

# Report from Council

## The Future Of REP

Licensees were advised in the December 2010 *Report from Council* that the Council had postponed making a decision about future Relicensing Education Program (REP) requirements in order to consider licensee feedback, as well as the synergy between REP and PDP required for ongoing board membership.

In May 2011, the Council decided that, effective January 1, 2013, in accordance with section 2-8.1 of the Council Rules, all licensees will be required to complete one applicable Legal Update course during each 24 month registration period in order to renew a licence.

### *What this means for licensees:*

- **To renew your licence in 2011 or 2012, you are required to have completed one REP course during the previous 24 months:**
  - If you are licensed to conduct trading services, you will complete any version (in-class, online,

2010/2011/2012, residential, commercial) of the 'Real Estate E&O Insurance Legal Update' course.

- If you are licensed to conduct rental property and/or strata management services (without trading), you will complete one REP approved elective course and may complete any 'Real Estate E&O Insurance Legal Update' course.

- **To renew your licence in 2013 and 2014, you are not required to complete any REP courses:** Licences issued during a 24-month period ending in 2013 or 2014 do not have any REP requirement associated with the renewal. However, if you are a board member, you will still be required to complete your 18 PDP credit requirement during this 24-month licence period for continued board membership.
- **To renew your licence in 2015 onward, you will be required to have**



**completed a Legal Update course:** All licensees are required to complete one Legal Update course during the 24-month registration period preceding their licence renewal date in 2015 onward and may select the version most applicable to the category, or categories, for which they are licensed.

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

## More Online REP Courses Now Available

The Council, in conjunction with its REP course providers (BCREA and PAMA), has worked to develop online versions of the mandatory 'Real Estate E&O Insurance Legal Update' courses, including versions for licensees engaged in residential trading services, commercial trading services, rental property management and strata management.

Based on feedback from licensees, BCREA and PAMA have worked closely

with the Real Estate Division at UBC's Sauder School of Business to develop and deliver these courses in an online format. Courses now available online include:

- Real Estate E&O Insurance Legal Update 2010
- Real Estate E&O Insurance Legal Update 2011
- Real Estate E&O Insurance Commercial Legal Update

- Real Estate E&O Insurance Legal Update for Rental Managers
- Real Estate E&O Insurance Legal Update for Strata Managers

Licensees can access these online courses by going to [www.realestate.ubc.ca/BCREAg](http://www.realestate.ubc.ca/BCREAg) for Legal Update 2010/2011 or for the Commercial Legal Update course. Licensees wishing to take the

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STATISTICS  
October 2011

Representatives: 17,703  
Associate Brokers: 1,709  
Managing Brokers: 1,312  
Total Licensees: 20,724  
Brokerages (including branch offices  
and sole proprietors): 1,439

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](http://www.recbc.ca).

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# A Note from the Chair



Bryon Brandle,  
Chair

As noted in the lead article of this *Report*, starting in 2013, the Council has simplified its Relicensing Education Program to require licensees to complete one applicable Legal Update course during each 24 month registration period in order to renew a licence. It is hoped that this new approach will result in less confusion for licensees.

continued high number of licensees, I am pleased to report that, effective January 1, 2012, the Council will reduce its licensing assessment fee by \$50.

Finally, this *Report* contains important information from the Homeowner Protection Office about three new strata maintenance bulletins. Licensees engaged in providing strata management services should familiarize themselves with the content of these bulletins.

On behalf of Council members and staff, I wish you a busy and productive autumn.

**Bryon Brandle**  
Chair

The Council has once again included its annual statistical charts and summaries in this *Report*. Licensees will note from the statistics that complaint and discipline activity remains high. In fact, this past year, the Council entered into 113 consent orders—a record high number.

As noted in the annual statistics, the number of licensees in the province is at all-time high levels and does not appear to be decreasing. As a result of the

*Continued from p1*

Legal Update for Rental Managers or Legal Update for Strata Managers can access the course by going to [www.real-estate.ubc.ca/PAMAregr](http://www.real-estate.ubc.ca/PAMAregr).

The online 'Legal Update' course content is broken into sections to allow for an individual to take breaks and complete the course at their own pace. Each sec-

tion has five multiple choice questions at the end in order to highlight important content. In addition, video presentations of the in-class offerings are also provided, giving students the opportunity to hear the course delivered by an instructor.

These courses satisfy both the Council's REP requirements and real estate board's PDP requirements. ■

## Office Closures

The Council office will be closed on **Friday, November 11, 2011** for Remembrance Day.

# Homeowner Protection Office Issues

## New Maintenance Bulletins

Strata managers are encouraged to review the Homeowner Protection Office's (HPO) three new Maintenance Matters bulletins. Maintenance Matters bulletins offer practical information on the maintenance of the building envelope of multi-unit residential buildings, including townhouses, low and high-rise residential buildings.

View the latest bulletins through the HPO's website at [www.hpo.bc.ca](http://www.hpo.bc.ca) or by following the links below for practical advice and helpful maintenance tips for

various types of cladding, exposed wood structures and at-grade and below-grade assemblies.

**Maintenance Matters # 8: Cladding** can be found at [www.hpo.bc.ca/files/download/MMR/MM8.pdf](http://www.hpo.bc.ca/files/download/MMR/MM8.pdf)

**Maintenance Matters #9: Exposed Wood Structures** can be found at [www.hpo.bc.ca/files/download/MMR/MM9.pdf](http://www.hpo.bc.ca/files/download/MMR/MM9.pdf)

**Maintenance Matters #10: At-Grade**



**and Below-Grade Assemblies** can be found at [www.hpo.bc.ca/files/download/MMR/MM10.pdf](http://www.hpo.bc.ca/files/download/MMR/MM10.pdf)

To be notified by email when a new Maintenance Matters bulletin is available or to subscribe to other HPO publications, go to Email Subscriptions on the What's New page at [www.hpo.bc.ca](http://www.hpo.bc.ca). ■

## Increases in Strata Management Fees— *When do they take Effect?*

The Real Estate Council occasionally receives complaints from strata corporations suggesting that the brokerage providing strata management services has withdrawn an increased management fee from the strata corporation's operating trust account without proper authority to do so.

