

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

**IN THE MATTER OF**

**LINDA ANN TAPHORN**

**GERALD (GERRY) FRANKLIN BLANCHARD**

**AND**

**CROSSROADS MANAGEMENT LTD.**

**CONSENT ORDER**

RESPONDENTS:	Linda Ann Taphorn, Representative, Crossroads Management Ltd.  Gerald (Gerry) Franklin Blanchard, Managing Broker, Crossroads Management Ltd.  Crossroads Management Ltd., Brokerage
DATE OF REVIEW MEETING:	October 20, 2015
DATE OF CONSENT ORDER:	November 6, 2015
CONSENT ORDER REVIEW COMMITTEE:	H. Exner S. Ghose, Chair S. Lynch
ALSO PRESENT:	G. Thiele, Director, Legal Services J. Gossen, Legal Counsel for the Real Estate Council
PROCEEDINGS:	

On October 20, 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 Linda Ann Taphorn, Gerald (Gerry) Franklin Blanchard and Crossroads Management Ltd.

**WHEREAS** the ASF, a copy of which is attached hereto, has been executed by Linda Ann Taphorn, Gerald (Gerry) Franklin Blanchard, Crossroads Management Ltd. 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 Linda Ann Taphorn, Gerald (Gerry) Franklin Blanchard and Crossroads Management Ltd. committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act*, orders that:

1. Linda Ann Taphorn be reprimanded, 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, at her own expense register for and successfully complete the Strata Management Remedial Education Course in the time period as directed by the Council;
2. Gerald (Gerry) Franklin Blanchard be reprimanded and pay a discipline penalty to the Council in the amount of \$2,000.00 within ninety (90) days of the date of this Order;
3. Crossroads Management Ltd. be reprimanded; and
4. Linda Ann Taphorn, Gerald (Gerry) Franklin Blanchard and Crossroads Management Ltd. 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 Linda Ann Taphorn, Gerald (Gerry) Franklin Blanchard and Crossroads Management Ltd. 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 6<sup>th</sup> day of November, 2015 at the City of Vancouver, British Columbia.

ON BEHALF OF THE CONSENT ORDER REVIEW COMMITTEE

“S.Ghose”

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S. Ghose, Chair  
Consent Order Review Committee

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**IN THE MATTER OF THE REAL ESTATE SERVICES ACT**

**S.B.C. 2004, c. 42**

**IN THE MATTER OF**

**LINDA ANN TAPHORN**

**(147249)**

**GERALD (GERRY) FRANKLIN BLANCHARD**

**AND**

**CROSSROADS MANAGEMENT LTD.**

**(X029040)**

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

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The following agreement has been reached between Linda Ann Taphorn, (“Ms. Taphorn”), Gerald (Gerry) Franklin Blanchard (“Mr. Blanchard”), Crossroads Management Ltd. (the “Brokerage”) and the Real Estate Council of British Columbia (the “Council”).

- A. Ms. Taphorn hereby consents to an Order to be made pursuant to sections 41 and 43 of the *Real Estate Services Act* that she be reprimanded, pay a discipline penalty in the amount of \$2,500.00 within ninety (90) days of the date of the Order; and that she, at her own expense, register for and 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.
- B. Mr. Blanchard hereby consents to an Order to be made pursuant to sections 41 and 43 of the *Real Estate Services Act* that he be reprimanded, and pay a discipline penalty to the Council in the amount of \$2,000.00 within ninety (90) days of the date of this Order
- C. The Brokerage hereby consents to an Order to be made pursuant to sections 41 and 43 of the *Real Estate Services Act* that it be reprimanded.
- D. Ms. Taphorn, Mr. Blanchard and the Brokerage each 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.

