

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

**IN THE MATTER OF
MAXINE NANCY CAMPBELL**

AND

CAMPBELL STRATA MANAGEMENT LTD.

CONSENT ORDER

RESPONDENTS:	Maxine Nancy Campbell, managing broker, Campbell Strata Management Ltd. Campbell Strata Management Ltd., brokerage
DATE OF REVIEW MEETING:	August 24, 2011
DATE OF CONSENT ORDER:	August 31, 2011
CONSENT ORDER REVIEW COMMITTEE:	B. Brandle G. Martin J. Nagy P. O'Donnell M. Ziegler
ALSO PRESENT:	R. Fawcett, Executive Officer D. Berger, Director, Legal Services B. Evans, Legal Counsel for the Real Estate Council
PROCEEDINGS:	

AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

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On August 24, 2010 the Consent Order Review Committee resolved to accept the Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver executed by Maxine Nancy Campbell and Campbell Strata Management Ltd. as submitted, which was that Maxine Nancy Campbell and Campbell Strata Management Ltd. both be reprimanded. Maxine Nancy Campbell is ordered to enroll in and attend the first available PAMA Real Estate E&O Insurance Legal Update for Strata Property Managers. Further, Maxine Nancy Campbell and Campbell Strata Management Ltd. 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 Maxine Nancy Campbell and Campbell Strata 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. Campbell Strata 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 failed to deposit special levy money collected in relation to a re-roofing project of the Strata Corporation to the CRF trust account, as required by section 25 of the *Real Estate Services Act* and section 7-9(3)(b) of the Council Rules.
2. Maxine Nancy Campbell be reprimanded as she committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that she failed to ensure the brokerage deposited special levy money collected in relation to a re-roofing project of the strata corporation to the CRF trust account, as required by section 6(2) and section 25 of the *Real Estate Services Act* and section 3-1(1) and (3) and section 7-9(3)(b) of the Council Rules.
3. Maxine Nancy Campbell is ordered to enroll in and attend the first available PAMA Real Estate E&O Insurance Legal Update for Strata Property Managers. Ms. Campbell acknowledges that any course taken as a result of a discipline penalty may not be used as a credit towards the Relicensing Education Program (REP).
3. Campbell Strata Management Ltd. and Maxine Nancy Campbell 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 Campbell Strata Management Ltd. or Maxine Nancy Campbell 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*.

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Dated this 31st day of August, 2011 at the City of Vancouver, British Columbia.

ON BEHALF OF THE CONSENT ORDER REVIEW COMMITTEE

Attch.

"M.Ziegler"
M. Ziegler, Chair
Consent Order Review Committee

File #09-231

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

IN THE MATTER OF

**MAXINE NANCY CAMPBELL
(147294)**

AND

**CAMPBELL STRATA MANAGEMENT LTD.
(X028547)**

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

The following agreement has been reached between Maxine Nancy Campbell ("Ms. Campbell"), Campbell Strata Management Ltd. ("Campbell Management") and the Real Estate Council of British Columbia (the "Council").

- A. Ms. Campbell 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 enroll in and attend the first available PAMA Real Estate E&O Insurance Legal Update for Strata Property Managers. Ms. Campbell acknowledges that that any course taken as a result of

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- a discipline penalty may not be used as a credit towards the Relicensing Education Program (REP).
- B. Campbell Management 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. Ms. Campbell and Campbell Management agree 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 the Order herein.
- D. Ms. Campbell and Campbell Management 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, Ms. Campbell and Campbell Management acknowledge and agree that the facts set forth herein are correct:
1. Campbell Management was at all relevant times licensed as a brokerage and has been since December 22, 2005.
 2. Ms. Campbell was at all relevant times licensed as a managing broker with Campbell Strata Management Ltd.
 3. Ms. Campbell'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>
12/22/2005	Present	Campbell Strata Management Ltd. (X028547)	Managing Broker	Strata
 4. In November 23, 2009 Council staff commenced an investigation based on information received from the strata council for Strata Plan LMS-61 ["Strata Corporation"] in relation to a different matter regarding a term deposit which the Strata Corporation's former management company had not forwarded to Campbell Management when Campbell Management took over management of the Strata Corporation in May 2006.
 5. BM, the Strata Corporation's council's treasurer/secretary, had filed a complaint on behalf of the Strata Corporation and he provided an additional complaint on his own initiative, without the authorization of the Strata Corporation.

