unlicensed branch office of Gateway to operate in Kelowna; (d) permitted an unlicensed branch office of Gateway to operate in Victoria; (e) permitted an unlicensed branch office of Gateway to operate in Prince George; (f) failed to notify the Council of a change in directors or officers of Sheridan when Gateway acquired that brokerage, contrary to section 2-22(1)(d) of the Council Rules; (g) failed to ensure the business of the brokerage was carried out in accordance with the *Real Estate Services Act* and the Council Rules; (h) permitted the brokerage to provide real estate services through an individual who was not licensed to provide such services, contrary to section 7(5)(a) of the *Real Estate Services Act*; (i) permitted the brokerage to pay remuneration to an individual in relation to that individual's provision of real estate services on behalf of the brokerage while that individual was unlicensed, contrary to section 6-1 of the Council Rules.

ISSUE: Larry Joseph Bray, currently unlicensed, while licensed as a representative, Sheridan Property Management Ltd., Kamloops, committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* by contravening section 7(3)(a) and section 7(3)(b) of the *Real Estate Services Act* in that he provided real estate services on behalf of Gateway while licensed with Sheridan, contrary to section 7(3)(a) of the *Real Estate Services Act*.

Disciplinary Decisions, *cont'd*

RESULT: Sheridan 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 Sheridan Property Management Ltd., and a Consent Order was issued. Further, Sheridan Property Management Ltd. and Gateway Property Management Corporation are jointly and severally liable to pay enforcement expenses to the Council in the amount of \$750.00.

RESULT: Mona Marlene Murray 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 Mona Marlene Murray, and a Consent Order was issued. Further, Mona Marlene Murray must successfully complete the disciplinary education assignments applicable to Chapter 2 (Mandatory Requirements under the *Real Estate Services Act*) of the Broker's Licensing Course, enroll in and attend the first available CPE course "Professionalism It Pays! Be Safe or Be Sued!" or "Legal Update" and pay a discipline penalty to the Council in the amount of \$1,000.00.

RESULT: Gateway Property Management Corporation 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 Gateway Property Management Corporation, and a Consent Order was issued. Further, Gateway Property Management Corporation and Sheridan Property Management Ltd. are jointly and severally liable to pay enforcement expenses to the Council in the amount of \$750.00.

RESULT: Randall Scott Ullrich 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 Randall Scott Ullrich, and a Consent Order was issued. Further, Randall Scott Ullrich must successfully complete the disciplinary education assignments applicable to Chapter 2 (Mandatory Requirements under the *Real Estate Services*

Act) of the Broker's Licensing Course, enroll in and attend the first available CPE course "Professionalism It Pays! Be Safe or Be Sued!" and pay a discipline penalty to the Council in the amount of \$3,000.00.

RESULT: Larry Joseph Bray 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 Larry Joseph Bray, and a Consent Order was issued. Further, as a condition of re-licensing, Larry Joseph Bray must successfully complete the disciplinary education assignment applicable to Chapter 2 (*Real Estate Services Act*) of the Real Estate Trading Services Licensing Course.

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

ISSUE: Westcan Realty Inc. dba Sutton Group – Westcan Realty, Victoria, committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* by contravening section 27(2) of the *Real Estate Services Act* in that it failed to promptly pay into the brokerage trust account all money held or received from, for or on behalf of a principal in relation to real estate services with respect to four deal files.

ISSUE: Morgan P. Baker, managing broker, Westcan Realty Inc. dba Sutton Group – Westcan Realty, 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: (a) failed to properly supervise the brokerage's conveyancer in that, on instruction from a licensee, the conveyancer held the second deposit cheque that was received on August 21, 2006 from being deposited into trust until August 23, 2006 and the conveyancer sent a fax to the listing representative confirming that the second deposit cheque had been received without clarifying that it had not been deposited into the trust account; (b) failed to ensure that the deposits received by the brokerage in connection with four deal files were promptly deposited into the trust account of the brokerage; and (c) failed to immediately

provide written notification to the listing brokerage upon discovering that the second deposit cheque was not honoured due to insufficient funds, as required by section 3-1(4)(b) of the Council Rules.

RESULT: Westcan Realty Inc. dba Sutton Group – Westcan 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 Sutton Group – Westcan Realty, and a Consent Order was issued. Further, Sutton Group – Westcan Realty and Morgan P. Baker are jointly and severally liable to pay enforcement expenses to the Council in the amount of \$750.00.

