

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

**IN THE MATTER OF
GEORGE ALEXANDRU**

CONSENT ORDER

RESPONDENT: George Alexandru, Representative,
Baywest Management Corporation
(Van)

DATE OF REVIEW MEETING: March 26, 2010

DATE OF CONSENT ORDER: April 12, 2010

CONSENT ORDER REVIEW COMMITTEE: W. Brown (Chair)
M. Cowe
A. Ghouri

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

PROCEEDINGS:

On March 26, 2010 the Consent Order Review Committee resolved to accept the Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver executed by George Alexandru as submitted, which was that George Alexandru be reprimanded. Further, George Alexandru is ordered 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 George Alexandru 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. George Alexandru be reprimanded as he committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that he, while licensed as a representative with Baywest Management Corporation “Brokerage”, a Brokerage providing ongoing strata management services to a strata corporation (“Strata Corporation Client”) in or about January 2009, provided strata management services, other than on behalf of the Brokerage, contrary to section 7(3)(a) of the *Real Estate Services Act*, when he required a prospective buyer’s representative, LB, to pay \$50 for access to the roof and other inaccessible areas of the complex of the Strata Corporation Client.
2. George Alexandru is ordered 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 Mr. Alexandru fails to comply with any of the terms of the Order set out above, the Council may suspend or cancel his licence, without further notice to him pursuant to sections 43(3) and 43(4) of the *Real Estate Services Act*.

Dated this 12th day of April, 2010 at the City of Vancouver, British Columbia.

ON BEHALF OF THE CONSENT ORDER REVIEW COMMITTEE

“W. Brown”

W. Brown
Chair
Consent Order Review Committee

Attch.

File No. 08-349

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

GEORGE ALEXANDRU

AND

BAYWEST MANAGEMENT CORPORATION (VAN)

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

The following agreement has been reached between George Alexandru (“Mr. Alexandru”) and the Real Estate Council of British Columbia (the “Council”).

- A. Mr. Alexandru hereby consents to an Order to be made pursuant to sections 41 and 43 of the Act that Mr. Alexandru be reprimanded.
- B. Mr. Alexandru hereby consents to an Order to pay enforcement expenses to the Council in the amount of \$1,000.00 within 60 days of the date of the Order herein.
- C. If Mr. Alexandru fails to comply with any of the terms of the Order set out above, the Council may suspend or cancel his licence without further notice to him pursuant to section 43(3) and (4) of the Act.
- D. On the basis of this Order, Mr. Alexandru acknowledges that the facts set forth herein are correct:
 - 1. Mr. Alexandru was, at the relevant time, a licensed representative with Baywest Management Corporation (Van).
 - 2. Mr. Alexandru’s licensing history is as follows:
 - Dec. 29/05 – May 5/06 Representative, Strata, Vancouver Condominium Services Ltd.
 - May 17/06 – May 1/07 Representative, Strata, Crosby Property Management Ltd.

May 17/07 – May 26/08 Representative, Strata, Vancouver Condominium Services Ltd.

May 26/08 – Present Representative, Strata, Baywest Management Corporation (Van)

3. In or about January 2009 Baywest Management Corporation (the “Brokerage”) was providing ongoing strata management services to a Strata Corporation Client on West Broadway, Vancouver, BC.
4. Mr. Alexandru was the Strata Property Manager representing the Brokerage in its ongoing strata management services to the Strata Corporation Client.
5. In January 2009 a member of the Strata Corporation Client had her unit (“Property”) listed for sale with MM, a representative from a different brokerage than Baywest Management Corporation.
6. LB, a representative from a third brokerage, showed the Property to her buyer client whose offer was accepted by the Seller on or about January 12, 2009 (“Contract”).
7. The Contract was subject to a property inspection by January 17, 2009, which required access to the roof and mechanical areas of the common property accessible only by members of the Strata Council.
8. Mr. Alexandru offered to open the required areas for inspection for a fee of \$50 to be paid directly to him, and not to the Brokerage.
9. Mr. Alexandru informed MM that no one was available from the Strata Council but he would be there to permit the access, although he expected to be paid a fee of \$50.
10. MM requested a reduction in the fee but Mr. Alexandru advised that this charge was standard in the industry – a statement he believed at the time to be true but which he now realizes is incorrect.
11. Mr. Alexandru met LB at the Property and allowed the inspector the requested access.
12. After the inspection LB gave Mr. Alexandru a cheque for \$50.
13. LB later became concerned about paying an individual licensee directly and put a stop payment on the cheque.