Section 3-3(1)(c) of the Council Rules requires licensees to act only within the scope of authority given by their client. Section 3-3(1)(f) of the Council Rules requires licensees to disclose to the client all known material information respecting the real estate services being provided. Further, section 5-1(6) of the Council Rules specifies that any amendment of or addition to the terms of a service

agreement must be made in writing and signed by the client and an authorized signatory of the brokerage.

In some complaints, it has been alleged that the strata manager had discussed the management fee increase with the strata council at the time when the strata corporation's annual operating budget for the next fiscal year was being reviewed and prepared so that consideration could be given to increase the budget for management fees. It has been further alleged in some complaints that the strata council had agreed in principle to the increase, but wished to put the matter forward to their owners for consideration at the Annual General Meeting before approving the increase.

Even when a strata corporation's proposed annual operating budget is ratified by its strata owners (which includes an increased budget for strata management fees), a brokerage would only have authority to withdraw the increased management fee amount once the increased fees had been put in writing, and signed by the strata corporation client and an authorized signatory of the brokerage. This may be done through (a) amending the management fee amount in the existing service agreement, (b) an addendum to the existing service agreement reflecting the new management fee, or (c) a new service agreement. In any case, licensees and their related brokerages must ensure that the amendment, addendum or new service agreement is signed by the strata corporation and a person authorized by the brokerage, and that it includes the date on which the fee increase is to take effect. ■

## Assignment of Strata Management Service Agreements: Disclosure of Material Information about Strata Management Services

Concerns have been brought to the Council's attention in regard to the manner in which some brokerages licensed for strata management services are assigning existing service agreements to other brokerages also licensed to provide strata management services.

While, depending on the terms of their service agreement, brokerages may have the contractual right to assign their service

agreements to another licensed brokerage (and the rights and obligations contained therein), brokerages and their related licensees must ensure that prior to doing so, they have fulfilled their obligations under section 3-3(1)(f) of the Council Rules by informing their strata corporation clients of their intent to do so.

Section 3-3(1)(f) of the Council Rules requires brokerages and their related licens-

ees to disclose to their client all known material information respecting the real estate services. It is strongly recommended that this disclosure be made to the client in writing at the earliest possible date.

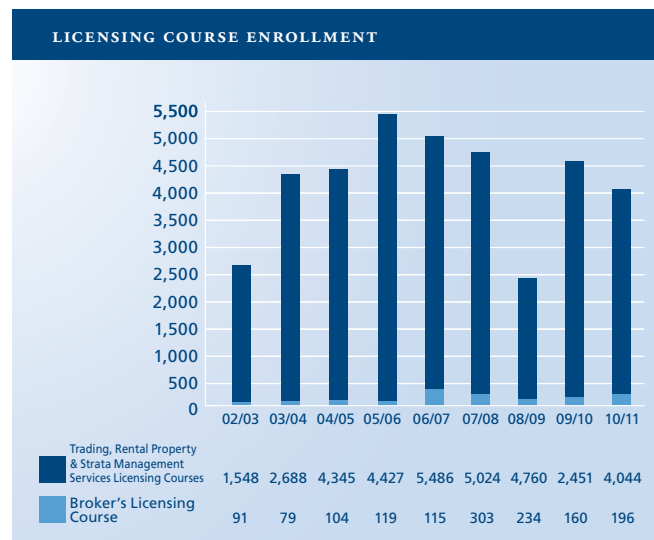
It is further recommended that the contract assignment made between the two brokerages be in writing, and that it include the date upon which the assignment is to take effect. ■

# Annual Statistics for the Council's Year End June 30, 2011

## Education

The administration of licensing courses has been delegated to the Real Estate Division at the Sauder School of Business, University of British Columbia, a task which it has been doing for over 53 years. British Columbia is the only jurisdiction in Canada that engages a university to oversee initial licensing education. This arrangement has, no doubt, enabled British Columbia to have some of the highest educational standards in North America.

The number of licensees taking the Council's licensing courses declined slightly when compared with last year. The number of individuals that took the Broker's licensing course remained consistent with last year. It should be noted that not all individuals who enroll in the licensing courses go on to obtain their real estate licence, as many individuals either do not complete the course, fail the course examination, or withdraw from the course.



## Licensing

Under the authority of the *Real Estate Services Act*, the Council is responsible for determining what is appropriate education for individuals seeking to be licensed as real estate practitioners, including real estate representatives, associate brokers and managing brokers engaged in real estate sales, rental and strata property management. In addition to establishing licensing guidelines and reviewing licensing courses, on a daily basis the Council considers a multitude of education and experience exemption requests from both licensees and members of the public.

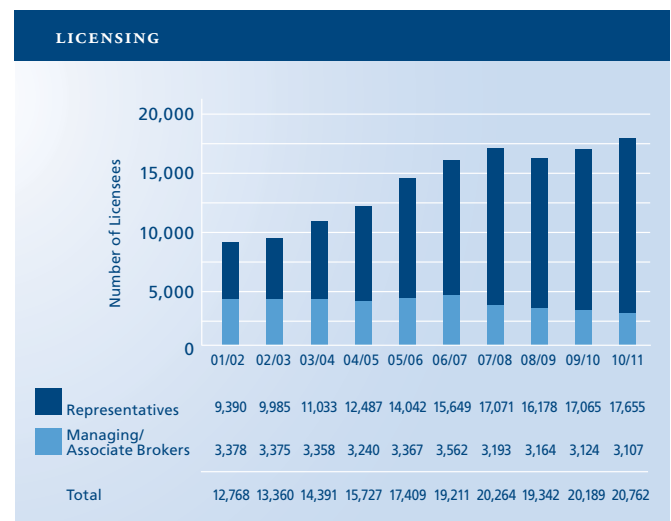
The Council is responsible for all licensing procedures associated with both individuals and brokerages under the

*Real Estate Services Act*. The Council administers a number of processes in connection with the issuance of licences, including the following:

- determining suitability for all licence applicants, including
  - conducting criminal record checks;
  - conducting credit history checks;
- ensuring that each brokerage has a managing broker in place;
- ensuring that brokerages maintain a proper place of business.

