

**IN THE MATTER OF THE *REAL ESTATE SERVICES ACT*  
S.B.C. 2004, c. 42  
AND  
IN THE MATTER OF  
RICHARD WILLIAM DEAN  
LAWRENCE BRUCE MCGILLIVRAY  
AND  
FACILITECH PROPERTY MANAGEMENT LTD.**

**CONSENT ORDER**

RESPONDENTS:

Richard William Dean, Representative,  
Wynford Group Ltd. dba The Wynford  
Group, while licensed with Facilitech  
Property Management Ltd.

Lawrence Bruce McGillivray,  
Associate Broker, Facilitech Property  
Management Ltd., while licensed as  
Managing Broker with Facilitech  
Property Management Ltd.

Facilitech Property Management Ltd.,  
Brokerage

DATE OF REVIEW MEETING:

June 26, 2009

DATE OF CONSENT ORDER:

July 14, 2009

CONSENT ORDER REVIEW COMMITTEE:

D. Leung  
G. Martin  
J. Whyte (Chair)

ALSO PRESENT:

D. Berger, Director, Legal Services  
J. Gossen, Counsel for the Real Estate  
Council

**PROCEEDINGS:**

On June 26, 2009 the Consent Order Review Committee resolved to accept the Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver executed by Richard William Dean, Lawrence Bruce McGillivray and Facilitech Property Management Ltd. as submitted, which was that Richard William Dean be suspended for seven (7) days, that Lawrence Bruce McGillivray and Facilitech Property Management Ltd. be reprimanded. Richard William Dean is ordered to successfully complete the disciplinary education assignments applicable to Chapter 12 (Law of Agency) of the Strata Management Licensing Course as provided by Sauder School of Business at the University of British Columbia. Richard William Dean 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). Lawrence Bruce McGillivray is ordered to pay a discipline penalty to the Council in the amount of \$2,000.00 within ninety (90) days of the date of this Consent Order and to successfully complete the disciplinary education assignment applicable to Chapter 2 (Mandatory Requirements Under the *Real Estate Services Act*) of the Broker's Licensing Course as provided by Sauder School of Business at the University of British Columbia. Facilitech Property Management Ltd. is ordered to pay a discipline penalty to the Council in the amount of \$2,000.00 within ninety (90) days of the date of this Order. . Further, Richard William Dean, Lawrence Bruce McGillivray and Facilitech Property 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 \$750.00 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 Richard William Dean, Lawrence Bruce McGillivray, Facilitech Property 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. Richard William Dean be suspended for seven (7) days as he committed professional misconduct within the meaning of section 35(1)(a) by contravening section 3(1) of the *Real Estate Services Act* and section 3-3(1)(c) of the Council Rules by failing to act within the scope of authority given by LMS1866 by ordering plumbing work costing approximately \$28,000.00 without the prior authorization of the strata council.
2. Richard William Dean is ordered to successfully complete the disciplinary education assignment applicable to Chapter 12 (Law of Agency) of the Strata Management Licensing Course as provided by Sauder School of Business at the University of British Columbia. Mr. Dean acknowledges

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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. Lawrence Bruce McGillivray was reprimanded as he committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that he, as managing broker for the brokerage and in contravention of section 6(2) of the *Real Estate Services Act*:
  - (a) failed to ensure that the brokerage provided the records as required under section 8-7.1(3)(a) of the Council Rules when they were requested by a brokerage providing strata management services to BCS1308, a former client: bank statements, bank reconciliations and a record showing amounts received and disbursed, the reason for the receipt or disbursement, and any unexpended balance for the months of January 2006 through March 2007; and invoices paid on behalf of BCS1308 for the months of January, February and March 2006.
  - (b) contravened section 3-1 of the Council Rules in that he, as managing broker of Facilitech Property Management Ltd., when he:
    - (i) was not actively engaged in the management of the said brokerage;
    - (ii) failed to ensure that the said business of the brokerage was carried out competently and in accordance with the Act, Regulations, Rules and/or Bylaws; and
    - (iii) failed to ensure that there was an adequate level of supervision for related associate brokers and representatives who perform duties on behalf of the brokerage when a licensee contravened section 3-3(1)(c) of the Council Rules by failing to act only within the scope of the authority given by LMS1866 'Electra' in ordering plumbing work costing approximately \$28,000 without the prior authorization of the strata council.
  - (c) failed to ensure that the brokerage maintained proper books, accounts and other records contrary to section 25 of the *Real Estate Services Act* and section 3-1(3) of the Council Rules.
4. Lawrence Bruce McGillivray was ordered to pay a discipline penalty to the Council in the amount of \$2,000.00 within ninety (90) days of the date of this Order.
5. Lawrence Bruce McGillivray was ordered to successfully complete the disciplinary education assignment applicable to Chapter 2 (Mandatory

