

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

**IN THE MATTER OF  
TANYA LILLIAN PIEKARSKI  
(131606)**

**CONSENT ORDER**

RESPONDENT: Tanya Lillian Piekarski, Associate  
Broker, Cornerstone Properties Ltd.,  
while licensed with Mountain Peaks  
Resort Realty ULC

DATE OF REVIEW MEETING: March 10, 2016

DATE OF CONSENT ORDER: March 22, 2016

CONSENT ORDER REVIEW COMMITTEE: M. Leslie  
S. Lynch  
D. Peerless, Chair  
C. Squires

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

**PROCEEDINGS:**

On March 10, 2016 the Consent Order Review Committee (the “Committee”) resolved to accept the Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver (“ASF”) submitted by Tanya Lillian Piekarski.

**WHEREAS** the ASF, a copy of which is attached hereto, has been executed by Tanya Lillian Piekarski 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 Tanya Lillian Piekarski committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act*, orders that Tanya Lillian Piekarski:

1. be reprimanded;
2. pay a discipline penalty to the Council in the amount of \$2,500.00 within ninety (90) days of the date of this Order;
3. at her own expenses, register for and successfully complete the Real Estate Trading Services Remedial Education Course, as provided by the Real Estate Division, Sauder School of Business at the University of British Columbia in the time period as directed by the Council;
4. 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 Tanya Lillian Piekarski fails to comply with any term of this Order, the Council may suspend or cancel her licence without further notice to her pursuant to sections 43(3) and 43(4) of the *Real Estate Services Act*.

Dated this 22<sup>nd</sup> day of March, 2016 at the City of Vancouver, British Columbia.

ON BEHALF OF THE CONSENT ORDER REVIEW COMMITTEE

"D. Peerless"

\_\_\_\_\_  
D. Peerless, Chair  
Consent Order Review Committee

Atch.

File #12-315

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

**IN THE MATTER OF**

**TANYA LILLIAN PIEKARSKI  
(131606)**

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

The following agreement has been reached between Tanya Lillian Piekarski (“Ms. Piekarski”) and the Real Estate Council of British Columbia (the “Council”).

- A. Ms. Piekarski hereby consents to an Order to be made pursuant to sections 41 and 43 of the *Real Estate Services Act* that she be reprimanded, that she pay a discipline penalty to the Council in the amount of \$2,500.00 within ninety (90) days from the date of the Order herein and that she, at her own expense, register for and successfully complete the Broker's 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. Further, she 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. Ms. Piekarski further consents to an Order that if she fails to comply with any of the terms of the Order set out above, a Discipline Hearing Committee may suspend or cancel her licence without further notice to her pursuant to section 43(3) and 43(4) of the *Real Estate Services Act*.
- B. As a basis for this Order, Ms. Piekarski acknowledges and agrees that the facts set forth herein are correct:
1. Ms. Piekarski was at all relevant times licensed as a managing broker with Mountain Peaks Resort Realty Inc. and Mountain Peaks Resort Realty ULC.
  2. Ms. Piekarski'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>
2014/01/01	Present	Cornerstone Properties Ltd. (X017769)	Associate Broker	Trading, Rental, Strata

2013/10/01	2013/12/31	Cornerstone Properties Ltd. (X017769)	Associate Broker	Trading, Rental, Strata
2012/01/01	2013/10/01	Mountain Peaks Resort Realty ULC (X030179)	Managing Broker	Trading, Rental, Strata
2006/06/01	2012/01/01	Mountain Peaks Resort Realty Inc. (X026661)	Managing Broker	Trading, Rental, Strata
2006/01/17	2006/06/01	Mountain Peaks Resort Realty Inc. (X026661)	Associate Broker	Trading, Rental
2005/08/18	2006/01/16	*** Unlicensed ***		
2002/01/24	2005/08/17	Whistler Exclusive Property Management Ltd. (X024238)	Associate Broker	Trading, Rental
2002/01/23	2002/01/23	*** Unlicensed ***		
2001/07/24	2002/01/22	Whistler Exclusive Property Management Ltd. (X024238)	Associate Broker	Trading, Rental
1999/10/04	2001/07/24	Whistler Exclusive Property Management Ltd. (X024238)	Representative	Trading, Rental
1999/01/18	1999/10/04	Whistler Exclusive Property Management Ltd. (X024238)	Representative	Trading
1998/03/06	1999/01/17	*** Unlicensed ***		
1998/01/23	1998/03/05	Sea to Sky Real Estate Ltd. (X015056)	Representative	Trading

- On February 18, 2013, the Council received a complaint from a member of the Residential Executive of Strata Corporation VR 8XX (the “Strata”) involving Ms. Piekarski as managing broker of Mountain Peaks Resort Realty ULC. The Strata

stated that the brokerage did not manage the Residential Section trust bank accounts from 2004 to 2011, but rather had a third party accounting firm, BDO, carry out the bookkeeping and record keeping. Further, the brokerage failed to provide a copy of the strata management service agreement and the subsequent assignment of that agreement to the new brokerage, and to the Residential Executive, when requested.

