

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

**IN THE MATTER OF  
ROBERT STEVEN WHEELER**

**AND**

**ROBERT WHEELER PERSONAL REAL ESTATE CORPORATION**

**CONSENT ORDER**

RESPONDENTS:	Robert Steven Wheeler, Representative, Davin Management Ltd.  Robert Wheeler Personal Real Estate Corporation, Davin Management Ltd.
DATE OF REVIEW MEETING:	September 15, 2015
DATE OF CONSENT ORDER:	October 1, 2015
CONSENT ORDER REVIEW COMMITTEE:	H. Exner S. Ghose, Chair D. Peerless
ALSO PRESENT:	R.O. Fawcett, Executive Officer G. Thiele, Director, Legal Services J. Moore, Legal Counsel for the Real Estate Council
PROCEEDINGS:	

On September 15, 2015 the Consent Order Review Committee (the "Committee") resolved to accept the Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver ("ASF") submitted by Robert Steven Wheeler and Robert Wheeler Personal Real Estate Corporation.

**WHEREAS** the ASF, a copy of which is attached hereto, has been executed by Robert Steven Wheeler, Robert Wheeler Personal Real Estate Corporation 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 Robert Steven Wheeler and Robert Wheeler Personal Real Estate Corporation committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act*, orders that:

1. Robert Steven Wheeler and Robert Wheeler Personal Real Estate Corporation each be reprimanded;
2. Robert Steven Wheeler and Robert Wheeler Personal Real Estate Corporation be jointly and severally liable to pay a discipline penalty to the Council in the amount of \$2,500.00 within ninety (90) days of the date of this Order; and
3. Robert Steven Wheeler and Robert Wheeler Personal Real Estate Corporation be jointly and severally liable to pay enforcement expenses of this Consent Order to the Council in the amount \$1,250.00 within sixty (60) days from the date of this Order.

If Robert Steven Wheeler and Robert Wheeler Personal Real Estate Corporation fail to comply with any term of this Order, 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 1<sup>st</sup> day of October, 2015 at the City of Vancouver, British Columbia.

ON BEHALF OF THE CONSENT ORDER REVIEW COMMITTEE

"S. Ghose"

---

S. Ghose, Chair  
Consent Order Review Committee

Attch.

**File #12-410  
File # 13-183**

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

**IN THE MATTER OF**

**ROBERT STEVEN WHEELER  
(147607)**

**AND**

**ROBERT WHEELER PERSONAL REAL ESTATE CORPORATION  
(147607PC)**

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

---

The following agreement has been reached among Robert Steven Wheeler (“Mr. Wheeler”), Robert Wheeler Personal Real Estate Corporation, and the Real Estate Council of British Columbia (the “Council”).

- A. Mr. Wheeler and Robert Wheeler Personal Real Estate Corporation hereby consent to an Order to be made pursuant to sections 41 and 43 of the *Real Estate Services Act* (“RESA”) that they:
1. each be reprimanded;
  2. be jointly and severally liable to pay a discipline penalty to the Council in the amount of \$2,500.00 within ninety (90) days of the date of the Order herein; and
  3. 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.
- B. Mr. Wheeler and Robert Wheeler Personal Real Estate Corporation consent to an Order that if they fail to comply with any of the terms of the Order made out against them and set out above in paragraphs A, a Discipline Hearing Committee may suspend or cancel their licenses without further notice to them pursuant to section 43(3) and 43(4) of the RESA.
- C. As a basis for this Order, Mr. Wheeler and Robert Wheeler Personal Real Estate Corporation acknowledge and agree that the facts set forth herein are correct:

1. Mr. Wheeler was at all relevant times licensed as a representative with Davin Management Ltd.
2. Mr. Wheeler'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>
2009/03/12	Present	Davin Management Ltd. (X027150)	Representative	Rental, Strata
2005/12/30	2009/03/12	Davin Management Ltd. (X027150)	Representative	Strata

Robert Wheeler Personal Real Estate Corporation  
Licensing History

<u>Start Date</u>	<u>End Date</u>	<u>Licensing History</u>	<u>Licence Level</u>	<u>Licence Category</u>
2011/12/30	Present	Robert Wheeler Personal Real Estate Corporation (147607PC)	Personal Real Estate Corporation	Rental, Strata

3. Wheeler and Robert Wheeler Personal Real Estate Corporation do not have a previous discipline history with the Council.

**D. File #12-410 - Facts**

1. In November 2010, Mr. Wheeler was contacted by Mr. H. of H. Homes - the owner-developer of a strata development ("BCSXXXX") - and asked to prepare a budget, and provide strata management services for the strata corporation once it became registered.
2. Mr. Wheeler stated to Council that he provided Mr. H. with a written service agreement and asked that it be executed and returned to him. Sometime later he realized that he had not received the service agreement back from Mr. H., so he sent another copy to him.
2. Mr. Wheeler contacted Mr. H. several times thereafter to remind him to send the services agreement back to the brokerage. Having worked with Mr. H. previously, he was confident he would receive it.