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Requirements Under the *Real Estate Services Act*) of the Broker's Licensing Course as provided by the Sauder School of Business at the University of British Columbia. Mr. McGillivray 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)

6. Facilitech Property Management Ltd. was reprimanded as it committed professional misconduct within the meaning of section 35(1) of the *Real Estate Services Act* by contravening section 25 of the *Real Estate Services Act* in that it:
  - (a) failed to keep proper books, accounts and other records in accordance with the rules pursuant to section 25 of the *Real Estate Services Act*; and
  - (b) did not provide the following records as required under the Act when requested by a brokerage providing strata management services to 'BCS1308', a former client: bank statements, bank reconciliations, and a record showing amounts received and disbursed, the reason for the receipt or disbursement, and any unexpected balance for the months of January 2006 through March 2007; and invoices paid on behalf of BCS1308 for the months of January, February and March of 2006.
7. Richard William Dean, Lawrence Bruce McGillivray and Facilitech Property 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 \$750.00 within sixty (60) days from the date of this Order.

If Mr. Dean, Mr. Lawrence or Facilitech Property Management Ltd. 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*.

Dated this 14th day of July, 2009 at the City of Vancouver, British Columbia.

ON BEHALF OF THE CONSENT ORDER REVIEW COMMITTEE

"Judi Whyte"  
J. Whyte, Chair  
Consent Order Review Committee

Attch.

**File #07-117, 07-204, 07-559**

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

**IN THE MATTER OF**

**RICHARD WILLIAM DEAN  
(146556)**

**LAWRENCE BRUCE MCGILLIVRAY  
(048161)**

**AND**

**FACILITECH PROPERTY MANAGEMENT LTD.  
(X024531)**

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

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The following agreement has been reached between Richard William Dean (“Mr. Dean”), Lawrence Bruce McGillivray (“Mr. McGillivray”), Facilitech Property Management Ltd. (“Facilitech”) and the Real Estate Council of British Columbia (the “Council”).

- A. Mr. Dean hereby consents to an Order to be made pursuant to sections 41 and 43 of the *Real Estate Services Act* that he be suspended for 7 days and that he successfully complete the disciplinary education assignment applicable to Chapter 12 (Law of Agency) of the Strata Management Licensing Course as provided by Sauder School of Business at the University of British Columbia.. Mr. Dean 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).
- B. Mr. McGillivray hereby consents to an Order to be made pursuant to sections 41 and 43 of the *Real Estate Services Act* that he be reprimanded, pay a disciplinary penalty in the sum of \$2,000 within ninety (90) days of the date of the Order herein and successfully complete the disciplinary education assignment applicable to Chapter 2 (Mandatory Requirements Under the *Real Estate Services Act*) of the Broker’s Licensing Course as provided by Sauder School of Business at the University of British Columbia. Mr. McGillivray 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).
- C. Mr. McGillivray on behalf of Facilitech hereby consents to an Order to be made pursuant to section 41 and 43 of the *Real Estate Services Act* that Facilitech be

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- reprimanded and pay a discipline penalty to the Council in the amount of \$2,000.00 within ninety (90) days of the date of the Order herein.
- D. Mr. McGillivray, on behalf of Facilitech, and himself and Mr. Dean agree to be jointly and severally liable to pay enforcement expenses of this Consent Order to the Council in the amount of \$750.00 within sixty (60) days from the date of the Order herein.
- E. Mr. Dean and Mr. McGillivray further consent to an Order that if either of them fails to comply with any of the terms of the Order set out above, the Council may suspend or cancel their licence without further notice to them pursuant to section 43(3) and 43(4) of the *Real Estate Services Act*.
- F. As a basis for this Order, Mr. Dean and Mr. McGillivray acknowledge and agree that the facts set forth herein are correct:
1. Facilitech's licensing history is as follows:

Jul.12/95 – May 15/02	Brokerage, Rental
May 15/02 – Jan.1/06	Brokerage, Trading, Rental
Jan. 1/06 – Present	Brokerage, Trading, Rental, Strata
  2. Mr. Dean was at all relevant times licensed as a representative with Facilitech.
  3. Mr. Dean's licensing history is as follows:

Jan. 1/06 – Jul. 9/07	Representative, Strata, Facilitech Property Management Ltd.
Jul. 9/07 – May 06/09	Representative, Strata, Crosby Property Management Ltd.
May 11/09 – Present	Wynford Realty Group Ltd.
  4. Mr. McGillivray was at all relevant times licensed as a managing broker with Facilitech.
  5. Mr. McGillivray's licensing history is as follows:

Feb. 13/84 – Apr. 12/85	Representative, Trading, Rental, Block Bros. Realty Ltd. (Van)(Old)
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Apr. 12/85 – May 17/89	Representative, Trading, Rental, Block Bros. Realty Ltd. (Vnd)
May 17/89 – Jul. 01/89	Associate Broker, Trading, Rental, Block Bros. Realty Ltd. (Vnd)
Jul. 1/89 – Jan. 8/91	Associate Broker, Trading, Rental, Nrs Block Bros. Realty Ltd. (Vnd)
Jan. 24/91 – Mar. 31/98	Associate Broker, Trading, Rental, Sutton Group Heritage West Realty Ltd.
Mar. 31/98 – May 15/02	Associate Broker, Trading, Rental, Broadway West Realty Ltd. dba Amex Broadway West Realty
May 15/02 – Jan. 01/06	Managing Broker, Trading, Rental, Facilitech Property Management Ltd.
Jan. 1/06 – Present	Managing Broker, Trading, Rental, Strata, Facilitech Property Management

**File # 07-117**

6. On September 7, 2007 the Council received a complaint from John Davies, president of the commercial section of a strata, Electra Strata Corporation LMS 1866 (the “Electra”) concerning Facilitech. Mr. Dean was the licensee with Facilitech who provided trading services to the strata.
7. Mr. Dean had been licensed with Facilitech since January 1, 2006 as a strata property manager.
8. On the spring of 2007, Mr. Dean became aware that one of the strata owners was doing plumbing work in their strata when they contacted him to provide them with names of companies that could perform the work. Mr. Dean provided them with the name of Mainland Plumbing and Heating Ltd. (“Mainland”).
9. In March of 2007 Mr. Dean was contacted by an employee of Mainland who informed Mr. Dean that in the course of doing the plumbing work for the strata owner, the City of Vancouver had inspected the premises and would not approve any further work for the owner as there were problems with the Electra building plumbing that had to be addressed first.

10. Mr. Dean understood that the problems were minor and would cost approximately \$2,000 to repair. Mr. Dean authorized the work but indicated to the employee of Mainland that if the costs were to exceed that amount, Mainland should contact Mr. Dean for further approval. Mr. Dean did not provide written notice to Mainland of these restrictions and did not work plan, estimate or quote before authorizing the work.
11. There was no further contact with Mainland until April 2007 when Electra was billed the sum of \$28,000 for plumbing repairs Mainland had carried out to the building. Electra refused to pay this bill as the work had not been properly authorized.
12. Ultimately Mainland filed a claim in Small Claims Court claiming the sum of \$25,000. This claim was settled in that Facilitech agreed to pay \$10,000 and Electra agreed to pay \$15,000 on the basis that the plumbing work had been necessary and Electra had benefitted from the work.
13. Mr. Dean acknowledges that the written service agreement between the brokerage and Electra required strata approval for expenditures over \$250.

**File #07-204/07-559**

14. On November 26, 2007, the Council received a complaint from a strata, BCS1308, in North Vancouver concerning the transfer of financial records after the strata had terminated their service agreement with Facilitech.
15. The complaint asserted that BCS1308 was unable to reconcile its financial accounts as Facilitech had not provided complete records to the strata's request for same.
16. The strata had terminated the services of the brokerage and had requested that the brokerage provide to the former client, bank statements, reconciliations, a record showing amounts received and disbursed, the reason for the receipt or disbursement and any unexpected balance for the months of January 2006 through March 2007 and invoices paid on behalf of the strata for the months of January, February and March 2006.
17. Robert Adams, director/owner of Facilitech and Mr. McGillivray advised Council that they were informed by the brokerage's controller at the time and they believed that the full records of the strata had been delivered to the strata either in paper or electronically in a timely fashion.
18. On May 30, 2008 the brokerage sent all of the records relating to the former client found on the premises of the brokerage or which could be recreated from electronic records to the new management company.