4. On November 1, 2003, 559185 B.C. Ltd entered into a strata management service agreement with the Strata for strata property management services to commence on April 1, 2004 prior to the coming into force of RESA.
5. On June 1, 2006, Ms. Piekarski became managing broker for 559185 B.C. Ltd. dba Mountain Peaks Resort Realty Inc. On June 4, 2009, 559185 B.C. Ltd. officially filed a name change to Mountain Peaks Resort Realty Inc. (“Mountain Peaks”) with the Council.
6. Subsequent to Ms. Piekarski becoming managing broker, she was informed by the licensee providing strata management services to the strata that in 2004 an accounting firm, BDO, had been retained to act as bookkeeper and to manage the strata’s trust funds in an account managed by BDO in order for the strata to have the comfort of an accounting firm provide that service instead of the brokerage.
7. On June, 2011, BDO officially resigned from handling the Strata’s trust accounts.
8. On November 9, 2011, the brokerage filed a Winding Up report with the Council. The report stated that the brokerage records would be transferred to Mountain Peaks Resort Realty ULC, an unlicensed entity owned by a US resort operator, which was intended to become licensed as a brokerage.
9. In the Wind-Up Report, Ms. Piekarski submitted a list of the brokerage bank trust accounts, but did not include the TD bank account, in trust for the residential section of the Strata.
10. On December 23, 2011, a representative of Mountain Peaks Resort Realty ULC, informed the Residential Executive of the name change of the brokerage. The Residential Executive of the Strata wrote to Ms. Piekarski requesting a copy of the service agreement between the newly named strata management brokerage, Mountain Peaks Resort Realty ULC and the Strata.
11. On January 1, 2012, Mountain Peaks ceased to operate and the newly licensed brokerage, Mountain Peaks Resort Realty ULC was now providing strata management services to the Strata.
12. Ms. Piekarski provided a copy of a written service agreement between the strata

and 559185 B.C, Ltd. dated November 1, 2003. This agreement was not updated with the inception of RESA and was not provided to the Strata when the strata requested a copy. An Agreement dated February 16, 2012, was provided to the Council which assigned the strata management service agreement for the Strata from Mountain Peaks to Mountain Peaks Resort Realty ULC. Ms. Peikarski signed on behalf of both parties.

13. On February 28, 2012, the Strata held an AGM and on February 29, 2012, the brokerage served notice to the Strata of termination of their strata management services effective May 1, 2012.
14. On April 1, 2012, the Strata appointed a new strata management brokerage.
15. In error, after June 1, 2006 Ms. Piekarski as managing broker of the brokerage allowed BDO to continue to hold and manage the strata trust account. There was no loss to the strata.
16. Ms. Piekarski 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, Tanya Lillian Piekarski is prepared to accept the following findings if made against her by the Council's Consent Order Review Committee:
  - (a) Tanya Lillian Piekarski committed professional misconduct within the meaning of section 35(1)(a) of the RESA, when she:
    - (i) failed to be actively engaged in the management of the brokerage, Mountain Peaks Resort Realty Ltd. ("Mountain Peaks") by permitting an unlicensed entity to continue to hold and manage the trust accounts for Strata Corporation VR8XX (the "Strata") from approximately 2006 to 2011, contrary to sections 6(2) of RESA and 3-3(1)(a) of the Council Rules;
    - (ii) failed to ensure that the brokerage had a proper strata management service agreement and all amendments or additions to the terms of that agreement in writing, contrary to section 5-1(1)(c) of the Council Rules;
    - (iii) failed to maintain one or more interest bearing trust accounts for the residential section of the Strata from 2006 through 2011 and failed to have the strata bank account designated as trust account in the brokerage's records and in the

records of the savings institution holding the account, contrary to sections 26(1) and 26(2) of RESA; and

- (iv) failed to promptly or deliver to the brokerage all money held or received from, for or behalf of a principal in relation to real estate services, and failed to promptly pay all money held or received from for or on behalf of a principal in relation to real estate services, into a brokerage trust account as the brokerage did not set up a brokerage trust account for the Strata prior to September 13, 2011, contrary to 27(1)(a) and 27(2)(a) of RESA.

2. Ms. Piekarski hereby waives her right to appeal pursuant to section 54 of the *Real Estate Services Act*.
3. Ms. Piekarski acknowledges that she has a right to seek independent legal advice before signing this Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver.
4. Ms. Piekarski 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. Ms. Piekarski 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.

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**Jessica S. Gossen, Legal Counsel**  
**Real Estate Council of British Columbia**

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

**Dated \_\_\_\_\_ day of \_\_\_\_\_, 2015**

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**Tanya Lillian Peikarski**

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

**Dated \_\_\_\_\_ day of \_\_\_\_\_, 2015**