

IN THE MATTER OF THE *REAL ESTATE SERVICES ACT*

S.B.C. 2004, c. 42

AND

IN THE MATTER OF

KEVIN ALFRED PEARSON

(072516)

AND

KEVIN PEARSON PERSONAL REAL ESTATE CORPORATION

(072516PC)

AND

ENERGY REALTY LTD. dba CENTURY 21 ENERGY REALTY

(X014557)

CONSENT ORDER

RESPONDENT:	Kevin Alfred Pearson, Kevin Pearson Personal Real Estate Corporation, Managing Broker, Energy Realty Ltd. dba Century 21 Energy Realty
	Energy Realty Ltd. dba Century 21 Energy Realty, Brokerage
DATE OF REVIEW MEETING:	December 8, 2016
DATE OF CONSENT ORDER:	January <u>5</u> , 2017
CONSENT ORDER REVIEW COMMITTEE:	R. Holmes, Chair S. Heath G. Martin M. Leslie K. Khoo
ALSO PRESENT:	E. Seeley, Acting Executive Officer G. Thiele, Director, Legal Services S. Sheina, Legal Counsel for the Real Estate Council

PROCEEDINGS:

On December 8, 2016 the Consent Order Review Committee (the "Committee") resolved to accept the Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver ("ASF") submitted by Kevin Alfred Pearson, Kevin Pearson Personal Real Estate Corporation, and Energy Realty Ltd. dba Century 21 Energy Realty.

WHEREAS the ASF, a copy of which is attached hereto, has been executed by Kevin Alfred Pearson, Kevin Pearson Personal Real Estate Corporation, Energy Realty Ltd. dba Century 21 Energy Realty 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 Kevin Alfred Pearson, Kevin Pearson Personal Real Estate Corporation, and Energy Realty Ltd. dba Century 21 Energy Realty committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act*, orders that Kevin Alfred Pearson, Kevin Pearson Personal Real Estate Corporation, and Energy Realty Ltd. dba Century 21 Energy Realty:

1. each be reprimanded;
2. Kevin Alfred Pearson and Kevin Pearson Personal Real Estate Corporation 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; and
3. Energy Realty Ltd. dba Century 21 Energy Realty consents 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 Kevin Alfred Pearson, Kevin Pearson Personal Real Estate Corporation Kevin Alfred Pearson, Kevin Pearson Personal Real Estate Corporation, and Action Realty (1991) Inc. dba RE/MAX Action Realty 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 *Real Estate Services Act*.

Dated this 5 day of January, 2017 at the City of Vancouver, British Columbia.

ON BEHALF OF THE CONSENT ORDER REVIEW COMMITTEE



R. Holmes, 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

**KEVIN ALFRED PEARSON
(072516)**

AND

**KEVIN PEARSON PERSONAL REAL ESTATE CORPORATION
(072516PC)**

AND

**ENERGY REALTY LTD. dba CENTURY 21 ENERGY REALTY
(X014557)**

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

The following agreement has been reached between Kevin Alfred Pearson ("Mr. Pearson"), Kevin Pearson Personal Real Estate Corporation, Energy Realty Ltd. dba Century 21 Energy Realty (the "Brokerage") and the Real Estate Council of British Columbia (the "Council").

- A. Mr. Pearson, Kevin Pearson Personal Real Estate Corporation and the Brokerage hereby consent to an Order to be made pursuant to sections 41 and 43 of the *Real Estate Services Act* ("RESA") that they each be reprimanded.
- B. Mr. Pearson, Kevin Pearson Personal Real Estate Corporation 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.
- C. The Brokerage consent 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. Further, Mr. Pearson, Kevin Pearson Personal Real Estate Corporation and the Brokerage 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.

AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

E. As a basis for this Order, Mr. Pearson, Kevin Pearson Personal Real Estate Corporation and the Brokerage acknowledge and agree that the facts set forth herein are correct:

1. Mr. Pearson was at all relevant times licensed as a managing broker with the Brokerage.

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

Brokerage	Licence Level	Licence Category	Start Date	End Date
Energy Realty Ltd. dba Century 21 Energy Realty (X014557)	Managing Broker	Trading, Rental	01/02/1998	Present
Energy Realty Ltd. dba Century 21 Energy Realty (X014557)	Associate Broker	Trading, Rental	28/10/1997	01/02/1998
Energy Realty Ltd. dba Century 21 Energy Realty (X014557)	Representative	Trading, Rental	17/02/1988	28/10/1997