E. Ms. Taphorn, Mr. Blanchard and the Brokerage each 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*.

F. As a basis for this Order, each of Ms. Taphorn, Mr. Blanchard and the Brokerage acknowledge and agree that the facts set forth herein are correct:

1. Ms. Taphorn was at all relevant times licensed as a representative with Crossroads Management Ltd.

2. Ms. Taphorn'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>
15/11/2011	Present	Crossroads Management Ltd.(X029040)	Representative	Strata
13/05/2010	15/11/2011	.Crossroads Management Ltd. (Sur) (X029654)	Representative	Strata
01/12/2009	13/05/2010	Croft Agencies Ltd. (X028969)	Representative	Strata
28/04/2009	30/11/2009	*** Unlicensed ***		
22/11/2005	27/04/2009	FirstService Residential BC Ltd. (X000867)	Representative	Strata

3. Mr. Blanchard was at all relevant times licensed as a managing broker with the Brokerage.

4. Mr. Blanchard'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>
08/07/2009	Present	.Crossroads Management Ltd. (X029040)	Managing Broker	Rental, Strata

25/09/2008	08/07/2009	.Crossroads Management Ltd. (X029040)	Representative	Rental, Strata
23/12/2005	25/09/2008	Davin Management Ltd. (X027150)	Representative	Rental, Strata
28/11/2001	23/12/2005	Davin Management Ltd. (X027150)	Representative	Rental
19/11/2001	27/11/2001	*** Unlicensed ***		
19/11/1997	18/11/2001	Baywest Management Corporation (X017722)	Representative	Rental

Secondary Licensing History

28/04/2010	27/04/2012	Crossroads Management Ltd. (X029654)	Managing Broker	Rental, Strata
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5. Crossroads 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>
03/09/2012	Present	(X029040)	Brokerage	Rental, Strata
03/09/2008	02/09/2012	(X029040)	Brokerage	Trading, Rental, Strata

**Introduction**

6. The Brokerage began managing a strata located in New Westminister, BC (the “Strata”) and Ms. Taphorn was assigned as the strata manager on or about June 13, 2012.
7. The Strata was experiencing difficulty transitioning/implementing into sections, the Residential Section and the Commercial Section, and had

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consulted legal counsel to assist with amending the bylaws so they properly reflected the legal status of the building.

8. The previous strata manager assisted the Strata with the transition to sections, and arranged to separate the expenses of each of the sections and arranged for the Brokerage to enter into separate written services agreements with each of the strata corporation and the sections.
9. The Brokerage also entered into a Limited Dual Agency Agreement with the strata corporation and each of the sections. The Limited Dual Agency provided that the Brokerage owed each client a duty of undivided loyalty, and would not favour one section's interests over another. The agreement provided that no information received from one of the sections could be treated as confidential from the others. In the event of a conflict, the agreement provided that the Brokerage would cease to act in that matter, but would continue to represent the parties on all other matters.

### **The Special General Meeting**

10. The Residential Section required re-piping to address leaks that were occurring in the building but was not required in the other sections. On November 8, 2012 a Notice of a Special General Meeting ("SGM") for the Strata and a SGM Notice for the Residential Section were mailed out to all strata lot owners. The meeting was scheduled for November 29, 2012, and the agenda included a  $\frac{3}{4}$  vote resolution to amend the bylaws of the Strata and a  $\frac{3}{4}$  vote resolution seeking approval for the Residential Section to borrow funds for the necessary re-piping.
11. The meeting was held on November 29, 2012. At the meeting, a revised Notice of Meeting was distributed to attendees amending the  $\frac{3}{4}$  vote resolutions in respect of the re-piping project to include the Strata Corporation. The revised Notice of Meeting provided that the Strata Corporation and the Residential Section approve the borrowing of funds. The resolutions passed resulting in a special levy being assessed against the owners of the Strata Corporation and Section 1 (the "Special Levy").
12. Ms. Taphorn stated that prior to the opening of the meeting she advised, BC, the strata council president at the time, that the Commercial Section had not been given proper notice that the loan would be that of the Strata Corporation and not the Residential Section. She stated that she advised

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that the new resolution was a material change from the original and the Commercial Section would be affected by the revisions set out in the  $\frac{3}{4}$  vote resolution respecting the re-piping. In addition the minutes of the meeting indicate that after the meeting, wording was added to the resolution to allow for owners to prepay their portion of the special assessment by a certain date and thereby avoid interest costs.

