

File # 14-001

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

IN THE MATTER OF
MARC EDWARD THOMAS BURROWS
(147333)

AND

HOWARD PAUL ISAACS
(006632)

CONSENT ORDER

RESPONDENTS:

Marc Edward Thomas Burrows,
Representative, Angell, Hasman &
Associates Realty Ltd.

Howard Paul Isaacs, Representative,
Angell, Hasman & Associates Realty
Ltd.

DATE OF REVIEW MEETING:

April 11, 2016

DATE OF CONSENT ORDER:

May 6, 2016

CONSENT ORDER REVIEW COMMITTEE:

D. Fimrite
M. Leslie, Chair
S. Lynch
S. McGougan
E. Mignosa

ALSO PRESENT:

R.O. Fawcett, Executive Officer
G. Thiele, Director, Legal Services
J. Whittow, Q.C., Legal Counsel for
the Real Estate Council

PROCEEDINGS:

On April 11, 2016, an Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver ("ASF") submitted by Marc Edward Thomas Burrows and Howard Paul Isaacs was considered by the Consent Order Review Committee (the "Committee") and rejected. On April 18, 2016, a

revised ASF acceptable to the Committee was submitted by Marc Edward Thomas Burrows and Howard Paul Isaacs.

WHEREAS the ASF, a copy of which is attached hereto, has been executed by Marc Edward Thomas Burrows, Howard Paul Isaacs 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 Marc Edward Thomas Burrows and Howard Paul Isaacs committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act*, orders that:

1. Mr. Burrows' licence be suspended for fourteen (14) days and that the suspension take place concurrently with the suspension of Mr. Isaacs;
2. Mr. Burrows, at his own expense, register for and successfully complete the Real Estate Trading Services Remedial Education Course as provided by the Real Estate Division, Sauder School of Business at the University of British Columbia in the time period as directed by Council;
3. Mr. Burrows 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.
4. Mr. Isaacs' licence be suspended for fourteen (14) days and that the suspension take place concurrently with the suspension of Mr. Burrows;
5. Mr. Isaacs, at his own expense, register for and successfully complete the Real Estate Trading Services Remedial Education Course, as provided by the Real Estate Division, Sauder School of Business at the University of British Columbia in the time period as directed by the Council;
6. Mr. Isaacs 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 Marc Edward Thomas Burrows or Howard Paul Isaacs 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 6th day of May, 2016 at the City of Vancouver, British Columbia.

ON BEHALF OF THE CONSENT ORDER REVIEW COMMITTEE



M. Leslie, 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
MARC EDWARD THOMAS BURROWS AND HOWARD PAUL ISAACS
AGREED STATEMENT OF FACTS,
PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER**

The following agreement has been reached between Marc Edward Thomas Burrows ("Mr. Burrows"), Howard Paul Isaacs ("Mr. Isaacs") and the Real Estate Council of British Columbia (the "Council"):

- A. Mr. Burrows hereby consents to an Order to be made pursuant to section 43 of the *Real Estate Services Act* that he be suspended for fourteen (14) days, said suspension to take place concurrently with the suspension of Mr. Isaacs.

Mr. Burrows further agrees to an Order that he at his own expense, register for and successfully complete the Real Estate Trading Services 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.

Mr. Burrows further consents to an Order that he be liable to pay enforcement expenses to the Council in the amount of \$1,500.00 within sixty (60) days from the date of the Order herein.

Mr. Burrows further consents to an Order that if he fails 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 pursuant to section 43(3) and 43(4) of the *Real Estate Services Act*.

- B. Mr. Isaacs hereby consents to an Order to be made pursuant to section 43 of the *Real Estate Services Act* that he be suspended for fourteen (14) days, said suspension to take place concurrently with the suspension of Mr. Burrows.

Mr. Isaacs further agrees to an Order that he at his own expense, register for and successfully complete the Real Estate Trading Services 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.

Mr. Isaacs further consents to an Order that he be liable to pay enforcement expenses to the Council in the amount of \$1,500.00 within sixty (60) days from the date of the Order herein.

Mr. Isaacs further consents to an Order that if he fails 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 pursuant to section 43(3) and 43(4) of the *Real Estate Services Act*.

