

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

AND

IN THE MATTER OF

KENNETH DAVID DREBIT
(085346)

CONSENT ORDER

RESPONDENT: Kenneth David Drebit, Associate Broker,
Peninsula Strata Management Ltd., while
licensed as a Managing Broker with
Pacific Quorum Properties Inc.

DATE OF REVIEW MEETING: May 17, 2017

DATE OF CONSENT ORDER: May 17, 2017

CONSENT ORDER REVIEW COMMITTEE: R. Holmes, Q.C., Chair
E. Mignosa
T. Styffe
M. Leslie

ALSO PRESENT: E. Seeley, Acting Executive Officer
G. Thiele, Director, Legal Services
Esther Jeon, Legal Counsel for the Real
Estate Council

PROCEEDINGS:

On May 17, 2017, the Consent Order Review Committee ("Committee") resolved to accept the Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver ("ASF") submitted by Kenneth David Drebit.

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

1. be reprimanded;

2. pay a discipline penalty to the Council in the amount of \$1,000.00 within ninety (90) days of the date of this Order;
3. pay enforcement expenses to the Council in the amount \$1,500.00 within sixty (60) days from the date of this Order herein.

If Kenneth David Drebit fails to comply with any term of this Order, the Council may suspend or cancel his licence without further notice to him, pursuant to sections 43(3) and 43(4) of the *Real Estate Services Act*.

Dated this 17 day of May, 2017 at the City of Vancouver, British Columbia.

ON BEHALF OF THE CONSENT ORDER REVIEW COMMITTEE

"R. Holmes"

R. Holmes, Q.C., Chair
Consent Order Review Committee

Atch.

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

IN THE MATTER OF

**KENNETH DAVID DREBIT
(085346)**

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

The following agreement has been reached between Mr. Kenneth David Drebit ("Mr. Drebit") and the Real Estate Council of British Columbia (the "Council").

- A. Mr. Drebit, as managing broker for Pacific Quorum Property Inc. at the relevant time, hereby consents to an Order to be made pursuant to sections 41 and 43 of the *Real Estate Services Act* that:
 - a. he be reprimanded;
 - b. he pay a discipline penalty to the Council in the amount of \$1,000 within ninety (90) days of the date of the Order herein; and
 - c. he pay enforcement expenses to the Council in the amount of \$1,500.00 within sixty (60) days from the date of the Order herein.
- B. Mr. Drebit 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 them pursuant to section 43(3) and 43(4) of the *Real Estate Services Act*.
- C. As a basis for this Order, Mr. Drebit acknowledges and agrees that the facts set forth herein are correct:
 - 1. This matter relates to an incident which occurred at the Surrey branch office of Pacific Quorum Inc. ("Pacific Quorum") where Mr. Drebit held a secondary managing broker licence for trading, rental and strata management at the relevant time. The incident led to an unauthorized release of funds to the seller of a strata lot located at XXX Royal Avenue, New Westminster, B.C. (the "Property").
 - 2. Mr. Drebit's licensing history is attached to this Agreed Statement of Facts and Proposed Acceptance of Finding and Waiver as Appendix A.

AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

3. On February 12, 2015, the seller of the Property (the "Seller") entered into a private purchase and sale agreement with the buyer (the "Buyer"). Both parties were represented by their respective notaries.
4. At the relevant time, Pacific Quorum was responsible for managing the strata corporation in which the Property was located.
5. On February 13, 2015, C.W., an unlicensed employee in the "forms department" of Pacific Quorum, requested the Buyer's notary to hold back \$1,053.46 for a proposed special levy, plus \$54.32 for a proposed fee differential, among other fees. The special levy was for an upgrade to the elevator and its related system (the "Special Levy").
6. The Special Levy was pending approval at an upcoming Annual General Meeting scheduled for February 17, 2015. The date of completion for the sale of the Property was set for February 19, 2015.
7. On February 17, 2015, the strata corporation approved the Special Levy at the Annual General Meeting, which fees were due and payable on March 1, 2015.
8. On February 19, 2015, the sale of the Property completed. The Buyer's notary held back \$1,107.78 for the Special Levy from the proceeds of sale, among other fees.
9. Also on February 19, 2015, the Buyer's notary sent a letter to Pacific Quorum confirming that the sale of the Property had completed and that she was holding back funds for the Special Levy and other fees.
10. On or about February 25, 2015, the Buyer's notary sent another correspondence to Pacific Quorum requesting written confirmation to release the holdback funds.
11. The Buyer's notary was advised to submit her request through "eStrataHub", an online portal utilized by Pacific Quorum for communication and management of strata documents.
12. On February 27, 2015 at 6:25 a.m., the Buyer's notary submitted her request to Pacific Quorum through eStrataHub with a message that read "*I am still holding back funds*".
13. On February 27, 2015 at 9:36 a.m., C.W. responded to the Buyer's notary on eStrataHub with a message that read "*Yes, it is ok to release the holdback*".
14. On February 27, 2015 at 1:29 p.m., the Buyer's notary sent another message to C.W. through eStrataHub which read: "*sorry if I am being a pest. Are you telling me there is no fee increase or levy anymore??*".
15. C.W. did not respond to the question. This was the end of the exchange between the Buyer's notary and C.W. on eStrataHub.