6. BM's additional complaint was mainly in respect to concerns with the financial statements prepared by Campbell Management on behalf of the Strata Corporation. BM engaged accounting services from an external accountant to review the financial statements and other documents provided by Campbell Management to the Strata Corporation for the period of May 2007 to June 2009, and he provided a copy of a report, upon which the Council commenced this investigation (File #09-231).
7. On December 15, 2009 Council staff reviewed the report and sent a letter to Ms. Campbell requesting a reply.
8. Prior to the receipt of a reply, BM provided the minutes of a special general meeting held on December 7, 2009 along with a letter circulated by Campbell Management to the Strata Corporation owners. Council also received from BM minutes of a strata council meeting held on Dec 27, 2009, in which directives from the strata council to Campbell Management were documented.
9. On January 28, 2010 Council received a response from Ms. Campbell. Ms. Campbell advised that the brokerage was in compliance with section 8-2(a) of the Council Rules regarding transferring funds and she provided the brokerage's procedures in this regard.
10. She stated that JT, the brokerage's senior accounting clerk, was the only brokerage employee permitted to transfer funds between the Strata Corporation's Operating Fund and CRF trust accounts.
11. In JT's absence, Ms. Campbell and JL, directors of the brokerage, are able to make these transfers as well. The brokerage's master banking agreement is set up such that no transfers can be made outside of a particular strata corporation's accounts.
12. With respect to the transfer in question, Ms. Campbell advised that both she and JL signed off on it but failed to confirm whether the account number for the Operating Fund and CRF trust accounts had been listed correctly. This transfer was reflected in the accounting records to have taken place on November 30, 2008, but the actual transfer did not actually complete until December 12, 2008 when it was signed off.
13. Ms. Campbell noted that the November 2008 financials - the version which the Strata Corporation received - were reviewed, but because the deposit was shown as an outstanding item, there was no way to determine that it had been made correctly.

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14. Ms. Campbell advised that on December 30, 2008, the brokerage received an email from its bank advising that the Operating Fund trust account was overdrawn. Given the fact that this occurred over the holidays, upon her return to work a \$20,000 transfer from the CRF trust account was made to cover the overdraft while the brokerage investigated the cause of the problem.
15. She explained that it was then determined that the original transfer was made to the CRF trust account from the Operating Fund trust account, instead of the other way around. This was corrected on January 8, 2009.
16. Ms. Campbell reported that when checking the financial statement, the brokerage staff checks that the bank statements are reconciled and ensures that the withdrawals and deposits are in order.
17. Ms. Campbell stated that the brokerage does not have a procedure in place to verify account numbers as, in her opinion, it would take an extreme amount of time and it cannot guarantee that these types of errors will not happen.
18. She noted that with safeguards in place to only allow transfers between a strata corporation's Operating Fund and CRF trust accounts an error, if made, remains in the Strata Corporation's accounts. She also pointed out that the net effect on cash balances would therefore be nil, as both accounts (Operating Fund and CRF trust accounts) carry the same fee structure and interest rate.
19. As to the \$5,000 deposit, Ms. Campbell advised that the deposit of the \$5,000 was done on May 7, 2009, however she reported that "*...it was mistakenly booked in the accounting system as Mar 31/09 instead of Apr 30/09 thereby posting the transaction in March*"(emphasis added).
20. She explained that the error was picked up on their review of the April 2009 financial statements and immediately corrected. She noted the brokerage would have provided BM's bookkeeper with corrected copies of the financials which were attached to the back of the journal entry batch reports if asked.
21. Ms. Campbell reported that when the financial statements were copied for BM's bookkeeper, the adjusting entries and corrected ledger account for the accounts receivable were not copied. Ms. Campbell stated that the brokerage should have noted, on the original general ledger, that there were corrected copies attached. The brokerage has now done this and dated them.
22. Ms. Campbell reported that the \$15,000 plus the additional \$5,000 was transferred from the Operating Fund Account to the CRF account on June 5, 2009. She noted that the minutes of the May 14, 2009 strata council meeting would have not been completed until the end of May and, following approval of the minutes by the

strata council, the instruction would have been given to the brokerage's accountant to make the transfer.

23. Ms. Campbell confirmed that she was actively involved with the brokerage during the course of the issue arising, and spends on average 180 hours a month in the brokerage office. She also confirmed that she is familiar and in full compliance with all managing broker responsibilities.
24. Also attached to Ms. Campbell's responses were various correspondence, mainly from a particular strata council member of the Strata Corporation which she sent to:
 - a. the owners of the Strata Corporation;
 - b. the elected treasurer/secretary in regard to the concerns raised against Campbell Management and her disagreement with the engagement of BM's an external accountant; and,
 - c. JL, director of the Brokerage.
25. On February 4, 2010 Council staff received minutes of a strata council meeting held on January 21, 2010. Item XI d. of these minutes reflected Campbell Management had not responded to the strata council's directive to request that the strata's contractor, S&S Asphalt, provide the Strata Corporation with a declaration that the potholes would be repaired at no cost to the Strata Corporation and to schedule the repairs at the earliest possible date.
26. On February 8, 2010 Council staff sent letters to Ms. Campbell and, a brokerage strata manager, TP.
27. On February 16, 2010 responses from Ms. Campbell and Ms. Peters were received. Ms. Peters stated that she made numerous calls to S&S Asphalt to have it repair what the strata council determined to be a deficient work. She pointed out that in the minutes of the January 21, 2010 strata council meeting, she advised that *"...we have spoken to S&S Asphalt about the repairs and verbally they informed us [Campbell Management] that they will be back on site in the spring to inspect the area..."*.
28. She noted that there is not much more she could have done if the company would not reduce this promise to writing. Ms. Peters noted that she has had issues in the past with this contractor promising to put things in writing, but not doing so. The brokerage is no longer using this company for its clients unless the strata corporation client is prepared to deal with the consequences.
29. Ms. Peters stated that as she has no access to the Strata Corporation's bank accounts, she would therefore not be responsible in any way for failing to open a separate trust account for the Strata Corporation's re-roofing fund.