13. On December 14, 2012, the Commercial Section executive held a meeting and instructed Ms. Taphorn to write to the Strata and advise that the Residential Section cannot alone authorize the Strata Corporation to borrow money.
14. BC disagreed with Ms. Taphorn's assessment and stated that the November 29<sup>th</sup> meeting was properly held, and the resolution in respect of the re-piping and Special Levy were properly passed. The Special Levy provided that those owners who pre-paid their Special Levy by January 31, 2013 would not incur interest.
15. Minutes of the meeting were distributed and owners began forwarding Special Levy funds to the Brokerage.
16. On December 31, 2012 the Strata provided the Brokerage with sixty (60) days notice of termination of the written services agreement. Mr. Blanchard advised BC that the files for the Residential Section could be picked up on March 1, 2013.

#### **Special Levy Funds**

17. In January 2013, Ms. Taphorn, without authorization from the Strata, advised BC that she was informing individual owners that the SGM was being disputed by the Commercial Section. She also advised individual owners that the Brokerage had legal advice stating that until another SGM was called it was best to not deposit any funds received, until the  $\frac{3}{4}$  vote resolution was ratified. The Brokerage did not deposit any of the Special Levy Funds it received.
18. On January 18, 2013 a notice for a SGM was distributed for a meeting in February. The strata president, BC, instructed Ms. Taphorn to not attend that meeting. However, she did attend at the request of some of the owners.

19. BC advised Mr. Blanchard that Ms. Taphorn was acting contrary to instructions by attending the meeting, and instructed him to deposit any special levy funds forwarded to the Brokerage as a result of the Special Levy. BC also requested a copy of any legal opinion obtained by the Brokerage in respect of the Special General Meeting.
20. The Brokerage did not provide a copy of the legal opinion to the Strata. Ms. Taphorn advised BC that the legal opinion was verbal, and was provided to the Brokerage. She suggested that the Strata Council could obtain their own legal opinion for a fee.
21. On January 23, 2012, Mr. Blanchard contacted the Council to seek advice regarding the Special Levy funds that were provided to the Brokerage. Mr. Blanchard noted that he was expecting the SGM to be reversed. Council staff advised Mr. Blanchard to deposit the funds into a trust account as directed by the Strata Council. On February 6, 2012, in a follow-up call from the Council, Mr. Blanchard confirmed that the funds had been deposited.
22. On January 24, 2012 Mr. Blanchard received a letter from a lawyer representing the Residential Section, requiring that all Special Levy funds collected be deposited into trust for the Strata Corporation.
23. On February 7, 2012, a SGM was held. BC again requested that Ms. Taphorn not attend; however she did attend based on the request of some of the owners. At this SGM new strata council members were elected.
24. On February 8, 2012, the new strata council held its first meeting where it unanimously agreed to rescind the termination notice given to the Brokerage.

**Privacy**

25. In February 2013, Ms. Taphorn responded to requests from certain owners that they be provided with strata corporation records. Ms. Taphorn provided such records, including providing copies of the Residential Section financial statements to the Commercial Section, without the Residential section direction or approval.

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26. Ms. Taphorn states that she understood that she was authorized to provide those documents under Section 36 of the *Strata Property Act*, and understood that the Strata Council could not direct her otherwise.

**Monthly Financial Statements**

27. Neither the Brokerage, nor Mr. Blanchard, provided the Strata Council with monthly financial statements from January 2012 to May 2012 despite requests made by the Strata Council.