The Council issues licences in the following categories: Trading Services, Rental Property Management Services, and Strata Management Services.

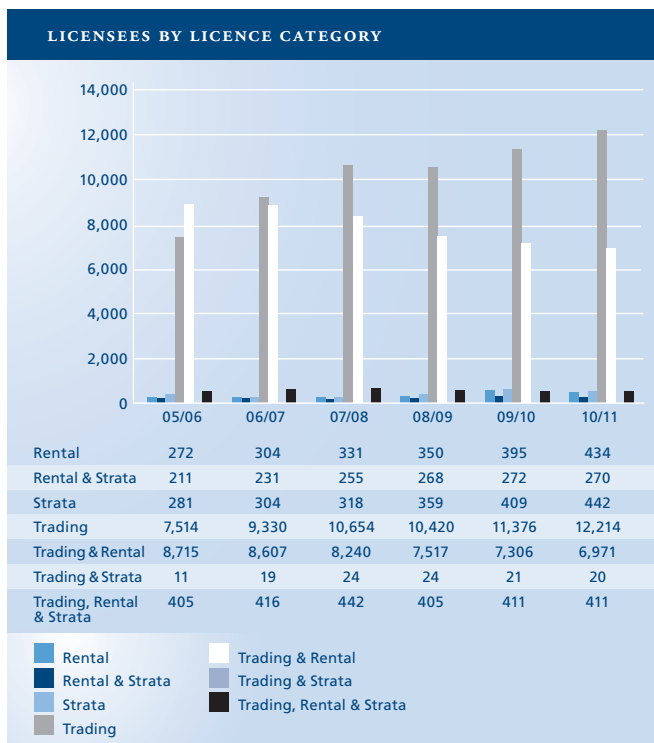
The number of individuals licensed in the province increased to a new all time high with 20,762, up from 20,189 last year. Over the past 10 years, the number of managing and associate broker licensees has remained consistent, averaging about 3,200 while at the same time the number of representative licensees has increased dramatically from 9,390 in 2001/02 to 17,655 in 2010/11.



Licensees in the province may be licensed to provide trading and/or rental and/or strata management services. The following chart shows the number of licensees by service category.

## Continuing Education

The Relicensing Education Program (REP) took effect on January 1, 2007 and requires licensees to complete education courses during the licensees' two-year licence period as a condition of continued licensing. The Council continues to adapt



REP so that licensees can more easily incorporate the culture of continued education into their real estate practice. At its July 2010 meeting, the Council decided to defer its decision regarding what the REP course requirements will be for a third cycle. The Council continues to work on developing the format and delivery method for future course requirements.

### Office and Records Inspection Program

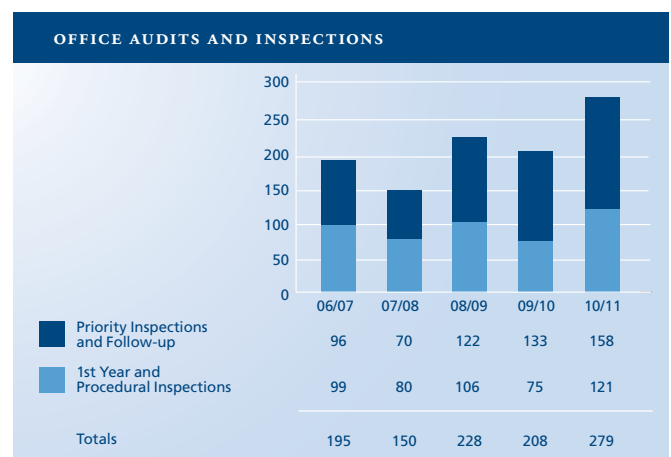
The mandate of the Council is to ensure that all licensed brokerages in the province have proper controls in place to protect trust monies at all times. In order to assist with this, the Council has been performing office and records inspections since 1967. The objective of an office and records inspection is to provide constructive feedback to the brokerage by identifying any deficiencies in the office and records as required by the *Real Estate Services Act*. The legislative authority, which allows the Council to perform an office and records inspection, is found in the *Real Estate Services Act*. The Act is very broad and allows auditors access to any documents which may relate to the brokerage's dealings as a licensee.

Office and records inspections are conducted on the following priority basis:

- a) as a result of complaints from consumers, licensees or the Superintendent of Real Estate;
- b) as a result of exceptions on Accountant's Reports;
- c) as a result of previous spot audit reports showing deficiencies;

- d) new brokerages involved in rental property management or strata management, followed by those engaged in trading services;
- e) new branch offices that handle trust funds; and
- f) as a result of suspensions due to disciplinary orders.

The following chart shows the number of Council office audit and inspections over the past several years. The chart shows priority and follow-up audits, as well as 1st year and procedural inspections.



### Complaints

Where a complaint has been received from a consumer or a licensee, the Council may conduct an investigation to determine whether a licensee has committed professional misconduct or conduct unbecoming a licensee within the meaning of the *Real Estate Services Act*. The Council may also conduct an investigation on its own initiative. This could include, for example, where the Council becomes aware of a court decision or news report that suggests professional misconduct or conduct unbecoming on the part of a licensee.