30. Ms. Campbell stated that the brokerage had accounted for the special levy separately on the balance sheet and had provided the strata council with the reconciliation for the roofing account.
31. Ms. Campbell provided a copy strata council meeting minutes of October 29, 2009 showing that the decision to open a separate bank account for the re-roofing project was defeated.
32. Council staff reviewed the balance sheets for the Strata Corporation provided by Ms. Campbell for the months of June to and including December 2009 and noted that the special levy money pertaining to the roofing project appears to have been deposited to the Operating Fund trust account, in contravention of section 7-9(3)(b) of the Council Rules.
33. On March 10, 2010 Council staff received an email from BM in which he advised that he had resigned from the strata council.
34. On August 13, 2010 Council staff spoke with JT to clarify whether the special levy funds were being deposited directly to the Strata Corporation's Operating Fund trust account. JT confirmed that the funds were deposited directly to this account and not to the CRF trust account.
35. On September 9, 2010 Council received a response from Ms. Campbell as to the special levy. Ms. Campbell reported that the special levy was approved by the owners on June 29, 2009, with the total assessment being \$68,596.70.
36. She advised that the strata council, at its meeting held on October 29, 2010, defeated a motion to open a separate trust account for the roofing fund. She explained that since the bank would charge the strata corporation for the opening of an additional account (approximately \$250) for a very small project, the strata council decided not to open this account for payment of only a few invoices.
37. Ms. Campbell stated that "... *our* [Campbell Management] *hands are tied*" in that the Strata Corporation client had instructed them not to open a separate account for the special levy and they acted on this instruction.
38. Ms. Campbell acknowledged being aware of the requirement in the Council Rules that special levy funds must be held in the CRF trust account, but that cheques were not available for this account and ordering cheques would have again been at an additional cost – an expense that the strata council did not wish to incur.
39. She also acknowledged that if the special levy funds were deposited to the CRF trust account, it would then required the brokerage to transfer amounts to the

operating trust account to pay for invoices. As such, it was decided by the strata council keep the levy funds in the operating trust account – a strategy which appeared reasonable to Ms. Campbell - and hence, the brokerage acted on that direction.

40. Ms. Campbell noted that since transferring 95% of their brokerage trust accounts to Prospera Credit Union, the brokerage has opened separate special levy trust accounts for those strata corporation clients with special levies, as Prospera Credit Union does not require its clients to purchase additional cheques for those accounts.

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, Maxine Nancy Campbell and Campbell Strata Management Ltd. are prepared to accept the following findings if made against them by the Council's Consent Order Review Committee:
 - (a) Campbell Strata Management Ltd. committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* [contravention of RESA, Regulation or Council Rules] by contravening section 25 of RESA and section 7-9(3)(b) and section 8-2(a) of the Council Rules, in that it:
 - (i) failed to maintain proper books, accounts and other records, as required by section 25 of RESA and section 8-2(a) of the Council Rules; and
 - (ii) failed to deposit special levy money collected in relation to a re-roofing project of the Strata Corporation to the CRF trust account, as required by section 25 of RESA and section 7-9(3)(b) of the Council Rules.
 - (b) Maxine Nancy Campbell, as managing broker for Campbell Strata Management Ltd. ("Brokerage") in the provision of strata management services to Strata Plan LMS-61 ("Strata Corporation") committed professional misconduct within the meaning of section 35(1)(a) of RESA by contravening section 6(2) and section 25 of RESA, and section 3-1(1) and (3), section 7-9(3)(b) and section 8-2(a) of the Council Rules, in that she:
 - (i) failed to ensure the Brokerage maintained proper books, accounts and other records, as required by section 6(2) and section 25 of RESA and section 3-1(1) and (3) and section 8-2(a) of the Council Rules; and

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- (ii) failed to ensure the Brokerage deposited special levy money collected in relation to a re-roofing project of the Strata Corporation to the CRF trust account, as required by section 6(2) and section 25 of RESA and section 3-1(1) and (3) and section 7-9(3)(b) of the Council Rules.
2. Ms. Campbell and Campbell Management hereby waive their right to appeal pursuant to section 54 of the *Real Estate Services Act*.
3. Ms. Campbell and Campbell Management 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. Ms. Campbell and Campbell Management 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. Ms. Campbell and Campbell Management 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.

"Brian K. Evans"

**Brian K. Evans, Legal Counsel
Real Estate Council of British Columbia**

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

Dated 7 day of July, 2011

"Maxine Nancy Campbell"

Maxine Nancy Campbell

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

Dated 6 day of July, 2011

"Maxine Nancy Campbell"

**Maxine Nancy Campbell on behalf of
Campbell Strata Management Ltd.**

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

Dated 6 day of July, 2011