



# Report from Council

August 2005 Volume 41, No. 1

## New Chair, Vice-Chair Elected

At the first meeting of the 2005/2006 Council on July 19<sup>th</sup>, Dougal Shewan of Royal LePage - Wolstencroft, Langley, was elected as Chair and Philip Jones of Royal LePage East Kootenay Realty, Cranbrook, was elected as Vice-Chair.



Dougal Shewan

There are 21 members of the Real Estate Council. Three public members are appointed by the provincial government. One member is appointed by the Council as the rental/strata management representative. The remaining 17 are



Philip Jones

chosen through the recently held elections open to all real estate licensees in the province. Members are elected for two-year terms, with half of the Council elected each year, thus ensuring continuity. The names of the other Council members are listed in the left margin on the next page.

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## Council Postpones Action on Canadian Regulators Group (CRG) Agency Task Force Recommendations

As licensees may be aware, the Council's Agency Task Force has been consulting with BCREA and its member boards regarding the recommendations contained in the final report of the CRG Agency Task Force. As a result of that consultation, the Council decided on the following courses of action.

1. The Council supports, in principle, the Association of Canadian Real Estate Educators (ACRE) development of an in-depth curriculum with the goal being a national curriculum to be used for education regarding agency across Canada (with the exception of Quebec).

2. The Council will postpone any further

consideration of implementing the CRG Agency Task Force recommendations until April 1, 2006 or sooner if the in-depth curriculum has been completed by ACRE.

3. The Council's Agency Task Force will meet with industry organizations to discuss the delivery of such an education course.

4. The Council will establish a focus group from a cross section of the industry to consult on any related issues, including possible education delivery models.

The Council is intending to meet with interested industry groups with respect to agency issues commencing in the fall of 2005.

Further information, including a copy of the

final recommendations of the CRG Agency Task Force, can be viewed at [www.canadianregulators.ca/ATMFMain.htm](http://www.canadianregulators.ca/ATMFMain.htm)

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#### REAL ESTATE COUNCIL OF B.C.

##### CHAIR

DOUGAL SHEWAN

##### VICE-CHAIR

PHILIP L. JONES

##### EXECUTIVE OFFICER

ROBERT O. FAWCETT

##### COUNCIL MEMBERS

ROSEMARY BARNES

KEITH BEVINGTON

WILLIAM BROWN

ARLENE A. BUTLER

CYNTHIA A. CHEN

ROBERT F. CLARKE

ALLAN CORBETT

MARSHALL COWE

JOHN FINLAYSON

ABDUL R. GHOURI

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WILLIAM H. LIM

JIM MCNEAL

ANN PETRONE

RAMESH RIKHI

SATNAM SIDHU

WAYNE STRANDLUND

JUDI WHYTE

MICHAEL ZIEGLER

##### STATISTICS

(AUGUST 2005)

REPRESENTATIVES: 12,705

ASSOCIATE BROKERS: 2,018

MANAGING BROKERS: 1,292

BROKERAGES: 1,243

##### Role of the Council

The Real Estate Council is a regulatory agency established by the provincial government. Its mandate is to protect the public interest by enforcing the licensing and licensee conduct requirements of the *Real Estate Services Act*. The Council is responsible for licensing individuals and brokerages engaged in real estate sales, rental and strata property management. The Council also enforces entry qualifications, investigates complaints against licensees and imposes disciplinary sanctions under the Act.

##### Report from Council

The *Report from Council* newsletter is published six times per year. Past issues can be found at [www.realtorlink.ca](http://www.realtorlink.ca)

For further information, contact:  
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## A Note From the Chair

I was pleased to be elected as Chair of the Council for the 2005/06 term. I look forward to working with our new members of Council, including Keith Bevington, William Brown, Jim McNeal and Ann Petrone as well as the continuing members of Council. In particular, I look forward to working with past Chair Rosemary Barnes who continues her service to Council over the next year. I would like to thank Rosemary for her leadership during the introduction of the *Real Estate Services Act* (RESA).