C. As a basis for this Order, Mr. Burrows and Mr. Isaacs agree that the facts set forth herein are correct:

1. At all material times, Mr. Burrows and Mr. Isaacs were licensed as representatives with Angell, Hasman & Associates Realty Ltd. ("Angell Hasman").

2. Mr. Isaacs was first licensed on August 10, 1978 as a salesperson with Block Bros. Dunbar. His licensing history from 1982 to the present is as follows:

<u>Start Date</u>	<u>End Date</u>	<u>Licensing History</u>	<u>Licence Level</u>	<u>Licence Category</u>
10/08/2009	Present	Angell, Hasman & Associates Realty Ltd. (X025171)	Representative	Trading, Rental
09/08/2009	09/08/2009	***Unlicensed***	N/A	N/A
05/06/2001	08/08/2009	Angell, Hasman & Associates Realty Ltd. (X025171)	Representative	Trading, Rental
14/09/1998	05/06/2001	Macdonald Realty (West Van) Ltd. Dba Macdonald Realtors West Van (X025101)	Representative	Trading, Rental
09/09/1998	13/09/1998	***Unlicensed***	N/A	N/A
30/08/1995	08/09/1998	Macdonald Realty (Paul Isaacs) Ltd. (X024983)	Representative	Trading, Rental
09/08/1993	30/08/1995	Bell Realty Ltd. (X021870)	Representative	Trading, Rental
30/07/1993	08/08/1993	***Unlicensed***	N/A	N/A
15/04/1991	29/07/1993	Bell Realty Ltd. (X021870)	Representative	Trading, Rental
30/07/1987	15/04/1991	Guildhall Investments Ltd., Allan M. Angell Holdings Inc. & Barnford Investments Ltd. Dba Bell Realty (X000253)	Representative	Trading, Rental
21/07/1984	22/07/1984	***Unlicensed***	N/A	N/A
06/01/1982	20/07/1984	Block Bros. Realty Ltd. (Wvan) (Old) (X000365)	Representative	Trading, Rental

3. Mr. Burrows' licensing history is as follows:

<u>Start Date</u>	<u>End Date</u>	<u>Licensing History</u>	<u>Licence Level</u>	<u>Licence Category</u>
24/01/2014	Present	Angell, Hasman & Associates	Representative	Trading

		Realty Ltd. (X025171)		
16/01/2014	23/01/2014	***Unlicensed***	N/A	N/A
16/01/2012	15/01/2014	Angell, Hasman & Associates Realty Ltd. (X025171)	Representative	Trading
06/01/2012	15/01/2012	***Unlicensed***	N/A	N/A
06/01/2010	05/01/2012	Angell, Hasman & Associates Realty Ltd. (X025171)	Representative	Trading
07/12/2009	05/01/2010	***Unlicensed***	N/A	N/A
07/12/2007	06/12/2009	Angell, Hasman & Associates Realty Ltd. (X025171)	Representative	Trading
29/11/2007	16/12/2007	***Unlicensed***	N/A	N/A
29/11/2005	28/11/2007	Angell, Hasman & Associates Realty Ltd. (X025171)	Representative	Trading

The Mathers Property

4. On August 27, 2013, the owner of [REDACTED] Mathers Ave., West Vancouver (the "Mathers Property") entered a multiple listing contract ("MLS") with Angell Hasman for the period September 18, 2013 to March 30, 2014. Mr. Burrows and Mr. Isaacs were identified in that contract as the responsible representatives (together referred to as the "Representatives").

5. The owners of the Mathers Property signed a property disclosure statement ("PDS") dated August 7, 2013 that indicated the premises on the Mathers Property was an "owner built home", for which there was home warranty insurance under the *Homeowner Protection Act*.

6. A contract of purchase and sale was entered into for the Mathers Property on September 23, 2013, which completed on October 7, 2013.

7. It was a condition of the contract that the seller was licensed as a builder under the *Homeowner Protection Act* and would provide proof of home warranty insurance. Prior to subject removal, it was determined that no such insurance was in place. The contract was amended, and a provision added that if said warranty insurance was not in place at completion the buyer would have a \$200,000 holdback for 21 days after completion, at which time the holdback would be released to the buyer if insurance coverage was still not provided. Insurance was obtained and provided to the buyer on October 16, 2013. After the provision of the home warranty insurance, the holdback was released.