The basic purpose of the investigation is to determine whether a licensee has committed:

- professional misconduct by conduct that:
  - contravenes the *Real Estate Services Act*, Regulation, Bylaws or the Rules
  - contravenes a licence restriction or licence condition
  - demonstrates incompetence in performing any activity for which a licence is required
  - misappropriates or wrongfully converts money or other property entrusted to or received by the licensee in relation to the provision of real estate services
  - fails to comply with an order of the Council, a Discipline Committee, or the Superintendent of Real Estate

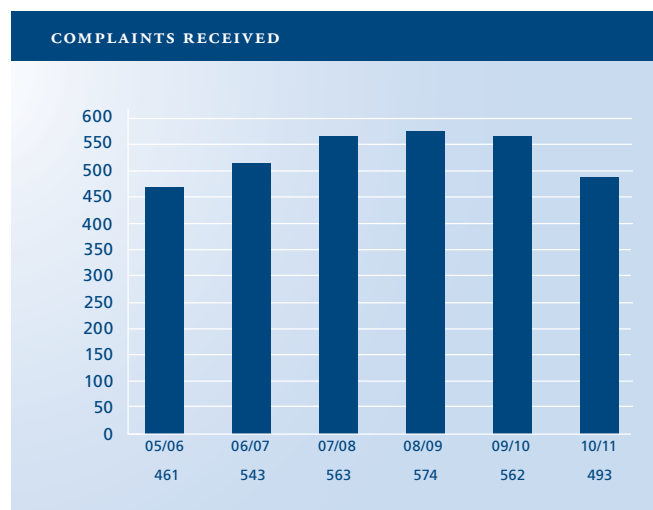
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- conduct unbecoming a licensee if the licensee engaged in conduct that:
  - is contrary to the best interests of the public
  - undermines public confidence in the real estate industry
  - brings the real estate industry into disrepute.

The Council appoints a Complaints Committee that has the responsibility for reviewing those complaints that have not been summarily resolved, together with the responses received from the licensee and the results of the Council's investigation. The Complaints Committee, assisted by the Council staff, has the right to further investigate the facts and circumstances of the complaint and the response received from the licensee. This investigation may include an inspection of the books, documents and records of the licensee. If the Complaints Committee is satisfied that there is no indication of professional misconduct or conduct unbecoming a licensee, the Committee will dismiss the complaint and close the file, and the Complainant and the licensee are so informed. If it appears that a licensee may have committed professional misconduct or conduct unbecoming a licensee, then the recommendation of the Complaints Committee will depend upon the apparent seriousness of the contravention. The Complaints Committee may recommend:

- a letter of warning
- a formal disciplinary hearing.

The number of complaints received at the Council office for the year ending June 30, 2011 decreased to 493 from 562 last year. This is the second year in a row that the number of complaints decreased and may be indicative that the number of complaints is on a downward trend. As noted last year, many factors, including the supervision of managing brokers and the industry's Professional Development Program may have helped to reduce the overall number of consumer complaints.



## Disciplinary and Hearing Processes

The Council has the authority, pursuant to sections 40 and 42 of the *Real Estate Services Act*, to hold formal disciplinary hearings. At the conclusion of the hearing, the Discipline Committee will retire to reach a decision. A written decision of the Discipline Committee is usually communicated within 30 days to the licensees and the complainant.

In some circumstances, the facts in a matter may be fairly straight forward and, as a result, there may be no argument regarding what happened. Also, a licensee may wish to admit to some or all of the Council's allegations. If the licensee and the Council staff agree, an agreed statement of facts may be submitted to the Discipline Committee. This could eliminate the necessity of calling witnesses and, while the hearing would still proceed, it could be reduced in scope and less costly for all parties involved.

In the event that a licensee wishes to admit the allegations and consents to a Discipline Committee making a specified order under section 43 of the *Real Estate Services Act*, the licensee may make a proposal under section 41 to settle the matter by way of a Consent Order. This process avoids the necessity of a formal hearing and can save considerable time and expense for the licensee. A proposal includes an agreed statement of facts, appropriate admissions and a request as to outcome on terms acceptable to the Council legal staff. Once a draft proposal has been settled by the licensee and the Council's legal staff, it will then be reviewed by a Discipline Committee called a Consent Order Review Committee. This committee may accept, reject or counter the proposal.

The Council entered into 113 Consent Orders for the year ending June 30, 2011, up from 96 last year. This is the highest number of Consent Orders ever recorded by the Council. The number of formal discipline hearings held was four, down from



six last year. The Council also held 13 qualification hearings—a form of hearing to determine the suitability of individuals for licensing under the *Real Estate Services Act*.

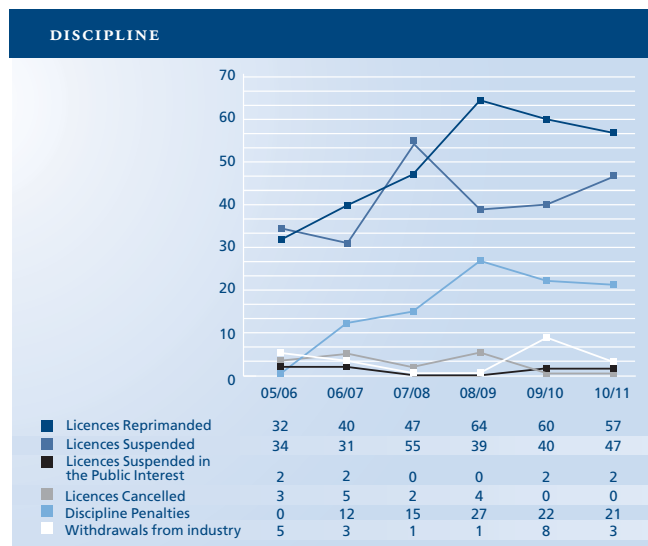
## Sanctions

The *Real Estate Services Act* allows the Discipline Committee to impose a range of disciplinary sanctions if it determines that a licensee has committed professional misconduct or conduct unbecoming a licensee. If there is such a finding, section 43(2) of the *Real Estate Services Act* requires the Discipline Committee to, by order, do one or more of the following:

- reprimand the licensee;
- suspend the licensee’s licence for a period of time and/or until specified conditions are met;
- suspend the licence in urgent circumstances
- cancel the licensee’s licence;
- impose restrictions or conditions on the licensee’s licence, or vary any applicable restrictions or conditions;
- require the licensee to:
  - cease or carry out any specified activity related to the licensee’s real estate business;
  - enroll in and complete a course of study or training;
  - pay a disciplinary penalty in an amount of not more than \$20,000 in the case of a brokerage or former brokerage, or not more than \$10,000 in any other case.

The Council may also recover enforcement expenses in accordance with section 44 of the *Real Estate Services Act*.