3. In April 2011, acting on the instructions of Mr. H., Davin Management entered into landscaping, garbage removal, and insurance contracts on behalf of BCSXXXX.
4. In June 2011 Davin Management began providing strata management services for BCSXXXX.
5. Mr. Wheeler was the strata property manager and communicated regularly with Mr. H. to obtain instructions.
6. In February 2012, the newly elected president of BCSXXXX's strata council requested a copy of the services agreement. Mr. Wheeler provided him with a copy of a services agreement that had been signed by Mr. Wheeler on behalf of Davin Management, but not by Mr. H.
7. On February 27, 2012, Davin Management served notice to the strata council that, effective March 31, 2012, it was terminating its property management services to BCSXXXX.
8. In April 2012, BCSXXXX hired another brokerage to provide it with strata management services. The brokerage requested a copy of the services agreement Davin Management had entered into with BCSXXXX. The brokerage was provided with the same services agreement previously provided to the president of the strata council.
9. Mr. Wheeler stated that Davin Management had previously worked with Mr. H. on 12 other strata developments. The brokerage had always acted under proper authority, and there had never been any problems.
10. Mr. Wheeler acknowledged however, that neither he nor Davin Management received an executed service agreement from Mr. H., and the only copy of a services agreement the brokerage had on file was the one that he had signed and sent to Mr. H.
11. Mr. Wheeler acknowledged that he should have ensured that Davin Management had an executed written service agreement before it entered into contracts on behalf of, or provided any property management services for, BCSXXXX.
12. Mr. Wheeler stated that not obtaining an executed written services agreement from BCSXXXX was the result of an oversight.

**E. File #13-183 - Facts**

1. In August 1998, Davin Management Ltd. (“Davin Management”) entered into an agreement with the Owners, Strata Plan LMS XXXX (the “Strata Corporation”) to provide strata management services.
2. From April 2012 onwards, Mr. Wheeler was employed as a representative of Davin Management and was responsible for providing strata management services to 14XXX - 100<sup>th</sup> Avenue, Surrey, B.C. on behalf of the Strata Corporation.
3. On September 6, 2012, the Strata Corporation passed a Special Resolution to terminate the strata management services agreement with Davin Management.
4. On September 10, 2012, the Strata Corporation provided Davin Management with 90 days’ notice of termination of services. The Strata Corporation advised Davin Management that during the notice period, full service was expected from Davin Management until December 31, 2012. However, an immediate separation of strata management services from Davin Management was requested.
5. On September 10, 2012, the Strata Corporation hired Premier Strata Services to take over strata management services for Davin Management.
6. After receiving notice of termination of services, Davin Management continued to operate Westminster Savings Account #XXXXXXXXXX (the “Savings Account”) on behalf of the Strata Corporation.
7. On October 1, 2012, Mr. Wheeler withdrew three months of strata management fees from the Savings Account without first obtaining the written consent of the Strata Corporation that the fees could be withdrawn from the Savings Account.

**F. File 12-410 Proposed Acceptance of Findings and Waiver**

1. Based on the Agreed Statement of Facts as outlined herein, and without making any admissions of liability, Robert Steven Wheeler and Robert Wheeler Personal Real Estate Corporation are prepared to accept the following findings if made against them by the Council’s Consent Order Review Committee:
  - (a) Robert Steven Wheeler and Robert Wheeler Personal Real Estate Corporation committed professional misconduct within the meaning of section 35(1)(a) of the RESA in that:

- 
- (i) in his capacity as strata manager, he failed to act with reasonable care and skill, and ensure that a written strata management agreement had been executed by the brokerage and BCSXXXX, before providing strata management services to, and entering into contracts for landscaping, insurance and garbage removal, on behalf of, BCSXXXX, contrary to sections 3-4, 5-1, and 5-3 of the Council Rules.

**G. File 13-183 Proposed Acceptance of Findings and Waiver**

1. Based on the Agreed Statement of Facts as outlined herein, and without making any admissions of liability, Robert Steven Wheeler and Robert Wheeler Personal Real Estate Corporation are prepared to accept the following findings if made against them by the Council's Consent Order Review Committee in relation to a strata management service agreement between Davin Management and the Strata Corporation in that:
  - (a) Robert Steven Wheeler and Robert Wheeler Personal Real Estate Corporation committed professional misconduct within the meaning of section 35(1)(a) of the RESA in that:
    - (i) in contravention of section 27(1)(a) of the RESA, he failed to promptly deliver and deposit to the Strata Corporation operating account \$195.00 cash received from the Strata Corporation on May 24, 2014; and
    - (ii) in contravention of section 3-3(b) of Council's Rules, he failed to provide confirmation or respond to the request for confirmation of the deposit of \$195.00 cash received on May 24, 2012.
2. Mr. Wheeler and Robert Wheeler Personal Real Estate Corporation hereby waive their right to appeal pursuant to section 54 of the RESA.
3. Mr. Wheeler and Robert Wheeler Personal Real Estate Corporation 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. Wheeler and Robert Wheeler Personal Real Estate Corporation 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. Mr. Wheeler and Robert Wheeler Personal Real Estate Corporation acknowledge and are 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.

"Janice L. Moore"

**Janice L. Moore, Legal Counsel  
Real Estate Council of British  
Columbia**

**As to Part C, D and E only (Agreed  
Statement of Facts)**

**Dated 9 day of September, 2015**

"Robert Steven Wheeler"

**Robert Steven Wheeler on his behalf  
and on behalf of Robert Wheeler  
Personal Real Estate Corporation**

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

**Dated 8 day of September, 2015**