

File # 15-094

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

IN THE MATTER OF

**MICHAEL PATRICK DUMONT
(156506)**

CONSENT ORDER

RESPONDENT: Michael Patrick Dumont, Managing
Broker, Okanagan Strata Management
Ltd.

DATE OF REVIEW MEETING: September 29, 2016

DATE OF CONSENT ORDER: September 29, 2016

CONSENT ORDER REVIEW COMMITTEE: M. Leslie
G. Martin
T. O'Grady

ALSO PRESENT: R.O. Fawcett, Executive Officer
G. Thiele, Director, Legal Services
J. Moore, Legal Counsel for the Real
Estate Council

PROCEEDINGS:

On September 29, 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 Michael Patrick Dumont

WHEREAS the ASF, a copy of which is attached hereto, has been executed by Michael Patrick Dumont and on behalf of the Council;

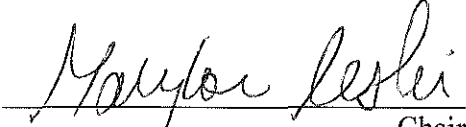
NOW THEREFORE, the Committee having made the findings proposed in the attached ASF, and in particular having found that Michael Patrick Dumont committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act*, orders that Michael Patrick Dumont:

1. be reprimanded;
2. pay a discipline penalty to the Council in the amount of \$2,500.00 within ninety (90) days of the date of this Order; and
3. 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 this Order.

If Michael Patrick Dumont fails to comply with any term of this Order, the Council may suspend or cancel his licence without further notice to him, pursuant to sections 43(3) and 43(4) of the *Real Estate Services Act*.

Dated this 29 day of September, 2016 at the City of Vancouver, British Columbia.

ON BEHALF OF THE CONSENT ORDER REVIEW COMMITTEE


_____, Chair
Consent Order Review Committee

Attch.

MARYLOU LESLIE

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

IN THE MATTER OF

**MICHAEL PATRICK DUMONT
(156506)**

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

The following agreement has been reached between Michael Patrick Dumont (“Mr. Dumont”), and the Real Estate Council of British Columbia (the “Council”).

- A. Mr. Dumont hereby consents to an Order to be made pursuant to sections 41 and 43 of the *Real Estate Services Act* (“RESA”) that he:
1. be reprimanded;
 2. pay a discipline penalty to the Council in the amount of \$2,500.00 within (90) days from the date of the Order herein; and
 3. pay enforcement expenses of this Consent Order to the Council in the amount of \$1,500 within sixty (60) days from the date of the Order herein.
- B. Mr. Dumont further consents that if he fails to comply with any of the terms of the Order set out above, a Discipline Hearing Committee may suspend or cancel his licence without further notice to him pursuant to section 43(3) and 43(4) of the RESA.
- C. As a basis for this Mr. Dumont acknowledges and agrees that the facts set forth herein are correct:
1. Mr. Dumont’s licensing history is as follows:

Start Date	End Date	Brokerage	Licence Level	Licence Category
17/03/2013	Present	Okanagan Strata Management Ltd. (X028562)	Managing Broker	Trading, Rental, Strata
13/07/2012	16/0/2013	Okanagan Strata Management Ltd. (X028562)	Associate Broker	Rental, Strata

AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

28/11/2011	13/07/2012	Kelowna Condominium Service Ltd. (X028555)	Associate Broker	Strata
17/03/2009	28/11/2011	Kelowna Condominium Service Ltd. (X028555)	Representative	Strata