8. On October 16, 2013, the Homeowner Protection Office learned of the sale of the Mathers Property. An officer of the Homeowner Protection Office ("HPO Officer") contacted the Representatives and the managing broker, advised the sale was not in compliance with the *Homeowner Protection Act*, and requested documentation regarding the Mathers Property.

9. On December 27, 2013, the Homeowner Protection Office wrote to the Representatives to state that it had determined that the sale of the Mathers Property contravened the *Homeowner Protection Act*. The contravention was that the seller, as an owner builder, was required under s. 21(2)(a) of the *Homeowner Protection Act*, before the sale took place, to provide to the prospective purchaser a disclosure notice from the Homeowner Protection Office. The letter further advised that the seller may be liable to monetary penalty for the contravention.

The Sunset Property

10. On April 27, 2014, the owner of [REDACTED] Sunset Lane, West Vancouver (the "Sunset Property") entered a multiple listing contract with Angell Hasman for the period May 2, 2014 to September 30, 2014. Mr. Burrows and Mr. Isaacs were identified in that contract as the Representatives.

11. On the Sunset Property was a new home, built by the owner.

12. On May 29, 2014, the Homeowner Protection Office issued a Compliance Order to the owner of the Sunset Property, ordering that the owner cease offering the Sunset Property for sale. The basis for the order was that the owner of the Sunset Property had been registered as an owner builder and, contrary to the authorization given by that Office, had not lived in the premises for the required 12 month period. The owner was required by the order to comply by June 5, 2014.

13. On May 29, 2014, an HPO Officer contacted Mr. Isaacs and advised him of the Compliance Order and that the Sunset Property could not be offered for sale.

14. On June 5, 2014, the Representatives had the managing broker and owner sign a listing cancellation form for the Sunset Property. However, the Representatives did not submit the executed cancellation form to the Real Estate Board of Greater Vancouver. As a result, the Sunset Property remained listed for sale.

15. On June 5, 2014, Mr. Burrows emailed to the HPO Officer a copy of the executed listing cancellation form for the Sunset Property and stated that the listing had also been removed from his website. On June 18, 2014, an HPO Officer emailed Mr. Burrows noting that the Sunset Property remained listed for sale. Mr. Burrows replied that the cancellation had been submitted last week and MLS can be a week behind. Mr. Burrows knew that the listing had not been cancelled.

16. On June 20, 2014, a senior compliance officer of the Homeowner Protection Office sent a letter to the managing broker and to the Representatives confirming that the Sunset Property could not be offered for sale and describing the Compliance Order, noting that the Sunset Property remained listed on the MLS and was advertised on the Angell Hasman website and other internet publications, and stating that the marketing was not legally permissible.

17. An HPO Officer contacted Mr. Isaacs on July 16, 2014 and again stated that the Sunset Property could not be listed unless the owner obtained permission from the

Homeowner Protection Office. Mr. Isaacs told the HPO Officer that he would delist the Sunset Property. He deliberately failed to do so.

18. The owner of the Sunset Property was under financial hardship. The *Homeowner Protection Act* permits an owner to obtain special permission from the Homeowner Protection Office to offer or sell property without compliance with provisions of the

Homeowner Protection Act. The owner told the Representatives that he was seeking such permission. Therefore, the Representatives continued to list the Sunset Property on the MLA and market it on the Angell Hasman and the Representatives' websites and in print advertising, contrary to the Compliance Order.

19. On September 18, 2014, the Representatives executed and submitted a cancellation of the listing for the Sunset Property.

20. Mr. Burrows and Mr. Isaacs have no prior disciplinary history with the Council.

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. Isaacs is prepared to accept the following findings if made against him by the Council's Consent Order Review Committee:

(a) that he committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* and contravened section 3-4 of the Council Rules in that,

(i) between on or about August 27, 2013 and October, 18, 2013, when acting as the listing agent in the sale of the Mathers Property, a new home built by an owner builder under the provisions of the *Homeowner Protection Act*, he failed to ensure that a disclosure notice required by s. 21(2) of that *Act* was provided to the buyer prior to the sale;

