

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

**IN THE MATTER OF
S.D. WOODMAN MANAGEMENT LTD.**

AND

SHAREL DIANNE WOODMAN

CONSENT ORDER

RESPONDENTS: S.D. Woodman Management Ltd.,
Brokerage

Sharel Dianne Woodman, Managing
Broker, S.D. Woodman Management
Ltd.

DATE OF REVIEW MEETING: July 29, 2013

DATE OF CONSENT ORDER: September 19, 2013

CONSENT ORDER REVIEW COMMITTEE: S. Ghose
B. Phillips
D. Rishel
M. Ziegler, Chair

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

PROCEEDINGS:

On July 29, 2013, an Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver submitted by S.D. Woodman Management Ltd. and Sharel Dianne Woodman and was considered by the Consent Order Review Committee (the "Committee") but not accepted. On August 20, 2013, a revised Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver was submitted by S.D. Woodman Management Ltd. and Sharel Dianne Woodman, which was acceptable to the Committee. S.D. Woodman Management

Ltd. and Sharel Dianne Woodman are ordered to be reprimanded. Ms. Woodman is ordered to pay a discipline penalty to the Council in the amount of \$2,000.00 within ninety (90) days of this Order, and to successfully complete the Strata Management Remedial Education Course as provided by Real Estate Division, Sauder School of Business at the University of British Columbia in the time period directed by the Real Estate Council of British Columbia ("Council"). Further, S.D. Woodman Management Ltd. and Sharel Dianne Woodman are ordered to be jointly and severally liable to pay enforcement expenses of this Consent Order to the Council in the amount of \$1,250.00 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 S. D. Woodman Management Ltd., Sharel Dianne Woodman and the 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. S.D. Woodman Management Ltd. be reprimanded as it committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* with respect to the provision of strata management services to the Strata Corporation NW26XX in that it failed to ensure that there was a written service agreement in place with the brokerage strata corporation client, prior to providing strata management services, or, in the alternative, failed to have the client's agreement to waive the requirement for the service agreement in writing, contrary to section 5-1(1)(c) of the Council Rules.
2. Sharel Dianne Woodman be reprimanded as she committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* with respect to the providing of strata management services to the Strata Corporation NW26XX in that she:
 - (i) failed to ensure that there was a written service agreement in place with the brokerage strata corporation client, prior to providing strata management services, or, in the alternative, failed to have the client's agreement to waive the requirement for the service agreement in writing, contrary to section 5-1(1)(c) of the Council Rules; and
 - (ii) acted outside the scope of her authority when she circulated correspondence on January 26, 2012, to all of the strata lot owners without the authorization of the client, the strata corporation represented by the strata council, contrary to section 3-3(1)(c) of the Council Rules.

3. Sharel Dianne Woodman 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.
4. Sharel Dianne Woodman is ordered to successfully complete the Strata Management Remedial Education Course as provided by the Real Estate Division, Sauder School of Business at the University of British Columbia in the time period directed by the Council.
5. S.D. Woodman Management Ltd. and Sharel Dianne Woodman are ordered to be jointly and severally liable to pay enforcement expenses of this Consent Order to the Council in the amount of \$1,250.00 within sixty (60) days from the date of this Order.

If S.D. Woodman Management Ltd. and Sharel Dianne Woodman 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 19th day of September, 2013 at the City of Vancouver, British Columbia.

ON BEHALF OF THE CONSENT ORDER REVIEW COMMITTEE

“Michael Ziegler”

M. Ziegler, Chair
Consent Order Review Committee

Attch.

File #11-283

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

IN THE MATTER OF

**S.D. WOODMAN MANAGEMENT LTD.
(X018147)**

**SHAREL DIANNE WOODMAN
(029118)**

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

The following agreement has been reached between S.D. Woodman Management Ltd. ("S.D. Woodman"), Sharel Dianne Woodman ("Ms. Woodman") and the Real Estate Council of British Columbia (the "Council").

- A. Ms. Woodman on behalf of S.D. Woodman hereby consents to an Order to be made pursuant to sections 41 and 43 of the Real Estate Services Act that it be reprimanded.
- B. Ms. Woodman hereby consents to an Order to be made pursuant to sections 41 and 43 of the *Real Estate Services Act* that she be reprimanded, successfully complete the Strata Management 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 and that she 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.
- C. Further, Ms. Woodman and Ms. Woodman on behalf of S.D. Woodman agree to be jointly and severally liable to pay enforcement expenses of this Consent Order to the Council in the amount of \$1,250.00 within sixty (60) days from the date of the Order herein. Ms. Woodman and Ms. Woodman on behalf of S.D. Woodman further consent to an Order that if they fail to comply with any of the terms of the Order set out above, a Discipline Hearing Committee may suspend or cancel their licences without further notice to them pursuant to section 43(3) and 43(4) of the *Real Estate Services Act*.
- D. As a basis for this Order, Ms. Woodman and S.D. Woodman acknowledge and agree that the facts set forth herein are correct:

1. S. D. Woodman is a licensed brokerage and has been so licensed since January 22, 1988.
2. Ms. Woodman was at all relevant times licensed as a managing broker with S.D. Woodman Management Ltd.
3. Ms. Woodman's licensing history is as follows:

<u>Start Date</u>	<u>End Date</u>	<u>Licensing History</u>	<u>Licence Level</u>	<u>Licence Category</u>
21/12/2005	Present	S.D. Woodman Management Ltd. (X018147)	Managing Broker	Trading, Rental, Strata
22/01/1988	21/12/2005	S.D. Woodman Management Ltd. (X018147)	Managing Broker	Trading, Rental
03/06/1987	22/01/1988	Hallcroft Equities Limited (X001404)	Managing Broker	Trading, Rental
30/06/1981	03/06/1987	Hallcroft Equities Limited (X001404)	Representative	Trading, Rental

4. On February 3, 2012, Council received a complaint on behalf of the strata corporation NW 2621, concerning Ms. Woodman.
5. Ms. Woodman had been providing strata management to the strata corporation since 1998, at which time there was a signed written service agreement in place.
6. In December 2007, Ms. Woodman prepared a new service agreement in order to be in compliance with the requirements under Council Rules and presented two copies to the strata council requesting that they sign both copies and return one to her.
7. There were many discussions regarding the new service agreement and revisions were made awaiting the review of the strata council up until at least December 14, 2010. In any event, the service agreement was not signed.
8. In October 2011, new strata council members were elected, and on January 23, 2012 the President, delivered written notice on behalf of the strata corporation to Ms. Woodman stating that as there was no copy of a signed agency agreement in place, the strata was terminating her services as of February 29, 2012.
9. Ms. Woodman sought a legal opinion as to whether she had an implied contract with the strata and she believed that the notice to terminate her management

services was contrary to section 39 of the *Strata Property Act*. Accordingly, she refused to accept the notice and she drafted correspondence, and delivered same to all the owners, outlining her concerns with respect to the notice and informing the owners that the strata council had sought legal advice in this matter which she felt was an unnecessary expense for the strata corporation.

10. On January 30, 2012, a number of strata lot owners signed a petition, obtaining more than the required 20% of owners' signatures, requesting that a Special General Meeting be held for the purpose of having a vote to remove one, or more than one, council member.
11. The strata council hired a lawyer and that lawyer, on behalf of the strata corporation, sent a letter to Ms. Woodman indicating that it was his view on behalf of the corporation that because there was no written service agreement, in accordance with section 5-1 of Council Rules, then the provisions for termination under section 39 of the *Strata Property Act* did not apply and as such, the 30+ days' notice given to Ms. Woodman without a $\frac{3}{4}$ vote to terminate her services was sufficient.
12. On February 1, 2012, Ms. Woodman distributed another memo to the owners informing them that it had been brought to her attention that by distributing correspondence directly to the owners, without the approval of the strata council, she acted in contravention of Council Rules. Ms. Woodman further informed the owners that the strata council (as the client) had requested that she retract her previous correspondence.
13. On February 2, 2012, an emergency strata council meeting was held to discuss the memos distributed by Ms. Woodman. The strata council entered into a new service agreement with another brokerage and forwarded a complaint to the Real Estate Council regarding Ms. Woodman's conduct.
14. Ms. Woodman had prepared copies of the service agreement and presented them to the strata council on more than one occasion with some changes being requested and, that finally on or about September 10, 2010, the provisions had all been agreed to and although there was evidence that the contract had been signed, Ms. Woodman was unable to produce a copy.

Previous Discipline History

15. Ms. Woodman received a letter of warning on October 17, 2008 cautioning her to ensure that she provided her clients and former clients with the required records in a timely manner and to ensure that the brokerage retains possession of all licenses and to make them available for review and to promptly notify the Council of any licensee additions or terminations.

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, S.D. Woodman Management Ltd. and Sharel Dianne Woodman are prepared to accept the following findings if made against them by the Council's Consent Order Review Committee:
 - (a) S.D. Woodman Management Ltd. committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* with respect to the provision of strata management services to the Strata Corporation NW26XX in that it:
 - (i) failed to ensure that there was a written service agreement in place with the brokerage strata corporation client, prior to providing strata management services, or, in the alternative, failed to have the client's agreement to waive the requirement for the services agreement in writing, contrary to section 5-1(1)(c) of the Council Rules.
 - (b) Sharel Dianne Woodman committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* with respect to the provision of strata management services to the Strata Corporation NW26XX in that she:
 - (i) failed to ensure that there was a written service agreement in place with the brokerage strata corporation client, prior to providing strata management services, or, in the alternative, failed to have the client's agreement to waive the requirement for the service agreement in writing, contrary to section 5-1(1)(c) of the Council Rules; and
 - (ii) acted outside the scope of her authority when she circulated correspondence on January 26, 2012, to all of the strata lot owners without the authorization of the client, the strata corporation represented by the strata council, contrary to section 3-3(1)(c) of the Council Rules.
2. Ms. Woodman and S.D. Woodman hereby waive their right to appeal pursuant to section 54 of the *Real Estate Services Act*.
3. Ms. Woodman and S. D. Woodman 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. Ms. Woodman and S.D. Woodman 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.

5. Ms. Woodman and S.D. Woodman 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 E only (Agreed Statement
of Facts)**

Dated 3 day of September, 2013

“Sharel Dianne Woodman” _____
Sharel Dianne Woodman

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

Dated 20th day of August, 2013

**Sharel Dianne Woodman on behalf of S.D.
Woodman Management Ltd.**

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

Dated 20th day of August, 2013