

IN THE MATTER OF THE *REAL ESTATE SERVICES ACT*
S.B.C. 2004, c. 42 as amended

AND

IN THE MATTER OF

CATHERINE MICHELLE MCGRATH
160382

CONSENT ORDER

RESPONDENT: Catherine Michelle McGrath,
Representative, Windermere Valley
Property Management Ltd. dba First
Choice Realty

DATE OF REVIEW MEETING: June 28, 2017

DATE OF CONSENT ORDER: June 28, 2017

CONSENT ORDER REVIEW COMMITTEE: R. Holmes, Q.C., Chair
C. Geurts
L. Hrycan
K. Khoo
S. Sidhu
T. Styffe

ALSO PRESENT: E. Seeley, Acting Executive Officer
G. Thiele, Director, Legal Services
Patrick Gilligan-Hackett, Legal Counsel
for the Real Estate Council

PROCEEDINGS:

On June 28, 2017, the Consent Order Review Committee ("Committee") resolved to accept the Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver ("ASF") submitted by Catherine Michelle McGrath.

WHEREAS the ASF, a copy of which is attached hereto, has been executed by the Council and by Catherine Michelle McGrath.

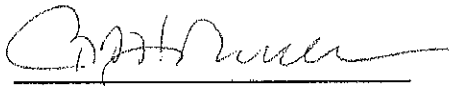
NOW THEREFORE, the Committee having made the findings proposed in the attached ASF, and in particular having found that Catherine Michelle McGrath committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act*, orders that:

-
1. Catherine Michelle McGrath be reprimanded;
 2. Catherine Michelle McGrath pay a discipline penalty to the Council in the amount of \$2,500.00 within sixty (60) days of the date of this Order;
 3. As a condition of relicensing, Catherine Michelle McGrath at her own expense, register for and successfully complete the Strata Management Remedial Education Course, as provided by Sauder School of Business at the University of British Columbia in the time period as directed by the Council; and
 4. Catherine Michelle McGrath pay enforcement expenses of this Consent Order to the Council in the amount \$1,500.00 within sixty (60) days from the date of this Order.

If Catherine Michelle McGrath fails to comply with any term of this Order, the Council may suspend or cancel her licence without further notice to her, pursuant to sections 43(3) and 43(4) of the *Real Estate Services Act*.

Dated this 28th day of June, 2017 at the City of Vancouver, British Columbia.

ON BEHALF OF THE CONSENT ORDER REVIEW COMMITTEE



R. Holmes, Q.C., Chair
Consent Order Review Committee

Atch.

**IN THE MATTER OF THE REAL ESTATE SERVICES ACT
S.B.C. 2004, c. 42**

AND

**IN THE MATTER OF
CATHERINE MICHELLE MCGRATH
(160382)**

**AGREED STATEMENT OF FACTS
PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER**

The following agreement has been reached between Catherine Michelle McGrath ("Ms. McGrath") and the Real Estate Council of British Columbia ("Council").

- A. Ms. McGrath hereby consents to an Order to be made pursuant to section 43 of the *Real Estate Services Act* ("RESA") that:
 - a. She be reprimanded;
 - b. She pay a disciplinary penalty of \$2,500.00 within sixty (60) days from the date of the Order;
 - c. As a condition for relicensing, she is required to successfully complete the Strata Management Remedial Education Course as provided by the Real Estate Division, Sauder School of Business at the University of British Columbia within the time period directed by the Council.
 - d. She pay enforcement expenses pursuant to section 44 of RESA in the amount of \$1,500.00 within sixty (60) days from the date of the Order; and
 - e. if she fails to comply with any of the terms of the Order as set out above, a Discipline Hearing Committee may suspend or cancel her licence without further notice to her, pursuant to section 43(3) and 43(4) of the *Real Estate Services Act*.
- B. As a basis for this Order, the Council and Ms. McGrath acknowledge and agree that the facts set forth herein are correct:
 1. Ms. McGrath was at all relevant times licensed as a representative with Windermere Valley Property Management Ltd., dba First Choice Realty ("Brokerage"), Windermere, British Columbia.