The year ahead will continue to see many important changes, including the licensing of strata managers as of January 1, 2006. In this regard, licensees involved in the provision of strata management services should carefully review the

4<sup>th</sup> Special Report to Licensees issued last month.

One of the substantive changes brought about by the introduction of RESA includes the increased regulatory authority and power of the Council. Included in this new authority is the ability for the Council to impose administrative penalties on licensees for technical contraventions of the Council Rules. I encourage all licensees to familiarize themselves with the Administrative Penalties Policy Statement #1 adopted by the Council as found on pages 5 and 6 of this Report.

As you will have noted from previous *Reports*, the Council continues to place a high priority on licensees familiarizing themselves



**Dougal Shewan**

with RESA, the Council Rules and Bylaws (found on [www.recbc.ca](http://www.recbc.ca)). The new legislation outlines the minimum expected practice standards for licensees whether engaged in sales, rental property management and, as of January 1, 2006, strata property management. Please take the time to review the legislation in order that you can continue to provide the highest level of service to clients.

*On behalf of Council,  
Dougal Shewan, Chair*

## Office Closures

The Council office will be closed on the following dates:

Monday, September 5, 2005 for Labour Day

Monday, October 10, 2005 for Thanksgiving

Friday, November 11, 2005 for Remembrance Day

Monday, December 26 and Tuesday, December 27, 2005 for Christmas Day and Boxing Day

## Updated Trade Record Sheet for Brokerages

The April 2005 Report from Council contained a revised Trade Record Sheet reflecting changes required as a result of the introduction of the *Real Estate Services Act*. In addition, the revised form was posted in the Forms section on the Council's website.

As a result of feedback from

managing brokers and brokerage accounting staff, the Council revisited the Trade Record Sheet and made a number of minor changes in the Remuneration section, including adding a section for GST, reorganizing the brokerage section and reducing the amount of space for remarks.

The newly updated Trade Record Sheet is now posted on the Council's website and available for use by brokerages.

Brokerages may use this form or, in keeping with section 8-5(2) of the Council Rules, may use their own form, provided that it is approved by the Council.

# Trade Record Sheet

(Rules, section 8-5)

(Brokerage Name)

Deal/Trade #	MLS #	Contract date
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<b>SELLER INFORMATION</b>  <b>Seller:</b> Names in full: _____  Address _____ Telephone _____ Email _____ Conveyancing lawyer/notary _____	<b>BUYER INFORMATION</b>  <b>Buyer:</b> Names in full: _____  Address _____ Telephone _____ Email _____ Conveyancing lawyer/notary _____
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<b>TRADING SERVICES INFORMATION</b>  Nature of trade (sale, lease, etc.) _____  Sale price \$ _____  Street address of property _____ Legal description of property _____ (PID) _____ Listing brokerage _____ Cooperating brokerage _____	<b>DEPOSIT INFORMATION</b> <table> <tr> <td></td> <td>Amount</td> <td>Date(s) due</td> </tr> <tr> <td>Initial deposit</td> <td>\$ _____</td> <td>_____</td> </tr> <tr> <td>Increase in deposit</td> <td>\$ _____</td> <td>_____</td> </tr> <tr> <td>Held by</td> <td>_____</td> <td>_____</td> </tr> </table> <b>DATE INFORMATION</b> Adjustment date _____ Possession date _____ Completion date _____ Subject removal date(s) _____		Amount	Date(s) due	Initial deposit	\$ _____	_____	Increase in deposit	\$ _____	_____	Held by	_____	_____
	Amount	Date(s) due											
Initial deposit	\$ _____	_____											
Increase in deposit	\$ _____	_____											
Held by	_____	_____											

REMUNERATION INFORMATION	Amount	GST	Total		Amount	GST	Total
Gross remuneration (Indicate Listing or Selling side)				Licensee(s) remuneration Paid to:			
MLS® fee				Referral/Other fees Paid to:			
Cooperating brokerage remuneration				Brokerage remuneration			
Balance to brokerage							
Notes:							

Date	Description	Ref. #	Trust Account	Receipt	Disbursement	Balance

Date	Description	Ref. #	Commission Trust Account	Receipt	Disbursement	Balance

*It is not mandatory that entries be made in the General Account section but many brokerages find it practical to do so.*

Date	Description	Ref. #	General Account	Receipt	Disbursement	Balance

Date registered	Registration number	Completed by	Signature of managing broker	Date signed

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# Important Reminders...

