

**THE REAL ESTATE COUNCIL OF BRITISH COLUMBIA**  
**IN THE MATTER OF THE *REAL ESTATE SERVICES ACT***  
**SBC 2004, c 42 as amended**

**AND**

**IN THE MATTER OF**

**LAWRENCE SAMUEL JOHN ENGELSMAN**  
**(166725)**

**CONSENT ORDER**

RESPONDENT: Lawrence Samuel John Engelsman,  
Representative, 0808509 B.C. Ltd. dba Sutton -  
Showplace Realty (2015) fka Landmark Realty  
Chilliwack Ltd.

DATE OF REVIEW MEETING: May 29, 2019

DATE OF CONSENT ORDER: May 29, 2019

CONSENT ORDER REVIEW COMMITTEE: Sandra Heath  
Yasin Amlani  
Magdaline (Maggie) Chan

ALSO PRESENT: D. Avren, Director, Legal Services  
D. Mcknight, Legal Counsel for  
the Real Estate Council

**PROCEEDINGS:**

On May 29, 2019, the Consent Order Review Committee ("CORC") resolved to accept the Consent Order Proposal (the "Proposal") submitted by Lawrence Samuel John Engelsman.

**WHEREAS** the Proposal, a copy of which is attached hereto, has been executed by Lawrence Samuel John Engelsman.

**NOW THEREFORE**, the CORC having made the findings proposed in the attached Proposal, and found that Lawrence Samuel John Engelsman committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act*, orders that:

1. Lawrence Samuel John Engelsman be reprimanded;

2. Lawrence Samuel John Engelsman pay a discipline penalty to the Council in the amount of \$5,000 within ninety (90) days from the date of this Order;
3. Lawrence Samuel John Engelsman, at his own expense, register for and successfully complete the Real Estate Trading Services Remedial Education Course, as provided by Sauder School of Business at the University of British Columbia in the time period as directed by the Council; and
4. Lawrence Samuel John Engelsman pay enforcement expenses to the Council in the amount of \$1,500 within sixty (60) days from the date of this Order.

If Lawrence Samuel John Engelsman fails to comply with any term of this Order, 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 29th day of May, 2019, at the City of Vancouver, British Columbia.

ON BEHALF OF THE CONSENT ORDER REVIEW COMMITTEE

"S. Heath"

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Sandra Heath  
Consent Order Review Committee

Attch.

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

**AND**

**IN THE MATTER OF**

**LAWRENCE SAMUEL JOHN ENGELSMAN  
(166725)**

**CONSENT ORDER PROPOSAL BY LAWRENCE SAMUEL JOHN ENGELSMAN**

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**BACKGROUND AND FACTS**

This Consent Order Proposal (the "Proposal") is made by Lawrence Samuel John Engelsman ("Mr. Engelsman") to the Consent Order Review Committee ("CORC") of the Real Estate Council of British Columbia (the "Council") pursuant to section 41 of the *Real Estate Services Act* ("RESA").

For the purposes of the Proposal, Mr. Engelsman and the Council have agreed upon the following facts:

1. Mr. Engelsman has been licensed as a real estate trading representative since 2013.
2. Mr. Engelsman was at all relevant times licensed as a representative with 0808509 B.C. Ltd doing business as Sutton - Showplace Realty (2015). Sutton - Showplace Realty (2015) was formerly known as Landmark Realty Chilliwack Ltd, ("Landmark").
3. At all material times, Jake Siemens ("Mr. Siemens") was the managing broker with Landmark.
4. On or around May 28, 2014, the complainant, "S.M.", purchased a property located XXXX Humphrey Road, Agassiz, B.C. (the "Property") with Mr. Engelsman acting as her agent. The purchase price for the Property was \$220,000.
5. In August of 2014, S.M. contracted with a construction company (the "Construction Company") to build a house on the Property.
6. In early October 2014, S.M. began to run low on funds and did not have sufficient funds to finish the construction and decided to list the Property for sale for the amount of \$389,000.
7. On October 15, 2014, S.M. entered into a Multiple Listing Contract with Mr. Engelsman acting as her designated agent to sell the Property.
8. On the same date, Mr. Engelsman and Mr. Siemens inspected the Property. Mr. Siemens recommended to Mr. Engelsman that Mr. Engelsman loan funds to S.M. to finish construction of the Property.

