

**THE REAL ESTATE COUNCIL OF BRITISH COLUMBIA**  
**IN THE MATTER OF THE *REAL ESTATE SERVICES ACT***  
**SBC 2004, c 42 as amended**

**AND**

**IN THE MATTER OF**

**ROBERT TOMISLAV ZIVKOVIC**  
**(151875)**

**AND**

**ROBERT T. ZIVKOVIC PERSONAL REAL ESTATE CORPORATION**  
**(151875PC)**

**AND**

**DAN ALLAN PATRICK LOBSINGER**  
**(149168)**

**AND**

**ASSOCIATED PROPERTY MANAGEMENT (2001) LTD.**  
**(X025017)**

**CONSENT ORDER**

RESPONDENT:	Robert Tomislav Zivkovic, Managing Broker, Associated Property Management (2001) Ltd.  Robert T. Zivkovic Personal Real Estate Corporation  Dan Allan Patrick Lobsinger, Managing Broker, Associated Property Management (2001) Ltd.  Associated Property Management (2001) Ltd.
DATE OF REVIEW MEETING:	November 6, 2019
DATE OF CONSENT ORDER:	November 6, 2019
CONSENT ORDER REVIEW COMMITTEE:	Y. Amlani B. Chisholm R. Hanson

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ALSO PRESENT:

D. Avren, Vice President, Legal Services and Compliance  
K. Mactaggart Wright, Legal Counsel for  
the Real Estate Council of BC

PROCEEDINGS:

On November 6, 2019, the Consent Order Review Committee ("CORC") resolved to accept the Consent Order Proposal (the "Proposal") submitted by Robert Tomislav Zivkovic ("Mr. Zivkovic"), Robert T. Zivkovic Personal Real Estate Corporation ("RTZ PREC"), Dan Allan Patrick Lobsinger ("Mr. Lobsinger") and Associated Property Management (2001) Ltd. ("APM").

**WHEREAS** the Proposal, a copy of which is attached hereto, has been executed by Mr. Zivkovic on his own behalf and on behalf of RTZ PREC, Mr. Lobsinger and APM.

**NOW THEREFORE**, having made the findings proposed in the attached Proposal, and found that Mr. Zivkovic, RTZ PREC, Mr. Lobsinger and APM committed professional misconduct within the meaning of sections 3(1)(a), 7(3)(b) and 35(1)(a) of the *Real Estate Services Act* ("RESA"), sections 3-1(1)(b), 3-1(3)(b) and 6-1(1) of the Rules made under the RESA, and section 10.6 of the *Real Estate Services Regulation*, pursuant to section 43 of the RESA the CORC orders that:

1. Mr. Zivkovic and RTZ PREC jointly and severally pay a discipline penalty to the Council in the amount of \$4,400 within three (3) months from the date of this Order;
2. Mr. Lobsinger pay a discipline penalty to the Council in the amount of \$3,500 within three (3) months from the date of this Order;
3. APM pay a discipline penalty to the Council in the amount of \$1,500 within three (3) months from the date of this Order;
4. Mr. Zivkovic and Mr. Lobsinger, each at their own expense, each register for and successfully complete the Broker's Remedial Education Course as provided by the Sauder School of Business at the University of British Columbia in the time period as directed by the Council; and
5. Mr. Zivkovic, RTZ PREC, Mr. Lobsinger and APM jointly and severally pay enforcement expenses to the Council in the amount of \$1,500 within two (2) months from the date of this Order.

If Mr. Zivkovic, RTZ PREC, Mr. Lobsinger and/or APM fail to comply with any term of this Order, the Council may suspend or cancel their licences without further notice to them, pursuant to sections 43(3) and 43(4) of the RESA.

Dated this 6<sup>th</sup> day of November 2019, at the City of Vancouver, British Columbia.

ON BEHALF OF THE CONSENT ORDER REVIEW COMMITTEE

“Yasin Amlani”

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Yasin Amlani  
Consent Order Review Committee

Attch.