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19. As a result of the forgoing problems and the fact that the brokerage failed to file its Accountant's Report due April 30, 2008, Council staff audited the books and records of the brokerage on May 27 and 28, 2008.
  20. The Office and Records Inspection Report which was the result of the audit noted that there had been an improvement in the brokerage books and records although several deficiencies were identified as continuing problems.
  21. As noted in a July 10, 2008 letter from Debbie Morreau, Manager, Audit and Accounting of the Council, the following items were still a concern to the Council:
    - 1) *Signatories on bank accounts and investments held in trust by the brokerage were still not correct in all instances and we would like to remind you of the following:*
      - a) *If the strata corporation wants autonomous control over the contingency reserve or special levy trust account/investments, no one at the brokerage may be a signatory for those funds. In this instance, the account/investment would be in the name of the strata corporation and the strata management agreement must show that the brokerage does not control these funds. In addition, the statements should be provided to the brokerage so that a proper accounting can be made on financial statements;*
      - b) *If the brokerage is to control the funds on behalf of the strata corporation, the account/investment must be in the name of the brokerage in trust for the strata corporation. This must also be outlined in the strata management agreement. Notwithstanding the above, if desired the strata corporation may elect to have a strata council member as signatory with the appropriate brokerage signatories.*
      - c) *The managing broker must be a signatory on all trust accounts.*
      - d) *Two signatories as outlined in section 7-9(6) of the Council Rules are required on all contingency reserve fund trust accounts and investments.*
    - 2) *The brokerage was still not paying monies collected for the contingency reserve funds as part of the monthly strata fee into the*

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*applicable contingency reserve bank account in accordance with section 7-9(4) of the Council Rules. It is recommended that the managing broker review any options available under the Strata Property Act of British Columbia (SPABC) with the strata councils to remedy the above situation and comply with both SPABC and the Council Rules in this regard.*

- 3) *In contravention of section 30 of the Real Estate Services Act (RESA), the brokerage continued to have service charges deducted from pooled trust accounts. The managing broker must immediately notify the bank to deduct any service charges from the brokerage general account and replenish all amounts deducted and identified on the schedules prepared by Mr. Steve Buchanan, external accountant.*
- 4) *In contravention of section 29 of RESA the brokerage failed to remit interest on pooled trust accounts to the Real Estate Foundation. The brokerage is to remit the amounts determined on the spreadsheets prepared by Mr. Buchanan and instruct the bank to remit all future interest earned on pooled trust accounts to the Foundation.*
- 5) *In contravention of section 8-3 of the Council Rules some owners did not have individual client ledgers maintained on an ongoing basis, nor were the asset and liability listings or bank reconciliations prepared in the time from outlined in this section prior to April 2008.*
- 6) *In contravention of section 30 of RESA the brokerage withdrew the amount of \$7,255.73 from trust to the brokerage general account in July 2007 causing shortages in the pooled trust accounts. The Due From Facilitech account per the schedule prepared by Mr. Buchanan for the unfurnished suites account showed the following amounts owing by the brokerage to the trust:*

<i>January 31, 2008</i>	<i>\$ 3,951.67</i>
<i>February 28, 2008</i>	<i>10,864.30</i>
<i>March 31, 2008</i>	<i>9,247.40</i>
<i>April 30, 2008</i>	<i>195.30</i>

*It appears management fees were not calculated and withdrawn from the account in a timely manner and the amount of \$6,007.41 relating to a hotel room tax refund was included in error as a trust liability in February and March 2008 causing the amount to fluctuate and not equal the actual amount withdrawn. The brokerage must ensure that proper books and records are maintained as required under section 25 of RESA. Further, he must ensure that only monies that qualify under section 30 of RESA are*

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*withdrawn from trust funds. A net replenishment of the amount was made from the brokerage trust account in April 2008; however this did not replenish the full amount of the shortage as outlined below in section 7(c).*

7) *In contravention of section 7-5 of RESA that deals with trust shortages, the brokerage showed the following negative balances in the trust ledgers:*

a) *In the operating account for the Electra Residential Strata:*

<i>February 28, 2008</i>	<i>\$ ( 7,106.95)</i>
<i>March 31, 2008</i>	<i>(24,627.00)</i>

*The managing broker must ensure that proper controls are in place to guard against trust account records being put into negative balances. Any current negative balances must be eliminated per section 7-5 of the Council Rules.*

b) *In the Real Estate trust account there was a negative balance as at April 30, 2008 of \$(211.72) in the “Black” subledger. Any current negative balances must be eliminated in accordance with section 7-5 of the Council Rules.*

c) *In the Unfurnished Suites account there were 3 negative balances as at April 30, 2008 totaling \$(1,641.79). This amount was in addition to the amount of \$(195.30) “Due From Facilitech.”*

*The actual shortage in the Unfurnished Suites account as at April 30, 2008 is the sum of the above amounts or \$1,837.09.*