## Criminal Record Checks

Managing brokers are reminded that the Council is now carrying out criminal record checks on first-time licence applicants prior to licence issuance. This policy was developed

in response to a rise in the number of false applications being made and is consistent with the process employed by other real estate licensing bodies. As a result, first-time licence

applications may take up to three weeks in order for the Council to receive criminal record search results.

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## Late Renewals Treated as Re-Licence Applications

In keeping with section 2-13 of the Council Rules, a licensee must apply for licence renewal on the appropriate application form together with the appropriate fees, including

the renewal fee of \$425 **no later than 30 days prior to the end of their current licence term**. If a renewal application has not been received at the Council's office by the renewal

due date, the renewal application will be treated as a re-licensing application and the fee increases to \$450.

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## Grow-Ops and Mortgage Fraud

In the December 2004 *Report from Council*, the Superintendent of Real Estate cautioned licensees with respect to the issue of marijuana grow operations and mortgage fraud. The Superintendent stated that his office takes the position that licensees have a

responsibility to ensure the accuracy of information being provided to lenders. The Superintendent went on to say that, while he is not suggesting that licensees need to conduct in-depth investigations of every transaction they are involved with, some due diligence is

required to ensure that information provided by clients has been verified. Licensees should reference the December article to get a better understanding of grow-ops and mortgage fraud, including a list of "red flags" pertaining to mortgage fraud.

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## Dealing with Property Inspectors

As a result of further complaints, the Council again reminds licensees that they must exercise caution when dealing with property inspectors. In particular, the following guidelines should be followed:

1. Once a buyer has determined which

property inspector is to be used, licensees must respect the client relationship this creates between the buyer and the property inspector. The buyer is paying the property inspector for professional advice with respect to the condition of the property they are considering purchasing.

2. Licensees should not attempt to thwart that relationship either by downplaying the importance of deficiencies noted by property inspectors or by making disparaging comments about the buyer's choice of property inspectors.

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## Council Administrative Penalties Policy Now in Effect

As reported previously, section 57(1) of the *Real Estate Services Act* allows the Council to impose administrative penalties on licensees who fail to adhere to the Council Rules. In accordance with section 2-23 of the Rules, the administrative penalties for a contravention of a rule specified by regulation under section 56(1) [*rules subject to*

*administrative penalties*] of the Act are as follows:

- (a) \$250 for a first contravention;
- (b) \$500 for a second contravention;
- (c) \$1000 for a third or subsequent contravention.

The Council, at its meeting in July, adopted

the **Administrative Penalties Policy Statement #1** located on pages 5 and 6 of this Report. Licensees should review the list of Rules that are subject to administrative penalties. Administrative penalties may be applied to complaints received after October 1, 2005 for conduct that occurred after January 1, 2005.

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**REAL ESTATE COUNCIL OF BRITISH COLUMBIA**  
**ADMINISTRATIVE PENALTIES POLICY STATEMENT # 1**  
**EFFECTIVE JULY 1, 2005**  
**APPLICABLE TO COMPLAINTS RECEIVED AFTER OCTOBER 1, 2005 FOR CONDUCT THAT**  
**OCCURRED AFTER JANUARY 1, 2005**  
**APPLICATION OF ADMINISTRATIVE PENALTIES**

Section 56 of the *Real Estate Services Act* (RESA) designates that contraventions of specified rules may be subject to administrative penalties.

