

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

**AND**

**IN THE MATTER OF**

**TEAMWORK PROPERTY MANAGEMENT LTD.**

**AND**

**DAVID JOHN HENSMAN**

**CONSENT ORDER**

RESPONDENTS: Teamwork Property Management Ltd.,  
Brokerage

David John Hensman, managing broker,  
Teamwork Property Management Ltd.

DATE OF REVIEW MEETING: April 14, 2011

DATE OF CONSENT ORDER: April 14, 2011

CONSENT ORDER REVIEW COMMITTEE: B. Brandle (Chair)  
S. Ghose  
G. Martin  
S. McGougan  
P. O'Donnell  
L. Tutt

ALSO PRESENT: R. Fawcett, Executive Officer  
D. Berger, Director, Legal Services

PROCEEDINGS:

On April 15, 2011 the Consent Order Review Committee resolved to accept the Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver executed by Teamwork Property Management Ltd. and David John Hensman as submitted, which was that Teamwork

Property Management Ltd. and David John Hensman both be reprimanded. Teamwork Property Management and David John Hensman be jointly and severally liable to pay a discipline penalty to the Council in the amount of \$2,500.00 within ninety (90) days of the date of this Order. David John Hensman is ordered to successfully complete the disciplinary education assignments applicable to Chapter 2 (Mandatory Requirements under the Real Estate Services Act) of the Broker's Licensing Course as provided by Real Estate Division, Sauder School of Business at the University of British Columbia in the time period as directed by the Council. Further, Teamwork Property Management Ltd. and David John Hensman are ordered to be jointly and severally liable to pay enforcement expenses of this Consent Order to the Council in the amount of \$1,000.00 within sixty (60) days from the date of this Order.

**WHEREAS** an Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver was executed by David John Hensman, Teamwork Property Management Ltd. and the Real Estate Council of British Columbia ("Council"), a copy of which is attached hereto.

**NOW THEREFORE**, the Council has made the following findings and orders the following penalties based on the Agreed Statement of Facts and Proposed Acceptance of Findings:

1. Teamwork Property Management Ltd. be reprimanded as it committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that it:
  - (a) contravened section 27(2)(b) of the *Real Estate Services Act* by transferring lump sum strata management fees part of which were earned by the Brokerage and part of which were earned by the strata management licensees providing strata management services directly from the operating trust account maintained for each of 13 strata corporations into the Brokerage general operating account, rather than transferring the share for the licensees directly into the Brokerage operating trust account and then paying the licensees' share from the Brokerage operating trust account;
  - (b) contravened section 30(1)(g) of the *Real Estate Services Act* in that it transferred lump sum funds from the trust account maintained for the said strata corporations to the brokerage general operating account as strata management and administration fees which exceeded the actual amount of the brokerage fees earned, thereby causing the said trust account to become in an overdraft position; and
  - (c) contravened sections 7-5(1)(a), 7-5(1)(b) and 7-5(3) of the Council Rules between January 1, 2009 and May 31, 2009 in that Teamwork's trust account ledger was in an overdraft position and steps were not taken to eliminate the negative balance and to notify the Council of the negative balance within 10 days of the negative balance arising.

2. David John Hensman be reprimanded as he committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that he contravened section 3-1(3)(a) of the Council Rules between January 1, 2009 and June 30, 2009 by failing to ensure the Brokerage's trust account was maintained in accordance with the Act, regulations, rules and bylaws:
  - (a) when he transferred, or allowed to be transferred lump sum strata management fees, part of which were earned by the Brokerage and part of which were earned by strata management licensees providing strata management services, directly from the operating trust account maintained for each of 13 strata corporations into the Brokerage general operating account rather than transferring the share for the licensees directly into the Brokerage operating trust account and then paying the licensees' share from the Brokerage operating trust account; and
  - (b) when he permitted the brokerage to transfer lump sum funds from the trust account maintained for the said strata corporations to the brokerage general operating account as strata management and administration fees that exceeded the actual amount of the brokerage fees earned, thereby causing the said trust account to become in an overdraft position.
3. David John Hensman is ordered to successfully complete the disciplinary education assignments 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 in the time period as directed by the Council.
4. Teamwork Property Management Ltd. and David John Hensman are ordered to be jointly and severally liable to pay a discipline penalty to the Council in the amount of \$2,500.00 within ninety (90) days of the date of this Order.
5. Teamwork Property Management Ltd. and David John Hensman are ordered to be jointly and severally liable to pay enforcement expenses of this Consent Order to the Council in the amount of \$1,000.00 within sixty (60) days from the date of this Order.

