

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

**IN THE MATTER OF
MOUNTAIN STRATA MANAGEMENT LTD.**

CONSENT ORDER

RESPONDENTS: Mountain Strata Management Ltd.,
Brokerage

DATE OF REVIEW MEETING: March 28, 2012

DATE OF CONSENT ORDER: April 11, 2012

CONSENT ORDER REVIEW COMMITTEE: B. Barry
A. Ghouri
J. Nagy
G. Martin (Chair)

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

PROCEEDINGS:

On March 28, 2012 the Consent Order Review Committee resolved to accept the Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver executed by Mountain Strata Management Ltd. as submitted, which was that Mountain Strata Management Ltd. is suspended for sixty (60) days, from May 16, 2012 to July 14, 2012 (inclusive), but that the suspension will be terminated if and when Mountain Strata Management Ltd. files an Accountant's Report as required by section 7-7(1) of the Council Rules for the year ending June 30, 2011.

If the Accountant's Report referred to above is received on or before May 16, 2012, Mountain Strata Management Ltd. will be reprimanded.

If the Accountant's Report referred to above is not received by July 14, 2012, then Mountain Strata Management Ltd.'s licence will be cancelled effective July 15, 2012.

Further, Mountain Strata Management Ltd. 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 Mountain Strata Management 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. Mountain Strata Management Ltd. is suspended for sixty (60) days from May 16, 2012 to July 14, 2012 (inclusive), but that the suspension will be terminated if and when Mountain Strata Management Ltd. files an Accountant’s Report as required by section 7-7(1) of the Council Rules for the year ending June 30, 2011, 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) of the Council Rules in that it failed to file an Accountant’s Report with the Council for the year ending June 30, 2011 on or before October 30, 2011.
2. If the Accountant’s Report referred to above is received on or before May 16, 2012, Mountain Strata Management Ltd. will be reprimanded.
3. If the Accountant’s Report referred to above is not received on or before July 14, 2012, Mountain Strata Management Ltd.’s licence will be cancelled effective July 15, 2012.
4. Mountain Strata Management Ltd. 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 Mountain Strata Management Ltd. fails to comply with any of the terms of the Order set out above, the Council may suspend or cancel its licence, without further notice to it pursuant to sections 43(3) and 43(4) of the *Real Estate Services Act*.

Dated this 11th day of April, 2012 at the City of Vancouver, British Columbia.

ON BEHALF OF THE CONSENT ORDER REVIEW COMMITTEE

“Gerry Martin”

G. Martin, Chair
Consent Order Review Committee

File #11-200

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

**IN THE MATTER OF
MOUNTAIN STRATA MANAGEMENT LTD.
(X029058)**

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

The following agreement has been reached between, Mountain Strata Management Ltd. (“Mountain Strata”) and the Real Estate Council of British Columbia (the “Council”).

- A. Mountain Strata hereby consents to an Order to be made pursuant to sections 41 and 43 of the *Real Estate Services Act* (“RESA”) that it be suspended for 60 days from May 16, 2012 to July 14, 2012 inclusive, but that the suspension will be terminated if and when Mountain Strata files an Accountant’s Report as required by section 7-7(1) of the Council Rules for the year ending ~~March 31, 2011~~. June 30 JAH
- B. If the Accountant’s Report referred to in (A) is received on or before May 16, 2012, Mountain Strata further consents to an Order that it will be reprimanded.
- C. If the Accountant’s Report referred to in (A) above is not received on or before July 14, 2012, then Mountain Strata further consents to an Order that its licence will be cancelled, effective July 15, 2012.
- D. Mountain Strata further consents to an order to pay enforcement expenses to the Council in the amount of \$1,000.00 within sixty (60) days of the date of this Consent Order.
- E. Mountain Strata further consents to an Order that if it fails to comply with any of the terms of the Order set out above, a Discipline Hearing Committee of the Council may suspend or cancel its licence without further notice to it pursuant to sections 43(3) and 43(4) of the *Real Estate Services Act*.
- F. As a basis for this Order, Mountain Strata acknowledges and agrees that the facts sets forth herein are correct:
 - 1. Mountain Strata Management Ltd. is licensed as a brokerage and has been since November 20, 2008.

2. The fiscal year end of Mountain Strata was June 30, 2011. The Accountant's Report was due to be filed with the Council on or before October 30, 2011.
 3. James Ashley Henry is currently licensed as the managing broker with Mountain Strata and became the managing broker of Mountain Strata on September 9, 2011, after the fiscal year end of Mountain Strata, but before the Accountant's Report was due to be filed with the Council.
 4. A letter was sent from the Council to Mountain Strata dated July 14, 2011 advising that the Accountant's Report, Brokerage Activity Report and review engagement financial statements (collectively the "Accountant's Report Filing") were due to be received by the Council on or before October 30, 2011.
 5. A letter was sent from the Council to Mountain Strata dated November 8, 2011 advising that if the Accountant's Report Filing was not received within 30 days of October 30, 2011, the matter would be forwarded to the Council's Legal Department for further action.
 6. Council staff received an email from Mr. Henry on November 23, 2011. Mr. Henry advised that he had spoken to the former managing broker and owner of Mountain Strata, and that the former owner was preparing the outstanding report.
 7. A letter was sent to Mountain Strata from the Council dated December 1, 2011, advising that as a complete Accountant's Report Filing was not received by the Council as of that date, the file was being forwarded to the legal department.
 8. On January 26, 2012 a Notice of Discipline Hearing was sent to Mountain Strata.
- 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, Mountain Strata Management Ltd. is prepared to accept the following findings if made against them by the Council's Consent Order Review Committee:
 - (a) Mountain Strata Management 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 June 30, 2011, 2011 on or before October 30, 2011;

2. Mountain Strata hereby waives its right to appeal pursuant to section 54 of the *Real Estate Services Act*.
3. Mountain Strata acknowledges that it has the right to seek independent legal advice before signing this Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver.
4. Mountain Strata 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, and CanLii, a website for legal research.
5. Mountain Strata 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.

“Joni Worton”

**Joni R. Worton, Legal Counsel
Real Estate Council of British Columbia**

**As to Part G only (Agreed Statement
of Facts)**

Dated 20th day of March, 2012

“James Ashley Henry”

**James Ashley Henry on behalf of Mountain
Strata Management Ltd.**

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

Dated 29th day of February, 2012