

File # 14-047

**IN THE MATTER OF THE *REAL ESTATE SERVICES ACT*****S.B.C. 2004, c. 42****AND****IN THE MATTER OF****MARTYN GEORGE DOUGLAS****(003451)****AND****OCEAN PACIFIC REALTY INC. DBA****RE/MAX OCEAN PACIFIC REALTY****(X016542)****CONSENT ORDER****RESPONDENTS:**Martyn George Douglas, Managing  
Broker, Ocean Pacific Realty Inc. dba  
RE/MAX Ocean Pacific RealtyOcean Pacific Realty Inc. dba  
RE/MAX Ocean Pacific Realty**DATE OF REVIEW MEETING:**

February 1, 2016

**DATE OF CONSENT ORDER:**

February 2, 2016

**CONSENT ORDER REVIEW COMMITTEE:**C. Brown  
M. Leslie  
S. Lynch, Chair  
E. Mignosa**ALSO PRESENT:**R.O. Fawcett, Executive Officer  
G. Thiele, Director, Legal Services  
B. Woolley, Q.C., Legal Counsel for  
the Real Estate Council**PROCEEDINGS:**

On February 1, 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 Martyn George Douglas and Ocean Pacific Realty Inc. dba RE/MAX Ocean Pacific Realty.

**WHEREAS** the ASF, a copy of which is attached hereto, has been executed by Martyn George Douglas, RE/MAX Ocean Pacific Realty and on behalf of the Council;

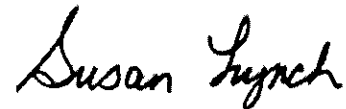
**NOW THEREFORE**, the Committee having made the findings proposed in the attached ASF, and in particular having found that Martyn George Douglas and RE/MAX Ocean Pacific Realty committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act*, orders that:

1. Martyn George Douglas and RE/MAX Ocean Pacific Realty each be reprimanded;
2. Martyn George Douglas and RE/MAX Ocean Pacific Realty be jointly and severally liable to 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. Martyn George Douglas and RE/MAX Ocean Pacific Realty be 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 this Order.

If Martyn George Douglas or RE/MAX Ocean Pacific Realty fails to comply with any term of this Order, the Council may suspend or cancel their licence without further notice to them, pursuant to sections 43(3) and 43(4) of the *Real Estate Services Act*.

Dated this 2<sup>nd</sup> day of February, 2016 at the City of Vancouver, British Columbia.

ON BEHALF OF THE CONSENT ORDER REVIEW COMMITTEE



---

S. Lynch, Chair  
Consent Order Review Committee

Attch.

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

**AND**

**IN THE MATTER OF**

**MARTYN GEORGE DOUGLAS**

**AND**

**OCEAN PACIFIC REALTY INC.**

**DBA RE/MAX OCEAN PACIFIC REALTY**

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

---

The following agreement has been reached among Martyn George Douglas ("Mr. Douglas"), Ocean Pacific Realty Inc. dba Re/Max Ocean Pacific Realty ("Ocean Pacific") and the Real Estate Council of British Columbia (the "Council").

- A. Mr. Douglas hereby consents to an Order to be made pursuant to sections 41 and 43 of the *Real Estate Services Act* (the "Act") that he be reprimanded and that he pay, jointly and severally with Ocean Pacific, a discipline penalty to the Council in the amount of \$2,500 within ninety (90) days of the date of the Order herein. Further, he agrees to pay, jointly and severally with Ocean Pacific, 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. Mr. Douglas further consents to an Order 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 sections 43(3) and 43(4) of the Act.
- B. Ocean Pacific hereby consents to an Order to be made pursuant to sections 41 and 43 of the *Real Estate Services Act* (the "Act") that it be reprimanded and that it pay, jointly and severally with Mr. Douglas, a discipline penalty to the Council in the amount of \$2,500 within ninety (90) days of the date of the Order herein. Further, it agrees to pay, jointly and severally with Mr. Douglas, 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. Ocean Pacific further consents to an Order that if it fails to comply with any of the terms of the Order set out above, a Discipline Hearing Committee may suspend or cancel its licence without further notice to it pursuant to sections 43(3) and 43(4) of the Act.
- C. As a basis for this Order, Mr. Douglas and Ocean Pacific acknowledge and agree that the facts set forth herein are correct:

1. Mr. Douglas was at all relevant times licensed as the managing broker of Ocean Pacific.
2. Mr. Douglas's licensing history is as follows:

Start Date	End Date	Brokerage	Licence Level	Licence Category
09/11/2012	Present	Ocean Pacific Realty Inc. dba Re/Max Ocean Pacific (X016542)	Managing Broker	Trading, Rental
22/03/2011	08/11/2012	Coast Realty Group (Campbell River) Ltd. (X024212)	Managing Broker	Trading, Rental
20/03/1996	22/03/2011	Coast Realty Group (Comox Valley) Ltd. (X025320)	Managing Broker	Trading, Rental
19/02/1996	20/03/1996	Coast Pacific Property Services Ltd. (X021553)	Associate Broker	Trading, Rental
27/02/1991	19/02/1996	Coast Country Properties Ltd. (Cmx) dba Royal LePage in the Comox Valley (Cmx) X021619)	Managing Broker	Trading, Rental
30/06/1981	27/02/1991	Coast Country Realty Ltd. (Cmx) dba Realty World Coast Country Realty (Cmx) (X002489)	Managing Broker	Trading, Rental

Start Date	End Date	Brokerage	Licence Level	Licence Category
25/10/1977	30/06/1981	Coast Country Realty Ltd. (Cmx) dba Realty World Coast Country Realty (Cmx (X002489)	Representative	Trading, Rental
30/06/1977	25/10/1977	Nanaimo Realty (North) Ltd.	Representative	Trading, Rental
28/02/1975	30/06/1977	Nanaimo Realty Ltd.	Representative	Trading, Rental
27/10/1971	27/02/1975	Nanaimo Realty (Courtenay) Ltd.	Representative	Trading, Rental
25/03/1970	27/10/1971	Strathcona Realty Ltd.	Representative	Trading, Rental

3. [REDACTED] through its licensee DF listed for sale property at 2XXX S. Crescent in Courtenay (the "Property").
4. On June 23, 2014 CH, a licensee of Ocean Pacific, prepared an offer to purchase the Property on behalf of KB (the "Buyer"). The offer to purchase was accepted by BE Ltd. (the "Seller") on June 24, 2014, and the accepted offer is referred to as the "Contract".
5. The Contract provided for a deposit of \$20,000 (the "Deposit") to be paid within 48 hours of acceptance, to be delivered in trust to Ocean Pacific, and to be held in trust in accordance with the provisions of the Act.
6. The Deposit was paid into the trust account of Ocean Pacific.
7. The Contract had a number of "subject to" provisions, including "subject to the Buyer receiving and approving information or professional advice concerning the HST liability" (the "HST Subject Clause").
8. The HST Subject Clause was to be removed on or before June 30, 2014.
9. The Buyer received HST advice and elected not to remove the HST Subject Clause and not to proceed with the proposed purchase.

10. On July 4, 2014 CH, the Buyer's representative, sent a deposit release (the "Release") signed by the Buyer to DF, the Seller's representative, with a request for the Seller to sign the Release.
11. From July 4, 2014 to July 16, 2014 CH sent several emails to DF requesting return of the Release signed by the Seller. In a reply dated July 14, 2015, DF stated in relation to the Seller, "he said he is going to do it".
12. On July 17, 2014 Mr. Douglas sent a registered letter to the Seller and the Buyer advising that if a written claim for the Deposit was not received by August 1, 2014, the Deposit would be released to the Buyer on August 5, 2014.
13. Mr. Douglas did not receive any written claim from the Seller. Mr. Douglas caused Ocean Pacific to release the Deposit to the Buyer on August 12, 2014.
14. DF contacted the Council on August 14, 2014 about the release of the Deposit, and the Seller filed a complaint with Council on September 24, 2014.
15. Subsequently, Mr. Douglas placed the amount of the Deposit back into a trust account of Ocean Pacific. Ultimately, the Deposit was released on March 4, 2015, after Mr. Douglas negotiated and received a release signed by both the Seller and the Buyer.
16. Mr. Douglas states he relied on a precedent letter in the Professional Standards Manual and used that precedent for his July 17, 2014 letter which provided for the release of the Deposit.
17. In his 45 year licensing history, 34 years of which he has been a managing broker, Mr. Douglas has been the subject of only the following discipline matter:

- (a) A Consent Order dated July 17, 2015 pursuant to which the following findings were made:

Mr. Douglas be reprimanded as he committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that contrary to Council Rule 3-1(1)(b) he failed to ensure the business of the brokerage was carried out competently and in accordance with RESA and Council Rules, in that he failed to ensure that Ocean Pacific had procedures and systems in place whereby he would have known promptly that the Deposit had not been paid to Ocean Pacific; and

Mr. Douglas committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that contrary to Council Rule 3-1(4)(a) he failed to immediately notify all parties to an agreement giving effect to a trade in real estate that a deposit had not been received, in that he failed to notify the Sellers immediately that

the Deposit due on June 13, 2014 had not been received by Ocean Pacific.

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. Douglas is prepared to accept the following findings if made against him by the Council's Consent Order Review Committee:
  - (a) That Mr. Douglas committed professional misconduct within the meaning of section 35(1)(a) of the Act in that with respect to the provision of real estate services by Ocean Pacific and its licensees to the Buyer in the proposed purchase by the Buyer of the Property from the Seller pursuant to the Contract, pursuant to which the Deposit was paid into a trust account of Ocean Pacific:
    - (i) contrary to section 6 of the Act and Council Rule 3 1(1)(b), he caused or permitted Ocean Pacific, as a stakeholder of the Deposit, to pay the Deposit from a trust account of Ocean Pacific to the Buyer without the written agreement of the Seller, contrary to section 28 and section 30(2)(b) of the Act.
2. Based on the Agreed Statement of Facts as outlined herein, and without making any admissions of liability, Ocean Pacific is prepared to accept the following findings if made against it by the Council's Consent Order Review Committee:
  - (a) That Ocean Pacific committed professional misconduct within the meaning of section 35(1)(a) of the Act in that, with respect to the provision of real estate services by Ocean Pacific and its licensees to the Buyer in the proposed purchase by the Buyer of the Property from the Seller pursuant to the Contract, pursuant to which the Deposit was paid into a trust account of Ocean Pacific:
    - (i) contrary to section 28 and section 30(2)(b) of the Act, Ocean Pacific, as a stakeholder of the Deposit, paid the Deposit from a trust account of Ocean Pacific to the Buyer without the written agreement of the Seller.
3. Mr. Douglas and Ocean Pacific hereby waive their right to appeal pursuant to section 54 of the Act.
4. Mr. Douglas and Ocean Pacific 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. Douglas and Ocean Pacific acknowledge and are aware that the Council will publish the Consent Order and penalty herein in its Report from Council and on the Council's website.
6. Mr. Douglas and Ocean Pacific acknowledge and are aware that the Superintendent of Real Estate has the right, pursuant to section 54 of the 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. The Agreed Statement of Facts and Proposed Acceptance of Findings cannot be used in any other proceeding of any kind.

This Agreed Statement of Facts and Proposed Acceptance of Findings may be signed in counterparts.



Bruce Woolley, Q.C.  
Legal Counsel  
Real Estate Council of British Columbia  
As to Part C only (Agreed Statement of Facts)



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

Dated Nov 6, 2015

Dated Nov 6, 2015



Ocean Pacific Realty Inc. dba  
Re/Max Ocean Pacific Realty  
As to Parts A, B, C and D (Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver)

Dated Nov 6, 2015