The number of discipline decisions handed down by the Council in 2010/11 was down slightly compared with last year. The number of licence reprimands decreased to 57 compared with 60 the year prior, while the number of licence suspensions was 47 compared with 40 over the same period. The Council issued 21 discipline penalties compared with 22 last year. There were three withdrawals from the industry, down from eight the year prior. Withdrawals from the industry occur in situations where a licensee requests that the Council discontinue disciplinary proceedings against them as the licensee has decided to agree to a lifetime ban from real estate practice in British Columbia.



## Notice of Licensee Resignation

Charles (Chuck) Buchanan Hardy 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. Hardy was facing a disciplinary hearing into his professional conduct while

licensed as a representative with Century 21 Executives Realty Ltd., Vernon, and would have been required to appear before a hearing panel of the Real Estate Council to respond to these allegations.

Considering the fact that there is likely

no greater disciplinary penalty than not being licensed to act again, the Real Estate Council agreed with Mr. Hardy’s request. The lifetime ban on Mr. Hardy’s licensing under the *Real Estate Services Act* is effective as of September 19, 2011. ■

# Disciplinary Decisions

Since the August 2011 *Report from Council newsletter*, the following actions have been taken as a result of disciplinary hearings and Consent Orders conducted by the Council.

## Trading Services

### **Binhui (Emily) Qi**

**ISSUE:** Binhui (Emily) Qi, currently unlicensed, entered into a Consent Order with the Council that, while licensed as a representative, Seacrest Sales Ltd. dba Royal LePage Westside, Vancouver, she committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that:

(a) while representing her husband, or in the alternative while representing the complainants JJX and AYM, or one or both of them, in connection with the purchase and sale of property: (i) contravened sections 5-9(1)(b) and 5-9(4) of the Council Rules in that she failed to disclose to the sellers her spousal relationship with the buyer in the form approved by the Council before the parties entered into the contract; (ii) contravened section 35(1)(g) of the *Real Estate Services Act* in that, in late July or early August 2008, she prepared a Disclosure of Interest in Trade form but dated it May 7, 2008, the date of the contract; (iii) contravened section 5-10(a) of the Council Rules in that she failed to disclose the nature of the representation she would be providing in connection with the contract to the sellers, her husband, or the complainants; (iv) contravened section 3-4 of the Council Rules in that she did not obtain JJX's signature on the second addendum in which AYM and the sellers purported to impose obligations on JJX as a buyer under the contract;

(b) while representing her husband or, in the alternative, while representing the complainants, or one or both of them, in connection with the proposed assignment of the contract from her husband to the complainants, or one or both of them: (i) contravened section 5-10(a) of the Council Rules in that she failed to disclose the nature of the representation she would be providing to her husband

or the complainants; (ii) contravened section 3-3(1)(a) of the Council Rules in that she failed to obtain the agreement in writing of the complainants to the assignment of the contract before making an offer on the property on behalf of her husband and, in any event, before her husband removed the subjects to the contract by an addendum when she ought to have known that the enforceability of the assignment of the contract was important to her husband; (iii) contravened section 3-4 of the Council Rules in that she prepared the first addendum to the contract May 12, 2008 that purported to assign the contract from her husband to the assignee when: (A) the first addendum did not set out the rights and obligations of either party in connection with the assignment; and (B) AYM did not sign the first addendum until mid-July 2008, although it was dated May 12, 2008; (iv) contravened section 35(1)(g) of the *Real Estate Services Act* in that the first addendum was dated May 12, 2008 but AYM did not sign it until mid-July 2008; (v) contravened sections 5-9(3)(b) and 5-9(4) of the Council Rules in that she failed to disclose to the complainants her spousal relationship in the form approved by the Council before AYM signed the first addendum or at all; (vi) contravened section 5-11(2) of the Council Rules in that she failed to promptly disclose to the complainants the remuneration she expected to receive in connection with the assignment of the contract; (vii) contravened section 3-3(1)(d) of the Council Rules in that she failed to advise AYM to seek independent legal advice regarding: (A) the effect of signing the first addendum, when the proposed assignment had not previously been documented in writing; and (B) the proposed assignment and the status of AYM's deposit when it appeared AYM was not willing to complete the assignment; (viii) failed, contrary to section 5-4 of the Council Rules, to deliver to AYM a copy of the contract and first addendum; and

(c) while representing the complainants, contravened section 3-3(1)(i) of the Council Rules in that she failed to take reasonable steps to avoid a conflict of interest that arose from her spousal rela-

tionship with husband.

**RESULT:** Binhui (Emily) Qi was suspended for sixty (60) days from October 19, 2011 to December 17, 2011 (inclusive), and was ordered to successfully complete the Real Estate Trading Services Remedial Education Course, and pay enforcement expenses to the Council in the amount of \$1,375.00.

### **Sharon Xiao Wen Kong**

**ISSUE:** Sharon Xiao Wen Kong, representative, West Coast Realty Ltd. (Van49) dba Sutton Group-West Coast Realty (Van49), Vancouver, entered into a Consent Order with the Council that, while licensed with West Coast Realty Ltd. (Brdwy) dba Sutton Group-West Coast Realty (Brdwy), Vancouver, she committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that:

(a) as the representative for a seller with respect to his purported listing of property and the seller's sale of property to a buyer by Contract of Purchase and Sale dated November 4, 2009, allowed DG to sign the listing agreement and contract as seller without verifying his identity or his purported ownership interest in the property, contrary to sections 3-3(1)(a) and 3-4 of the Council Rules and section 35(1)(a) of the *Real Estate Services Act*;

(b) as the representative for another seller with respect to the purported listing of property and the seller's sale of property to a buyer by Contract of Purchase and Sale dated December 20, 2009: (i) allowed DG to sign the name of the seller on the listing agreement and contract when she knew he was not the seller and that the signature as written was false and misleading, contrary to section 35(1)(c) of the *Real Estate Services Act*; (ii) failed to verify the authority under which DG was purporting to act for the seller and failed to ensure that DG indicated he was signing for the seller in a representative capacity and that the listing agreement and contract were shown as such, contrary to sections 3-3(1)(a) and 3-4 of the Council Rules and section 35(1)(a) of the *Real Estate Services Act*; (iii) failed to clarify that she was only witnessing DG's