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16. On February 28, 2015, the Buyer's notary released the holdback for the Special Levy and other fees to the Seller's notary, which fees amounted to a total of \$1,361.79.
17. The Buyer stated that on or about March 1, 2015, he received a statement from Pacific Quorum indicating that he owed \$1,361.79 to the strata corporation.
18. On March 23, 2015, the Buyer's notary sent a letter to Pacific Quorum expressing her concerns about the amount in arrears. The Buyer's notary explained in the letter that she had released the holdback according to instructions from Pacific Quorum.
19. It does not appear that Pacific Quorum responded to the letter from the Buyer's notary dated March 23, 2015. If there was a response, it was not reduced in writing.
20. On or about August 1, 2015, another brokerage took over the management of the strata corporation (the "New Brokerage").
21. On December 15, 2015, the New Brokerage issued a letter to the Buyer requesting payment of the amount in arrears for the Special Levy and other fees that were outstanding.
22. On December 31, 2015, the Buyer paid the outstanding arrears to the strata corporation.
23. On February 10, 2016, the Buyer filed a complaint with the Council against Pacific Quorum for erroneously authorizing the release of the holdback funds to the Seller. According to the Buyer, he made several attempts to contact C.W. to find a resolution about the holdback funds, to no avail. The Buyer stated that he was advised by C.W. that she will "look into it" but there was no resolution for over three months. It appears from the Buyer's statement that he also approached the management of Pacific Quorum but did not receive a response to his e-mails or phone calls.
24. Effective April 11, 2015, Mr. Drebit was no longer employed by Pacific Quorum. He was not aware of this incident until after February 2016 when he was notified by the Council that this complaint had been filed.
25. In response to the Council's investigation, Mr. Drebit explained that he attended the Surrey branch office of Pacific Quorum once a week for meetings with the manager of the branch and to review what he described as "client financials". He was unable to explain how the error in respect of the holdback funds occurred.
26. Another managing broker who was involved in this proceeding explained to the Council that C.W. purportedly obtained direction to release the funds from a "*licensed member of the brokerage*". The licensee in question was subsequently identified as L.P. The managing broker also explained that the said direction of L.P. was made verbally, and

AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

that Pacific Quorum has since instituted a new procedure to obtain written authorizations from clients.

27. L.P. was the property manager assigned to the strata corporation in question at the relevant time. L.P. was licensed with Pacific Quorum (Surrey) from November 12, 2014 to August 6, 2015.
28. In response to the Council's investigation, L.P. denied that she gave authorization to C.W. to release the said holdback. However, L.P. stated that in respect of the "accident...of C.W.", she accepted responsibility for the incident as the strata manager for the Property at the time of the event.
29. Mr. Drebit does not have a prior discipline history with the Council.

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. Drebit is prepared to accept the following findings if made against him by the Council's Consent Order Review Committee:
 - (a) Mr. Drebit, as managing broker for Pacific Quorum, committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act*, in that:
 - a. contrary to section 6(2) of the RESA and section 3-1(1) of the Rules, he failed to be in active charge and control of the real estate business of the brokerage and failed to adequately supervise the representatives and employees of the brokerage. In particular, Mr. Drebit:
 - i. failed to ensure that C.W. obtained appropriate direction from a licensee or the client before authorizing the release of the said holdback funds; and
 - ii. failed to adequately supervise L.P., in that the said holdback funds were released in error under L.P.'s direction as strata manager.
2. Mr. Drebit hereby waives his right to appeal pursuant to section 54 of the *Real Estate Services Act*.
3. Mr. Drebit acknowledges and is aware that he has a right to seek independent legal advice before signing this Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver.

AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

4. Mr. Drebit 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. Mr. Drebit acknowledges and is 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.

"E. Jeon"

**Esther Jeon, Legal Counsel
Real Estate Council of British Columbia**

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

Dated 3 day of March, 2017

"K. Drebit"

