

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

**IN THE MATTER OF
RANDALL SCOTT ULLRICH**

AND

GATEWAY PROPERTY MANAGEMENT CORPORATION

CONSENT ORDER

RESPONDENTS: Randall Scott Ullrich, Managing Broker,
Gateway Property Management Corporation

Gateway Property Management
Corporation, Brokerage

DATE OF REVIEW MEETING: September 15, 2015

DATE OF CONSENT ORDER: September 29, 2015

CONSENT ORDER REVIEW COMMITTEE: S. Ghose, Chair
M. Leslie
D. Peerless

ALSO PRESENT: R.O. Fawcett, Executive Officer
G. Thiele, Director, Legal Services
B. Woolley, Q.C., Legal Counsel for the
Real Estate Council

PROCEEDINGS:

On September 15, 2015 the Consent Order Review Committee (the "Committee") resolved to accept the Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver ("ASF") submitted by Randall Scott Ullrich and Gateway Property Management Corporation.

WHEREAS the ASF, a copy of which is attached hereto, has been executed by Randall Scott Ullrich, Gateway Property Management Corporation 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 Randall Scott Ullrich and Gateway Property Management Corporation committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act*, orders that:

1. Randall Scott Ullrich be reprimanded;
2. Gateway Property Management Corporation be reprimanded;
3. Randall Scott Ullrich and Gateway Property Management Corporation be jointly and severally liable to pay a discipline penalty to the Council in the amount of \$3,000.00;
4. Randall Scott Ullrich and Gateway Property Management Corporation be jointly and severally liable to pay enforcement expenses of this Consent Order to the Council in the amount \$1,500.00 within sixty (60) days from the date of this Order.

If Randall Scott Ullrich and Gateway Property Management Corporation 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 29th day of September, 2015 at the City of Vancouver, British Columbia.

ON BEHALF OF THE CONSENT ORDER REVIEW COMMITTEE

“S. Ghose”

S. Ghose, Chair
Consent Order Review Committee

Attch.

File #13-140
File #13-170
File #13-201

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

**IN THE MATTER OF
RANDALL SCOTT ULLRICH
(055794)**

AND

**GATEWAY PROPERTY MANAGEMENT CORPORATION
(X021368)**

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

The following agreement has been reached among Randall Scott Ullrich (“Mr. Ullrich”), Gateway Property Management Corporation (“Gateway”) and the Real Estate Council of British Columbia (the “Council”).

- A. Mr. Ullrich hereby consents to an Order to be made pursuant to sections 41 and 43 of RESA that he be reprimanded and that he pay a discipline penalty of \$3,000, jointly and severally with Gateway.
- B. Mr. Ullrich agrees to be jointly and severally liable with Gateway to pay enforcement expenses of this Consent Order to the Council in the amount of \$1,500 within sixty (60) days from the date of the Order herein.
- C. Mr. Ullrich consents to an Order that if he fails to comply with any of the terms of the Order made against him and set out above in paragraphs A and B, a Discipline Hearing Committee may suspend or cancel his licence without further notice to him pursuant to sections 43(3) and 43(4) of RESA.
- D. Gateway hereby consents to an Order to be made pursuant to sections 41 and 43 of RESA that it be reprimanded and that it pay a discipline penalty of \$3,000, jointly and severally with Mr. Ullrich.
- E. Gateway agrees to be jointly and severally liable with Mr. Ullrich to pay enforcement expenses of this Consent Order to the Council in the amount of \$1,500 within sixty (60) days from the date of the Order herein.