If Teamwork Property Management Ltd and/or David John Hensman fail to comply with any of the terms of the Order set out above, 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 14<sup>th</sup> day of April, 2011 at the City of Vancouver, British Columbia.

ON BEHALF OF THE CONSENT ORDER REVIEW COMMITTEE

“B. Brandle”

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B. Brandle, Chair  
Consent Order Review Committee

Attch.

**File #08-574**

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

**IN THE MATTER OF**

**DAVID JOHN HENSMAN  
(147344)**

**AND**

**TEAMWORK PROPERTY MANAGEMENT LTD.  
(X024541)**

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

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The following agreement has been reached between David John Hensman (“Mr. Hensman”), Teamwork Property Management Ltd. (“Teamwork”) and the Real Estate Council of British Columbia (the “Council”).

- A. Mr. Hensman 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 successfully completes 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 in the time period as directed by the Council. Mr. Hensman acknowledges and agrees that

any course taken as part of a discipline penalty may not be used as a requirement for the Relicensing Education Program.

- B. Mr. Hensman on behalf of Teamwork hereby consents to an Order to be made pursuant to sections 41 and 43 of the *Real Estate Services Act* that it be reprimanded.
- C. Mr. Hensman on his own behalf and on behalf of Teamwork agree to be jointly and severally liable to pay a discipline penalty to the Council in the amount of \$2,500 within ninety (90) days of the date of the Order herein.
- D. Mr. Hensman and Mr. Hensman on behalf of Teamwork agree to be jointly and severally liable to pay enforcement expenses of this Consent Order to the Council in the amount of \$1,000 within sixty (60) days from the date of the Order herein.
- E. Mr. Hensman and Mr. Hensman on behalf of Teamwork 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 licenses without further notice to them pursuant to section 43(3) and 43(4) of the *Real Estate Services Act*.
- F. As a basis for this Order, Mr. Hensman and Teamwork acknowledge and agree that the facts set forth herein are correct:
1. Teamwork was at all relevant times licensed as a brokerage.
  2. Teamwork's licensing history is as follows:
 

Jan. 30/95 – Jul. 11/02	Trading, Rental
Dec. 30/05 – Present	Strata
  3. Mr. Hensman was at all relevant times licensed as a managing broker with Teamwork.
  4. Mr. Hensman's licensing history is as follows:
 

Dec. 30/05 – Present	Managing Broker, Teamwork Property Management Ltd., Strata
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  5. On June 9, 10, 11 and 12, 2009 the Council conducted an Office and Records Inspection (the "Inspection") at Teamwork's offices.
  6. The Council auditor conducting the Inspection identified that the monthly management fees earned by Teamwork for providing strata management services to 13 strata corporations totaling approximately \$9,000 per month (including both

the brokerage share of 55% and the licensee share of 45%) were being transferred directly from the operating trust account maintained for each of the 13 strata corporations into the Teamwork general operating account rather than transferring the share for the licensees directly into Teamwork's trust account and then paying the licensees from their share from the Teamwork's trust account.

