

**IN THE MATTER OF THE *REAL ESTATE SERVICES ACT*
AND
IN THE MATTER OF**

**HUTTON CONDOMINIUM SERVICES LTD.
AND
PHILIP MICHAEL GERRY**

CONSENT ORDER

RESPONDENTS:	Philip Gerry Managing Broker, Hutton Condominium Services Ltd. Hutton Condominium Brokerage
DATE OF CONSENT ORDER:	June 20, 2007
CONSENT ORDER REVIEW COMMITTEE:	S. Sidhu (Chair) C. Chen P. Jones J. Whyte
ALSO PRESENT:	R.O. Fawcett, Executive Officer B.K. Evans, RECBC Staff

PROCEEDINGS:

On June 20, 2007 the Consent Order Review Committee resolved to accept the Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver executed by Philip Gerry on his behalf and on behalf of Hutton Condominium Services Ltd. as submitted, which was a reprimand for both. As a condition of continued licensing they are jointly and severally liable to pay the enforcement expenses to the Council in the amount of \$750.00 within sixty (60) days of the Order herein.

WHEREAS an Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver was executed by Philip Gerry on his behalf and on behalf of Hutton Condominium Services Ltd. and the Real Estate Council of British Columbia (“Council”), a copy of which is attached hereto:

NOW THEREFORE, the Council has made the following findings and orders the following penalties based on the Agreed Statement of Facts and Proposed Acceptance of Findings:

1. Hutton Condominium Services Ltd. be reprimanded as the brokerage committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* by contravening section 7-7(1)(b) of the Council Rules in that it failed to file an Accountant's Report with the Council for the year ending October 31, 2006 on or before February 28, 2007.
2. Philip Gerry be reprimanded as he committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* by not fulfilling his responsibilities as managing broker for the performance of the duties imposed on the brokerage by its licence within the meaning of section 6 (2)(b) of the *Real Estate Services Act* and by contravening section 3-1(1)(a) and (b) and/or 3-1(3) of the Council Rules (managing broker responsibilities) in that she failed to ensure that the said Accountant's Report was filed with the Council on or before February 28, 2007.
3. Hutton Condominium Services Ltd. and Philip Gerry, as a condition of continued licensing, are jointly and severally liable to pay enforcement expenses to the Council in the amount of \$750.00 within sixty days of the date of the Order herein.

If Hutton Condominium Services Ltd. and/or Philip Gerry fail to comply with any of the terms of the Order set out above, 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 20th day of June, 2007 at the City of Vancouver, British Columbia.

"Satnam Sidhu"

S. Sidhu
Chair

Consent Order Review Committee

Atch.

File #413-06

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

IN THE MATTER OF

PHILIP MICHAEL GERRY
(065109)

AND

HUTTON CONDOMINIUM SERVICES LTD.
(X028545)

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

The following agreement has been reached between Philip Michael Gerry (“Mr. Gerry”), Hutton Condominium Services Ltd. (“Hutton Condominium”) and the Real Estate Council of British Columbia (the “Council”).

- A. Mr. Gerry on behalf of Hutton Condominium hereby consents to an Order to be made pursuant to section 41 and 43 of the *Real Estate Services Act* that Hutton Condominium be reprimanded.
- B. Mr. Gerry hereby consents to an Order to be made pursuant to section 41 and 43 of the *Real Estate Services Act* that he be reprimanded.
- C. Hutton Condominium and Mr. Gerry hereby consent to an order, as a condition of continued licensing, to be jointly and severally liable to pay the enforcement expenses to the Council in the amount of \$750.00 within sixty (60) days of the Order herein.
- D. If Hutton Condominium and/or Mr. Gerry fail to comply with any of the terms of the Order set out above, the Council may suspend or cancel their licences without further notice to them pursuant to section 43(3) and (4) of the *Real Estate Services Act*.
- E. As a basis for this Order, Hutton Condominium and Mr. Gerry acknowledge and agree that the facts sets forth herein are correct:
 - 1. Hutton Condominium is licensed as a brokerage and has been licensed since December 8, 2005.
 - 2. Mr. Gerry is currently licensed as the Managing Broker with Hutton Condominium. His licensing history is as follows:

Dec. 8/05 – Dec. 21/06	Representative,	Hutton	Condominium
	Services Ltd.		

Dec. 21/06– Present Managing Broker, Hutton Condominium
Services Ltd.

3. The fiscal year end of Hutton Condominium was October 31, 2006 and its Accountant's Report was due to be filed with the Council on or before February 28, 2007.
4. A letter was sent from the Council to Hutton Condominium on November 6, 2006 advising that the Accountant's Report was due to be received by the Council on or before February 28, 2007.
5. A letter was sent from the Council to Hutton Condominium dated March 9, 2007 advising that if the report is not received within thirty days of the due date the matter would be forwarded to the Council's Legal Department for further action.
6. On March 23, 2007 a letter was received from McAvoy Rule & Company which enclosed a Statutory Declaration and Notice to Reader Financial Statements for the year ending October 31, 2006 in lieu of the prescribed reporting requirements.
7. A further letter was sent to Hutton Condominium from the Council dated April 2, 2007 advising that the file had been forwarded to the Council's Legal Department for further action.
8. On April 5, 2007 a letter was received from Hutton Condominium advising that the Accountant's Report may not be completed until May.
9. On April 23, 2007 the Council sent a Notice of Hearing to Hutton Condominium.
10. An Accountant's Report was received from Hutton Condominium on April 30, 2007.

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, Hutton Condominium Services Ltd. and Philip Michael Gerry are prepared to accept the following findings if made against them by the Council's Consent Order Review Committee:
 - (a) Hutton Condominium Services Ltd. committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* by contravening section 7-7(1)(b) of the Council Rules in that it failed to file an Accountant's Report with

the Council for the year ending October 31, 2006 on or before February 28, 2007;

- (b) Mr. Gerry committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* by not fulfilling his responsibilities as managing broker for the performance of the duties imposed on the brokerage by its licence within the meaning of section 6 (2)(b) of the *Real Estate Services Act* and by contravening section 3-1(1)(a) and (b) and/or 3-1(3) of the Council Rules (managing broker responsibilities) in that she failed to ensure that the said Accountant's Report was filed with the Council on or before February 28, 2007.
2. Hutton Condominium and Mr. Gerry hereby waive their right to appeal pursuant to section 54 of the *Real Estate Services Act*.
 3. Hutton Condominium and Mr. Gerry acknowledge that they have the right to seek independent legal advice before signing this Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver.
 4. Hutton Condominium and Mr. Gerry 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. Hutton Condominium and Mr. Gerry 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. Such agreed statement of facts and proposed acceptance of findings cannot be used in any other proceeding of any kind.

“Brian K. Evans”
Brian K. Evans, Legal Counsel
Real Estate Council of British Columbia

As to Part E only (Agreed Statement
of Facts)

Dated 29th day of May, 2007

“Philip Gerry”
Philip Gerry

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

Dated 23rd day of May, 2007

“Philip Gerry”

Philip Gerry on behalf of Hutton
Condominium Services Ltd.

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

Dated 23rd day of May, 2007