**IN THE MATTER OF THE *REAL ESTATE SERVICES ACT*  
SBC 2004, c 42 as amended**

**AND**

**IN THE MATTER OF**

**ROBERT TOMISLAV ZIVKOVIC  
(151875)**

**AND**

**ROBERT T. ZIVKOVIC PERSONAL REAL ESTATE CORPORATION  
(151875PC)**

**AND**

**DAN ALLAN PATRICK LOBSINGER  
(149168)**

**AND**

**ASSOCIATED PROPERTY MANAGEMENT (2001) LTD.  
(X025017)**

**CONSENT ORDER PROPOSAL BY ROBERT TOMISLAV ZIVKOVIC,  
ROBERT T. ZIVKOVIC PERSONAL REAL ESTATE CORPORATION,  
DAN ALLAN PATRICK LOBSINGER, AND  
ASSOCIATED PROPERTY MANAGEMENT (2001) LTD.**

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**BACKGROUND AND FACTS**

This Consent Order Proposal (the "Proposal") is made by Robert Tomislav Zivkovic ("Mr. Zivkovic"), Robert T. Zivkovic Personal Real Estate Corporation ("RTZ PREC"), Dan Allan Patrick Lobsinger ("Mr. Lobsinger"), and Associated Property Management (2001) Ltd. ("APM") to the Consent Order Review Committee ("CORC") of the Real Estate Council of British Columbia (the "Council") pursuant to section 41 of the *Real Estate Services Act* ("RESA").

For the purposes of the Proposal, Mr. Zivkovic on his own behalf and on behalf of RTZ PREC, Mr. Lobsinger, APM and the Council have agreed upon the following facts:

## Mr. Zivkovic and RTZ PREC

1. Mr. Zivkovic (151875) became licensed as a representative for strata management services in 2007.
2. In 2014, Mr. Zivkovic became licensed as an associate broker for rental property management services and strata management services.
3. In December 2017, Mr. Zivkovic became licensed as a managing broker for rental property and strata management services.
4. Also, in or about December 2017, Mr. Zivkovic and another person purchased APM, and Mr. Zivkovic became an officer and director of APM.
5. Mr. Zivkovic was at all relevant times licensed with APM.
6. In 2010, Mr. Zivkovic incorporated a numbered company in British Columbia. In March 2011, the numbered company changed its name to RTZ PREC. However, Mr. Zivkovic did not become licensed with the Council as RTZ PREC until June 2017.
7. Mr. Zivkovic advises that he phoned the Licensing Department of the Council in 2011 to enquire about the requirement to license RTZ PREC and that based on that phone call, Mr. Zivkovic held an honest but mistaken belief that he was not required to license RTZ PREC if it was not used in any marketing. Mr. Zivkovic did not take notes of the call as confirmation of the discussion. Having an unlicensed PREC is not consistent with long-standing guidance from the Council published in the *Professional Standards Manual* or on Council's website.
8. Consistent with his mistaken belief, Mr. Zivkovic further advises that he used RTZ PREC for tax planning purposes and did not use RTZ PREC in any marketing while it was unlicensed. According to Mr. Zivkovic, RTZ PREC began receiving remuneration from APM after March 2011.
9. In May 2017, the Council audited APM. During the audit, the auditor discovered that APM was making payments to RTZ PREC, which was not licensed with the Council, and brought the matter to the attention of APM's then managing broker, Mr. Lobsinger.
10. In June 2017, Mr. Lobsinger reported to the Council the payments APM made to RTZ PREC, which was then unlicensed with the Council. In addition, RTZ PREC applied for and obtained a licence from the Council.
11. Accordingly, RTZ PREC was not licensed with the Council from about March 2011 to June 2017. If RTZ PREC were licensed during this time, it would have paid the Council about \$4,364 in licensing fees.
12. A Notice of Discipline Hearing was issued on March 26, 2019 and served on Mr. Zivkovic on his own behalf and on behalf of RTZ PREC.
13. Neither Mr. Zivkovic nor RTZ PREC has any previous discipline history with the Council.

