

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

**IN THE MATTER OF
RUSSELL JOHN KING**

CONSENT ORDER

RESPONDENT: Russell John King, associate broker,
Cornerstone Properties Ltd.

DATE OF REVIEW MEETING: August 28, 2013

DATE OF CONSENT ORDER: September 26, 2013

CONSENT ORDER REVIEW COMMITTEE: M. Cowe
S. Lynch, Chair
S. McGougan
J. Pearson

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

PROCEEDINGS:

On August 28, 2013 the Consent Order Review Committee resolved to accept the Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver executed by Russell John King as submitted. It is therefore ordered that Russell John King be reprimanded. Further, Russell John King is ordered to successfully complete the Strata Management Remedial Education Course as provided by Real Estate Division, Sauder School of Business at the University of British Columbia in the time period directed by the Real Estate Council of British Columbia ("Council").

WHEREAS an Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver was executed by Russell John King and the 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. Russell John King be reprimanded as he committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that he:
 - (a) contravened section 3-3(1)(a) of the Council Rules by failing to ensure that the client was informed of the terms of the termination of the brokerage's services in a timely manner; and
 - (b) contravened section 3-4 of the Council Rules in that he failed to ensure that his client as contacted with respect to the correction of an error in the special general meeting notice indicated that another brokerage was taking over the management of the client on May 1, 2012 which would have been in fact on April 1, 2012.
2. Russell John King is ordered to successfully complete the Strata Management Remedial Education Course as provided by the Real Estate Division, Sauder School of Business at the University of British Columbia in the time period directed by the Council.

If Russell John King 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 26th day of September, 2013 at the City of Vancouver, British Columbia.

ON BEHALF OF THE CONSENT ORDER REVIEW COMMITTEE

“Sue Lynch”

S. Lynch, Chair
Consent Order Review Committee

Atch.

File #11-440

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

IN THE MATTER OF

**RUSSELL JOHN KING
(081106)**

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

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

- A. Mr. King 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 Strata Management 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. King 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. King acknowledges and agrees that the facts set forth herein are correct:
1. Mr. King was at all relevant times licensed as an associate broker with Cornerstone Properties Ltd.
 2. Mr. King’s licensing history is as follows:

<u>Start Date</u>	<u>End Date</u>	<u>Licensing History</u>	<u>Licence Level</u>	<u>Licence Category</u>
29/04/2010	Present	Cornerstone Properties Ltd. (X017769)	Associate Broker	Trading, Rental, Strata

21/12/2005	29/04/2010	Cornerstone Properties Ltd. (X017769)	Representative	Trading, Rental, Strata
20/05/2003	21/12/2005	Cornerstone Properties Ltd. (X017769)	Representative	Trading, Rental
19/05/2003	19/05/2003	*** Unlicensed ***	N/A	N/A
20/08/2001	18/05/2003	Cornerstone Properties Ltd. (X017769)	Representative	Trading, Rental
21/08/2000	20/08/2001	Proline Management Ltd. (X014336)	Representative	Trading, Rental
24/06/2000	20/08/2000	*** Unlicensed ***		
02/02/1995	23/06/2000	Crosby Property Management Ltd. (X000867)	Representative	Trading, Rental
12/04/1994	01/02/1995	*** Unlicensed ***		
10/12/1993	11/04/1994	Wynford Realty Group Ltd. dba The Wynford Group (X013712)	Representative	Trading, Rental
14/06/1990	10/12/1993	Ascent Real Estate Management Corporation (X012472)	Representative	Trading, Rental
19/05/1989	13/06/1990	Richmond Realty Ltd. dba Realty World Westcoast (X012346)	Representative	Trading, Rental

3. Cornerstone was providing strata management services to a strata corporation in Victoria, B.C. pursuant to a written services agreement dated February 16, 2011.
4. Mr. King was providing the day to day strata management services for the client.
5. The President of the strata, G.G., and another council member met with Mr. Middleton, the managing broker of the brokerage and the strata manager, Mr. King on about February 23, 2012 to express the dissatisfaction that the strata council had with the services of Cornerstone. The strata council wished to terminate the services of Cornerstone without having to call a special general meeting.

6. Section 14 of the written services agreement states that the agreement shall terminate upon the occurrence of any of the following events: “14.1 two months after receipt by the agent of a notice of a resolution passed by a $\frac{3}{4}$ vote approved by the owners, terminating this agreement”.
7. The President G.B. stated that it was agreed that there would be a two month transition period with Cornerstone as per the written services agreement ending their services as of April 30, 2012.
8. However, in a letter from Mr. Middleton to the strata council dated February 24th 2012, which the President G.B. stated that he did not receive until March 29th, 2012, the strata council was informed by “mutual agreement” that Cornerstone would terminate their management agreement and physically stop management of the strata council effective March 31, 2012, and would be taking the April 2012 management fees in the month of March 2012.
9. The President G.B. stated that all documents previously received indicated a termination date of April 30, 2012 including a notice of special general meeting prepared by Cornerstone.
10. The President G.B. further stated there was no written agreement from the council authorizing Cornerstone to withdraw fees in the amount of \$741.74 from the strata corporation’s trust account.
11. Cornerstone prepared a Notice of Special General Meeting for March 26, 2012 where there was a new business item which stated:
 - (i) New Business – change in strata management, effective May 1, 2012, Proline Management Ltd.
12. The March financial statements for the strata corporation showed that Cornerstone collected the April 2012 management fee.
13. On March 27, 2012, the Administrative Supervisor for Cornerstone sent an internal email to Mr. King enclosing the February 24th termination letter for him to forward to the strata council following the strata general meeting which occurred on March 26, 2012. Mr. King emailed the President G.B. the said termination letter.
14. Mr. King admits that he failed to ensure that the client was informed of the terms of the termination of the brokerage’s services in a timely manner.
15. Mr. King further admits that he failed to ensure that the client was contacted with respect to the correction of an error in the special general meeting notice indicating that another brokerage was taking over the management of the client on May 1, 2012 which should have been in fact on April 1, 2012.

16. Mr. King has no prior discipline history with the Council.

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, Russell John King is prepared to accept the following findings if made against him by the Council's Consent Order Review Committee:

(a) Russell John King committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that he:

(i) contravened section 3-3(1)(a) of the Council Rules by failing to ensure that the client was informed of the terms of the termination of the brokerage's services in a timely manner;

(ii) contravened section 3-4 of the Council Rules in that he failed to ensure that his client was contacted with respect to the correction of an error in the special general meeting notice indicated that another brokerage was taking over the management of the client on May 1, 2012 which would have been in fact on April 1, 2012.

2. Mr. King hereby waives his right to appeal pursuant to section 54 of the *Real Estate Services Act*.

3. Mr. King 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. King acknowledges and is aware that the Council will publish the Consent Order and penalty herein in its Report from Council newsletter, on the Council's website, and on CanLII, a website for legal research.

5. Mr. King 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.

“David P. Berger”
David P. Berger, Legal Counsel
Real Estate Council of British Columbia

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

Dated 15th day of July, 2013

“Russell John King”
Russell John King

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

Dated 15th day of July, 2013