

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

**IN THE MATTER OF
ALFRED ALBERT MARCHI
(020432)**

**AND
PARAGON REALTY CORPORATION
(X024498))**

CONSENT ORDER

RESPONDENTS: Alfred Albert Marchi, Managing
Broker, Paragon Realty Corporation

Paragon Realty Corporation,
Brokerage

DATE OF REVIEW MEETING: July 7, 2016

DATE OF CONSENT ORDER: July 21, 2016

CONSENT ORDER REVIEW COMMITTEE: D. Fimrite
C. Lindberg
S. Lynch, Chair

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

PROCEEDINGS:

On July 7, 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 Alfred Albert Marchi and Paragon Realty Corporation.

WHEREAS the ASF, a copy of which is attached hereto, has been executed by Alfred Albert Marchi, Paragon Realty Corporation 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 Alfred Albert Marchi, and Paragon Realty Corporation committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act*, orders that:

1. Alfred Albert Marchi and Paragon Realty Corporation each be reprimanded;
2. Alfred Albert Marchi and Paragon Realty Corporation be jointly and severally liable 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 this Order.

If Alfred Albert Marchi or Paragon Realty Corporation 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 ____ day of July, 2016 at the City of Vancouver, British Columbia.

ON BEHALF OF THE CONSENT ORDER REVIEW COMMITTEE

"S. Lynch"

S. Lynch, Chair
Consent Order Review Committee

Attch.

File #14-389

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

IN THE MATTER OF

**ALFRED ALBERT MARCHI
(020432)**

AND

**PARAGON REALTY CORPORATION
(X024498)**

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

The following agreement has been reached between Alfred Albert Marchi (“Mr. Marchi”), Paragon Realty Corporation (“Paragon”), and the Real Estate Council of British Columbia (the “Council”).

- A. Mr. Marchi hereby consents to an Order to be made pursuant to sections 41 and 43 of the *Real Estate Services Act* that he be reprimanded.
- B. Paragon 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. Marchi and Paragon agree to be jointly and severally liable to pay enforcement expenses of this Consent Order to the Council in the amount of \$1,500.00 within ninety (90) days from the date of this Order.
- D. Mr. Marchi and Paragon further consent to an Order that if they fail to comply with any term of this Order, 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*.
- E. As a basis for this Order, Mr. Marchi and Paragon acknowledge and agree that the facts set forth herein are correct:
 - 1. Mr. Marchi’s licensing history is as follows:

<u>Brokerage</u>	<u>Licence Level</u>	<u>Licence Category</u>	<u>Start Date</u>	<u>End Date</u>
Paragon Realty Corporation (X024498)	Managing Broker	Trading, Rental, Strata	13/01/2006	Present
Paragon Realty Corporation (X024498)	Managing Broker	Trading, Rental	18/02/1998	13/01/2006
Paragon Realty Corporation (X024498)	Representative	Trading, Rental	06/08/1996	18/02/1998
Paragon Realty Corporation (X024498)	Managing Broker	Trading, Rental	25/04/1995	06/08/1996
Paragon Properties Inc. (X021880)	Managing Broker	Trading, Rental	09/05/1991	25/04/1995
Windsor Square Realty Group Ltd. (X021020)	Associate Broker	Trading, Rental	15/11/1990	09/05/1991
Royal LePage Real Estate Services Ltd. (X014053)	Associate Broker	Trading, Rental	21/12/1984	14/11/1990
A.E. LePage Real Estate Services Ltd. (X010105)	Associate Broker	Trading, Rental	01/09/1982	21/12/1984
A.E. LePage (B.C.) Ltd. (X000005)	Associate Broker	Trading, Rental	30/06/1981	31/08/1982

2. At all material times, Mr. Marchi was the managing broker responsible for the strata management services provided by Paragon.

3. Paragon's licensing history is as follows:

<u>Brokerage</u>	<u>Licence Level</u>	<u>Licence Category</u>	<u>Start Date</u>	<u>End Date</u>
Paragon Realty Corporation (X024498)	Brokerage	Trading, Rental, Strata	1/13/2006	Present
Paragon Realty Corporation (X024498)	Brokerage	Trading, Rental	4/25/1995	1/13/2006

4. On or about May 17, 2012, Paragon entered into an agreement with The Owners, Strata Plan BCS XXXX (the "Strata") pursuant to which Paragon was to provide strata management services to the Strata (the "Service Agreement").