2. Ms. McGrath's licensing history is as follows:

2011/11/02 – 2016/07/29	Representative, Trading, Rental Windermere Valley Property Management Ltd.
2010/11/02 – 2011/11/02	Representative, Rental Windermere Valley Property Management Ltd.

3. In November, 2007 the Strata Council ("Strata Council") of Strata Plan NESXX, a strata corporation ("Strata Corporation") operating at [REDACTED] ("Property"), began to employ Ms. McGrath, then unlicensed, as an administrator. At this time, Ms. McGrath worked at or for the Property for approximately 12 hours a week. Over the years, her duties at and for the Property increased.
4. On November 2, 2010 the Council first licensed Ms. McGrath. She was licensed at the time for rental property management and became a related licensee of First Choice Realty in Invermere, British Columbia. When Ms. McGrath applied for a licence, she answered the question "Are you currently employed? If yes, please indicate the name/address of employer" by stating "Yes – First Choice Realty".
5. On November 2, 2011 the Council added trading services to Ms. McGrath's real estate licence. Ms. McGrath then became a related licensee of the Brokerage.
6. On June 4, 2014 Ms. McGrath entered into an employment contract with the Strata Corporation as the "Resort Manager" ("Position"). The Strata Corporation paid Ms. McGrath a salary for her work in the Position. Her job description included the following duties and responsibilities:
- i. paying invoices;
 - ii. collecting laundry revenue;
 - iii. collecting condominium, capital, and special assessments;
 - iv. paying owner reimbursement for BC Hydro costs;
 - v. issuing strata documents required by buyers of units at the Property and their agents;
 - vi. purchasing office supplies;
 - vii. becoming familiar with Strata Property Act and Bylaws to ensure [the owners] meet their financial and administrative obligations;
 - viii. holding signing authority for banks and vendor accounts;
 - ix. providing emergency services to the owners;
 - x. managing renovation approvals;
 - xi. obtaining quotes, placing orders, booking contractors, and scheduling projects;
 - xii. managing staff and related scheduling activities; and
 - xiii. following up on infractions and video surveillance, as required.

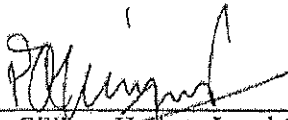
7. On November 16, 2015 a lawyer ("Mr. B") for the Strata Council, wrote to an owner ("Owner") at the Property. Mr. B told the Owner that the Strata Council had been informed [REDACTED], a visitor to the Property, had verbally assaulted an employee of the Strata Corporation on November 12, 2015.
8. The Owner was [REDACTED]
9. Ms. McGrath was the employee referred to by Mr. B.
10. Mr. B told the Owner that the employee felt scared for her safety, had left the Property, and had reported the incident to the RCMP.
11. Mr. B advised the Owner that [REDACTED] aggressive, bullying behavior would no longer be tolerated by the Strata Council. Mr. B told the Owner that [REDACTED] was not to have any further contact with the Strata Corporation's employees. Mr. B also demanded both that [REDACTED] cease and desist behaving as [REDACTED] had done towards the Strata Corporation's employees and that [REDACTED] forward a formal apology for [REDACTED] conduct to Mr. B's office.
12. On November 26, 2015 the Strata Council's Minutes erroneously identified Ms. McGrath as a Strata Council member and recorded that she had presented a manager's report.
13. On December 1, 2015 Mr. B, again on behalf of the Strata Council, sent a further letter to the Owner informing her that [REDACTED] was not to have any contact with Ms. McGrath. The letter reiterated that [REDACTED] was to cease and desist interacting with any of the Strata Corporation's employees.
14. In his letter of December 1, 2015 Mr. B responded to certain questions about Ms. McGrath that had been asked in a letter from the Owner. Mr. B stated that:
 - i. Ms. McGrath was an employee of the Strata Corporation pursuant to section 2.18 of the RESA and therefore exempt from having to be licensed under RESA;
 - ii. Ms. McGrath had disclosed to the Strata Council that she was licensed for trading services; and
 - iii. Ms. McGrath's brokerage would be able to assist any owners at the Property who wished to sell their units but she herself would not be able to list or otherwise represent such owners.
15. On February 16, 2016 the Strata Council Minutes erroneously identified Ms. McGrath as a Strata Council member and recorded that she had presented a manager's report.