- F. Gateway further consents to an Order that if it fails to comply with any of the terms of the Order made against it and set out above in paragraphs D and E, a Discipline Hearing Committee may suspend or cancel its licence without further notice to it pursuant to sections 43(3) and 43(4) of RESA.
- G. As a basis for this Order, Mr. Ullrich acknowledges and agrees that the facts set forth herein are correct:
1. Mr. Ullrich was at all relevant times licensed as a managing broker of Gateway, and was the managing broker in charge of strata management matters.
 2. Mr. Ullrich's licensing history is as follows:

<u>Start Date</u>	<u>End Date</u>	<u>Brokerage</u>	<u>Licence Level</u>	<u>Licence Category</u>
2006/01/01	Present	Gateway Property Management Corporation (X021368)	Managing Broker	Trading, Rental, Strata
1991/02/28	2006/01/01	Gateway Property Management Corporation (X021368)	Managing Broker	Trading, Rental, Strata
1987/08/01	1991/02/28	Gillespie Management Corp. (X001485)	Managing Broker	Trading, Rental, Strata
1985/08/01	1987/07/31	Gillespie Management Corp. (X001485)	Managing Broker	Rental

Secondary License #1

<u>Start Date</u>	<u>End Date</u>	<u>Brokerage</u>	<u>Licence Level</u>	<u>Licence Category</u>
2006/10/25	Present	Gateway Property Management Corporation (Vic) (X028835)	Managing Broker	Trading, Rental, Strata

Secondary License #2

<u>Start Date</u>	<u>End Date</u>	<u>Brokerage</u>	<u>Licence Level</u>	<u>Licence Category</u>
2013/06/06	Present	Gateway Property Management Corporation (KAM) (X028838)	Managing Broker	Trading, Rental, Strata

Secondary License #3

<u>Start Date</u>	<u>End Date</u>	<u>Brokerage</u>	<u>Licence Level</u>	<u>Licence Category</u>
2013/06/06	Present	Gateway Property Management Corporation (Kel) (X028840)	Managing Broker	Trading, Rental, Strata

3. Mr. Ullrich and Gateway were the subject of a Consent Order dated June 24, 2008 in which the following findings were made:

“Gateway Property Management Corporation be reprimanded as it committed professional misconduct within the meaning of section 35(1) of the *Real Estate Services Act*, by contravening section 6 of RESA that it:

- (a) failed to have a managing broker in active charge of the business of the brokerage by reason of the facts described in paragraph G, sub-paragraphs 10, 11, 12(a) and (b), 14, 18 – 21, 26 – 30;

- (b) operated unlicensed branch offices at:

- (a) 1456 St. Paul Street, Kelowna, B.C.;
- (b) 217 – 2187 Oak Bay Avenue, Victoria, B.C.;
- (c) 80 – 2131 Upland Street, Prince George, B.C.;

contrary to section 3 of the *Real Estate Services Act*;

- (d) engaged Mona Murray to act as a managing broker for the unlicensed branch office at 1456 St. Paul Street, Kelowna, B.C. and Mr. Bray to act on its behalf as a licensee while they were licensed with Sheridan contrary to section 7(5)(b) of the *Real Estate Services Act*.

Randall Scott Ullrich be reprimanded as he committed professional misconduct within the meaning of section 35(1)(a) of RESA in that he in his capacity as managing broker for Gateway:

- (a) permitted the brokerage to provide real estate services through individuals who were licensed in relation to Sheridan but not licensed in relation to or engaged by Gateway contrary to section 7(5)(a) of the *Real Estate Services Act*;
- (b) engaged Mona Marlene Murray, the managing broker for Sheridan to act as a managing broker for an unlicensed branch office of Gateway at St. Paul Street, Kelowna, B.C. between September 1 and October 25, 2006;
- (c) permitted an unlicensed branch office of Gateway to operate at St. Paul Street, Kelowna, B.C. from September 1, 2006 until October 25, 2006;
- (d) permitted an unlicensed branch office of Gateway to operate at 217 – 2187 Oak Bay Avenue, Victoria, B.C.;
- (e) permitted an unlicensed branch office of Gateway to operate in #80 – 2131 Upland Street, Prince George, B.C.;
- (f) failed to notify the Council of a change in directors or officers of Sheridan when Gateway acquired that brokerage contrary to section 2-22(1)(d) of the Council Rules;
- (g) failed to ensure the business of Gateway was carried out in accordance with the *Real Estate Services Act* and the Council Rules;
- (h) permitted his brokerage to provide real estate services through Marc Rothberg, when Mr. Rothberg was not licensed to provide such services contrary to section 7(5)(a) of the *Real Estate Services Act*;
- (i) permitted his brokerage to pay remuneration to Mr. Rothberg in relation to his provision of real estate services on behalf of the brokerage while Mr. Rothberg was unlicensed contrary to section 6-1 of the Council Rules.