RESULT: Morgan P. Baker 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 Morgan P. Baker, and a Consent Order was issued. Further, Morgan P. Baker was ordered to successfully complete the disciplinary assignment applicable to Chapter 2 (Mandatory Requirements Under the *Real Estate Services Act*) of the Broker's Licensing Course and enroll in and attend the first available "Legal Update" course. Further, Morgan P. Baker and Sutton Group – Westcan Realty 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] and 35(1)(d) [incompetence] of the *Real Estate Services Act*, and section 3-3(1)(a) [act in best interest of the client] of the Council Rules

ISSUE: Denise Yvonne Hilbert, representative, RLK Realty Ltd. (LkCty) dba Royal LePage Kelowna (LkCty), Lake Country, committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* by contravening section 35(1)(d) of the *Real Estate Services Act* and section 3-3(1)(a) of the Council Rules in that she: (a) had the said sellers sign an exclusive listing contract dated January 12, 2007 with her as the listing representative, when she knew or ought to have known that the said sellers had previously signed an MLS® list-

Disciplinary Decisions, *cont'd*

ing contract with Coldwell Banker Horizon Realty on or about January 9, 2007, which was activated on MLS® on January 10, 2007 and which was still in effect at the time in question, thereby placing the said sellers in the position of potentially being liable for two commissions; (b) had the said sellers sign an amendment to the Multiple Listing Contract between Coldwell Banker Horizon Realty and the said sellers dated January 9, 2007 on or about January 13, 2007 and then backdated the said amendment to January 10, 2007 in order to exclude the buyers from the said Multiple Listing Contract, which parties had made an offer to purchase the said property dated January 13, 2007; and (c) failed to make proper agency disclosure on the said Contract of Purchase and Sale dated January 13, 2007 in that she indicated that she had an agency relationship with the sellers when in fact her brokerage had a limited dual agency relationship with both the buyers and the sellers.

RESULT: Denise Yvonne Hilbert 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 Denise Yvonne Hilbert, and a Consent Order was issued. Further, Denise Yvonne Hilbert 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 enroll in and attend the first available “Legal Update” course, and to pay enforcement expenses to the Council in the amount of \$750.00.

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

ISSUE: 574770 B.C. Ltd. dba Amos Realty, Oliver, committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* by contravening section 7-7(1)(b) of the Council Rules in that it failed to file an Accountant’s Report with the Council by the prescribed date.

ISSUE: Brian Ronald Amos, managing broker, Amos Realty, Oliver, committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* by not fulfilling his responsibilities as managing broker for the performance of the duties imposed on the brokerage by its licence within the meaning of section 6(2) (b) of the *Real Estate Services Act* and by contravening section 3-1(1)(a) and (b) and/or 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: Amos Realty 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 Amos Realty, and a Consent Order was issued. Further, Amos Realty and Brian Ronald Amos are jointly and severally liable to pay enforcement expenses to the Council in the amount of \$750.00.

RESULT: Brian Ronald Amos 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 Brian Ronald Amos, and a Consent Order was issued. Further, Brian Ronald Amos and Amos Realty 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] of the *Real Estate Services Act*, and sections 3-3(1) (a) [act in best interests of clients] and 3-4 [duty to act with reasonable care and skill] of the Council Rules

ISSUE: Harry Andrew Pettit, representative, Internet Realty Ltd. dba Prudential Kelowna Properties, Kelowna, committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that, in the provision of trading services regarding the property, he: (a) failed to make clear to other prospective buyers that they could make a backup offer to purchase the property, contrary to section 3-4 of the Council Rules; and (b) failed to advise the

seller of other prospective buyers’ interest in the property, contrary to section 3-3(1)(a) of the Council Rules.

