

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

**IN THE MATTER OF
RICHARD SPENCER DICKSON**

AND

BOON-TEIK SIM

CONSENT ORDER

RESPONDENTS:

Richard Spencer Dickson, Managing
Broker, Aware Property Advisors
Inc., while licensed as Managing
Broker with Ascent Real Estate
Management Corporation

Boon-Teik Sim, Managing Broker,
Sutton Select Property Management
dba Select Property Management
Corp. while licensed as
Representative with Ascent Real
Estate Management Corporation

DATE OF REVIEW MEETING:

October 14, 2014

DATE OF CONSENT ORDER:

October 17, 2014

CONSENT ORDER REVIEW COMMITTEE:

S. McGougan, Chair
J. Pearson
D. Peerless

ALSO PRESENT:

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

PROCEEDINGS:

On October 14, 2014 the Consent Order Review Committee (the “Committee”) resolved to accept the Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver (“ASF”) submitted by Richard Spencer Dickson and Boon-Teik Sim.

WHEREAS the ASF, a copy of which is attached hereto, has been executed by Richard Spencer Dickson, Boon-Teik Sim 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 Richard Spencer Dickson and Boon-Teik Sim committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act*, orders that:

1. Richard Spencer Dickson be reprimanded;
2. Boon-Teik Sim be reprimanded; and
3. Richard Spencer Dickson and Boon-Teik Sim be jointly and severally liable to 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 Richard Spencer Dickson or Boon-Teik Sim fail 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 17th day of October, 2014 at the City of Vancouver, British Columbia.

ON BEHALF OF THE CONSENT ORDER REVIEW COMMITTEE

“S. McGougan”

S. McGougan, Chair
Consent Order Review Committee

Attch.

File #12-119

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

IN THE MATTER OF

**BOON-TEIK SIM
(152962)**

AND

**RICHARD SPENCER DICKSON
(046556)**

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

The following agreement has been reached among Boon-Teik Sim (“Mr. Sim”), Richard Spencer Dickson (“Mr. Dickson”) and the Real Estate Council of British Columbia (the “Council”).

- A. Mr. Sim hereby consents to an Order to be made pursuant to sections 41 and 43 of the Act that he be reprimanded. Further, he agrees to pay enforcement expenses of this Consent Order to the Council in the amount of \$1,250.00, jointly and severally with Mr. Dickson, within sixty (60) days from the date of the Order herein. Mr. Sim further consents to an Order that if he fails to comply with any of the terms of the Order set out above, a Discipline Hearing Committee may suspend or cancel his licence without further notice to him pursuant to section 43(3) and 43(4) of the Act.
- B. Mr. Dickson hereby consents to an Order to be made pursuant to sections 41 and 43 of the Act that he be reprimanded. Further, he agrees to pay enforcement expenses of this Consent Order to the Council in the amount of \$1,250.00, jointly and severally with Mr. Sim, within sixty (60) days from the date of the Order herein. Mr. Dickson further consents to an Order that if he fails to comply with any of the terms of the Order set out above, a Discipline Hearing Committee may suspend or cancel his licence without further notice to him pursuant to section 43(3) and 43(4) of the Act.
- C. As a basis for this Order, Mr. Sim and Mr. Dickson acknowledge and agree that the facts set forth herein are correct:
 - 1. Mr. Sim was at all relevant times licensed as a representative with Ascent Real Estate Management Corporation (“Ascent”).
 - 2. Mr. Sim’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>
01/06/2013	Present	Select Property Management Corp. dba Sutton Select Property Management (X030819)	Managing Broker	Trading, Rental, Strata
09/03/2011	01/06/2013	Ascent Real Estate Management Corporation (X012472)	Managing Broker	Trading, Rental, Strata
30/10/2008	09/03/2011	Ascent Real Estate Management Corporation (X012472)	Representative	Rental, Strata
21/04/2008	30/10/2008	Ascent Real Estate Management Corporation (X012472)	Representative	Strata
02/10/2007	21/04/2008	Ascent Real Estate Management Corporation (Sur) (X028895)	Representative	Strata

Mr. Sim has no discipline history with the Council as of July 1, 2014.

3. Mr. Dickson was at all relevant times licensed as the managing broker of Ascent.
4. Mr. Dickson'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>
16/12/2010	Present	Aware Property Advisors Inc. (X029895)	Managing Broker	Trading, Rental, Strata
16/11/2005	16/12/2010	Ascent Real Estate Management Corporation (X012472)	Managing Broker	Trading, Rental, Strata

07/03/1986	15/11/2005	Ascent Real Estate Management Corporation (X012472)	Managing Broker	Trading, Rental
16/11/1983	07/03/1986	Ascent Real Estate Management Corporation (X012472)	Managing Broker	Rental

Mr. Dickson's discipline history with the Council as of July 1, 2014 is as follows:

- (a) Mr. Dickson received a letter of warning dated March 3, 2007, in which he was cautioned to ensure he had the authority of the client strata corporation prior to transferring funds out of Contingency Reserve accounts.
- (b) Mr. Dickson received a letter of warning dated March 16, 2009 in which he was cautioned to ensure that:
 - (i) there were adequate levels of supervision for related representatives and employees who perform duties on behalf of the brokerage and that you, as managing broker, are in active control and conduct of your brokerage's strata corporation business, in compliance with section 6(2) (b) and (c) of the *Real Estate Services Act* and section 3-1(1) of the Council Rules.
 - (ii) your brokerage provides your strata corporation clients with copies of the monthly bank statement within 6 weeks after the end of the month for which a statement was issued, in compliance with section 7-9(7)(b) of the Council Rules.

