

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

**IN THE MATTER OF
JOHN GARY PECCIA
(097701)**

CONSENT ORDER

RESPONDENT:	John Gary Peccia, Managing Broker, Pacific Quorum Properties Inc.
DATE OF REVIEW MEETING:	December 8, 2016
DATE OF CONSENT ORDER:	December 8, 2016
CONSENT ORDER REVIEW COMMITTEE:	R. Holmes, Chair S. Heath G. Martin M. Leslie K. Khoo
ALSO PRESENT:	E. Seeley, Acting Executive Officer G. Thiele, Director, Legal Services S. Sheina, Legal Counsel for the Real Estate Council

PROCEEDINGS:

On December 8, 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 John Gary Peccia.

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

1. be reprimanded;
2. shall pay enforcement expenses of this Consent Order to the Council in the amount \$1,500.00 within sixty (60) days from the date of this Order.

If John Gary Peccia 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 8th day of December, 2016 at the City of Vancouver, British Columbia.

ON BEHALF OF THE CONSENT ORDER REVIEW COMMITTEE

“R. Holmes”

R. Holmes, Chair
Consent Order Review Committee

Attch.

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

IN THE MATTER OF

**JOHN GARY PECCIA
(097701)**

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

The following agreement has been reached between John Gary Peccia ("Mr. Peccia") and the Real Estate Council of British Columbia (the "Council").

- A. Mr. Peccia hereby consents to an Order to be made pursuant to sections 41 and 43 of the *Real Estate Services Act* ("RESA") that he be reprimanded.
- B. Mr. Peccia consents 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 the Order herein.
- C. Further, Mr. Peccia consents 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 RESA.
- D. As a basis for this Order, Mr. Peccia acknowledges and agrees that the facts set forth herein are correct:
 - 1. Mr. Peccia was at all relevant times licensed as a managing broker with Pacific Quorum Properties Inc. (the "Brokerage").
 - 2. Mr. Peccia's licensing history is as follows:

Brokerage	Licence Level	Licence Category	Start Date	End Date
Pacific Quorum Properties Inc. (X026846)	Managing Broker	Rental, Strata	17/01/2006	Present
Pacific Quorum Properties Inc. (X026846)	Representative	Rental	10/05/1999	17/01/2006
*** Unlicensed ***			07/01/1998	09/05/1999

AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

York-West Asset
Management Group
(B.C.) Inc. (X018484)

Representative

Rental

04/03/1992

06/01/1998

3. In March 2010, the Brokerage began providing strata management services to Strata Corporation VR1XXX ("Strata"), upon an assumption of the corresponding service agreement through the Brokerage's asset acquisition of another brokerage.
4. Since 2004, LM, a broker licensed with another brokerage had been providing strata management services, and also caretaking services to the Strata through a numbered company that he controlled (the "Numbered Company"). The Strata was aware of LM's relationship to the Numbered Company and consented to this caretaking arrangement.
5. On March 22, 2010, LM transferred his license to the Brokerage and continued to provide strata management services and caretaking services to the Strata.
6. Mr. Peccia stated that when the Brokerage began providing the Strata with strata management services in March 2010, the strata council informed the Brokerage that it was fully aware of, and approved, LM providing both strata management services (in his individual capacity) and caretaking services (through the Numbered Company) to the Strata, and indeed, the Strata directed that this arrangement not be altered by the Brokerage.
7. LM caused the Numbered Company to submit invoices to the Strata, dated November 26, 2010 and May 6, 2011, for the provision of emergency services. The invoices were submitted by LM in his role as caretaker and were payable to the Numbered Company. The Numbered Company's invoices were then approved by LM in his role as the strata manager. The Strata, being aware of the relationship between LM and the Numbered Company and consenting to this caretaking arrangement and each of the invoices, subsequently paid the invoices.
8. Documents provided to Council also reveal that the Numbered Company submitted several invoices to the Strata between November 2011 and December 2013 for the collection and counting of laundry monies. These invoices were submitted by LM in his role as caretaker and payable to the Numbered Company. The Numbered Company's invoices were then approved by LM in his role as the strata manager. The Strata, being aware of the relationship between LM and the Numbered Company and consenting to this caretaking arrangement and each of the invoices, paid the invoices.
9. The Numbered Company was not licensed as a brokerage with the Council.
10. The services provided by the Numbered Company constituted strata management services as defined by The Professional Standards Manual, Part IV Strata Management Services, Practice Standards, section 2(b) Unlicensed Assistants and Strata Management Services Provision. This states in part, that strata management

AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

services include collecting strata fees, contributions, levies or other amounts levied by or due to, the strata corporation. It also states:

“Strata management services” are not restricted to those being performed within “regular business hours”; the definition also applies to services being provided “after hours”, including on-call and/or emergency services. A brokerage cannot “contract out” or “source out” services for which a licence is required under RESA.

11. Since LM was licensed he was not entitled to rely upon the “exemption for strata caretakers employed by strata corporation or brokerage” pursuant to section 2.18 of the *Real Estate Services Regulation*.
12. Mr. Peccia, as managing broker for the Brokerage during the relevant time, was responsible for LM in his capacity as the strata manager. During the time that Mr. Peccia was managing broker for the Brokerage, LM approved the Numbered Company’s invoices, and in turn, submitted and authorized the invoices for payment by the Strata, when the invoices should have been remunerated through the Brokerage.
13. The Brokerage stopped providing strata management services to the Strata in March 2013. At that time, LM also terminated his licence with the Brokerage.
14. Mr. Peccia has no prior discipline history with the Council.

E. Proposed Acceptance of Findings and Waiver

1. Based on the Agreed Statement of Facts as outlined herein, and without making any admissions of liability, John Gary Peccia is prepared to accept the following findings if made against him by the Council’s Consent Order Review Committee:
 - (a) John Gary Peccia, as managing broker, committed professional misconduct within the meaning of section 35(1)(a) of the RESA when he:
 - i. permitted LM, a licensee employed by his brokerage, to act as a caretaker for the Strata;
 - ii. allowed LM, to invoice the Strata through his Numbered Company for real estate services performed in LM’s capacity as caretaker; and
 - iii. allowed LM to authorize payment from the Strata to LM’s Numbered Company, an unlicensed entity, for the provision of real estate services,contrary to sections 3-1(1)(b) and 6-1(1) of the Council Rules.
2. Mr. Peccia hereby waives his right to appeal pursuant to section 54 of the RESA.

AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

3. Mr. Peccia acknowledges that he has a right to seek independent legal advice before signing this Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver.
4. Mr. Peccia 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. Peccia acknowledges and is aware that the Superintendent of Real Estate has the right, pursuant to section 54 of the RESA, 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.

"S. Sheina"

**Sabinder Sheina, Legal Counsel
Real Estate Council of British Columbia**

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

Dated 29 day of November, 2016

"J. Peccia"

John Gary Peccia

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

Dated 25 day of November, 2016