## Disciplinary Decisions, *cont'd*

signature on the listing agreement and the contract and not that of the seller and that the execution was shown as such, contrary to section 35(1)(c) of the *Real Estate Services Act*;

(c) as representative for a third seller with respect to the purported listing of property and the seller's sale of property to buyers by Contract of Purchase and Sale dated February 22, 2010: (i) allowed DG to sign the name of the seller on the listing agreement when she knew he was not the seller and that the signature as written was false and misleading, contrary to section 35(1)(c) of the *Real Estate Services Act*; (ii) failed to clarify that she was only witnessing DG's signature on the listing agreement and not that of the seller and that the execution was shown as such, contrary to section 35(1)(c) of the *Real Estate Services Act*; and (iii) failed to ensure her agreement with DG on or about February 22, 2010 to reduce the commission from that set out in the listing agreement was reduced in writing and signed by the seller and an authorized representative of the brokerage pursuant to section 5-1(6) of the Council Rules, contrary to section 35(1)(a) of the *Real Estate Services Act* and sections 3-3(1)(a) and 3-4 of the Council Rules.

**RESULT:** Sharon Xiao Wen Kong was suspended for thirty (30) days from November 2, 2011 to December 1, 2011 (inclusive), and was ordered to successfully complete the Real Estate Trading Services Remedial Education Course and pay enforcement expenses to the Council in the amount of \$1,000.00.

### **Susan Viola Lyle**

**ISSUE:** Susan Viola Lyle, managing broker, D.F.H. Real Estate Ltd. (ShwnLk), Shawnigan Lake, entered into a Consent Order with the Council that she committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that she:

(a) contravened section 3-4 of the Council Rules in that she offered a manufactured home for sale without evidence of CSA approval or an approved electrical inspection, which is required under section 21 under the Electrical Safety Regulation of the Safety Standards Act;

(b) contravened section 5-13(2) of the Council Rules by not disclosing to the

buyer a material latent defect, namely that the manufactured home did not have a CSA sticker before the Contract of Purchase and Sale was entered into; and (c) contravened section 3-4 of the Council Rules in that she represented in the data input of the listing information that the unit had the required CSA approval, which she knew or ought to have known was untrue or misleading.

**RESULT:** Susan Viola Lyle was suspended for twenty-one (21) days from September 14, 2011 to October 4, 2011 (inclusive), and was ordered to successfully complete the Trading Services Remedial Education Course and pay enforcement expenses to the Council in the amount of \$1,000.00.

### **Sherry Ann Kayra**

**ISSUE:** Sherry Ann Kayra, currently unlicensed, while licensed as a representative with D.F.H. Real Estate Ltd. (ShwnLk), Shawnigan Lake, entered into a Consent Order with the Council that she committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* by contravening section 3-4 of the Council Rules in that she failed to ascertain whether a property had CSA approval before co-listing the property for sale with another licensee from her brokerage.

**RESULT:** Sherry Ann Kayra, currently unlicensed, will be suspended for seven (7) days upon license reissuance and, as conditions of continued licensing, she was ordered to successfully complete the Trading Services Remedial Education Course and pay enforcement expenses to the Council in the amount of \$1,000.00 within sixty (60) days of becoming relicensed.

### **Jess Francis LaFramboise**

**ISSUE:** Jess Francis LaFramboise, managing broker, Tantalus Mountain Realty & Management Ltd., Garibaldi Highlands, entered into a Consent Order with the Council that, while licensed as a representative with Lanark Holdings Ltd. dba Century 21 Performance Realty & Management, Squamish, he committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that he:

(a) contrary to section 3-3(1)(a) of the Council Rules, failed to act in the best interests of his client, in that on or about August 3, 2010, he informed the buyers that the property had been rented for one year commencing August 1, 2010, when the property had not been rented;

(b) contrary to section 3-3(1)(i) of the Council Rules, failed to take reasonable steps to avoid a conflict of interest, in that he acted for the buyers and at the same time prepared and presented an offer to purchase the property by his fiancée; and

(c) contrary to section 3-3(1)(j) of the Council Rules, failed to promptly and fully disclose the conflict of interest, in that he did not inform the buyers of his fiancée's interest in the property or of the fact that he planned to prepare and present an offer by his fiancée to purchase the property.

**RESULT:** Jess Francis LaFramboise was suspended for seven (7) days from September 14, 2011 to September 20, 2011 (inclusive), and was ordered to successfully complete the Trading Services Remedial Education Course and pay enforcement expenses to the Council in the amount of \$1,000.00.

### **Deirdre Eileen (Dee) Elliott**

**ISSUE:** Deirdre Eileen (Dee) Elliott, representative, Macdonald Realty Ltd. (WVan) dba Macdonald Realty (WVan), West Vancouver, entered into a Consent Order with the Council that she committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that she:

(a) contrary to section 3-3(1)(h) of the Council Rules, failed to use reasonable efforts to discover relevant facts, in that she failed to discover the nature and full extent of all of the encroachments onto the neighbouring property; and

(b) contrary to section 3-4 of the Council Rules, failed to act with reasonable care and skill in that she failed to advise the buyer that there was no records to independently confirm the permitted status of the carport and driveway encroachments, as referred to in the Agreed Statement of Facts, and to further advise that the buyer ought to take steps to satisfy herself respecting the legal nature of those encroachments.

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## Disciplinary Decisions, *cont'd*

**RESULT:** Deirdre Eileen (Dee) Elliot was suspended for seven (7) days from October 12, 2011 to October 18, 2011 (inclusive), and was ordered to successfully complete the Trading Services Remedial Education Course and pay enforcement expenses to the Council in the amount of \$1,000.00.

### Joginder (Joe) Singh Chahal

**ISSUE:** Joginder (Joe) Singh Chahal, representative, Lighthouse Realty Ltd., Abbotsford, entered into a Consent Order with the Council that he committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that he, while assisting a former client in his attempted purchase of property by way of an undated Contract of Purchase and Sale that was executed by the parties on or about January 6, 2010:

(a) failed to keep his managing broker informed of the real estate services he was providing in relation to the contract, contrary to section 3-2(2) of the Council Rules; and

(b) failed to provide, promptly or at all, to his managing broker the general and trading records including and relating to the contract, contrary to section 3-2(1)(a) and (b) of the Council Rules.

