

IN THE MATTER OF THE *REAL ESTATE SERVICES ACT*

S.B.C. 2004, c. 42

AND

IN THE MATTER OF

G.C. MANAGEMENT (1991) LTD.

AND

WILLIAM POWLESS MUXLOW

CONSENT ORDER

RESPONDENTS: William Powless Muxlow, Managing
Broker, G.C. Management (1991)
Ltd.

G.C. Management (1991) Ltd.,
Brokerage

DATE OF REVIEW MEETING: February 19, 2009

DATE OF CONSENT ORDER: February 24, 2009

CONSENT ORDER REVIEW COMMITTEE: G. Martin
J. McNeal
A. Petrone
J. Whyte (Chair)

ALSO PRESENT: R.O. Fawcett, Executive Officer
D.P. Berger, Director, Legal Services
B.K. Evans, Legal Counsel for Real
Estate Council

PROCEEDINGS:

On February 19, 2009 the Consent Order Review Committee resolved to accept the Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver executed by G.C. Management (1991) Ltd. and William Powless Muxlow as submitted, which was that G.C. Management (1991) Ltd. and William Powless Muxlow be reprimanded.

Further, G.C. Management (1991) Ltd. and William Powless Muxlow are ordered to be jointly and severally liable to pay a discipline penalty to the Council in the amount of \$1,000.00 within ninety (90) days of this Order, and that G.C. Management (1991) Ltd. and William Powless Muxlow be jointly and severally liable to pay enforcement expenses of this Consent Order to the Council in the amount of \$1,000.00 within sixty (60) days from the date of this Order.

WHEREAS an Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver was executed by G.C. Management (1991) Ltd., William Powless Muxlow 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. G.C. Management (1991) Ltd. be reprimanded as it 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 April 30, 2008 on or before August 31, 2008;
2. William Powless Muxlow 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 3-1(3) of the Council Rules in that he failed to ensure that the said Accountant’s report was filed with the Council on or before August 31, 2008; and
3. G.C. Management (1991) Ltd. and William Powless Muxlow are ordered to be jointly and severally liable to pay a discipline penalty to the Council in the amount of \$1,000.00 within ninety (90) days of the date of this Order.
4. G.C. Management (1991) Ltd. and William Powless Muxlow are ordered to be jointly and severally liable to pay enforcement expenses of this Consent Order to the Council in the amount of \$1,000.00 within sixty (60) days from the date of this Order.

If G.C. Management (1991) Ltd. and William Powless Muxlow fail to comply with any of the terms of the Order set out above, 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 24th day of February, 2009 at the City of Vancouver, British Columbia.

ON BEHALF OF THE CONSENT ORDER REVIEW COMMITTEE

“Judi Whyte”

J. Whyte
Chair

Consent Order Review Committee

Attch.

File #08-170

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

IN THE MATTER OF

**WILLIAM POWLESS MUXLOW
(147563)**

AND

**G.C. MANAGEMENT (1991) LTD.
(X028572)**

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

The following agreement has been reached among William Powless Muxlow (“William Muxlow”), G.C. Management (1991) Ltd. (“G.C. Management”) and the Real Estate Council of British Columbia (the “Council”).

- A. William Muxlow on behalf of G.C. Management hereby consents to an Order to be made pursuant to sections 41 and 43 of the *Real Estate Services Act* that G.C. Management be reprimanded.

6. A further letter was sent to G.C. Management from the Council dated October 8, 2008 advising that as a complete Accountant's Report Filing was not received by August 31, 2008 the file was being forwarded to the legal department.
 7. On November 20, 2008 a Notice of Discipline Hearing was sent to G.C. Management.
 8. An Accountant's Report was received on January 8, 2009 in a form acceptable to the Council.
- G. Proposed Acceptance of Findings and Waiver
1. Based on the Agreed Statement of Facts as outlined herein, and without making any admissions of liability, G.C. Management and William Muxlow are prepared to accept the following findings if made against them by the Council's Consent Order Review Committee:
 - (a) G.C. Management 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 April 30, 2008 on or before August 31, 2008;
 - (b) William Muxlow 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 3-1(3) of the Council Rules (managing broker responsibilities) in that he failed to ensure that the said Accountant's Report was filed with the Council on or before August 31, 2008.
 2. G.C. Management and William Muxlow hereby waive their right to appeal pursuant to section 54 of the *Real Estate Services Act*.
 3. G.C. Management and William Muxlow 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. G.C. Management and William Muxlow 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.
5. G.C. Management and William Muxlow 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.
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 other proceeding of any kind.

“Brian K. Evans”

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

As to Part F only (Agreed Statement
of Facts)

Dated 9th day of January, 2009

“William Muxlow”

William Muxlow

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

Dated 8th day of January, 2009

“William Muxlow”

William Muxlow on behalf of G.C.
Management (1991) Ltd.

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

Dated 8th day of January, 2009