*Any current negative balances must be eliminated in accordance with section 7-5 of the Council Rules and there must be no monies owing from the brokerage to the trust accounts.*

8) *The records for the brokerage general account were still not up-to-date nor were the records ready for the external Accountant’s Review Engagement. The Accountant’s Report for the fiscal year ended December 31, 2007 was due on April 30, 2008 and at the time of the inspection, no specific date had been set to conduct that review and trust audit. The brokerage is in contravention of section 7-7 of the Council Rules in that regard.*

22. The brokerage was cooperative in addressing these remaining issues.

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23. The brokerage entered into a Consent Order dated January 23, 2009 which set out that the Brokerage Accountant's Report due April 30, 2008 was received by the Council on November 5, 2008. The brokerage and Mr. McGillivray were reprimanded and ordered to pay enforcement expenses in the sum of \$1000.00.
- G. Proposed Acceptance of Findings and Waiver
1. Based on the Agreed Statement of Facts as outlined herein, and without making any admissions of liability, Richard William Dean, Lawrence Bruce McGillivray and Lawrence Bruce McGillivray on behalf of Facilitech Property Management Ltd. are prepared to accept the following findings if made against them by the Council's Consent Order Review Committee:
- (a) Facilitech Property Management Ltd. committed professional misconduct within the meaning of section 35(1) of the *Real Estate Services Act* by contravening section 25 of the *Real Estate Services Act* in that it:
- (i) failed to keep proper books, accounts and other records in accordance with the rules pursuant to section 25 of the *Real Estate Services Act*;
- (ii) not providing the following records as required under the Act when requested by a brokerage providing strata management services to 'BCS1308', a former client: bank statements, bank reconciliations, and a record showing amounts received and disbursed, the reason for the receipt or disbursement, and any unexpended balance for the months of January 2006 through March 2007; and invoices paid on behalf of BCS1308 for the months of January, February and March of 2006.
- (b) Lawrence Bruce McGillivray committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that he, as managing broker for the brokerage and in contravention of section 6(2) of the *Real Estate Services Act*:
- (i) failed to ensure that the brokerage provided the records as required under section 8-7.1(3)(a) of the Council Rules when they were requested by a brokerage providing strata management services to BCS1308, a former client: bank statements, bank reconciliations and a record showing amounts received and disbursed, the reason for the receipt or disbursement, and any unexpended balance for the months of January 2006 through March 2007; and invoices paid on

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behalf of BCS1308 for the months of January, February and March 2006.

- (ii) contravened section 3-1 of the Council Rules (managing broker responsibilities) in that he as managing broker of Facilitech Property Management Ltd., when he:
  - (i) failed to ensure that the said business of the brokerage was carried out competently and in accordance with the Act, Regulations, Rules and/or Bylaws; and
  - (ii) ensure that there was an adequate level of supervision for related associate brokers and representatives who perform duties on behalf of the brokerage when a licensee, Richard William Dean, contravened section 3-3(1)(c) of the Council Rules by failing to act only within the scope of the authority given by LMS1866 'Electra' in ordering plumbing work costing approximately \$28,000.00 without the prior authorization of the strata council.
  - (iii) failed to ensure that the brokerage maintained proper books, accounts and other records contrary to section 25 of the *Real Estate Services Act* and section 3-1(3) of the Council Rules; and
- (c) Richard William Dean committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* by contravening section 3(1) of the *Real Estate Services Act* in that he contravened section 3-3(1)(c) of the Council Rules by failing to act within the scope of authority given by LMS1866 'Electra' by ordering plumbing work costing approximately \$28,000.00 without the prior authorization of the strata council.

2. Mr. Dean, Mr. McGillivray and Facilitech hereby waive their right to appeal pursuant to section 54 of the *Real Estate Services Act*.
3. Mr. Dean, Mr. McGillivray and Facilitech 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. Mr. Dean, Mr. McGillivray and Facilitech 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. Mr. Dean, Mr. McGillivray and Facilitech 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.

“Jessica S. Gossen”

Jessica S. Gossen, Legal Counsel  
Real Estate Council of British Columbia

As to Part F only (Agreed Statement  
of Facts)

Dated 28th day of May, 2009

“Richard William Dean”

Richard William Dean

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

Dated 21<sup>st</sup> day of May, 2009

“Lawrence Bruce McGillivray”

Lawrence Bruce McGillivray on behalf of  
Facilitech Property Management Ltd.

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

Dated 22<sup>nd</sup> day of May, 2009

“Lawrence Bruce McGillivray”

Lawrence Bruce McGillivray

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

Dated 22<sup>nd</sup> day of May, 2009