Kenneth David Drebit

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

Dated 3 day of March, 2017

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

Brokerage	Licence Level	Licence Category	Start Date	End Date
FirstService Residential BC Ltd. (X000867)	Associate Broker	Trading, Rental, Strata	14/05/2015	Present
*** Unlicensed ***			12/04/2015	13/05/2015
Pacific Quorum Properties Inc. (X026846)	Managing Broker	Trading, Rental, Strata	01/04/2014	11/04/2015
Peterson Residential Property Management Inc. (X012801)	Managing Broker	Trading, Rental, Strata	13/03/2013	01/04/2014
*** Unlicensed ***			22/01/2013	12/03/2013
FirstService Residential BC Ltd. (X000867)	Managing Broker	Trading, Rental, Strata	18/06/2010	21/01/2013
FirstService Residential BC Ltd. (X000867)	Associate Broker	Trading, Rental, Strata	07/04/2010	18/06/2010
*** Unlicensed ***			03/04/2010	06/04/2010
Associa British Columbia, Inc. (X017722)	Associate Broker	Trading, Rental, Strata	21/02/2008	02/04/2010
*** Unlicensed ***			21/08/2007	20/02/2008
Associa British Columbia, Inc. (X025974)	Managing Broker	Trading, Rental, Strata	01/10/2005	20/08/2007
Associa British Columbia, Inc. (X025974)	Managing Broker	Trading, Rental	11/07/2000	01/10/2005
Associa British Columbia, Inc. (X017722)	Associate Broker	Trading, Rental	13/01/1999	11/07/2000
*** Unlicensed ***			02/01/1999	12/01/1999
R.E.S. Real Estate Showcase Inc. dba RE/MAX Real Estate Showcase (X026418)	Managing Broker	Trading, Rental	19/05/1998	01/01/1999
*** Unlicensed ***			16/05/1998	18/05/1998
Excellence In Real Estate Holdings Corporation dba RE/MAX Westcoast (X025955)	Managing Broker	Trading, Rental	01/11/1997	15/05/1998
Excellence In Real Estate Holdings Corporation (Rmd65) dba dba RE/MAX Westcoast (Rmd65) (X025956)	Managing Broker	Trading, Rental	09/05/1997	08/05/1998
Excellence In Real Estate Holdings Corporation dba RE/MAX Westcoast (X025955)	Managing Broker	Trading, Rental	09/05/1997	31/10/1997
Excellence In Real Estate Holdings Corporation (Rmd53) dba RE/MAX Westcoast (Rmd53) (X025957)	Managing Broker	Trading, Rental	09/05/1997	07/05/1998
888888 Ventures Ltd. (Rmd53) dba Realty World Westcoast (Rmd53)	Managing Broker	Trading, Rental	08/01/1997	09/05/1997

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(X025498)				
888888 Ventures Ltd. dba Realty World Westcoast (X025444)	Managing Broker	Trading, Rental	30/06/1996	09/05/1997
888888 Ventures Ltd. (Rmd53) dba Realty World Westcoast (Rmd53) (X025498)	Managing Broker	Trading, Rental	30/06/1996	07/01/1997
888888 Ventures Ltd. (Rmd65) dba Realty World Westcoast (Rmd65) (X025497)	Managing Broker	Trading, Rental	30/06/1996	09/05/1997
Richmond Realty Ltd. (Rmd65) dba Realty World Westcoast (Rmd65) (X021971)	Managing Broker	Trading, Rental	09/05/1996	30/06/1996
Richmond Realty Ltd. dba Realty World Westcoast (X012346)	Managing Broker	Trading, Rental	01/11/1995	30/06/1996
Richmond Realty Ltd. (Rmd53) (X021972)	Managing Broker	Trading, Rental	08/01/1995	30/06/1996
Richmond Realty Ltd. (Rmdwst) dba dba Realty World Westcoast (Rmdwst) (X024412)	Managing Broker	Trading, Rental	12/10/1994	30/06/1996
Richmond Realty Ltd. (Rmd65) dba Realty World Westcoast (Rmd65) (X021971)	Managing Broker	Trading, Rental	09/05/1994	08/05/1996
Richmond Realty Ltd. (Rmdhzi) dba dba Realty World Westcoast (Rmdhzi) (X022387)	Managing Broker	Trading, Rental	02/02/1994	01/02/1996
Richmond Realty Ltd. dba Realty World Westcoast (X012346)	Managing Broker	Trading, Rental	01/11/1993	31/10/1995
Richmond Realty Ltd. (Rmd53) dba Realty World Westcoast (Rmd53) (X021972)	Managing Broker	Trading, Rental	08/01/1993	07/01/1995
Richmond Realty Ltd. (Rmdhzi) dba Realty World Westcoast (Rmdhzi)(X022387)	Managing Broker	Trading, Rental	27/04/1992	01/02/1994
Richmond Realty Ltd. dba Realty World Westcoast (X012346)	Representative	Trading, Rental	23/10/1990	27/04/1992
John Cuzner Realty Inc. dba Realty World-Lansdowne (X016604)	Representative	Trading, Rental	02/02/1990	23/10/1990

Secondary Licence (Terminated) 085346-1

Pacific Quorum Properties Inc. Surrey (X029453)	Managing Broker	Trading, Rental, Strata	15/05/2014	11/04/2015
*** Unlicensed ***			22/01/2013	14/05/2014
Vancouver Condominium Services Ltd. (X029453)		Trading, Rental, Strata	13/09/2011	21/01/2013