**RESULT:** Joginder (Joe) Singh Chahal was reprimanded and was ordered to pay enforcement expenses to the Council in the amount of \$1,000.00.

### Geoffrey Bushby Stephenson

**ISSUE:** Geoffrey Bushby Stephenson, managing broker, Greyfriars Realty International Ltd., Surrey, entered into a Consent Order with the Council that he committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that he:

(a) contrary to section 3-3(1)(j) of the Council Rules, failed to fully and promptly disclose the conflict of interest, in that he failed to fully disclose to the seller the fact that he acted as the agent for the seller pursuant to the listing contract when, at the same time, he was the president, sole director and a shareholder of a mortgage investment corporation and knew that it was probable the mortgage investment corporation would be commencing a foreclosure action relating to the property; and

(b) contrary to section 5-10(b)(iii) of the Council Rules, failed to disclose to the seller that he expected the brokerage and himself to provide trading services to the mortgage investment corporation if the property did not sell during the term of the listing contract and the mortgage investment corporation commenced a foreclosure proceeding.

**RESULT:** Geoffrey Bushby Stephenson was reprimanded, and was ordered to successfully complete the Trading Services Remedial Education Course and to pay enforcement expenses to the Council in the amount of \$1,000.00.

### Douglas James Irving

**ISSUE:** Douglas James Irving, representative, Re/Max of Duncan, Duncan, entered into a Consent Order with the Council that he committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that he contravened section 3-3(1)(a) and 3-3(1)(b) of the Council Rules by failing to act in the best interests of his client and by failing to maintain the confidentiality of his client, in that he swore an affidavit with a copy of the Contract of Purchase and Sale and deposit cheque, both signed by his client and attached to the affidavit, to assist a party adverse in the interest to his client in a court proceeding against his client.

**RESULT:** Douglas James Irving was reprimanded, and was ordered to successfully complete the Trading Services Remedial Education Course and pay enforcement expenses to the Council in the amount of \$1,000.00.

### Ling Lim Dickson Tsang

**ISSUE:** Ling Lim Dickson Tsang, associate broker, Royal Pacific Realty Corp., Vancouver, entered into a Consent Order with the Council that he committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that he provided real estate services other than on behalf of the brokerage in relation to which he was licensed, contrary to section 7(3)(a) of the *Real Estate Services Act*.

**RESULT:** Ling Lim Dickson Tsang was reprimanded, and was ordered to successfully complete the Trading Services

Remedial Education Course and pay enforcement expenses to the Council in the amount of \$1,000.00.

### Chi-Fu Chen

#### Pilothouse Real Estate Inc.

**ISSUE:** Pilothouse Real Estate Inc., New Westminster, entered into a Consent Order with the Council that it 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:** Chi-Fu Chen, managing broker, Pilothouse Real Estate Inc., New Westminster, entered into a Consent Order with the Council that he 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 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:** Pilothouse Real Estate Inc. was reprimanded.

**RESULT:** Chi-Fu Chen was reprimanded.

**RESULT:** Further, Pilothouse Real Estate Inc. and Chi-Fu Chen were jointly and severally liable to pay enforcement expenses to the Council in the amount of \$1,000.00.

### Kamarjit (Sunny) Sahota

**ISSUE:** Kamarjit (Sunny) Sahota, representative, West Coast Realty Ltd. (Van49) dba Sutton Group-West Coast Realty (Van49), Vancouver, entered into a Consent Order with the Council that he committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that he:

(a) contravened section 2-21(2)(d) of the Council Rules by failing to promptly notify the Council, in writing, of a criminal charge laid against him, and;

(b) contravened section 35(1)(e) of the

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## Disciplinary Decisions, *cont'd*

*Real Estate Services Act* and section 2-19 of the Council Rules by failing to cooperate with an investigation by failing to respond to a request from the Council to provide information.

**RESULT:** Kamarjit (Sunny) Sahota was reprimanded and ordered to pay enforcement expenses to the Council in the amount of \$750.00.

### Strata Management Services

#### Kevin Donald Green

**ISSUE:** Kevin Donald Green, associate broker, Southview Property Management Inc., Richmond, entered into a Consent Order with the Council that, while licensed with Croft Agencies Ltd., Surrey, he committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that he:

(a) contrary to section 3-3(1)(c) of the Council Rules, failed to act within the scope of authority given by the client, in that in 2009 he purchased a treadmill from a fitness company, at a cost of \$6,888.00 from a client's trust account without the prior and proper authorization of the client; (b) contrary to section 3-3(1)(c) of the Council Rules, failed to act within the scope of authority given by the client, in that in 2009 he paid the storage invoices for repairs to vandalized storage lockers at the property without the prior and proper authorization of the client;

(c) contrary to section 3-4 of the Council Rules, failed to act with reasonable care and skill, in that he paid the storage invoices although these invoices did not set out appropriate details, such as the storage lockers involved, the supplies or labour involved or the scope of work;

(d) contrary to one or more than one of sections 3-3(1)(a) and 3-4 of the Council Rules, failed to act in the best interests of the client and failed to use reasonable care and skill, in that he failed to provide to the client a written quotation provided by a company to him pursuant to which janitorial services would be provided by the company to the client on a monthly fixed price basis and failed to secure a written contract for janitorial services to be provided by the company to the client, but instead operated on an oral

agreement with the company to provide services at an hourly rate, all of which ultimately resulted in a dispute between the client and the company as to amounts owing to the company;

(e) contrary to one or more than one of sections 3-3(1)(a), 3-3(1)(b) and 3-4 of the Council Rules, failed to act in the best interests of the client, failed to act in accordance with lawful instructions of the client and failed to use reasonable care and skill, in that he failed to properly review invoices to the client for phones used by the caretaker authorized payment of those invoices and failed to provide detailed information on those invoices to the client, which resulted in the client paying for amounts for which they were not properly liable due to the caretaker's misuse of the phones;

(f) contrary to one or more than one of sections 3-3(1)(a) and 3-4 of the Council Rules, failed to act in the best interests of the client and failed to use reasonable care and skill, in that he advised the client that he had, for the benefit of the client, recovered moneys from the caretaker for misuse of the phones when in fact he had not recovered those moneys; and

(g) contrary to one or more than one of section 3-3(1)(a) and 3-4 of the Council Rules, failed to act in the best interest of the client and failed to act with reasonable care and skill, in that he failed to collect rent in the sum of \$7,200.00 from the caretaker for use of the client's suite by the caretaker.