Randall Scott Ullrich is required to successfully complete the disciplinary education assignment applicable to Chapter 2 (Mandatory Requirements under the *Real Estate Services Act*) of the Broker's Licensing Course as provided by the Real Estate Division, Sauder School of Business at the University of British Columbia and enroll in and attend the first available CPE course, "Professionalism It Pays! Be Safe or Be Sued" or "Legal Update".

Randall Scott Ullrich is ordered to pay a discipline penalty in the amount of \$3,000.00 within sixty (60) days of the date of the Order herein."

H. File 13-140 – Facts

1. Gateway provided strata management services to Strata Corporation BCS 3xx4 (the “3xx4 Complainant”) in 2013 concerning premises at 3xxx8 M. Road, Abbotsford, B.C., pursuant to a service agreement (the “3xx4 Service Agreement”) that was terminated by the 3xx4 Complainant on August 31, 2013.
2. After the termination of the 3xx4 Service Agreement the 3xx4 Complainant and/or the replacement strata management brokerage, KPML, requested certain records respecting the 3xx4 Complainant from Gateway.
3. Gateway delivered to KPML the majority of the records requested. However Gateway initially failed to deliver to KPML or to the 3xx4 Complainant paper copies of the 3xx4 Complainant’s financial records for June and July 2010, for January, February, March and June 2011, for all of 2012 except June and for all of 2013 to August 31 (collectively the “3xx4 Records”). The 3xx4 Records were reprinted by Gateway and delivered to KPML after receipt of an e-mail sent to Gateway on September 17, 2013. It is not clear on what date after that when KPML received the 3xx4 Records.

I. File 13-170 – Facts

1. Gateway provided strata management services to Strata Corporation BCS 3xx5 (the “3xx5 Complainant”) in 2011, 2012 and 2013 concerning premises at 1xxx M. Road, Abbotsford, British Columbia, pursuant to a service agreement (the “3xx5 Service Agreement”) that was terminated by the 3xx5 Complainant on May 1, 2013.
2. During the term of the 3xx5 Service Agreement funds in the amount of \$8000.00 were withdrawn from the 3xx5 Complainant’s contingency reserve fund trust account during the 2011 – 2012 fiscal year, and funds in the amount of \$1500.00 were withdrawn from the 3xx5 Complainant’s contingency reserve fund trust account between December 2012 and May 2013 (collectively, the “3xx5 CRF Withdrawals”). The 3xx5 Complainant alleged that it had no evidence of authorization of the 3xx5 CRF Withdrawals and no evidence of what the 3xx5 CRF Withdrawals were used for. The Minutes of the Strata Council meeting of December 15, 2011 contains the following note:

"The property manager advised that the Crossing C residential section is short on cash due to the under budgeted expenses in the past fiscal year. There are several outstanding invoices to be paid. The Strata Council agreed to temporarily borrow money from the CRF to help with the current cash flow and pay all outstanding invoices."

The Minutes did not identify the amount. Gateway provided a copy of the CTF Cheque no. 102 (\$1,500.00) identified "to cover Jan 31 payables".

3. After the termination of the 3xx5 Service Agreement the 3xx5 Complainant and/or the replacement strata management brokerage, KPML, requested certain records respecting the 3xx5 Complainant from Gateway.
4. Based on its checklist acknowledged by KPML, Gateway believed it had delivered to KPML the records requested. However, Gateway initially failed to deliver to KPML or to the 3xx5 Complainant paper copies of certain of the 3xx5 Complainant's financial records, being financial statements for residential and commercial sections of the 3xx5 Complainant for January, May, June, July, October and November 2010; financial statements for residential, commercial and strata sections of the 3xx5 Complainant for January, February, September, November and December 2011 and financial statements for residential and strata sections for October 2011; financial statements for residential, commercial and strata sections of the 3xx5 Complainant for January thru September 2012 inclusive; and financial statements for residential, commercial and strata sections of the 3xx5 Complainant for January, February and March 2013 (the "3xx5 Records"). The 3xx5 Records were reprinted and delivered to KPML after receipt of a letter to Mr. Ullrich dated July 5, 2013. It is not clear on what date after that when KPML received the 3xx5 Records.