3. Mr. Pearson's secondary licence (072516-1) licensing history is as follows:

Brokerage	Branch	Licence Level	Licence Category	Start Date	End Date
Energy Realty Ltd. dba Century 21 Energy Realty (X029276)	Dawson Creek	Managing Broker	Trading, Rental	14/10/2011	Present
Energy Realty Ltd. dba Century 21 Energy Realty (X029276)	Dawson Creek	Managing Broker	Trading	30/04/2009	14/10/2011

4. Kevin Pearson Personal Real Estate Corporation's licensing history is as follows:

Brokerage	Licence Level	Licence Category	Start Date	End Date
Kevin Pearson Personal Real Estate Corporation (072516PC)	Personal Real Estate Corporation	Trading, Rental	01/02/2012	Present

5. The Brokerage's licensing history is as follows

Brokerage	Licence Level	Licence Category	Start Date	End Date
Energy Realty Ltd. dba Century 21 Energy Realty (X014557)	Brokerage	Trading, Rental	19/06/1985	Present

6. On February 2, 2010, LT transferred her license to the Brokerage.

7. On August 4, 2010, LT incorporated a Personal Real Estate Corporation under the Business Corporation Act. LT did not licence her Personal Real Estate Corporation with the Council as required by its legislation.

8. LT stated to Council staff that she had operated her Personal Real Estate Corporation since its incorporation in August 2010. LT further stated she was not aware she was required to licence her Personal Real Estate Corporation with the Council.

9. On September 30, 2011, LT transferred her license from the Brokerage.

AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

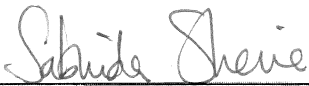
10. In a written statement to the Council, Mr. Pearson stated that he did not see any evidence that LT was operating a Personal Real Estate Corporation while she was licensed with the Brokerage. He provided copies of LT's listings and contracts that showed LT was not using her Personal Real Estate Corporation status while at the Brokerage.
11. In response to Council's investigation, on June 10, 2015, the Brokerage provided LT's payroll summary that revealed the Brokerage had paid commissions to LT in the name of her unlicensed Personal Real Estate Corporation.
12. Mr. Pearson stated that he was not privy to the conversation LT had with the Brokerage's book keeper requesting that her commission cheques be issued to the Personal Real Estate Corporation.
13. Mr. Pearson has a prior discipline history at the Council as follows:
 - a) 09-166 Consent Order for contravening section 5-9 of the Council Rules for failing to disclose his interest in a property in writing to the buyer on a Disclosure of Interest in Trade form, prior to entering into a Contract for Purchase and Sale. Mr. Pearson was reprimanded, ordered to complete the Trading Services Remedial Education Course and pay enforcement expenses.
14. Kevin Pearson Personal Real Estate Corporation and the Brokerage 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. Pearson, Kevin Pearson Personal Real Estate Corporation and the Brokerage are prepared to accept the following findings if made against them by the Council's Consent Order Review Committee:
 - a) Mr. Pearson, Kevin Pearson Personal Real Estate Corporation and the Brokerage committed professional misconduct within the meaning of section 35(1)(a) of the RESA between August 10, 2010 to September 30, 2011, when:
 - i. Mr. Pearson, as Managing Broker for the Brokerage, paid remuneration to an unlicensed Personal Real Estate Corporation for real estate services provided on behalf of the Brokerage, contrary to section 7(3)(b) of the RESA and section 6-1 of the Rules;
 - ii. Mr. Pearson failed to verify that the unlicensed Personal Real Estate Corporation was in compliance with the licensing requirements of the RESA, during the time it was providing real estate services for which it was being remunerated, contrary to his responsibilities pursuant to section 6(2) of the RESA and 3-1(1) and 3-1(3)(b) of the Rules; and

AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

- iii. The Brokerage provided real estate services by a Personal Real Estate Corporation that was not licensed in relation to and engaged by the Brokerage, contrary to section 7(5)(a) of the RESA.
2. Mr. Pearson, Kevin Pearson Personal Real Estate Corporation and the Brokerage hereby waive their right to appeal pursuant to section 54 of the RESA.
3. Mr. Pearson, Kevin Pearson Personal Real Estate Corporation and the Brokerage 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. Pearson, Kevin Pearson Personal Real Estate Corporation and the Brokerage 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. Pearson, Kevin Pearson Personal Real Estate Corporation and the Brokerage 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 other proceeding of any kind.



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

As to Part D only (Agreed Statement of Facts)

Dated 5 day of January, 2017



Kevin Alfred Pearson on his behalf and on behalf of Kevin Pearson Personal Real Estate Corporation and Energy Realty Ltd. dba Century 21 Energy Realty

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

Dated 4th day of JANUARY, 2017