2. [REDACTED] was the owner of Okanagan Strata Management Ltd. ("OSM"). Mr. Dumont and [REDACTED] were two of the managing brokers.
3. In February 2015, OSM changed ownership.
4. Mr. Dumont has no previous discipline history with the Council.
5. In October 2014, the Council conducted an inspection of OSM's books and records in response to a number of complaints that had been made against OSM, a number of its representatives and its managing brokers.
6. During the inspection, the auditor identified a number of issues, which included the following:
 - (a) The brokerage's general accounts had not been reconciled between May 2014 and August 2014, resulting in the general operating accounts being grossly misstated;
 - (b) The brokerage's pooled rental trust accounts had not been reconciled for a number of years;
 - (c) A shortage of \$9,684.16 was identified in the brokerage's long term pooled rental trust accounts; and
 - (d) Bank reconciliations for multiple strata corporation trust accounts were reconciled later than what was required by section 8-2 of the Council Rules.
7. On January 9, 2015, the Council sent a copy of the office and records inspection report ("ORIR") to OSM and the managing brokers, and requested responses by January 30, 2015 to the issues identified by the auditor. [REDACTED] and Mr. Dumont provided a response to the Council on February 7, 2015 which addressed some of the issues noted in the ORIR.

AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

8. On February 25, 2015, the managing brokers were asked to provide by March 18, 2015, information about issues they had not addressed, including details about the shortage in the rental trust account. No information was received, and in March 2015 and April 2015, a follow up email was sent to OSM and the managing brokers.
9. On May 22, 2015, [REDACTED] notified the Council that he was out of town until May 25, 2015 and would not be able to respond to the Council until then.
10. On June 3, 2015 and September 28, 2015 the Council received responses to all of the outstanding issues and provided evidence to the Council that the shortfall in the long term pooled rental trust account had been rectified.

D. Proposed Acceptance of Findings and Waiver

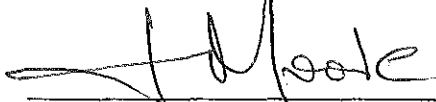
1. Based on the Agreed Statement of Facts as outlined herein, and without making any admissions of liability, Mr. Dumont is prepared to accept the following findings if made against him by the Council's Consent Order Review Committee:
 - (a) Mr. Dumont, in his capacity as a managing broker of OSM committed professional misconduct within the meaning of section 35(1)(a) of RESA , when he:
 - (i) contrary to section 6(2) of RESA and sections 3-1(1)(a), 3-1(3), 7-5(2), 8-2 and 8-3 of the Council Rules:
 - A. failed to be actively engaged in the management of the brokerage;
 - B. failed to ensure that the trust accounts and records of the brokerage were maintained in accordance with the Act, regulations, rules and bylaws; and
 - (ii) failed to ensure that the brokerage:
 - A. maintained and retained financial records in connection to its business and prepare monthly bank reconciliations within five weeks of the end of the month;
 - B. maintained a liability listing, and reconciled the pooled rental trust account accurately and appropriately for a number of years;
 - C. for the months of July, August and September 2014, reconciled the trust accounts held on behalf of certain strata corporations in a timely manner and in accordance with the Council Rules;

AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

- D. took immediate steps to eliminate the negative balance of \$9684.16 that was in the long term pooled rental trust accounts as of November 30, 2104, and notified the Council about the negative balance within the requisite time frame as required under the Council Rules.
 - E. provided certain of its strata corporation clients with a monthly trust bank statement and reconciliation within six weeks following the end of the month;
 - F. promptly paid deposits received by the brokerage into the brokerage's trust account; and
 - G. included in the rental management service agreements a description of the records to be kept by the brokerage on behalf of the client and a provision relating to the use and disclosure of personal information; and
- (b) contrary to section 2-19 of the Council Rules, failed to respond promptly to the Council's correspondence regarding certain outstanding issues identified in the 2014 Office and Records Inspection Report, despite repeated requests by the Council to do so.
2. Mr. Dumont hereby waives his right to appeal pursuant to section 54 of the RESA.
 3. Mr. Dumont acknowledges that he has a right to seek independent legal advice before signing this Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver.
 4. Mr. Dumont 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. Dumont 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.

AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

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.



Janice L. Moore, Legal Counsel
Real Estate Council of British Columbia



Michael Patrick Dumont

As to Part C only (Agreed Statement of Facts)

Dated 27 day of Sept, 2016

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

Dated 27th day of September, 2016