J. File 13-201 – Facts

1. Gateway provided strata management services to Strata Corporation BCS 2xx2, (the "2xx2 Complainant") in 2013 concerning premises at 3xxx V. Avenue, Vancouver, British Columbia (the "Premises") pursuant to a service agreement (the "2xx2 Service Agreement") that was terminated by the 2xx2 Complainant on December 31, 2013.
2. After the termination of the 2xx2 Service Agreement, the 2xx2 Complainant and/or the replacement strata management brokerage, TWG, requested certain records respecting the 2xx2 Complainant from Gateway.
3. Gateway delivered to TWG and/or the 2xx2 Complainant the majority of the records requested. However, Gateway initially failed to deliver to TWG and/or the 2xx2 Complainant the November 20, 2013 minutes of the strata council of the 2xx2 Complainant (the "November 2013 Minutes"); the December 2013 financial statement for the 2xx2 Complainant (the "December Statement"); and a detailed account receivable list of arrears for strata lot owners in the Premises (the "Arrears List") (the November 2013 Minutes, the December Statement and the Arrears List are collectively the "Outstanding 2xx2 Records"). All of the Outstanding 2xx2 Records were delivered on or before February 25 2014.
4. Gateway provided to TWG and/or to the 2xx2 Complainant \$17,000.00 in the contingency reserve fund trust account on January 23, 2014 and \$30,000.00 in the operating fund trust account on January 21, 2014, but did not send to TWG or to the 2xx2 Complainant the balance of the moneys in the contingency reserve fund trust account in the amount of \$24,586.21 (the "CR Money") and the balance of

the moneys in the operating fund trust account in the amount of \$13,552.20 (the “OF Money”) until February 19, 2014. While Gateway employed another managing broker at the time of these events, Mr. Ullrich accepts sole responsibility for the late transfers.

5. Gateway did not pay a 2013 City of Vancouver water bill issued to the 2xx2 Complainant in a timely fashion, resulting in a late payment penalty of \$762.70 payable by the 2xx2 Complainant and did not pay the 2xx3 Complainant’s resident manager invoices for September, October and November 2013 in a timely fashion (collectively, the “Late Payments”).
6. Between November 1, 2013 and January 31, 2014, Gateway was in the process of upgrading its computer software. This resulted in some blackout periods for invoices to be paid or financial information to be available.

K. File 13-140 – Proposed Acceptance of Findings and Waiver

1. Based on the Agreed Statement of Facts as outlined herein, and without making any admissions of liability, Mr. Ullrich is prepared to accept the following findings if made against him by the Council’s Consent Order Review Committee, being that he committed professional misconduct within the meaning of section 35(1)(a) of RESA in that, in the provision of strata management services to the 3xx4 Complainant in 2013 pursuant to the 3xx4 Service Agreement that was terminated by the 3xx4 Complainant on August 31, 2013 and subsequent dealings among Mr. Ullrich, Gateway, the 3xx4 Complainant and KPML:

- (a) in contravention of section 8-7.1 (3) of the Council Rules and section 8-7.1(4) of the Council Rules, Mr. Ullrich permitted the brokerage to fail to provide certain records to the former client or to the other brokerage within 4 weeks following the date of termination of the former brokerage, in that Mr. Ullrich permitted Gateway to fail to provide to KPML or to the 3xx4 Complainant the 3xx4 Records within 4 weeks of the termination of the 3xx4 Service Agreement.