## **Mr. Lobsinger and APM**

14. Mr. Lobsinger (149168) has been licensed as a managing broker for trading services and for rental property management services since 2007. In 2011, Mr. Lobsinger also became licensed as a managing broker for strata management services.
15. Mr. Lobsinger was at all relevant times licensed as a managing broker with APM.
16. APM (X025017) has been licensed as a brokerage for trading services and for rental property management services since 1995. In 2005, APM added strata management services.
17. In May 2017, the Council audited APM. The Council's auditor discovered that APM was paying an unlicensed personal real estate corporation, RTZ PREC, from about March 2011. In this case, the licensee Mr. Zivkovic advised they were using their personal real estate corporation for tax planning purposes only and not in any real estate services to the public or marketing.
18. Mr. Lobsinger immediately ensured that APM ceased to pay RTZ PREC after the 2017 audit. APM paid Mr. Zivkovic directly, reported the matter to the Council, and advised Mr. Zivkovic to become licensed with the Council as a personal real estate corporation, which he did in June 2017.
19. A Notice of Discipline Hearing was issued on March 26, 2019 and served on Mr. Lobsinger and APM.
20. Each of Mr. Lobsinger and APM has a prior discipline history with the Council:
  - a. in matter #09-341 (2011 CanLII 72252 (BC REC)), they were disciplined for conduct including the provision of rental property management services by an unlicensed person between about 2008 and 2010, breaching sections 7(5) and 27 of the RESA, and section 6-1 of the Council Rules then in effect (the "Rules"); and
  - b. in matter #13-162 (2015 CanLII 41249 (BC REC)), they were disciplined for conduct in 2012 including failing to act in the best interests of an owner of rental property when they overcharged management fees and released a security deposit without approval from the owner, breaching section 6(2) of the RESA and sections 3-1(1)(a) and (c) and 3-3(a) and (b) of the Rules.

## **PROPOSED FINDINGS OF MISCONDUCT**

For the sole purposes of the Proposal and based on the Facts outlined herein, Mr. Zivkovic and RTZ PREC propose the following findings of misconduct be made by the CORC:

1. Mr. Zivkovic and RTZ PREC committed professional misconduct within the meaning of section 35(1)(a) of the RESA, from about March 2011 to June 2017, in that:
  - a. Mr. Zivkovic expected and accepted remuneration from a person, other than on behalf of the brokerage in relation to which he was licensed, in that he expected and accepted remuneration from RTZ PREC before it was licensed, contrary to sections 3(1)(a) and 7(3)(b) of the RESA, and to section 10.6 of the *Real Estate Services Regulation*.

For the sole purpose of the Proposal and based on the Facts outlined herein, Mr. Lobsinger and APM propose the following findings of misconduct be made by the CORC:

2. Mr. Lobsinger and APM committed professional misconduct within the meaning of section 35(1)(a) of RESA between about March 2011 and April 2017 in that:
  - a. APM paid remuneration to an unlicensed personal real estate corporation belonging to one of its licensees, and did not identify the issue until an audit from Council in May 2017, contrary to section 6-1(1) of the Rules; and
  - b. Mr. Lobsinger, then the managing broker, allowed APM to pay remuneration to an unlicensed personal real estate corporation, contrary to section 6(2) of the RESA, and to sections 3-1(1)(b), 3-1(3)(b) and 6-1(1) of the Rules.