14. Mr. Alexandru contacted MM by email to inform her of the stop payment and that he expected to be reimbursed for his “extra services”. In a further email Mr. Alexandru described the fee as an agreement or contract between them and that he was not obligated to provide her with the service for free.
15. When MM told LB of Mr. Alexandru’s expectation to be paid, LB emailed Mr. Alexandru suggesting that she make the cheque payable to the Brokerage.
16. Mr. Alexandru replied that the cheque should be made payable to him, and not to the Brokerage, as the service took his personal time and not that of the Brokerage.
17. MM wrote a letter to the Strata Council on February 8, 2009 requesting a clarification of their policy, which she delivered to Mr. Alexandru to present.
18. The Managing Broker, Ms. Khoo advises the matter was considered at the Strata Council’s May 7, 2009 meeting, when it decided that \$50 was a fair charge to compensate personal time to meet a licensee’s request for access.
19. Mr. Alexandru acknowledges that it is not a charge that was authorized by the Strata Council or approved by the bylaws.
20. Mr. Alexandru explained that he was “the guy with the key” and someone who was well intentioned by doing an extra service as a favour for someone who needed help. He did not believe that his activities were real estate services in that he believed that he was not exercising a delegated power of the strata corporation; therefore, the compensation he expected to receive was not for real estate services.
21. Attending to the property to allow access for an inspection is not covered in the Agency Agreement between the Brokerage and its Strata Corporation Client.
22. The Agency Agreement itself at section 3.48 sets out that the Brokerage is not to collect or charge any undisclosed fee, and specifies that if such fee is received by the Brokerage, that fee will be held in trust for and credited to the account of the Strata Corporation Client, which Mr. Alexandru did not do.

23. Mr. Alexandru explained to his managing broker that he believed that other brokerages allow a fee to be charged for this service, although she advised him that their Brokerage did not.

E. Proposed Acceptance of Findings and Waiver

1. Based on the Agreed Statement of Facts as outlined herein, and without making any admissions of liability, George Alexandru is prepared to accept the following finding if made against him by the Council's Consent Order Review Committee:
 - (a) George Alexandru has committed professional misconduct within the meaning of section 35(1)(a) [professional misconduct/breach of Act or Rules] in that he, while licensed as a representative with Baywest Management Corporation ("Brokerage"), a Brokerage providing ongoing strata management services to a strata corporation ("Strata Corporation Client") in or about January 2009:
 - (i) Provided strata management services, other than on behalf of the Brokerage, contrary to section 7(3)(a) of RESA, when George Alexandru required a prospective buyer's representative, LB, to pay \$50 for access to the roof and other inaccessible areas of the complex of the Strata Corporation Client.
2. Mr. Alexandru waives his right to appeal pursuant to section 54 of the *Real Estate Services Act*.
3. Mr. Alexandru acknowledges that he has been advised to obtain independent legal advice with respect to this Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver and he has waived that right.
4. Mr. Alexandru acknowledges and is aware that the Council will publish the Consent Order and penalty herein in its Report from Council and on the Council's website.
5. Mr. Alexandru acknowledges and is 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 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 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

Real Estate Council of British Columbia
As to Part D only (Agreed Statement of Facts)

Dated: March 22, 2010

“George Alexandru”

George Alexandru

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

Dated: March 15, 2010