**Discipline History**

28. Neither Ms. Taphorn, Mr. Blanchard or the Brokerage has any previous discipline history with the Council.

**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, Linda Ann Taphorn, Gerald (Gerry) Franklin Blanchard and the Brokerage are prepared to accept the following findings if made against them by the Council's Consent Order Review Committee:
- (a) Linda Ann Taphorn committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that she:
    - (i) contrary to sections 3-4 and 3-3(1)(b) of the Council Rules, failed to act with reasonable care and skill and failed to act in accordance with the lawful instructions of the strata; in that she advised the brokerage to not deposit the Special Levy Funds received from individual owners of the Strata, into a brokerage trust account, despite being instructed to do so by the Strata Council and as required by section 27(1) of the *Real Estate Services Act*; and
    - (ii) contrary to sections 3-4, 3-3(1)(c) and 3-3(1)(e) of the Council Rules failed to act with reasonable care and skill, acted outside the scope of her authority authorized by the Strata Council and failed to maintain the confidentiality of client information, by providing confidential client information to individual owners without the authorization of the Strata Council and by attending Special General Meetings when specifically directed to not attend by the Strata Council.

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- (b) Gerald (Gerry) Franklin Blanchard committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that he:
- (i) failed to meet his obligations as a managing broker within the meaning of section 6(2)(c) of the *Real Estate Services Act* and sections 3-1(1) and 3-1(3) of the Council Rules in that he:
    - (A) contrary to section 27(2) of the *Real Estate Services Act* and section 3-3(1)(b) of the Council Rules, failed to cause the brokerage to promptly pay into a brokerage trust account all money held or received from, for or on behalf of a principal in relation to real estate services by failing to deposit special levy funds received from owners of the strata into a brokerage trust account despite being instructed to do so by the Strata Council;
    - (B) contrary to section 7-9(7)(b) of the Council Rules, failed to ensure the brokerage provided to the Strata Council monthly financial statements and reconciliations, respecting the strata trust accounts no later than 6 weeks after the end of the month for which a statement was issued for the months of January 2012 to April 2012; and
    - (C) failed to ensure there was an adequate level of supervision over a Linda Taphorn, a representative with the brokerage, in that she failed to act with reasonable care and skill, acted outside the scope of authority authorized by the Strata Council, and failed to maintain the confidentiality of client information, by providing confidential client information respecting individual owners to other individual owners, without the authorization of the Strata Council and by attending Special General Meetings when specifically directed to not attend by the Strata Council.
- (c) Crossroads Management Ltd. committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that it:
- (i) contrary to section 27(2) of the *Real Estate Services Act*, failed to promptly pay into a brokerage trust account all money held or received from, for or on behalf of a principal in relation to real estate services, by failing to deposit special levy funds, as approved at the November 29, 2012 Special General Meeting of

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the strata corporation received from owners of the strata corporation, into a brokerage trust account despite being instructed to do so by the Strata Council, contrary to section 3-3(1)(b) of the Council Rules; and

- (ii) contrary to section 7-9(7)(b) of the Council Rules, failed to provide to the Strata Council, monthly financial statements and reconciliations for each strata trust account no later than 6 weeks after the end of the month for which a statement was issued, for the months of January 2012 to April 2012.
2. Ms. Taphorn, Mr. Blanchard and the Brokerage each hereby waive their right to appeal pursuant to section 54 of the *Real Estate Services Act*.
  3. Ms. Taphorn, Mr. Blanchard and the Brokerage each 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. Taphorn, Mr. Blanchard and the Brokerage each 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. Taphorn, Mr. Blanchard and the Brokerage each 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.

This Agreed Statement of Facts and Proposed Acceptance of Findings may be signed in counter parts.

“Jessica Gossen”

“Linda Taphorn”

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**Jessica Gossen, Legal Counsel  
Real Estate Council of British Columbia**

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**Linda Ann Taphorn**

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

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

**Dated 5<sup>th</sup> day of October, 2015**

**Waiver)**

**Dated 29<sup>th</sup> day of September, 2015**

**“Gerald Blanchard”**

**Gerald (Gerry) Franklin Blanchard**

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

**Dated 29<sup>th</sup> day of September, 2015**

**“Gerald Blanchard”**

**Gerald (Gerry) Franklin Blanchard, on behalf of Crossroads Management Ltd.**

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

**Dated 29<sup>th</sup> day of September, 2015**