

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

AND

IN THE MATTER OF

CHRISTOPHER KENNETH SARGENT

CONSENT ORDER

RESPONDENT: Christopher Kenneth Sargent, Managing
Broker, Rancho Management Services
(B.C.) Ltd.

DATE OF REVIEW MEETING: July 13, 2011

DATE OF CONSENT ORDER: August 2, 2011

CONSENT ORDER REVIEW COMMITTEE: B. Brandle (Chair)
S. Ghose
G. Martin
B. Phillips

ALSO PRESENT: R. Fawcett, Executive Officer
D. Berger, Director, Legal Services
J. Gossen, Legal Counsel for the Real Estate
Council

PROCEEDINGS:

On July 13, 2011 the Consent Order Review Committee resolved to accept the Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver executed by Christopher Kenneth Sargent as submitted, which was that Christopher Kenneth Sargent be reprimanded. Christopher Kenneth Sargent is ordered to pay a discipline penalty to the Council in the amount of \$2,000.00 within sixty (60) days of the date of this Order and is ordered to successfully complete the Trading Services Remedial Education Course as provided by Real Estate Division, Sauder

School of Business at the University of British Columbia in the time period as directed by the Council. Further, Christopher Kenneth Sargent is ordered to pay enforcement expenses of this Consent Order to the Council in the amount of \$1,000.00 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 Christopher Kenneth Sargent 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. Christopher Kenneth Sargent be reprimanded as he committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that while acting as strata property manager of Strata Plan LMS-61 (the “Strata Client”) he:
 - (a) contravened section 7-9(9) of the Council Rules in that he failed to ensure that the Brokerage promptly transferred control of a term deposit owned by the Strata Client to the licensee assuming the role of strata property management for the Strata Client, after the Brokerage was terminated as strata property manager for the Strata Client; and
 - (b) contravened section 3-3(1) and/or 3-4 of the Council Rules in that he failed to use reasonable care and skill on behalf of the Strata Client in that he failed to transfer the Strata Client’s term deposit to the licensee assuming the role of strata property manager in a timely manner
2. Christopher Kenneth Sargent is ordered to pay a discipline penalty to the Council in the amount of \$2,000.00 within sixty (60) days of the date of the Order herein.
3. Christopher Kenneth Sargent is ordered to successfully complete the Trading Services Remedial Education Course as provided by the Real Estate Division, Sauder School of Business at the University of British Columbia in the time period as directed by the Council.
4. Christopher Kenneth Sargent is ordered to pay enforcement expenses of this Consent Order to the Council in the amount of \$1,000.00 within sixty (60) days from the date of this Order.

If Christopher Kenneth Sargent fails to comply with any of the terms of the Order set out above, 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 2nd day of August, 2011 at the City of Vancouver, British Columbia.

“B. Brandle”

B. Brandle, Chair
Consent Order Review Committee

Atch.

File #09-072

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

IN THE MATTER OF

**CHRISTOPHER KENNETH SARGENT
(071961)**

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

The following agreement has been reached between Christopher Kenneth Sargent (“Mr. Sargent”) and the Real Estate Council of British Columbia (the “Council”).

- A. Mr. Sargent 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 discipline penalty in the sum of \$2000 within sixty (60) days of the date of this Consent Order and that he successfully complete the Trading Services Remedial Education Course as provided by the Real Estate Division, Sauder School of Business at the University of British Columbia within the time period as directed by the Council. Mr. Sargent 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). Further, he agrees to pay enforcement expenses of this Consent Order to the Council in the amount of \$1,000.00 within sixty (60) days from the date of the Order herein. Mr. Sargent 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 *Real Estate Services Act*.
- B. As a basis for this Order, Mr. Sargent acknowledges and agrees that the facts set forth herein are correct:
1. Mr. Sargent was at all relevant times licensed as a managing broker with Rancho Management Services (B.C.) Ltd.

2. Mr. Sargent's licensing history is as follows:

<u>Start Date</u>	<u>End Date</u>	<u>Brokerage</u>	<u>Licence Level</u>	<u>Licence Category</u>
11/29/2005	Present	Rancho Management Services (B.C.) Ltd. (X019107)	Managing Broker	Trading, Rental, Strata
4/30/1991	11/29/2005	Rancho Management Services (B.C.) Ltd. (X019107)	Managing Broker	Trading, Rental
11/17/1989	4/30/1991	Rancho Management Services (B.C.) Ltd. (X019107)	Representative	Trading, Rental