Section 4.7 of the Regulations defines the rules that are designated as contraventions to which section 56 may apply. They are the following:

- (a) Rule 4-1 *[display and keeping of licences]*;
- (b) Rule 4-2 *[business signs required]*;
- (c) Rule 4-3 *[requirements relating to personal offices]*;
- (d) Rule 4-5 *[licensee name must be indicated]*;
- (e) Rule 4-6 *[restrictions and requirements related to advertising]*;
- (f) Rule 4-8 *[advertising in relation to specific real estate]*;
- (g) Rule 7-7 *[annual reporting requirements]*;
- (h) Rule 8-1 *[financial records]*;
- (i) Rule 8-2 *[general account records]*;
- (j) Rule 8-3 *[trust account records]*;
- (k) Rule 8-4 *[general records]*;
- (l) Rule 8-5 *[trading records]*;
- (m) Rule 8-6 *[rental property management records]*;
- (n) Rule 8-9 *[records must be kept up to date]*;
- (o) Rule 8-10 *[retention of records]*;
- (p) Rule 8-11 *[brokerage obligations when winding-up business]*.

An administrative penalty may be imposed when there is no direct harm to members of the public. Given the Council's experience, it is anticipated that the following are the most common examples of when such a penalty may be issued:

- Late Accountant's Report filing (specifically section 7-7 of the Council Rules - annual reporting requirements);
- Technical contraventions noted as exceptions on an annual Accountant's Report filing;
- Technical contraventions identified during an audit or investigation conducted by Council staff;
- Contraventions of advertising requirements contained in sections 4-6 and 4-8 of the Council Rules; and
- Technical contraventions about which the Council has been made aware, either through an informal report or formal written complaint.

An administrative penalty is not a disciplinary sanction and does not form part of a licensee's disciplinary record.

Section 4.8 of the Regulations provides that the maximum amount of the administrative penalty that may be imposed is \$1000. Section 2-23 of the Council Rules outlines the administrative penalties for a contravention of a rule specified by regulation under section 56(1) of RESA as follows:

- (a) \$250 for a first contravention;
- (b) \$500 for a second contravention;
- (c) \$1000 for a third or subsequent contravention.

The Senior Compliance Officer, the Manager, Accounting and Audit, or the Manager, Industry Practice, may impose administrative penalties for designated contraventions outlined in section 4.7 of the Regulations starting from October 1, 2005 for any specified rule, except for section 7-7 and exceptions noted on an annual Accountant's Report filing, for which administrative penalties may be imposed effective January 1, 2006.

Licensees subject to an administrative penalty may request an opportunity to be heard by the Executive Officer or designate. The designate may not be the individual who issued the notice under section 57 of RESA.

### **Section 7-7 of the Council Rules - Annual Reporting Requirements**

Accountant's Report filings (financial statements for that fiscal year, Accountant's Report, and a Brokerage Activity Report) are considered to be late if the filing, in a form acceptable to the Council, is not received by the Council within 120 days of the fiscal year end of the brokerage.



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Effective January 1, 2006:

1. If an Accountant's Report, in a form acceptable to the Council, is received within 7 days after the due date and it is acceptable to the Council, then an administrative penalty will not be imposed.
  2. If an Accountant's Report is received 8 days or more after the due date but within 30 days of the due date, and it is acceptable to Council, then an administrative penalty will be imposed.
  3. If the licensee requests an opportunity to be heard, the matter will be heard by the Executive Officer or designate and, following that hearing, the administrative penalty will be either
    - a. cancelled if the Executive Officer or designate is satisfied that the licensee exercised due diligence to prevent the contravention of the rule, or
    - b. confirmed, in which case the administrative penalty becomes due and payable to the Council, and
    - c. the amount of an administrative penalty imposed under this section is a debt owing to the Real Estate Council and may be recovered as such.
  4. If an Accountant's Report is not received within 30 days after the due date, a memorandum and relevant correspondence will be forwarded to the Legal Department,
    - a. the Manager, Accounting and Audit will send a letter to the brokerage informing the brokerage that the matter has been referred to the Legal Department, with a copy of relevant correspondence to the Legal Department, and that a Notice of Allegations will be forthcoming. The brokerage will be required to provide trust account reconciliations for the previous 3 months and supporting documentation for review.
    - b. the Legal Department will open a hearing file for a contravention of section 7-7 of the Council Rules and
      - i. assign a file number,
      - ii. send a Notice of Allegations to the brokerage with a copy of relevant correspondence to the Manager, Accounting and Audit,
      - iii. a hearing date will be set, and
    - c. a copy of relevant correspondence will be sent to the Manager, Accounting and Audit.
  5. If an Accountant's Report filing is received after the matter has been referred to the Legal Department, the prescribed course of action as outlined in the Notice of Allegations will be continued.
- In all other cases the Legal Department will proceed with discipline hearings.