2. Based on the Agreed Statement of Facts as outlined herein, and without making any admissions of liability, Gateway is prepared to accept the following findings if made against it by the Council’s Consent Order Review Committee, being that Gateway committed professional misconduct within the meaning of section 35(1)(a) of RESA in that, in the provision of strata management services to the 3xx4 Complainant in 2013 pursuant to the 3xx4 Service Agreement that was terminated by the 3xx4 Complainant on August 31, 2013 and subsequent dealings among Mr. Ullrich, Gateway, the 3xx4 Complainant and KPML:

- (a) in contravention of section 8-7.1(3) of the Council Rules and section 8-7.1(4) of the Council Rules, Gateway failed to provide certain records to the former client or to the other brokerage within 4 weeks following the date of termination of the former brokerage, in that Gateway failed to

provide to KPML or to the 3xx4 Complainant the 3xx4 Records within 4 weeks of the termination of the 3xx4 Service Agreement.

L. File 13-170 – Proposed Acceptance of Findings and Waiver.

1. Based on the Agreed Statement of Facts as outlined herein, and without making any admission of liability, Mr. Ullrich is prepared to accept the following findings if made against him by the Council's Consent Order Review Committee, being that he committed professional misconduct within the meaning of section 35(1)(a) of RESA in that, in the provision of strata management services to the Complainant in 2011, 2012 and 2013 pursuant to the 3xx5 Service Agreement that was terminated by the 3xx5 Complainant on May 1, 2013 and subsequent dealings among Mr. Ullrich, Gateway, the 3xx5 Complainant and KPML:
 - (a) in contravention of section 3-4 of the Council Rules, Mr. Ullrich failed to act with reasonable care and skill, in that he permitted Gateway to make the 3xx5 CRF Withdrawals without fully documenting the terms of the 3xx5 CRF Withdrawals; and
 - (b) in contravention of Section 8-7.1 (3) of the Council Rules and Section 8-7.1(4) of the Council Rules, Mr. Ullrich permitted the brokerage to fail to provide certain records to the former client or to the other brokerage within 4 weeks following the date of termination of the other brokerage, in that Mr. Ullrich permitted Gateway to fail to provide to KPML or to the 3xx5 Complainant the 3xx5 Records within 4 weeks following the date of the 3xx5 Service Agreement.
2. Based on the Agreed Statement of Facts as outlined herein, and without making any admissions of liability, Gateway is prepared to accept the following findings if made against it by the Council's Consent Order Review Committee, being that he committed professional misconduct within the meaning of section 35(1)(a) of RESA in that, in the provision of strata management services to the 3xx5 Complainant pursuant to the 3xx5 Service Agreement that was terminated by the 3xx5 Complainant on May 1, 2013 and subsequent dealings among Gateway, Mr. Ullrich, the 3xx5 Complainant and KPML:
 - (a) in contravention of section 8-7.1 (3) of the Council Rules and section 8-7.1(4) of the Council Rules, Gateway failed to provide certain of the former client's records to the former client or to the other brokerage within 4 weeks following the date of termination of the former brokerage, in that it failed to provide to KPML or to the 3xx5 Complainant the 3xx5 Records within 4 weeks following the date of the termination of the 3xx5 Service Agreement.