3. On August 12, 2009, Council received a complaint from a strata council member on behalf of Strata Plan LMS-61 concerning Rancho Management and Campbell Management regarding to a missing term deposit in the amount of \$11,856.41.
4. Rancho Management had managed this strata corporation since its inception until Campbell Management took over in and around May 2006.
5. The strata corporation's balance sheet for the month ending Apr 30 for the years 2007, 2008 and 2009, as prepared by Campbell Management on the strata's behalf, showed a line item titled "Term Deposit #1 – \$11,856.41" under the heading "Current Assets". It appeared from the balance sheet that this term deposit belonged to the strata corporation's contingency reserve fund ("CRF").
6. The strata indicated that even though this amount was recorded as a "Current Asset", the funds were not in any of their trust accounts held by Campbell Management and appeared to have not been transferred by Rancho Management during the management transition.
7. The strata requested from Campbell Management a copy of the Certificate of Deposit for the term deposit in question, and other financial information to prepare for a strata council meeting but the brokerage was not in possession of one.
8. When Campbell Management took over management of the strata in the spring of 2006 from Rancho Management; there was no information in the financial records concerning the funds or a Certificate of Deposit.

9. On Nov 13/09, the brokerage prepared a cheque on behalf of Rancho Management, in the amount of \$12,220.05 which equaled the original term deposit amount plus interest, and sent this cheque to Campbell Management upon the strata's instruction.
10. On November 17, 2009, the Council received from Campbell Management a scanned copy of the cheque from Rancho Management to Strata Plan LMS-61, in the amount of \$12,220.05.
11. On December 21, 2009, Mr. Sargent reported that Rancho Management had managed Strata Plan LMS-61 from May 1, 1992 until April 30, 2006. Mr. Sargent provided a copy of their service agreement with the strata corporation which was dated April 1, 1995. He advised that Rancho Management had serviced notice to end their service agreement effective April 30, 2006.
12. Mr. Sargent indicated that given the fact this term deposit was created prior to 1998, the brokerage was unable to find any supporting documents relating to the creation of it from the files which they retrieved from their storage.
13. Mr. Sargent explained that from their review of the accounting software from 1998 to the present, it was determined that a term deposit may have been placed some time prior to 1998. He noted that there were no notations in their system that the funds were in the banking institution they used at the time, and that the only reference to a term deposit is indicated in the minutes of a strata council meeting held in 1997. The minutes reflected that monies were placed in a term deposit to earn better interest.
14. Mr. Sargent explained that Rancho Management's previous accounting manager could not provide any other information about the possible whereabouts of the term deposit and that their accounting staff in general was unable to find any other unsupported bank balances/term deposits.
15. Mr. Sargent advised that the supporting documentation for the term deposit had not been provided to Campbell Management since they did not have any thing on record for the strata corporation which dated back to 1997.
16. Mr. Sargent stated that, as managing broker, he has always instructed his accounting staff to invest CRF monies in trust in the name of the strata corporation. He advised that, to the best of his knowledge, this has always been done and the issue with the failure to transfer the term deposit was an accounting error.
17. The cheque for \$12,220.05 was issued from Rancho Management's general account, as an expense to the brokerage and was not repayment of trust funds or the cashing of a term deposit.

18. The banking institution used by the brokerage has confirmed that all accounts in the name of Rancho Management were closed with a \$0 balance remaining.

C. Proposed Acceptance of Findings and Waiver

1. Based on the Agreed Statement of Facts as outlined herein, and without making any admissions of liability, Christopher Kenneth Sargent is prepared to accept the following findings if made against him by the Council's Consent Order Review Committee:
 - (a) Christopher Kenneth Sargent committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that while acting as strata property manager of Strata Plan LMS-61 (the "Strata Client") he:
 - (i) contravened section 7-9(9) of the Council Rules in that he failed to ensure that the Brokerage promptly transferred control of a term deposit owned by the Strata Client to the licensee assuming the role of strata property management for the Strata Client, after the Brokerage was terminated as strata property manager for the Strata Client;
 - (ii) contravened section 3-3(1) and/or 3-4 of the Council Rules in that he failed to use reasonable care and skill on behalf of the Strata Client in that he failed to transfer the Strata Client's term deposit to the licensee assuming the role of strata property manager in a timely manner.
2. Mr. Sargent hereby waives his right to appeal pursuant to section 54 of the *Real Estate Services Act*.
3. Mr. Sargent 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. Sargent acknowledges and is 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. Sargent 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.

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

As to Part B only (Agreed Statement of Facts)

Dated 21 day of June, 2011

“Christopher Kenneth Sargent”
Christopher Kenneth Sargent

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

Dated 21 day of June, 2011