

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

**IN THE MATTER OF  
ARTHUR DERWYN OWEN**

**AND  
OCEAN BAY MANAGEMENT LTD.**

**CONSENT ORDER**

RESPONDENTS: Arthur Derwyn Owen, Managing  
Broker, Ocean Bay Management Ltd.

Ocean Bay Management Ltd.,  
Brokerage

DATE OF REVIEW MEETING: October 14, 2014

DATE OF CONSENT ORDER: October 31, 2014

CONSENT ORDER REVIEW COMMITTEE: S. McGougan, Chair  
J. Pearson  
D. Peerless

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

**PROCEEDINGS:**

On October 14, 2014 the Consent Order Review Committee (the "Committee") resolved to accept the Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver ("ASF") submitted by Arthur Derwyn Owen and Ocean Bay Management Ltd.

**WHEREAS** the ASF, a copy of which is attached hereto, has been executed by Arthur Derwyn Owen, Ocean Bay Management Ltd. and on behalf of the Council;

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**NOW THEREFORE**, the Committee having made the findings proposed in the attached ASF, and in particular having found that Arthur Derwyn Owen and Ocean Bay Management Ltd. committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act*, orders that:

1. Arthur Derwyn Owen be reprimanded;
2. Arthur Derwyn Owen pay a discipline penalty to the Council in the amount of \$1,000.00 within ninety (90) days of the date of this Order;
3. Ocean Bay Management Ltd. be reprimanded;
4. Ocean Bay Management Ltd. pay a discipline penalty to the Council in the amount of \$1,000.00 within ninety (90) days of this Order; and
5. Arthur Derwyn Owen and Ocean Bay Management Ltd. be jointly and severally liable to 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 Arthur Derwyn Owen or Ocean Bay Management Ltd. fails to comply with any term of this Order, the Council may suspend or cancel their licences without further notice to them, pursuant to sections 43(3) and 43(4) of the *Real Estate Services Act*.

Dated this 31<sup>st</sup> day of October, 2014 at the City of Vancouver, British Columbia.

ON BEHALF OF THE CONSENT ORDER REVIEW COMMITTEE

“S. McGougan”

S. McGougan, Chair  
Consent Order Review Committee

Atch.

File #12-474

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

**IN THE MATTER OF**

**ARTHUR DERWYN OWEN  
(158265)**

**AND**

**OCEAN BAY MANAGEMENT LTD.  
(X029809)**

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

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The following agreement has been reached between Arthur Derwyn Owen (“Mr. Owen”), Ocean Bay Management Ltd. (“Ocean Bay”) and the Real Estate Council of British Columbia (the “Council”).

- A. Mr. Owen hereby consents to an Order to be made pursuant to sections 41 and 43 of the *Real Estate Services Act* that he be reprimanded, and that he 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.
- B. Mr. Owen on behalf of Ocean Bay 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.
- C. Mr. Owen and Ocean Bay agree to be jointly and severally liable 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.
- D. Mr. Owen and Ocean Bay further consent to an Order that if either of them fail to comply with any of the terms of the Order set out above, a Discipline Hearing Committee may suspend or cancel their licences without further notice to them pursuant to section 43(3) and 43(4) of the *Real Estate Services Act*.
- E. As a basis for this Order, Mr. Owen and Ocean Bay acknowledge and agree that the facts set forth herein are correct:

1. Mr. Owen was licensed as a managing broker with Ocean Bay from May 28, 2013 to the present. He is also the owner of the brokerage.
2. Robert Harrington was licensed as a managing broker with Ocean Bay from April 11, 2012 to May 17, 2013.
3. Mr. Owen'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>
2013/05/28	Present	Ocean Bay Management Ltd. (X029809)	Managing Broker	Trading, Rental, Strata
2012/10/07	2013/05/27	*** Unlicensed ***		
2010/10/07	2012/10/06	Ocean Bay Management Ltd. (X029809)	Representative	Trading, Rental, Strata

4. Ocean Bay was at all material times licensed as a brokerage.
5. Ocean Bay'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>
2012/04/05	Present	Ocean Bay Management Ltd. (X029809)	Brokerage	Trading, Rental, Strata
2010/09/08	2012/04/05	Aedis Management Ltd. (X029809)	Brokerage	Trading, Rental, Strata

6. During an inspection of the records of the brokerage by the Council in April 2013, it was noted in the inspection report dated May 12, 2013 that Mr. Owen was providing strata management services during the period of October 6, 2012 to May 28, 2013 while unlicensed to provide those services.
7. Mr. Owen states that while he attended some strata council meetings during this period as a principal of the brokerage, he had a licensed strata manager with the brokerage that attended these meetings with him.