RESULT: Harry Andrew Pettit 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 Harry Andrew Pettit, and a Consent Order was issued. Further, Harry Andrew Pettit was ordered to pay a discipline penalty to the Council in the amount of \$1,000.00, to successfully complete the disciplinary assignment applicable to Chapter 12 (The Law of Agency) of the Real Estate Trading Services Licensing Course, and to 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*, and sections 3-4 [duty to act with reasonable care and skill] and 5-3 [written authorization to sign on behalf of clients] of the Council Rules

ISSUE: Kim Stacey Beck, representative, Northstar Realty Ltd. dba Royal LePage Northstar Realty, Surrey, committed professional misconduct within the meaning of section 35(1) the *Real Estate Services Act* by contravening sections 3-4 and 5-3 of the Council Rules in that she: (a) failed to ensure that the assignee had removed her subject conditions before permitting the original buyer to sign an addendum changing the completion date from December 11, 2006 to January 30, 2007, which was for the sole benefit of the said assignee, and; (b) failed to obtain written authorization from the said buyer to initial the deletion of the completion date of January 30, 2007 and the possession and adjustment dates of January 30, 2007 and change the dates back to December 11, 2006 and December 17, 2006 respectively on behalf of the said buyer.

RESULT: Kim Stacey Beck 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 Kim Stacey Beck, and a Consent Order was issued. Kim Stacey Beck was ordered to successfully complete the disci-

Disciplinary Decisions, *cont'd*

plinary education assignment applicable to Chapter 11 (Contracts for Real Estate Transactions) of the Real Estate Trading Services Licensing Course, enroll in and attend the first available CPE course "Professionalism It Pays! Be Safe or Be Sued!" or "Legal Update" 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* and section 5-10 [disclosure of representation or relationship in trading services] of the Council Rules

ISSUE: Betty Ann Dahl, representative, Coronation Park Holdings Ltd. dba Royal LePage Coronation Park, Surrey, committed professional misconduct within the meaning of section 35(1) of the *Real Estate Services Act* in that she, in the assignment of the said Contract of Purchase and Sale dated December 8, 2006 between an individual as assignor to a company as assignee, failed to adequately disclose to the said assignor the nature of the representation that she was providing relating to the said assignment and the fact that the assignee was a company owned by her son.

ISSUE: Shirley Neumann, representative, Coronation Park Holdings Ltd. dba Royal LePage Coronation Park, Surrey, committed professional misconduct within the meaning of section 35(1) of the *Real Estate Services Act* in that she, in the assignment of the said Contract of Purchase and Sale dated December 8, 2006 between an individual as assignor to a company as assignee, failed to adequately disclose to the said assignor the

nature of the representation that she was providing relating to the said assignment and the fact that the assignee was a company owned by her nephew.

RESULT: Betty Ann Dahl 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 Betty Ann Dahl, and a Consent Order was issued. Betty Ann Dahl was ordered to enroll in and attend the first available CPE course, "Professionalism It Pays! Be Safe or Be Sued!" or "Legal Update". Further, Betty Ann Dahl and Shirley Neumann were ordered to be jointly and severally liable to pay enforcement expenses to the Council in the amount of \$750.00.

RESULT: Shirley Neumann 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 Shirley Neumann, and a Consent Order was issued. Shirley Neumann was ordered to enroll in and attend the first available CPE course, "Professionalism It Pays! Be Safe or Be Sued!" or "Legal Update". Further, Shirley Neumann and Betty Ann Dahl were ordered to be jointly and severally liable to pay enforcement expenses to the Council in the amount of \$750.00.

COMPLAINT: Contravention of sections 35(1) [professional misconduct] and 35(1) (d) [incompetence] of the *Real Estate Services Act* and sections 3-2(4) [associate broker and representative responsibilities] and 3-4 [duty to act honestly and with

reasonable care and skill] of the Council Rules

ISSUE: Edward Chung Hing Ng, representative, Pacifica First Management Ltd., Vancouver, committed professional misconduct within the meaning of section 35(1) of the *Real Estate Services Act* by: (a) contravening section 35(1) of the Act including without limitation subsection (1)(d) of the Act and section 3-4 of the Council Rules in that he failed to perform his duties in connection with the provision of rental property management services for the property competently and with reasonable care and skill; and (b) contravening section 3-2(4) of the Council Rules in that he failed to supervise one or more individuals or unknown individual who performed duties on behalf of himself or Pacifica or both at the property adequately and with sufficient care and attention to prevent the theft or other improper withholding of rental and other monies from the owner or Pacifica or both or, in the alternative, to discover in a timely way that one or more individuals or unknown individual who performed duties on behalf of himself or Pacifica or both at the property were stealing or otherwise improperly withholding rental and other monies from Pacifica or the owner or both.

RESULT: Edward Chung Hing 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 Edward Chung Hing Ng, and a Consent Order was issued. ■

Feedback?

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

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

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