M. File 13-201 - Proposed Acceptance of Findings and Waiver

1. Based on the Agreed Statement of Facts as outlined herein, and without making any admissions of liability, Mr. Ullrich is prepared to accept the following findings if made against him by the Council's Consent Order Review Committee being that he committed professional misconduct within the meaning of section 35(1)(a) of RESA in that, in the provision of strata management services to the 2xx2 Complainant in 2013 respecting the Premises pursuant to the 2xx2 Service Agreement that was terminated by the 2xx2 Complainant on December 31, 2013 and subsequent dealings among Mr. Ullrich, Gateway, the Complainant and TWG:
 - (a) in contravention of section 3-1(1)(b) of the Council Rules failed to ensure the business of the brokerage was carried out competently and in accordance with RESA and Council Rules, in that while the 2xx2 Service Agreement was terminated on December 31, 2013, Mr. Ullrich permitted Gateway to fail to provide the balance of the CR Money and the balance of the OF Money to the 2xx2 Complainant or to TWG until February 19, 2014, resulting in Gateway being in contravention of section 7-9(9) of the Council Rules;
 - (b) in contravention of section 3-1(1)(b) of the Council Rules failed to ensure the business of the brokerage was carried out competently and in accordance with RESA and Council Rules, in that Mr. Ullrich permitted Gateway to fail to provide to the 2xx2 Complainant or to TWG the Outstanding 2xx2 Records until February 25, 2014, resulting in Gateway being in contravention of section 8-7.1(3) of the Council Rules and section 8-7.1(5) of the Council Rules; and
 - (c) in contravention of section 3-1(1)(b) of the Council Rules failed to ensure the business of the brokerage was carried out competently and in accordance with RESA and Council Rules, in that Mr. Ullrich permitted Gateway to make the Late Payments.
2. Based on the Agreed Statement of Facts as outlined herein, and without making any admissions of liability, Gateway is prepared to accept the following findings if made against it by the Council's Consent Order Review Committee, being that Gateway committed professional misconduct within the meaning of section 35(1)(a) of RESA in that in the provision of strata management services to the 2xx2 Complainant in 2013 respecting the Premises, pursuant to the 2xx2 Service Agreement that was terminated by the 2xx2 Complainant on December 31, 2013 and subsequent dealings among Gateway, Mr. Ullrich, the Complainant and TWG:
 - (a) in contravention of section 8-7.1(3) of the Council Rules and section 8-7.1(5) of the Council Rules failed to provide certain of the former client's financial records to the former client or to the other brokerage upon the request of the former client, in that Gateway failed to provide the

Complainant or TWG with the Outstanding 2xx2 Records until February 25, 2014; and

- (b) in contravention of section 7-9(9) of the Council Rules failed to promptly transfer control of the strata corporation's money to the strata corporation or to the other brokerage engaged by the strata corporation, in that while the Service Agreement was terminated on December 31, 2013, Gateway failed to provide the balance of the CR Money and the balance of the OF Money to the 2xx2 Complainant or to TWG until February 19, 2014.

N. Waivers and Acknowledgements

1. Mr. Ullrich hereby waives his right to appeal pursuant to section 54 of RESA.
2. Mr. Ullrich acknowledges that he has a right to seek independent legal advice before signing this Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver.
3. Mr. Ullrich acknowledges and is aware that the Council will publish the Consent Order and penalty herein in its Report from Council; on the Council's website; and CanLii, a website for legal research.
4. Mr. Ullrich acknowledges and is aware that the Superintendent of Real Estate has the right, pursuant to section 54 of RESA, to appeal any decision of the Council, including this Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver, and Consent Order.
5. Gateway hereby waives its right to appeal pursuant to section 54 of RESA.
6. Gateway acknowledges that it has a right to seek independent legal advice before signing this Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver.
7. Gateway acknowledges and is aware that the Council will publish the Consent Order and penalty herein in its Report from Council; on the Council's website; and CanLii, a website for legal research.
8. Gateway acknowledges and is aware that the Superintendent of Real Estate has the right, pursuant to section 54 of RESA, to appeal any decision of the Council, including this Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver, and Consent Order.

9. 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. The Agreed Statement of Facts and Proposed Acceptance of Findings cannot be used in any other proceeding of any kind.

This Agreed Statement of Facts and Proposed Acceptance of Findings may be signed in counterparts.

“Bruce Woolley”

Bruce Woolley, Q.C.
Legal Counsel
Real Estate Council of British Columbia
**As to Parts G,H,I and J only (Agreed
Statement of Facts)**

Dated August 10, 2015

“Randall Ullrich”

Randall Scott Ullrich
As to Parts A to N inclusive
**(Agreed Statement of Facts, Proposed
Acceptance of Findings and Waiver)**

Dated July 27, 2015

“Gateway Property Management Corporation
Per: Randall Ullrich”

Gateway Property Management Corporation
As to Parts A to N inclusive
**(Agreed Statement of Facts, Proposed
Acceptance of Findings and Waiver)**

Dated July 27, 2015