16. On March 17, 2016 [REDACTED] on behalf of [REDACTED] filed a complaint with the Council alleging that Ms. McGrath was providing strata management services to the Strata Corporation when she was not licensed to do so.
17. On July 29, 2016 Ms. McGrath's managing broker, Eric Robert Redeker ("Mr. Redeker"), sent an email to the Council's Compliance staff returning Ms. McGrath's licence to the Council. Mr. Redeker stated in his email that after careful consideration and discussions with Ms. McGrath, he now understood that Ms. McGrath could not be employed as a manager for the Property and also remain licensed with the Brokerage.
18. Ms. McGrath remains unlicensed.
19. In mitigation, Ms. McGrath notes that:
 - i. she has no disciplinary history with the Council;
 - ii. she has already surrendered her licence voluntarily;
 - iii. she continued in her employment with the Strata Corporation after surrendering her licence; and
 - iv. the Strata Council was not the complainant in this matter.

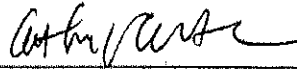
C. Proposed Acceptance of Findings and Waiver

1. Based on the Agreement Statement of Facts herein, and without making any admission of liability, Ms. McGrath is prepared to accept the following findings if made against her by the Council's Consent Order Review Committee:
 - a) Ms. McGrath, as a representative, committed professional misconduct within the meaning of section 35(1)(a) of RESA in that she:
 - i. contrary to section 3(1)(a) of RESA, provided real estate services, more particularly strata management services, for which she was not licensed, by providing some or all of the following services to Strata Plan NESXX, a strata corporation located at [REDACTED] ("Strata Corporation"); collecting strata fees that were due to the Strata Corporation; holding signing authority on the Strata Corporation's bank accounts; making payments to third parties on behalf of the Strata Corporation; and managing the staff of the Strata Corporation ("Real Estate Services");
 - ii. contrary to section 7(3)(a) of RESA, provided the Real Estate Services to the Strata Corporation separately from her Brokerage;
 - iii. contrary to section 7(3)(b) of RESA, accepted remuneration related to her provision of the Real Estate Services to the Strata Corporation from a person other than her Brokerage; and

- iv. contrary to section 3-4 of the Rules, failed to act with reasonable care and skill in that she provided the Real Estate Services to the Strata Corporation when her licence did not permit her to do so.
2. Ms. McGrath acknowledges that she has been advised that she has the right to seek independent legal advice before signing this Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver.
 3. Ms. McGrath acknowledges and is aware that the Council will publish the Consent Order and penalty herein in its Report from Council newsletter, on the Council's website, and on CanLII, a website for legal research.
 4. Ms. McGrath acknowledges and is aware that the Superintendent of Real Estate has the right, pursuant to section 54 of RESA, to appeal any decision of the Council, including this Agreed Statement of Facts, Proposed Acceptance of Findings, and Waiver and Consent Order.
 5. The Agreed Statement of Facts and Proposed Acceptance of Findings contained herein are made for the sole purpose of resolving a complaint being considered by the Council and for that purpose only. Such agreed statement of facts and proposed acceptance of findings cannot be used in any other proceeding of any kind.



Patrick Gilligan-Hackett, Legal Counsel



Catherine Michelle McGrath

As to Part B only (Agreed Statement of Facts)

As to Parts A, B, C (proposed penalty, Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver)

Dated 13 day of June, 2017

Dated 6 day of April, 2017