## Technical Contraventions

In circumstances where technical contraventions about which the Council has been made aware (i.e.: complaint received by the Council, noted exceptions as a result of a Council's audit or investigation, noted exceptions on an annual Accountant's Report filing), and there are no other issues of concern or alleged contraventions of the Act or Rules identified, the Council, through staff, will issue a notice imposing on the licensee an administrative penalty in accordance with section 2-23 of the Council Rules.

1. This notice will, in accordance with section 57(2) of RESA:
  - a. indicate the rule that has been contravened;
  - b. indicate the amount of the administrative penalty that is imposed;
  - c. advise the licensee of the licensee's right to be heard respecting the matter;
  - d. advise the licensee that, if the licensee does not, within 14 days, request such an opportunity to be heard,
    - i. the licensee is deemed to have acknowledged contravening the rule, and
    - ii. the administrative penalty becomes due and payable to the Council, and
    - iii. the amount of an administrative penalty imposed under this section is a debt owing to the Council and may be recovered as such.
2. If the licensee requests an opportunity to be heard, the matter will be heard by the Executive Officer or designate and, following that hearing, the administrative penalty will be either
  - a. cancelled if the Executive Officer or designate is satisfied that the licensee exercised due diligence to prevent the contravention of the rule, or
  - b. confirmed, in which case the administrative penalty becomes due and payable to the Council, and
  - c. the amount of an administrative penalty imposed under this section is a debt owing to the Council and may be recovered as such.

## Technical Contraventions and Other Conduct Issues

In circumstances where the Council has received or found evidence of any technical contraventions, as outlined in section 4.7 of the Regulations, and there are other issues of concern or alleged contraventions of the Act or Rules identified, the matter will be brought before the Council's Complaints Committee for consideration. The Committee may

1. determine whether any disciplinary action is appropriate,
2. refer the matter back to staff for further investigation, or
3. if it decides that no disciplinary action is appropriate, refer the matter back to staff for the imposition of an administrative penalty in relation to a contravention of a specified rule as outlined in section 4.7 of the Regulations.

No disciplinary action may be taken against a licensee with respect to a contravention of a specified rule that has resulted in the imposition of an administrative penalty on that licensee.

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## Notice of Licensee Resignation

Navej Singh Bhupal while licensed with Royal Pro Real Estate Network Inc. requested the Real Estate Council of British Columbia to discontinue disciplinary proceedings against him as he has decided to permanently retire from real estate practice. Mr. Bhupal was

facing a hearing as a result of his falsification of his application for licensing and would have been required to appear before a hearing panel of the Real Estate Council to respond to these allegations.

Considering the fact that there is likely no

greater disciplinary penalty than not being licensed to act again, the Real Estate Council agreed with Mr. Bhupal's request. The lifetime ban on Mr. Bhupal's licensing under the *Real Estate Services Act* is effective as of July 25, 2005.

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## Disciplinary Decisions

Since the June 2005 *Report from Council* newsletter, the following actions have been taken as a result of disciplinary hearings and Consent Orders conducted by the Council.