### **PROPOSED ORDERS**

Based on the Facts herein and the Proposed Findings of Misconduct, Mr. Zivkovic, RTZ PREC, Mr. Lobsinger and APM propose that the Notices of Discipline Hearing in this matter be resolved through the following Orders being made by the CORC, pursuant to section 43 of the RESA:

1. Mr. Zivkovic and RTZ PREC be jointly and severally liable to pay a discipline penalty to the Council in the amount of \$4,400 within three (3) months from the date of this Order.
2. Mr. Lobsinger pay a discipline penalty to the Council in the amount of \$3,500 within three (3) months from the date of this Order.
3. APM pay a discipline penalty to the Council in the amount of \$1,500 within three (3) months from the date of this Order.
4. Mr. Zivkovic and Mr. Lobsinger, each at their own expense, each register for and successfully complete the Broker's Remedial Education Course as provided by the Sauder School of Business at the University of British Columbia in the time period as directed by the Council.
5. Mr. Zivkovic, RTZ PREC, Mr. Lobsinger and APM be jointly and severally liable to pay enforcement expenses in the amount of \$1,500 within two (2) months from the date of this Order.
6. If any of Mr. Zivkovic, RTZ PREC, Mr. Lobsinger or APM fails to comply with any of the terms of this Order, a discipline committee may suspend or cancel their licences without further notice to them.

### **ACKNOWLEDGEMENTS AND WAIVER OF APPEAL RIGHT**

1. Mr. Zivkovic, RTZ PREC, Mr. Lobsinger, and APM acknowledge and understand that the Council may refer or decline to refer the Proposal to the CORC. If the Proposal is referred to the CORC, it may be accepted or rejected by the CORC. If the Proposal is rejected by the CORC, the matter may be referred to a disciplinary hearing.

2. Mr. Zivkovic, RTZ PREC, Mr. Lobsinger, and APM have been advised of and understand their right to obtain independent legal advice regarding the disciplinary process, including with respect to the execution and submission of the Proposal.
3. Mr. Zivkovic, RTZ PREC, Mr. Lobsinger, and APM acknowledge and are aware that the Council will publish the Proposal and the Consent Order or summaries thereof in its Report from Council newsletter, on the Council's website, on CanLII, a website for legal research and in such other places and by such other means as the Council in its sole discretion deems appropriate.
4. Mr. Zivkovic, RTZ PREC, Mr. Lobsinger, and APM acknowledge and are aware that the Superintendent of Real Estate has the right, pursuant to section 54 of the RESA, to appeal any decision of the Council, including any Consent Order made by the Council in relation to this matter.
5. Mr. Zivkovic, RTZ PREC, Mr. Lobsinger, and APM hereby waive their right to appeal pursuant to section 54 of the RESA.
6. If the Proposal is accepted and/or relied upon by the Council, Mr. Zivkovic, RTZ PREC, Mr. Lobsinger and APM will not make any public statement(s) inconsistent with the Proposal and its contents. Nothing in this section is intended to restrict Mr. Zivkovic, RTZ PREC, Mr. Lobsinger or APM from making full answer and defence to any civil or criminal proceeding(s).
7. The Proposal and its contents are made by Mr. Zivkovic, RTZ PREC, Mr. Lobsinger and APM for the sole purpose of resolving the Notices of Discipline Hearing in this matter and do not constitute an admission of civil liability. Pursuant to section 41(5) of the RESA, the Proposal and its contents may not be used without the consent of Mr. Zivkovic, RTZ PREC, Mr. Lobsinger and APM in any civil proceeding with respect to the matter.

"ROBERT TOMISLAV ZIVKOVIC"

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**ROBERT TOMISLAV ZIVKOVIC on his own behalf  
and on behalf of ROBERT T. ZIVKOVIC PERSONAL  
REAL ESTATE CORPORATION**

**Dated 12<sup>th</sup> day of September, 2019**

"DAN ALLAN PATRICK LOBSINGER"

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**DAN ALLAN PATRICK LOBSINGER**

**Dated 12<sup>th</sup> day of September, 2019**

"ROBERT TOMISLAV ZIVKOVIC"

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**ROBERT TOMISLAV ZIVKOVIC, Authorized  
Signatory for ASSOCIATED PROPERTY  
MANAGEMENT (2001) LTD.**

**Dated 12<sup>th</sup> day of September, 2019**