7. Teamwork exceeded its operating line of credit limit during January and February 2009 by approximately \$5,000.
8. To address the shortfall in the operating line of credit, Mr. Hensman transferred lump sums from Teamwork's trust account to Teamwork's general operating account in respect of management and administrative fees earned by Teamwork rather than ensuring that the *actual* amounts due to Teamwork were transferred from Teamwork's trust account to Teamwork's general operating account. The lump sums transferred exceeded the *actual* amounts due to Teamwork.
9. Effective August 19, 2009 Teamwork commenced depositing all management fees (due to the Brokerage and its licensees) directly into Teamwork's trust account and no longer transferred these funds into Teamwork's general account.
10. Teamwork's trust account ledger was in an overdraft position for the months of January, February, March, April and May 2009. The Council auditor noted in the Inspection report that Teamwork's practice of transferring lump sums to its general operating account appears to have led to the trust account overdrafts.
11. After the Council auditor identified the trust account overdraft as described above in paragraph 10, Teamwork replenished the shortfall in the trust account to eliminate the shortfall by June 24, 2009, as requested by the Council auditor.
12. During the Inspection period, Teamwork was in the process of constructing new offices and had established a "building fund" separate from Teamwork's other accounts. Payments into the building fund account were based on invoices for expenses submitted to the bank, and a draw of funds was provided by the bank to cover the expenses.
13. Mr. Hensman submits that the bank did not always provide the draws in a timely manner to cover the trust accounts and the draws were delayed toward the end of the project in March and April 2009.
14. Mr. Hensman submits, on behalf of Teamwork that in January, February and May 2009, the balances in the building account had more than enough money to cover the overdrafts in the trust account. Mr. Hensman submitted that Teamwork's bookkeeper was unaware of the importance of having the funds in the account at

the end of the month, and that he has now addressed this with her, stressing to her the importance of the transfers being done by the end of the month.

### **Discipline History**

15. On October 5, 2010 Mr. Hensman entered into a Consent Order with the Council wherein he admitted he committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* [contravention of Act, Regulation or Council Rules] while licensed as managing broker of Teamwork Property Management Ltd. (“Teamwork”) and while acting as strata property manager for seven strata corporation clients (the “Strata Corporation Clients”) in that he:
  - (i) contravened section 3-3(1)(a) of the Council Rules by failing to act in the best interests of the Strata Corporation Clients by investing contingency reserve funds in an investment program with RBC Dominion Securities which did not meet the requirements of section 95(2) of the *Strata Property Act* as required by 7-9(8) of the Council Rules;
  - (ii) contravened section 3-3(1)(a) of the Council Rules by failing to act in the best interests of the Strata Corporation Clients by failing to advise the Strata Corporation Clients that the RBC Dominion Securities investment program he suggested to the Strata Corporation Clients did not meet the requirements of section 95(2) of the *Strata Property Act* and section 7-9(8) of the Council Rules;
  - (iii) contravened section 3-3(1)(d) of the Council Rules by failing to advise some or all of the Strata Corporation Clients to seek independent professional advice regarding the investment of contingency reserve funds before investing the Strata Corporation Clients’ contingency reserve funds in the investment program with RBC Dominion Securities suggested by Teamwork, a matter outside the scope of his expertise;
  - (iv) contravened section 3-3(1)(f) of the Council Rules by failing to advise some or all of the Strata Corporation Clients with the details regarding the costs, fees and charges expected to be levied by RBC Dominion Securities if the Strata Corporation Clients invested contingency reserve funds with RBC Dominion Securities through the program offered by Teamwork;
  - (v) on or about January 6, 2009 contravened section 3-4 of the Council Rules by failing to act with reasonable care and skill by providing incorrect information to the treasurer one of the Strata Corporation

Clients, that the strata corporation Contingency Reserve Fund money had not suffered a loss while invested with RBC Dominion Securities, which was not correct;