(ii) between May 2, and September 18, 2014, he listed for sale the Sunset Property, an owner built home under the provisions of the *Homeowner Protection Act*, when the owner had not lived in the home for the prescribed period of 12 months after the home having been built, in contravention of s. 20.1 of the *Homeowner Protection Act*;

(b) that he committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* and contravened section 3-4 and section 5-13(1)(c) of the Council Rules by listing and marketing the Sunset Property when he knew that the Homeowner Protection Office had issued a Compliance Order requiring that the owner cease offering that property for sale;

(c) that he committed conduct unbecoming a licensee within the meaning of section 35(2) of the *Real Estate Services Act* and professional misconduct within the meaning of section 35(1)(a) and section 35(1)(c) of the *Real Estate Services*

Act and contravened section 3-4 of the Council Rules by advising the Homeowner Protection Office on about July 16, 2014 that the Sunset Property would be 'delisted' and then deliberately failing to do so; and

(d) that he committed conduct unbecoming a licensee within the meaning of section 35(2) of the *Real Estate Services Act* by deliberately failing to submit a cancellation of the listing of the Sunset Property executed by the managing broker.

2. Based on the Agreed Statement of Facts as outlined herein, and without making any admissions of liability, Mr. Burrows is prepared to accept the following findings if made against him by the Council's Consent Order Review Committee:

(a) that he committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* and contravened section 3-4 of the Council Rules in that,

(i) between on or about August 27, 2013 and October, 18, 2013, when acting as the listing agent in the sale of the Mathers Property, a new home built by an owner builder under the provisions of the *Homeowner Protection Act*, he failed to ensure that a disclosure notice required by s. 21(2) of that *Act* was provided to the buyer prior to the sale;

(ii) between May 2, and September 18, 2014, he listed for sale the Sunset Property, an owner built home under the provisions of the *Homeowner Protection Act*, when the owner had not lived in the home for the prescribed period of 12 months after the home having been built, in contravention of s. 20.1 of the *Homeowner Protection Act*;

(b) that he committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* and contravened section 3-4 and section 5-13(1)(c) of the Council Rules by listing and marketing the Sunset Property when he knew that the Homeowner Protection Office had issued a Compliance Order requiring that the owner cease offering that property for sale;

(c) that he committed conduct unbecoming a licensee within the meaning of section 35(2) of the *Real Estate Services Act* and professional misconduct within the meaning of section 35(1)(a) and section 35(1)(c) of the *Real Estate Services Act* and contravened section 3-4 of the Council Rules by advising the Homeowner Protection Office on about June 5 and on June 18, 2014 that the listing of the Sunset Property had been cancelled when he knew that was untrue; and

(d) that he committed conduct unbecoming a licensee within the meaning of section 35(2) of the *Real Estate Services Act* by deliberately failing to submit a cancellation of the listing of the Sunset Property executed by the managing broker.

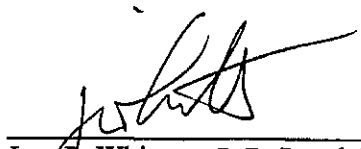
3. Mr. Burrows and Mr. Isaacs waive their right to appeal pursuant to section 54 of the *Real Estate Services Act*.

4. Mr. Burrows and Mr. Isaacs acknowledge that they have a right to seek independent legal advice before signing this Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver.

5. Mr. Burrows and Mr. Isaacs acknowledge that the Council will publish the Consent Order and penalty herein in its Report from Council and on the Council's website.

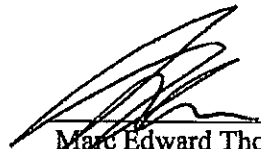
6. Mr. Burrows and Mr. Isaacs acknowledge and are aware that the Superintendent of Real Estate has the right, pursuant to section 54 of the *Real Estate Services Act*, to appeal any decision of the Council, including this Agreed Statement of Facts, Proposed Acceptance of Findings, and Waiver and Consent Order.

7. 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.


Jean P. Whittow, Q.C., Legal Counsel
for the Real Estate Council
of British Columbia

As to Part C only (Agreed Statement of
Facts)

Dated this 18 day of April,
2016.


Marc Edward Thomas Burrows

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

Dated this 12 day of April,
2016.


Howard Paul Isaacs

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

Dated this 12 day of APRIL,
2016.