

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

AND

IN THE MATTER OF

**MARSHALL FRANCIS MCANERNEY
(148334)**

AND

**MARSHALL MCANERNEY PERSONAL REAL ESTATE CORPORATION
(148334PC)**

CONSENT ORDER

RESPONDENT: Marshall Francis McAnerney and
Marshall McAnerney Personal Real
Estate Corporation, representative,
Macdonald Realty, Kelowna (1995) Ltd.
dba Macdonald Realty Kelowna, while
licensed with Centre Group Commercial
Realty Ltd. dba Colliers International
Centre Group Commercial Realty

DATE OF REVIEW MEETING: February 22, 2017

DATE OF CONSENT ORDER: February 22, 2017

CONSENT ORDER REVIEW COMMITTEE: R. Holmes, Q.C., Chair
R. Gialloreto
S. Sidhu
L. Hrycan
J. Daly

ALSO PRESENT: E. Seeley, Acting Executive Officer
G. Thiele, Director, Legal Services
S. Sheina, Legal Counsel for the Real
Estate Council

PROCEEDINGS:

On February 22, 2017 the Consent Order Review Committee ("Committee") resolved to accept the Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver ("ASF") submitted by Marshall Francis McAnerney and Marshall McAnerney Personal Real Estate Corporation.

WHEREAS the ASF, a copy of which is attached hereto, has been executed by Marshall Francis McAnerney and Marshall McAnerney Personal Real Estate Corporation and on behalf of the Council;

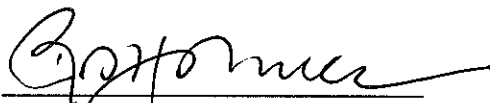
NOW THEREFORE, the Committee having made the findings proposed in the attached ASF, and in particular having found that Marshall Francis McAnerney and Marshall McAnerney Personal Real Estate Corporation committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services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

1. each be reprimanded;
2. be jointly and severally liable to pay a discipline penalty to the Council in the amount of \$5,000.00 within ninety (90) days of the date of this Order;
3. be jointly and severally liable to 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 Marshall Francis McAnerney or Marshall McAnerney Personal Real Estate Corporation fails 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 *Real Estate Services Act*.

Dated this 22 day of February, 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

Attch.

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

IN THE MATTER OF

**MARSHALL FRANCIS MCANERNEY
(148334)**

AND

**MARSHALL MCANERNEY PERSONAL REAL ESTATE CORPORATION
(148334PC)**

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

The following agreement has been reached between Marshall Francis McAnerney ("Mr. McAnerney"), Marshall McAnerney Personal Real Estate Corporation and the Real Estate Council of British Columbia ("Council").

- A. Mr. McAnerney and Marshall McAnerney Personal Real Estate Corporation consent to an Order to be made pursuant to sections 41 and 43 of the *Real Estate Services Act* ("RESA") that they be reprimanded.
- B. Mr. McAnerney and Marshall McAnerney Personal Real Estate Corporation also consent that they are jointly and severally liable to pay a discipline penalty to the Council in the amount of \$5,000.00 within sixty (60) days from the date of the Order herein.
- C. Mr. McAnerney and Marshall McAnerney Personal Real Estate Corporation further consent that they are jointly and severally liable to pay enforcement expenses of this Consent Order to the Council in the amount of \$1,500.00 within sixty (60) days from the date of the Order herein.
- D. Mr. McAnerney and Marshall McAnerney Personal Real Estate Corporation further consent that if they fail to comply with any of the terms of the Order set out above, a Discipline Hearing Committee may suspend or cancel their licences without further notice to them pursuant to section 43(3) and 43(4) of the RESA.
- E. As a basis for this Order, Mr. McAnerney and Marshall McAnerney Personal Real Estate Corporation acknowledge and agree that the facts set forth herein are correct:
 1. At all relevant times, Mr. McAnerney was licensed as a trading representative with Centre Group Commercial Realty Ltd. dba Colliers International Centre Group Commercial Realty ("Brokerage").

