

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

**IN THE MATTER OF
MELISSA NADINE RUYTER
(147726)**

CONSENT ORDER

RESPONDENT: Melissa Nadine Ruyter, Representative,
Concise Strata Management Services

DATE OF REVIEW MEETING: May 26, 2016

DATE OF CONSENT ORDER: June 6, 2016

CONSENT ORDER REVIEW COMMITTEE: C. Brown
M. Leslie
S. Lynch
J. Nagy, Chair

ALSO PRESENT: R.O. Fawcett, Executive Officer
G. Thiele, Director, Legal Services
P. Gilligan-Hackett, Legal Counsel for
the Real Estate Council

PROCEEDINGS:

On May 26, 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 Melissa Nadine Ruyter.

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

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1. be reprimanded;
 2. pay a discipline penalty to the Council in the amount of \$2,000.00 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 of \$1,500.00 within sixty (60) days from the date of this Order.

If Melissa Nadine Ruyter 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 6th day of June, 2016 at the City of Vancouver, British Columbia.

ON BEHALF OF THE CONSENT ORDER REVIEW COMMITTEE

"J. Nagy"

J. Nagy, Chair
Consent Order Review Committee

Attch.

File #14-367

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

**IN THE MATTER OF
MELISSA NADINE RUYTER
(147726)**

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

The following agreement has been reached between Melissa Nadine Ruyter (“Ms. Ruyter”) and the Real Estate Council of British Columbia (the “Council”).

- A. Ms. Ruyter hereby consents to an Order to be made pursuant to sections 41 and 43 of the *Real Estate Services Act* (“RESA”) that she be reprimanded; and that she pay a disciplinary penalty to the Council in the amount of \$2,000 within ninety (90) days of the Order herein. Further, she agrees to pay enforcement expenses of this Consent Order to the Council in the amount of \$1,500.00 within sixty (60) days from the date of the Order herein. Ms. Ruyter 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. Ruyter acknowledges and agrees that the facts set forth herein are correct:
1. Ms. Ruyter was at all relevant times licenced as a Representative, Strata at Concise Strata Management Services Inc. (“Concise”).
 2. Ms. Ruyter’s licensing history is as follows:

2006/01/01 to 2006/11/14	Gateway Property Management Corporation (X021368)	Representative, Strata
2006/11/14 to 2007/12/31	NAI Goddard & Smith Realty Services Inc. dba NAI Goddard & Smith (X025146)	Representative, Strata
2008/01/01 to 2013/06/05	Unlicensed	
2013/06/06 to present	Concise Strata Management Services Inc. (X028565)	Representative, Strata

3. Concise acted as the strata manager for a strata corporation (“Strata”) in Nanaimo, British Columbia.
4. The Strata terminated the services agreement with Concise with effect from September 30, 2014. On September 11, 2014 the Strata asked for all Strata records to be transferred to the new Strata manager by October 31, 2014.
5. In accordance with section 8-7.1(4) of the Council Rules, Concise was required to provide the Strata’s records to the new Strata manager by October 28, 2014.
6. Ms. Ruyter was the licensee at Concise who was responsible for providing the Strata’s records to the new Strata manager within the required time.
7. Between October 17 and 23, 2014 Ms. Ruyter provided the new Strata manager with some of the Strata’s records.
8. Around November 3, 2014, the new Strata manager contacted Ms. Ruyter by email about Strata records that were missing from Ms. Ruyter’s provision of the Strata’s records. Ms. Ruyter replied by email on November 21, 2014 and stated that she would prepare electronic copies of some of the missing Strata records but that other missing Strata records were stored off-site and would take time to recover and provide.
9. Between November 21 and 24, 2014 Ms. Ruyter provided some of the missing Strata records to the new Strata manager.
10. On November 27, 2014 the new Strata manager emailed Ms. Ruyter to tell her the Strata would not take any further action about the missing Strata records until December 31, 2014 in order to give Ms. Ruyter a reasonable amount of time to locate and provide the missing Strata records.
11. Concise stored older Strata records at an offsite location. The older records included the Strata’s financial records for a period of four years. Ms. Ruyter took steps to retrieve the older Strata records in mid-December, 2014. Ms. Ruyter acknowledges that by the time she was taking the steps to retrieve these records, the period within which the Strata records should have been transferred to the new Strata manager had already expired.
12. The missing Strata records were retrieved around December 15, 2014 and brought to the offices of Concise for photocopying. However, the box containing the missing Strata records was then mislaid.
13. Ms. Ruyter says that the box containing the missing Strata records was mislaid when it was placed with a large number of boxes containing the

active strata management files of Concise. The contents of these boxes were awaiting transfer to a new file storage system which was then being built in connection with a comprehensive office renovation which was taking place at Concise. As a result of this mistake, the missing Strata records were not photocopied and transferred to the new Strata manager in December, 2015.

14. On January 23, 2015 the new Strata manager emailed Ms. Ruyter about the missing Strata records. In this email, the new Strata manager identified by category the missing Strata records.
15. Ms. Ruyter says that she first realized the missing Strata records had not been photocopied and provided to the new Strata manager after she received a letter in mid-March, 2015 from the Real Estate Council further to a complaint filed by the Strata in mid-January, 2015.
16. After Ms. Ruyter realized the missing Strata records had not been photocopied and provided to the Strata, she made photocopies of the missing records and advised the Strata the photocopies were available to be picked up at Concise subject to paying an account of \$272.48 for photocopying.
17. In mitigation, Ms. Ruyter says that Concise, working closely with her, has comprehensively overhauled the manner in which it administers and stores incoming and outgoing strata corporation records.

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, Melissa Nadine Ruyter is prepared to accept the following findings if made against her by the Council's Consent Order Review Committee:
 - a. Melissa Nadine Ruyter committed professional misconduct within the meaning of section 35(1)(a) of RESA and failed both to apply reasonable care and skill, as required under section 3-4 of the Council Rules, and to act in accordance with the lawful instructions of the client, as required by section 3-3 of the Council Rules, in that:
 - i. she did not follow the instructions of the Strata to return all required records referred to in section 8-2 of the Council Rules within the time required by section 8-7.1(4) of the Council Rules.
2. Ms. Ruyter hereby waives her right to appeal pursuant to section 54 of RESA.

3. Ms. Ruyter 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. Ruyter 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. Ruyter 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.
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.

"Patrick Gilligan-Hackett"

**Patrick Gilligan-Hackett, Legal Counsel
Real Estate Council of British Columbia**

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

Dated 16 day of March, 2016

"Melissa Nadine Ruyter"

Melissa Nadine Ruyter

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

Dated 24 day of February, 2016