

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

**IN THE MATTER OF
JOHN WILLIAM BRANDON**

CONSENT ORDER

RESPONDENT: John William Brandon, Managing Broker,
Columbia Property Management Ltd.

DATE OF REVIEW MEETING: November 4, 2010

DATE OF CONSENT ORDER: December 15, 2010

CONSENT ORDER REVIEW COMMITTEE: W. Brown
M. Cowe
G. Martin (Chair)
L. Tutt

ALSO PRESENT: R. Fawcett, Executive Officer
D. Berger, Director, Legal Services
J. Gossen, Legal Counsel for the Real Estate
Council

PROCEEDINGS:

On November 4, 2010 the Consent Order Review Committee resolved to accept the Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver executed by John William Brandon as submitted, which was that John William Brandon be reprimanded. John William Brandon is ordered to successfully complete the Trading Services Remedial Education Course as provided by Real Estate Division, Sauder School of Business at the University of British Columbia in the time period as directed by the Council. Further, John William Brandon 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 John William Brandon 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. John William Brandon be reprimanded as he committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that he permitted the brokerage to provide real estate services through individuals who were not licensed in relation to the brokerage contrary to section 7(5)(a) of the *Real Estate Services Act* and section 3-1(1) of the Council Rules.
2. John William Brandon is ordered to successfully complete the Trading Services Remedial Education Course as provided by the Real Estate Division, Sauder School of Business at the University of British Columbia in the time period as directed by the Council.
3. John William Brandon 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 John William Brandon 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 16th day of December, 2010 at the City of Vancouver, British Columbia.

ON BEHALF OF THE CONSENT ORDER REVIEW COMMITTEE

“G. Martin”

G. Martin, Chair
Consent Order Review Committee

Attch.

File #09-147

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

**IN THE MATTER OF
JOHN WILLIAM BRANDON
(120779)**

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

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

- A. Mr. Brandon hereby consents to an Order to be made pursuant to sections 41 and 43 of the *Real Estate Services Act* that he be reprimanded, that he successfully completes the Trading Services Remedial Education Course as provided by the Real Estate Division, Sauder School of Business at the University of British Columbia within the time period as directed by the Council. Mr. Brandon acknowledges that any course taken as a result of a discipline penalty may not be used as a credit towards the Relicensing Education Program (REP). Further, he agrees 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 the Order herein. Mr. Brandon 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 section 43(3) and 43(4) of the *Real Estate Services Act*.
- B. As a basis for this Order, Mr. Brandon acknowledges and agrees that the facts set forth herein are correct:
1. Mr. Brandon was at all relevant times licensed as a representative with Columbia Property Management Ltd.
 2. Mr. Brandon’s licensing history is as follows:

| | | | | |
|------------|------------|--|-----------------|-------------------------|
| 30/12/2005 | Present | Columbia Property Management Ltd. (X025872) | Managing Broker | Trading, Rental, Strata |
| 19/09/1997 | 30/12/2005 | Columbia Property Management Ltd. | Managing Broker | Trading, Rental |

(X025872)

| | | | | |
|------------|------------|---|-----------------|--------|
| 18/03/1997 | 18/09/1997 | Columbia Property Management Ltd. (X025872) | Managing Broker | Rental |
| 19/09/1995 | 18/03/1997 | Connaught Management Ltd. (X011881) dba CML Properties | Representative | Rental |

3. On August 17, 18 and 19, 2009, an Office and Records Inspection was performed at the brokerage due to the nature and frequency of exceptions noted on the Accountant's Report filed for the year ended March 31, 2009.
4. The Office and Records Inspection Report identified several breaches of RESA relating, inter alia, an issue of the brokerage permitting unlicensed persons performing activities for which a licence is required.
 - (a) During the Inspection it was observed that SJ, an unlicensed employee, had entered into a Contract on behalf of the brokerage and the owner of the rental real estate in that, for the properties at #3 & #7 – 205 Carson Crescent, SJ signed residential tenancy agreements on behalf of the landlord and for #7 – 205 Carson Crescent, SJ also performed and signed a move-in inspection on behalf of the brokerage.
 - (b) Also, during the Inspection, it was observed that on several occasions SE, an unlicensed assistant, attended strata council meetings for Gleneagles Manor. The minutes of the meetings did not indicate that any licensed strata manager was present at the meetings.
5. Mr. Brandon and FT, another licensee, managed 52 strata corporations and each of them had assistants. Mr. Brandon used the support of two assistants, GS, now licensed as of February 2, 2010, and SE now licensed as of June 1, 2010, both of whom had completed the strata management course at the time of these activities and were eligible to write the examination.
6. Mr. Brandon oversaw the work of his assistants and all correspondence, questions, decisions and procedures were forwarded through him. Their primary role was to prepare (type) minutes, Form F and Form B documents and forward correspondence to strata owners.
7. In instances where SE attended council meetings without Mr. Brandon being present, all information for meeting and/or any decisions made during that meeting was approved by Mr. Brandon.

8. SJ was employed by the brokerage as a caretaker by 205 Carson Crescent at the time the above noted Agreements were signed and that SJ had just recently commenced her employment with Columbia Property Management, at which time she terminated her caretaker position. The brokerage has taken steps to ensure that no unlicensed individuals sign any tenancy agreements.
9. On October 28, 2009, Lisa Holst, Director of Accounting and Audit, sent a letter to Mr. Brandon clarifying what duties can and cannot be performed by unlicensed staff. Specifically this letter informed Mr. Brandon that an unlicensed representative may not attend council meetings without a licensed strata manager in attendance and further, that an unlicensed individual may not act, or appear to act, as an agent of the strata corporation.
10. Mr. Brandon has provided assurances to Council that corrective action has been taken with respect to the breaches identified in the Inspection Report.

C. Proposed Acceptance of Findings and Waiver

1. Based on the Agreed Statement of Facts as outlined herein, and without making any admissions of liability, John William Brandon is prepared to accept the following findings if made against him by the Council's Consent Order Review Committee:
 - (a) permitted the brokerage to provide real estate services through individuals who were not licensed in relation to the brokerage contrary to section 7(5)(a) of the *Real Estate Services Act* and section 3-1(1) of the Council Rules.
2. Mr. Brandon hereby waives his right to appeal pursuant to section 54 of the *Real Estate Services Act*.
3. Ms. Brandon acknowledges that he has a right to seek independent legal advice before signing this Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver.
4. Mr. Brandon acknowledges and is aware that the Council will publish the Consent Order and penalty herein in its Report from Council newsletter and on the Council's website.
5. Mr. Brandon 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 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.

“Jessica S. Gossen”
Jessica S. Gossen, Legal Counsel

Real Estate Council of British Columbia

As to Part B only (Agreed Statement of Facts)

Dated 5 day of October, 2010

“John William Brandon”
John William Brandon

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

Dated 24 day of September, 2010