

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

**IN THE MATTER OF
PACIFICA FIRST MANAGEMENT LTD.**

CONSENT ORDER

RESPONDENT: Pacifica First Management Ltd.,
Brokerage

DATE OF REVIEW MEETING: November 21, 2013

DATE OF CONSENT ORDER: December 10th, 2013

CONSENT ORDER REVIEW COMMITTEE: B. Binnie
M. Cowe
S. McGougan, Chair
D. Rishel

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

PROCEEDINGS:

On November 21, 2013 the Consent Order Review Committee (the "Committee") resolved to accept the Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver ("ASF") submitted by Pacifica First Management Ltd.

WHEREAS the ASF, a copy of which is attached hereto, has been executed by Pacifica First Management Ltd. and on behalf of the Council;

NOW THEREFORE, the Committee having made the findings proposed in the attached ASF, and in particular having found that Pacifica First Management Ltd. committed

professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act*, orders that Pacifica First Management Ltd.:

1. be reprimanded;
2. pay a discipline penalty to the Council in the amount of \$1,000.00 within ninety (90) days of the date of this Order; and
3. pay enforcement expenses of this Consent Order to the Council in the amount \$1,250.00 within sixty (60) days from the date of this Order.

If Pacifica First Management Ltd. fails to comply with any term of this Order, 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 10th day of December, 2013 at the City of Vancouver, British Columbia.

ON BEHALF OF THE CONSENT ORDER REVIEW COMMITTEE

“Susan McGougan”
S. McGougan, Chair
Consent Order Review Committee

Attch.

File #11-464

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

IN THE MATTER OF

**PACIFICA FIRST MANAGEMENT LTD.
(X023946)**

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

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

A. Pacifica hereby consents to an Order to be made pursuant to sections 41 and 43 of the *Real Estate Services Act* that it be reprimanded and pay a discipline penalty to the Council in the amount of \$1,000.00 within ninety (90) days of the date of the Order herein. Further, it agrees to pay enforcement expenses of this Consent Order to the Council in the amount of \$1,250.00 within sixty (60) days from the date of the Order herein. Pacifica 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 may suspend or cancel its licence without further notice to it pursuant to section 43(3) and 43(4) of the *Real Estate Services Act*.

B. As a basis for this Order, Pacifica acknowledges and agrees that the facts set forth herein are correct:

1. Pacifica was at all relevant times licensed as a brokerage.

2. Pacifica’s licensing history is as follows:

Start date	End date	Licensing history	Licence Category
Feb. 4, 2004 – Nov. 1, 2005		Pacifica First Management Ltd. (X023946)	Trading and Rental
Nov. 1, 2005 – Present		Pacifica First Management Ltd. (X023946)	Trading, Rental and Strata

3. Pacifica entered into a strata management agreement to provide strata management services to a strata corporation on or about March 1, 2011.

4. Thomas Chiu, a licensee with Pacifica, provided strata management services to the strata corporation on behalf of the brokerage.
5. In or about the month of June 2011 Mr. Chiu authorized the loan of \$10,318.00 from the residential section to the commercial section without the direction or authorization from the acting residential section executive and the commercial section executive.
6. The loan was to pay a hydro bill on behalf of the commercial section as the hydro authority was threatening to cut off hydro services.
7. Pacifica admits that it permitted this loan to take place without ascertaining whether there was any authorization from the said sections.
8. On May 15, 2012 at the annual general meeting of the strata corporation it voted to terminate the services of Pacifica.
9. The Strata Corporation filed a complaint against Pacifica dated June 4, 2012.
10. Pacifica states that the loan was repaid to the residential section after the services of Pacifica were terminated.

Previous Discipline History

11. Pacifica entered into a Consent Order with the Council on August 12, 2008 in which Pacifica admitted that it committed professional misconduct within the meaning of section 35 of the *Real Estate Services Act* in that it:
 - (a) contravened section 35(1) of the *Real Estate Services Act* including without limitation subsection (1)(a) in that it failed to ensure that the written services agreement between Pacifica and the owner with respect to the provision of rental property management services for the property included the content required by sections 5-1(4) and (5) of the Council Rules; and
 - (b) contravened section 5-1(6) of the Council Rules in that it failed to ensure that any amendment or alteration to the written services agreement between Pacifica and the owner was made in writing and signed by the client and an authorized signatory of Pacifica.
12. Pacifica was ordered to pay a discipline penalty to the Council in the amount of \$2,500.00 and pay enforcement expenses to the Council in the amount of \$750.00.
13. Pacifica entered into a Consent Order with the Council on July 16, 2012 as a result of an Office and Records Inspection of the brokerage by the Council conducted in January, 2011. Pacifica admitted that it committed

professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that it:

- (a) contravened sections 6(1)(b) and 7(5)(a) of the *Real Estate Services Act* by providing real estate services by an unlicensed representative;
 - (b) contravened section 32 of the *Real Estate Services Act* by failing to make reasonable efforts to identify the persons entitled to stale-dated cheques set out in the trust reconciliations for the pooled rental property management services brokerage trust account and if unable to do so contact the administrator for the *Unclaimed Property Act*;
 - (c) contravened section 4-5 of the Council Rules by failing to ensure the licensee name is clearly indicated in the course of providing real estate services as various agreement, bank statement, cancelled cheques, deposit books and invoices remained in the name of Jefferson Management Corporation;
 - (d) contravened section 6-1(1) of the Council Rules by remunerating an unlicensed representative of the brokerage for acting in a licensed capacity;
 - (e) contravened section 6-2 of the Council Rules by allowing an unlicensed representative of the brokerage to act in a licensed capacity to provide real estate services on behalf of the brokerage;
 - (f) contravened section 7-4(1) of the Council Rules by failing to have a managing broker be a signing authority on all trust accounts maintained by the brokerage; and
 - (g) contravened sections 3-1(1) and 3-1(3) of the Council Rules by failing to carry out its business in accordance with the Act and the Council Rules.
14. Pacifica was reprimanded, ordered to pay the Council's audit costs in the amount of \$1,650.00 within ninety (90) days of the date of the Order, pay a discipline penalty to the Council in the amount of \$5,000.00 within ninety (90) days of the date of the Order, and pay enforcement expenses to the Council in the amount of \$1,000.00 within sixty (60) days of the date of the Order.

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, Pacifica is prepared to accept the following findings if made against it by the Council's Consent Order Review Committee:

(a) Pacifica First Management Ltd. committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* [contravention of Act, Regulation or Council Rules] in that it:

(i) contravened section 3-3(1)(c) of the Council Rules [act only within the scope of the authority given by the client] by permitting a loan in the amount of \$10,318.00 from the “residential section” to the “commercial section” of the said strata corporation without the direction or authorization from the acting residential section executive and the commercial section executive.

2. Pacifica hereby waives its right to appeal pursuant to section 54 of the *Real Estate Services Act*.
3. Pacifica acknowledges that it has a right to seek independent legal advice before signing this Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver.
4. Pacifica 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. Pacifica 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 29th day of October, 2013

“Robert Ku”
**Robert Ku, Managing Broker on behalf of
Pacifica First Management Ltd.**

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

Dated 26th day of October, 2013