➤ **Complaint:** Breach of section 9.12 of Regulation 75/61 under the *Real Estate Act/Incompetence*

■ **Issue:** Gurjeet (Jeet) Singh, representative, Royal LePage Coronation Park, Surrey who, while licensed as a representative with Royal Group Tapestry Realty, Surrey, was incompetent within the meaning of section 9.12 of Regulation 75/61 under the *Real Estate Act* in that in the drafting and processing of contracts he:

(i) failed to ascertain facts as would a reasonably prudent licensee when acting as the representative for the listing brokerage in that he failed to fully ascertain the state of title of subject properties, including the identity of the registered owner, failed to ascertain the full identity of the representative of his corporate client, the seller, and he failed to disclose same in Contracts of Purchase and Sale;

(ii) failed to ascertain facts as would a reasonably prudent licensee when acting as the representative for the selling brokerage in that he failed to fully ascertain the state of title of the subject properties including the identity of the registered owner, failed to ascertain the full identity of the representative of his corporate client, the buyer, and he failed to disclose same in Contracts of Purchase and Sale;

(iii) in Contracts of Purchase and Sale in which the original buyer's interest was transferred, he failed to ascertain facts through reasonable due diligence which may have

disclosed that the parties were related individuals;

(iv) failed to exercise reasonable competence in drafting contracts fully and thoroughly, including inserting the full names of parties and witnesses and the full names and status of corporation signatories;

(v) failed to complete financing clauses in a clear and concise manner, including inserting the maximum principal sum and interest rate that buyers would accept;

(vi) failed to properly date listing contracts;

(vii) failed to properly address and document deposit issues when deposits were not turned in, in accordance with the contracts, when deposits were paid to third parties, including lawyers, and when terms involving deposits were changed during the course of the contracts.

✍ **Penalty:** Gurjeet (Jeet) Singh was suspended for sixty (60) days from July 13, 2005 to September 10, 2005 (inclusive) for incompetence as described above after an Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver was entered into between the Real Estate Council and Mr. Singh and a Consent Order was issued. In addition, as a condition of continued licensing, he is required to successfully complete Chapter 2 (*Real Estate Services Act*) and Chapter 10 (The Law of Contract) of the Real Estate Trading Services Licensing Course, to enroll in and attend the next available Legal Update Course and to pay legal costs to the Council in the amount of \$1,000.

➤ **Complaint:** Breach of section 9.12 of Regulation 75/61 under the *Real Estate Act/Negligence*.

■ **Issue:** Katherine Lillie Beausoleil-Volway, associate broker, Bay Realty Ltd., White Rock was negligent within the meaning of section 9.12 of Regulation 75/61 under the *Real Estate Act* in that she:

(i) failed to ascertain and disclose to the buyer that there was a Strata Corporation Bylaw in effect which prohibited persons under the age of 19 years from residing at the strata property (the "age restriction");

(ii) failed to obtain and review the current applicable Strata Corporation Bylaws;

(iii) relied upon incorrect information from the licensee representing the seller concerning whether there was an age restriction applicable to the strata property involved in the transaction, and without verifying the facts;

(iv) reviewed the complete minutes of meetings of the Strata Council and the Strata Corporation as called for in the Contract of Purchase and Sale, but failed to note that an age restriction had been brought into effect.

✍ **Penalty:** Katherine Lillie Beausoleil-Volway was suspended for seven (7) days, from July 6, 2005 to July 12, 2005 (inclusive) for negligence as described above after an Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver was entered into between the Real Estate Council and Ms. Beausoleil-Volway and a Consent Order was issued. In addition, as a condition of continued licensing, she is required to successfully complete Chapter 7 (Strata Properties (Condominiums) and Co-Operatives in British Columbia) of the Real Estate Trading Services Licensing Course, enroll in and attend "Condo 202: Advanced Strata Law for Realtors", and to pay costs to the Council in the amount of \$500.00.

➤ **Complaint:** Breach of Section 35(1)(a) by contravention of Rule 3-1(3)(b) (failed to ensure Accountant's Report filed), Rule 7-7(1)(b) (failed to file an Accountant's Report) under the *Real Estate Services Act*/professional misconduct

■ **Issue:** All Kinds of Property Strata Management Ltd. dba Manor House Realty, Kelowna breached Rule 7-7(1)(b) in that it failed to file an Accountant's Report in the prescribed form with the Real Estate Council by the prescribed date.