8. Mr. Owen is prepared to accept that he discussed the issue of depreciation and building assessment reports with a strata client at some of these meetings. He is also prepared to accept that he discussed obtaining funding for repairs to the building and reviewing quotes.
9. Mr. Owen states that he did not receive any remuneration for any services that he provided during the period that he was unlicensed.
10. Mr. Owen states that he now recognizes that these services require licensing as a strata manager under the *Real Estate Services Act*.
11. There were also other alleged contraventions of the Act and Rules on the part of the brokerage noted in the inspection report.
12. The Council sent a letter to Robert Harrington dated May 13, 2013 advising him that it was imposing a \$250.00 administrative penalty against the brokerage for the contraventions of the Council Rules identified in the Office and Records Inspection Report. It was payable by May 28, 2013.
13. The Council also sent a letter to Robert Harrington dated May 13, 2013 requesting a written response to the Office and Records Inspection Report by June 4, 2013.
14. Mr. Harrington responded by email dated May 17, 2013 stating that Mr. Owen sent in his licence to the Council on May 17, 2013.
15. Mr. Owen became the managing broker for Ocean Bay on May 28, 2013.
16. A letter dated June 25, 2013 was sent to Mr. Owen indicating that the administrative penalty had not been received by the Council on or before May 29, 2013 and a response to the Office and Records Inspection Report had not been received on or before June 4, 2013. The letter advised him for his immediate attention to the matter.
17. The Council received a letter from Mr. Owen dated June 26, 2013.
18. In his letter, Mr. Owen addressed the issue of providing strata management services while being unlicensed and maintained that he was providing administrative support only.
19. The Council sent Mr. Owen a letter dated July 4, 2013 thanking him for his letter received on June 27, 2013 regarding the Office and Records Inspection Report.
20. The letter further stated as follows, "We appreciate your response; however, we have still not received a satisfactory or complete response to the Office and Records Inspection Report dated May 12, 2013."

21. On July 25, 2013, the Council's compliance department sent a letter to Robert Harrington, the former managing broker for the brokerage, indicating that the Council had commenced an enquiry into his conduct as the managing broker. A photocopy of the Office and Records Inspection Report was included and he was asked to comment on the alleged contraventions of the Act and Rules. A copy of this letter was sent to Mr. Owen.
22. A similar letter dated July 25, 2013 was sent to Mr. Owen asking for his response as his name was mentioned in the documents received by the Council (Office and Records Inspection Report). He was asked to respond by August 15, 2013.
23. Follow-up letters were sent to Mr. Owen dated August 27, 2013 and September 6, 2013.
24. The Council received a letter from Mr. Owen dated September 10, 2013. He indicated that he did not receive a copy of the enclosure in the letter dated September 6, 2013, other than copies of the letters dated July 25, 2013 and August 27, 2013.
25. A letter dated September 26, 2013 was sent to Mr. Owen by the Council indicating the Council had not received the \$250.00 administrative penalty with respect to the contraventions noted in the Office and Records Inspection Report issued on May 12, 2013.
26. Further letters were sent to Mr. Owen dated October 24, 2013 and November 29, 2013 for a response to the Council letter dated September 26, 2013. Mr. Owen was warned that pursuant to section 2-19 of the Council Rules, a licensee is required to respond promptly to any inquiries addressed to the licensee by the Council and failure to do may result in the licensee being subject to discipline. A written response was requested from Mr. Owen no later than December 12, 2013.
27. Mr. Owen did not respond to this letter.
28. The administrative penalty was paid to the Council by the brokerage in July, 2014.
29. Mr. Owen has no disciplinary record with the Council.
30. Mr. Owen now realizes that some of the duties he performed while he was unlicensed constituted strata and rental property management services.

**F. Proposed Acceptance of Findings and Waiver**

1. Based on the Agreed Statement of Facts as outlined herein, and without making any admissions of liability, Arthur Derwyn Owen and Ocean Bay Realty Ltd.

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are prepared to accept the following findings if made against them by the Council's Consent Order Review Committee:

- (a) Ocean Bay Management Ltd. committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* by contravening section 7(5) of the Act in that it provided strata management services through a person that was not licensed to provide those services; and
  - (b) Arthur Derwyn Owen committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that, as managing broker for the said brokerage, commencing on May 28, 2014 he contravened section 2-19 of the Council Rules in that he failed to promptly respond to the Council concerning the non-payment of an administrative penalty against the brokerage and the contraventions alleged against the brokerage in the Office and Records Inspection Report dated May 12, 2013.
2. Mr. Owen and Ocean Bay hereby waive their right to appeal pursuant to section 54 of the *Real Estate Services Act*.
  3. Mr. Owen and Ocean Bay acknowledge that they have a right to seek independent legal advice before signing this Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver.
  4. Mr. Owen and Ocean Bay acknowledge and are 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. Owen and Ocean Bay acknowledge and are 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 E only (Agreed Statement  
of Facts)**

**Dated 29th day of September, 2014**

“Arthur Derwyn Owen”  
**Arthur Derwyn Owen**

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

**Dated 29th day of September, 2014**

“Arthur Derwyn Owen”  
**Arthur Derwyn Owen, on behalf of Ocean  
Bay Realty Ltd.**

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

**Dated 29th day of September, 2014**