**RESULT:** Kevin Donald Green was suspended for fourteen (14) days from October 26, 2011 to November 8, 2011 (inclusive), and was ordered to successfully complete the Strata Management Remedial Education Course and pay enforcement expenses to the Council in the amount of \$1,000.00.

#### Christopher Kenneth Sargent

**ISSUE:** Christopher Kenneth Sargent, managing broker, Rancho Management Services (B.C.) Ltd., Vancouver, entered into a Consent Order with the Council that he committed professional misconduct within the meaning of section 35(1) (a) of the *Real Estate Services Act* in that, while acting as strata property manager for a strata client, he:

(a) contravened section 7-9(9) of the Council Rules in that he failed to ensure that the brokerage promptly transferred control of a term deposit owned by the strata client to the licensee assuming the role of strata property management for the strata client, after the brokerage was terminated as strata property manager for the strata client; and

(b) contravened section 3-3(1) and/or 3-4 of the Council Rules in that he failed to use reasonable care and skill on behalf of the strata client in that he failed to transfer the strata client's term deposit to the licensee assuming the role of strata property manager in a timely manner.

**RESULT:** Christopher Kenneth Sargent was reprimanded, and was ordered to pay a discipline penalty to the Council in the amount of \$2,000.00, ordered to successfully complete the Trading Services Remedial Education Course, and pay enforcement expenses to the Council in the amount of \$1,000.00.

#### James William Crawford

#### Richard John Woolley

**ISSUE:** James William Crawford, representative, Crossroads Management Ltd. (Sur), Surrey, entered into a Consent Order with the Council that, while licensed as a representative with Croft Agencies Ltd., Surrey, he committed professional misconduct within the meaning of section 35(1) of the *Real Estate Services Act* in that he:

(a) contrary to section 7(3)(b) of the *Real Estate Services Act*, accepted remuneration from a person other than his brokerage, in that he invoiced directly the strata corporations for LMS and BCS and directly or indirectly received payments for those invoices from the operating trust accounts of the strata corporations for LMS and BCS and not from the brokerage;

(b) contrary to section 3-3(1)(i) of the Council Rules, failed to take steps to avoid a conflict of interest, in that he was the owner of a strata lot in BCS, he was a member of the strata council for BCS and, at the same time, he provided strata management services to BCS; and

(c) contrary to section 3-3(1)(j) of the Council Rules, failed to disclose a conflict of interest in that he failed to fully and promptly disclose in writing to the owners or to the strata council of BCS

## Disciplinary Decisions, *cont'd*

that he was the owner of a strata lot in BCS, that he was a member of the strata council for BCS and, at the same time, that he was providing strata management services to BCS.

**ISSUE:** Richard John Woolley, managing broker, Atria Property Management Inc., Surrey, entered into a Consent Order with the Council that, while licensed with Croft Agencies Ltd., Surrey, he committed professional misconduct within the meaning of section 35(1) of the *Real Estate Services Act* in that he: (a) contrary to one or more than one of section 6(2)(b) and 6(2)(c) of the *Real Estate Services Act*, failed to be responsible for the performance of the duties imposed on the brokerage and failed to be responsible for the control and conduct of the brokerage's business, including the supervision of representatives licensed to the brokerage, in that he permitted the brokerage to remunerate Mr. Crawford for his strata management services directly from the operating trust accounts of the strata corporations for LMS and BCS and not from an operating account of the brokerage; and (b) contrary to section 3-1(1) of the Council Rules, failed to be actively engaged in the management of the brokerage, failed to ensure that the brokerage's business was carried out competently and in accordance with the Act and the Council Rules, and failed to ensure there was an adequate level of supervision for represen-

tatives who performed duties on behalf of the brokerage, in that he permitted the brokerage to remunerate Mr. Crawford for his strata management services directly from the operating trust accounts for the strata corporations for LMS and BCS and not from an operating account of the brokerage.

**RESULT:** James William Crawford was reprimanded and was ordered to successfully complete the Strata Management Remedial Education Course.

**RESULT:** Richard John Woolley was reprimanded and was ordered to successfully complete the Strata Management Remedial Education Course.

**RESULT:** James William Crawford and Richard John Woolley were ordered to be jointly and severally liable to pay enforcement expenses to the Council in the amount of \$1,000.00.

### **Maxine Nancy Campbell Campbell Strata Management Ltd.**

**ISSUE:** Campbell Strata Management Ltd., Abbotsford, entered into a Consent Order with the Council that it committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that it failed to deposit special levy money collected in relation to a re-roofing project of the strata corporation to the CRF trust account, as

required by section 25 of the *Real Estate Services Act* and section 7-9(3)(b) of the Council Rules.

**ISSUE:** Maxine Nancy Campbell, managing broker, Campbell Strata Management Ltd., Abbotsford, entered into a Consent Order with the Council that she committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that she, as managing broker for the brokerage, in the provision of strata management services to the strata corporation, failed to ensure the brokerage deposited special levy money collected in relation to a re-roofing project of the strata corporation to the CRF trust account, as required by sections 6(2) and 25 of the *Real Estate Services Act* and sections 3-1(1) and (3) and 7-9(3)(b) of the Council Rules.

**RESULT:** Campbell Strata Management Ltd. was reprimanded.

**RESULT:** Maxine Nancy Campbell was reprimanded and ordered to enroll in and attend the first available PAMA Real Estate E&O Insurance Legal Update for Strata Property Managers.

**RESULT:** Further, Campbell Strata Management Ltd. and Maxine Nancy Campbell were jointly and severally liable to pay enforcement expenses to the Council in the amount of \$1,000.00. ■

## Feedback?

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

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