5. The Service Agreement included the following term:

The Strata Corporation shall pay to [Paragon], for the services to be rendered in accordance with Articles 3, 4 and 5, a fee of ONE THOUSAND

TWO HUNDRED DOLLARS (\$1,200.00) plus GST/HST per month, to be payable on the first day of each and every month during the term of the Agreement...

6. At a Strata Council on May 23, 2013, the Strata Council approved a proposed Operating Budget for the year of May 1, 2013 to April 30, 2014 that included an increase in Paragon's management fees to \$1,300 plus GST. Mr. Marchi attended the Strata Council meeting and discussed the increase in fees with the Strata Council members.
7. Paragon did not amend its Service Agreement to reflect the increase in management fees following the Strata Council meeting on May 23, 2013. Paragon and Mr. Marchi admit that this was an inadvertent error on Paragon's part.
8. Between May 2013 and August 2015, Paragon withdrew the amount of the increased management fees from trust (\$1,300 plus GST) despite the fact that the Service Agreement had not been amended to authorize such fees. The increased management fees were, however, reflected on Paragon's monthly invoices to the Strata as a distinct charge. Paragon's practice was (and is) to have a member of the Strata Council review and approve its invoices before payment.
9. On August 13, 2015, Paragon and the Strata entered into a fresh agreement covering the strata management services to be provided after August 1, 2015. The new agreement reflected the \$1,300 plus GST management fees payable to Paragon.

Discipline History

10. Paragon has no prior discipline history with the Council.
 11. In 1996, Mr. Marchi's licence was suspended by the Council for 18 months after Mr. Marchi was found to have contravened s. 20(1) of the former *Real Estate Act*. That proceeding involved matters unrelated to the present allegations against Mr. Marchi.
- 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, Paragon Realty Corporation is prepared to accept the following findings if made against it by the Council's Consent Order Review Committee:

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- (a) Paragon Realty Corporation committed professional misconduct within the meaning of section 35(1)(a) of RESA in that, while providing strata management services to the Strata, it:
- i. contravened section 5-1(6) of the Council Rules by failing to amend its service agreement with the Strata prior to charging the Strata increased management fees from May 2013 to August 2015; and
 - ii. contravened section 30(1) of RESA and section 3-3(c) of the Council Rules by withdrawing increased management fees from trust from May 2013 to August 2015 without having obtained proper authorization from the Strata to do so.
2. Based on the Agreed Statement of Facts as outlined herein, and without making any admissions of liability, Alfred Albert Marchi is prepared to accept the following findings if made against him by the Council's Consent Order Review Committee:
- (a) Alfred Albert Marchi committed professional misconduct within the meaning of section 35(1)(a) of RESA in that, while Paragon was providing strata management services to the Strata, he contravened section 6(2) of RESA and section 3-1(1) of the Council Rules by:
- i. failing to ensure that Paragon amended its service agreement with the Strata prior to charging the Strata increased management fees from May 2013 to August 2015, which was contrary to section 5-1(6) of the Council Rules; and
 - ii. failing to ensure that Paragon obtained proper authorization from the Strata prior to withdrawing increased management fees from trust from May 2013 to August 2015, which was contrary to section 30(1) of RESA and section 3-3(c) of the Council Rules.
3. Paragon and Mr. Marchi hereby waive their right to appeal pursuant to section 54 of the *Real Estate Services Act*.
4. Paragon and Mr. Marchi acknowledge that they have a right to seek independent legal advice before signing this Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver.
5. Paragon and Mr. Marchi acknowledge and are 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.

6. Paragon and Mr. Marchi 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.
7. 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 civil proceedings.

"Jennifer Millerd"
Jennifer Millerd, Legal Counsel
Real Estate Council of British Columbia

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

Dated 23 day of June, 2016

"Alfred Albert Marchi"
Paragon Realty Corporation

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

Dated 23 day of June, 2016

"Alfred Albert Marchi"
Alfred Albert Marchi

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

Dated 23 day of June, 2016