2. Mr. McAnerney's licensing history is as follows:

Start Date	End Date	Brokerage	Licence Level	Licence Category
22/05/2015	Present	Macdonald Realty, Kelowna, (1995) Ltd. (X024618)	Representative	Trading
24/07/2007	22/05/2015	Centre Group Commercial Realty Ltd. (X024062)	Representative	Trading
19/01/2007	24/07/2007	James Askew Real Estate Ltd. (X028510)	Representative	Trading
11/11/2006	18/01/2007	*** Unlicensed ***		
28/03/2006	10/11/2006	James Askew Real Estate Ltd. (X028510)	Representative	Trading

3. Marshall McAnerney Personal Real Estate Corporation has been licensed from May 22, 2015.
4. Following discussions with his lawyer and accountant, Mr. McAnerney instructed his lawyer to complete the necessary paperwork to set up a personal real estate corporation. On or about September 16, 2010, Marshall McAnerney Personal Real Estate Corporation was incorporated.
5. Once the paperwork was completed, Mr. McAnerney informed his Brokerage that he was now a personal real estate corporation and would be providing real estate services in the name of Marshall McAnerney Personal Real Estate Corporation.
6. Mr. McAnerney began receiving all of his remuneration for real estate services from the Brokerage payable to Marshall McAnerney Personal Real Estate Corporation.
7. Mr. McAnerney stated that he was under the assumption that his lawyer had taken the appropriate steps to establish his personal real estate corporation. Mr. McAnerney proceeded in good faith and was unaware his personal real estate corporation had not been licenced with the Council.
8. On or about March 28, 2012, Mr. McAnerney renewed his representative license. This license renewal application was signed by the managing broker of the Brokerage. A licensing application was not made for Marshall McAnerney Personal Real Estate Corporation at this time.
9. On or about March 28, 2014, Mr. McAnerney renewed his representative license. This license renewal application was signed by an associate broker of the Brokerage, since the managing broker was out of the office at the time. A licensing application was not made for Marshall McAnerney Personal Real Estate Corporation at this time.

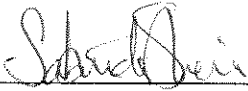
10. On or about May 22, 2015, Mr. McAnerney submitted an application to the Council to transfer brokerages. It was then discovered that Marshall McAnerney Personal Real Estate Corporation was not, and had never been licensed. On that same day, Mr. McAnerney applied to licence his personal real estate corporation and paid the licence fees.
11. From approximately September 16, 2010 to May 22, 2015, Marshall McAnerney Personal Real Estate Corporation was not licensed with the Council, pursuant to the RESA, to provide real estate services.
12. In response to the Council's inquiries, Mr. McAnerney stated that when he set up his personal real estate corporation, he was unaware that it required a separate license. He further stated that when he received notices and invoices for renewal of his representative licence, he completed the applications and sent them in with the fees "totally unaware that a [second] licence was required." Mr. McAnerney acknowledged that information regarding licensing a personal real estate corporation was readily available on the Council's website and apologised for the oversight.
13. Mr. McAnerney and Marshall McAnerney Personal Real Estate Corporation, have no prior discipline history with the Council.

F. Proposed Acceptance of Findings and Waiver

1. Based on the Agreed Statement of Facts as outlined herein, and without making any admissions of liability, Mr. McAnerney and Marshall McAnerney Personal Real Estate Corporation are prepared to accept the following findings if made against them by the Council's Consent Order Review Committee:
 - a) Marshall Francis McAnerney and Marshall McAnerney Personal Real Estate Corporation committed professional misconduct within the meaning of section 35(1)(a) of the RESA between September 2010 and May 2015, by providing real estate services and accepted remuneration through Marshall McAnerney Personal Real Estate Corporation during which time Marshall McAnerney Personal Real Estate Corporation was not licensed with the Council, contrary to sections 3(1)(a), 7(3)(a) and 7(3)(b) of the RESA.
2. Mr. McAnerney and Marshall McAnerney Personal Real Estate Corporation hereby waive their right to appeal pursuant to section 54 of the RESA.
3. Mr. McAnerney and Marshall McAnerney Personal Real Estate Corporation acknowledge that they have a right to seek independent legal advice before signing this Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver.
4. Mr. McAnerney and Marshall McAnerney Personal Real Estate Corporation acknowledge and are 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.

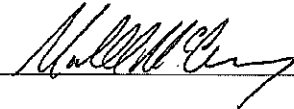
5. Mr. McAnerney and Marshall McAnerney Personal Real Estate Corporation acknowledge and are aware that the Superintendent of Real Estate has the right, pursuant to section 54 of the RESA to appeal any decision of the Council, including this Agreed Statement of Facts, Proposed Acceptance of Findings, and Waiver and Consent Order.
6. 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 civil proceedings.



**Sabinder Sheina, Legal Counsel
Real Estate Council of British Columbia**

**As to Part E only (Agreed Statement
of Facts)**

Dated 1, day of February, 2017



**Marshall Francis McAnerney on his behalf
and on behalf of Marshall McAnerney
Personal Real Estate Corporation**

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

Dated 24, day of JANUARY, 2017