A review of your brokerage's procedures should be considered to ensure that this information is indeed being received by your strata corporation clients.

- (iii) your brokerage provides financial records as referred to under section 8-2 of the Council Rules that relate to trust accounts maintained on behalf of a former strata corporation client, no later than 4 weeks following the date of termination, in compliance with sections 8-3.1 and 8-7.1 of the Council Rules.
- (iv) you act with reasonable care and skill by ensuring that when taking on a new strata corporation clients, that all service providers are notified of the change in management in an expeditious manner; further, that invoices received on behalf of a strata corporation client are paid in a timely fashion.

5. Ascent was the strata manager of a strata corporation (the “Strata Corporation”) for LMSXX, known as the “SC” pursuant to a service agreement dated November 22, 2007.
6. The Strata Council of LMSXX (the “Complainant”) made a number of complaints with respect to the services provided by Ascent and its licensees. Most of the complaints were outside the jurisdiction of Council or were not substantiated.
7. No complaint was made against Mr. Sim or Mr. Dickson concerning Ascent’s transfer of \$37,132.00 (the “Payment”) from the Strata Corporation’s Contingency Reserve Fund (“CRF”) to pay ThyssenKrupp Elevator (“Thyssen”) without any direction or authority from the Complainant. This issue arose out of Council’s investigation subsequent to the complaints made by the Complainant.
8. Thyssen had been engaged by the Strata Corporation to carry out elevator repairs as a result of water damage to the elevators.
9. The repairs were the subject of an insurance claim handled by Cunningham Lindsey Canada (“Cunningham”).
10. The process for payment to Thyssen was for Thyssen to issue an invoice and for Cunningham to remit to the Strata Corporation advice as to an approved amount for payment by Cunningham to Thyssen.
11. The process set out in paragraph 10 was inadvertently not followed for the Payment. The Payment was authorized by Mr. Sim, who approved the invoice issued by Thyssen. Mr. Sim initialled the invoice and coded it “CRF” for payment by way of cheque (the “Cheque”) from the Strata Corporation’s CRF. Mr. Sim also noted on the invoice that “Insurance Chq. To Come.”
12. The Cheque for the Payment was dated October 28, 2009 and Mr. Dickson was one of the signatories.
13. At the time Mr. Sim authorized the Payment and Mr. Dickson signed the Cheque no insurance proceeds had been made available for the Payment, and neither Mr. Sim nor Mr. Dickson had the approval of the Strata Corporation or the Strata Council to make the Payment directly from the Strata Corporation’s CRF. However at the time the Payment was authorized and the Cheque signed funds were expected from Cunningham as the invoice had been approved by Cunningham.

D. 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. Sim is prepared to accept the following findings if made against him by the Council's Consent Order Review Committee:
 - (a) That Mr. Sim committed professional misconduct within the meaning of section 35(l)(a) of the Act in that he:
 - (i) contrary to section 30(l)(g) of the Act paid money out of a brokerage trust account without instructions of the principal, in that in October 2009 he caused Ascent to pay from Ascent's CRF trust account for the Strata Corporation the sum of \$37,132.10 to Thyssen in satisfaction of a Thyssen invoice, without instructions of the principal.
2. Based on the Agreed Statement of Facts as outlined herein, and without making any admissions of liability, Mr. Dickson is prepared to accept the following findings if made against him by the Council's Consent Order Review Committee:
 - (a) That Mr. Dickson committed professional misconduct within the meaning of section 35(l)(a) of the Act in that he:
 - (i) contrary to section 30(l)(g) paid money out of a brokerage trust account without instructions of the principal, in that in October 2009 he caused or permitted Ascent to pay from Ascent's CRF trust account for the Strata Corporation the sum of \$37,132.10 to Thyssen in satisfaction of a Thyssen invoice, without instructions of the principal.
3. Mr. Sim hereby waives his right to appeal pursuant to section 54 of the Act.
4. Mr. Dickson hereby waives his right to appeal pursuant to section 54 of the Act.
5. Mr. Sim acknowledges that he has a right to seek independent legal advice before signing this Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver.
6. Mr. Dickson acknowledges that he has a right to seek independent legal advice before signing this Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver.
7. Mr. Sim acknowledges and is aware that the Council will publish the Consent Order and penalty herein in its Report from Council and on the Council's website.

8. Mr. Dickson acknowledges and is aware that the Council will publish the Consent Order and penalty herein in its Report from Council and on the Council's website.
9. Mr. Sim acknowledges and is aware that the Superintendent of Real Estate has the right, pursuant to section 54 of the Act, to appeal any decision of the Council, including this Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver, and Consent Order.
10. Mr. Dickson acknowledges and is aware that the Superintendent of Real Estate has the right, pursuant to section 54 of the Act, to appeal any decision of the Council, including this Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver, and Consent Order.

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, Q.C."

Bruce Woolley, Q.C.

Legal Counsel

Real Estate Council of British Columbia

As to Part C only (Agreed Statement of Facts)

Dated Aug 25, 2014

"Boon-Teik Sim"

Boon-Teik Sim

As to Parts A, C (excluding C3 and C4), and D (excluding D2, D4, D6, D8 and D10). (Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver)

Dated August 1, 2014

"Richard Spencer Dickson"

Richard Spencer Dickson

As to Parts B, C (excluding C1 and C2), and D (excluding D1, D3, D5, D7 and D9). (Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver)

Dated Aug 8, 2014