- (vi) contravened section 3-1(1)(b) of the Council Rules in that he failed to ensure that all trust accounts for one of the Strata Corporation Clients were designated as trust accounts in Teamwork's records and in the records of the institution holding the account as required by section 26(2) of RESA;
  - (vii) contravened section 3-1(1)(b) of the Council Rules in that he failed to ensure the brokerage specified the remuneration Teamwork would be paid in the service agreement reached between Teamwork and one of the Strata Corporation Clients as required by section 5-1(4)(f) of the Council Rules; and
  - (viii) contravened section 3-1(1)(b) of the Council Rules in that he failed to ensure the brokerage specified the remuneration Teamwork would be paid in the service agreement reached between Teamwork and one of the Strata Corporation Clients as required by section 5-1(4)(f) of the Council Rules.
16. Mr. Hensman was reprimanded and ordered to pay a \$2,500 discipline penalty as part of the October 5, 2010 Consent Order. The Council initiated the Inspection as a result of the investigation that led to the October 5, 2010 Consent Order.
17. The charges in respect of the October 5, 2010 Consent Order had not yet been drafted and served on Mr. Hensman at the time the Inspection was conducted.

#### G. Proposed Acceptance of Findings and Waiver

1. Based on the Agreed Statement of Facts as outlined herein, and without making any admissions of liability, David John Hensman and Teamwork are prepared to accept the following findings if made against them by the Council's Consent Order Review Committee:
- (a) Teamwork Property Management Ltd. committed professional misconduct within the meaning of section 35(1)(a) of RESA in that it:
    - (i) contravened 27(2)(b) of RESA by transferring lump sum strata management fees part of which were earned by the Brokerage and part of which were earned by the strata management licensees providing strata management services directly from the operating trust account maintained for each of 13 strata corporations into the Brokerage



general operating account, rather than transferring the share for the licensees directly into the Brokerage operating trust account and then paying the licensees' share from the Brokerage operating trust account;

- (ii) contravened section 30(1)(g) of RESA in that it transferred lump sum funds from the trust account maintained for the said strata corporations to the brokerage general operating account as strata management and administration fees which exceeded the actual amount of the brokerage fees earned, thereby causing the said trust account to become in an overdraft position; and
  - (iii) contravened sections 7-5 (1)(a), 7-5(1)(b), 7-5(2) and 7-5(3) of the Council Rules between January 1, 2009 and May 31, 2009 in that Teamwork's trust account ledger was in an overdraft position and steps were not taken to eliminate the negative balance and to notify the Council of the negative balance within 10 days of the negative balance arising; and
- (b) Mr. Hensman committed professional misconduct within the meaning of section 35(1)(a) of RESA in that he contravened section 3-1(3)(a) of the Council Rules between January 1, 2009 and June 30, 2009 by failing to ensure the Brokerage's trust account was maintained in accordance with the Act, regulations, rules and bylaws:
- (i) when he transferred, or allowed to be transferred lump sum strata management fees, part of which were earned by the Brokerage and part of which were earned by strata management licensees providing strata management services, directly from the operating trust account maintained for each of 13 strata corporations into the Brokerage general operating account rather than transferring the share for the licensees directly into the Brokerage operating trust account and then paying the licensees' share from the Brokerage operating trust account; and
  - (ii) when he permitted the brokerage to transfer lump sum funds from the trust account maintained for the said strata corporations to the brokerage general operating account as strata management and administration fees that exceeded the actual amount of the brokerage fees earned, thereby causing the said trust account to become in an overdraft position.
2. Mr. Hensman and Teamwork hereby waive their right to appeal pursuant to section 54 of the *Real Estate Services Act*.

3. Mr. Hensman and Teamwork 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. Hensman and Teamwork acknowledge and are aware that the Council will publish the Consent Order and penalty herein in its Report from Council newsletter and on the Council's website.
5. Mr. Hensman and Teamwork 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 F only (Agreed Statement  
of Facts)**

**Dated 7 day of April, 2011**

“David John Hensman”

**David John Hensman**

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

**Dated 29 day of March, 2011**

“David John Hensman”

**David John Hensman on behalf of  
Teamwork Property Management Ltd.**

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

**Dated 29 day of March, 2011**