■ **Issue:** Edward Allen Montgomery, managing broker, All Kinds of Property Strata Management Ltd. dba Manor House Realty, Kelowna, committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* by breaching Rule 3-1(3)(b) in that he failed to ensure that the brokerage had filed an Accountant's Report in the prescribed form with the Real Estate Council on or before the prescribed date.

✍ **Penalty:** Manor House Realty was reprimanded for the breach described above after an Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver was entered into between the Real Estate Council and Manor House Realty and a Consent Order was issued. The licence would have been suspended for one hundred and eighty (180) days but for the fact that an acceptable Accountant's Report was filed. In addition, as a condition of continued licensing, Manor House Realty and Edward Allen Montgomery are jointly and severally liable to pay enforcement expenses to the Council in the amount of \$500.00.

✍ **Penalty:** Edward Allen Montgomery, managing broker for Manor House Realty

was reprimanded for professional misconduct as described above after an Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver was entered into between the Real Estate Council and Edward Allen Montgomery, and a Consent Order was issued. In addition, as a condition of continued licensing, Manor House Realty and Edward Allen Montgomery are jointly and severally liable to pay enforcement expenses to the Council in the amount of \$500.00.

➤ **Complaint:** Contravention of section 35 (professional misconduct) of the *Real Estate Services Act* by contravening sections 3-1(1)(a), (b) and/or 3-1(3)(b) of the Council Rules and 6(2)(b) of the *Real Estate Services Act* (managing broker failed to ensure Accountant's Report filed)/7-7(1)(b) of the Council Rules

■ **Issue:** Marc Villanueva Realty Inc. dba Re/Max Marc Villanueva Realty, Comox contravened section 7-7(1)(b) of the Council Rules in that it failed to file an Accountant's Report in the prescribed form with the Real Estate Council by the prescribed date.

■ **Issue:** Marc Perez (Jr.) Villanueva, managing broker, Marc Villanueva Realty Inc. dba Re/Max Marc Villanueva Realty, Comox committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* by contravening sections 3-1(1)(a), (b), and 3-1(3)(b) of the Council Rules and section 6(2)(b) of the *Real Estate Services Act* in that he failed to fulfill his responsibilities by failing to ensure that the brokerage had filed an Accountant's Report in the prescribed form with the Real Estate Council on or before the prescribed date.

✍ **Penalty:** Marc Villanueva Realty Inc. dba Re/Max Marc Villanueva Realty was

reprimanded for the contraventions described above as the requested trust reconciliations for three months were received by the date ordered. The licence would have been immediately suspended had the brokerage not complied with the order. The brokerage was also ordered to provide to the Council trust reconciliations for six months pursuant to section 8-3(d) of the Council Rules.

✍ **Penalty:** Marc Perez (Jr.) Villanueva was reprimanded. In addition, the Real Estate Council will conduct an audit at the expense of the brokerage. Further, Re/Max Marc Villanueva Realty and Marc Perez (Jr.) Villanueva are jointly and severally liable for enforcement expenses in the amount of \$1,621.30, payable to the Council.

➤ **Complaint:** Breach of section 9.12 of Regulation 75/61 under the *Real Estate Act*/negligence

■ **Issue:** Geoffrey Reginald Davis, representative, West Coast Realty Ltd. (Brdwy) dba Sutton Group – West Coast Realty (Brdwy), Vancouver was negligent within the meaning of section 9.12 of Regulation 75/61 in that he failed to adequately advise or recommend to the said seller that the said property should be listed and sold as two separate lots instead of one parcel in order to achieve a higher price.

✍ **Penalty:** Geoffrey Reginald Davis was reprimanded for negligence as described above. In addition, as a condition of continued licensing he is required to successfully complete Chapter 2 (*Real Estate Services Act*) of the Real Estate Trading Services Licensing Course and to pay enforcement expenses to the Council in the amount of \$1,355.05.