9. Mr. Engelsman says that Mr. Siemens told him that based on his experience as a realtor and contractor, M.S. would net substantially more money selling a house with final occupancy versus a home that was 80-85% finished.
10. Mr. Engelsman subsequently decided to loan S.M. the remaining construction funds (the "Loan") in exchange for S.M. agreeing to sign a promissory note for \$55,000 plus interest. The Loan was to be registered as a second mortgage against the Property and would be repaid to Mr. Engelsman from the proceeds of the sale of the Property.
11. Mr. Engelsman says that Mr. Siemens did not advise him that the Loan may place him in a potential conflict of interest with S.M., and did not advise him as to how to document the Loan or to ensure that S.M. received independent legal advice regarding the Loan.
12. At no time did Mr. Engelsman advise S.M. that the Loan represented a potential conflict of interest between himself and S.M. and Mr. Engelsman did not advise S.M. to seek independent legal advice with respect to the Loan.
13. However, Mr. Engelsman instructed his lawyer to draft the Loan documents and forward the documents to XXXX and Co. who he understood was S.M.'s legal counsel. Mr. Engelsman says that S.M. told him to send the Loan documents to XXXX and Co. and he assumed that S.M. would review the Loan documents with her lawyer.
14. On or around October 17, 2014, Mr. Engelsman made an appointment to meet S.M. to give her the Multiple Listing Contract however S.M. did not show up at the meeting so Mr. Engelsman says he left the documents at her residence in the possession of her mother.
15. On or around October 17, 2014, Mr. Engelsman paid the Construction Company's outstanding invoice of \$14,200.89 on behalf of S.M.
16. On or around October 21, 2014, Mr. Engelsman's lawyer drafted a promissory note for S.M.'s execution.
17. On or around October 27, 2014, Mr. Engelsman paid the Construction Company's invoice of \$19,663.13 on behalf of S.M.
18. S.M. subsequently refused to sign the promissory note and terminated her relationship with Mr. Engelsman without selling the Property.
19. The Construction Company issued two further invoices to Mr. Engelsman; however, these invoices were not paid.
20. On December 23, 2014, the Construction Company put a lien on the Property for the amount of the outstanding invoices.
21. On January 9, 2015, Mr. Engelsman commenced a Supreme Court action against S.M. for \$33,864.02 plus interest in an effort to collect the amounts he paid to the Construction Company, which was subsequently settled.

22. On February 23, 2015, Mr. Engelsman commenced a Small Claims action in the amount of \$16,689.50 against S.M. in relation to lost commission pursuant to the Multiple Listing Contract; however, Mr. Engelsman subsequently withdrew the claim.
23. In her complaint to Council dated February 8, 2016, S.M. did not directly take issue with the Loan made by Mr. Engelsman. Instead, her complaint focused on other issues such as not being provided with a copy of the Multiple Listing Contract in a timely manner when she requested it.
24. A Notice of Disciplinary Hearing was issued on April 2, 2019 and served on Mr. Engelsman.
25. Mr. Engelsman has no prior discipline history with the Council.

#### **PROPOSED FINDINGS OF MISCONDUCT**

For the sole purposes of the Proposal and based on the Facts outlined herein, Mr. Engelsman proposes the following findings of misconduct be made by the CORC:

1. Mr. Engelsman committed professional misconduct within the meaning of section 35(1)(a) of the RESA in that when in his capacity as the listing agent for the seller, S.M., in the sale of the Property in 2014, he:
  - a. entered into the Loan agreement with S.M. so that she could complete construction on the Property, but failed to:
    - i. document the terms of the Loan;
    - ii. to discuss with S.M. the potential for a conflict of interest, in that Mr. Engelsman would be deriving a benefit by way of interest payable on the Loan and commission payable on the sale of the Property; and
    - iii. advise S.M. to seek independent legal advice with respect to the Loan, the promissory note and second mortgage that was to be registered against the Property, contrary to sections 3-3(a) [act in the best interest of the client], 3-3(d) [advise client to seek independent professional advice on matters outside expertise], 3-3(i) [take reasonable steps to avoid a conflict of interest], 3-3(j) [fully disclose the conflict to the client] and 3-4 [act with reasonable care and skill] of the Rules; and
  - b. failed to provide a copy of the executed Multiple Listing Contract directly to S.M., contrary to section 5-2 [delivery of written agreements] of the Rules.

#### **PROPOSED ORDERS**

Based on the Facts herein and the Proposed Findings of Misconduct, Mr. Engelsman proposes that the Notice of Discipline Hearing in this matter be resolved through the following Orders being made by the CORC, pursuant to section 43 of the RESA:

1. Mr. Engelsman be reprimanded.

2. Mr. Engelsman pay a discipline penalty to the Council in the amount of \$5,000.00 within ninety (90) days of the date of the Order,
3. Mr. Engelsman, at his own expense, register for and successfully complete the Real Estate 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 directed by the Council.
4. Mr. Engelsman pay enforcement expenses in the amount of \$1,500 within sixty (60) days from the date of the Consent Order.
5. If Mr. Engelsman fails to comply with any of the terms of the Order, the Council may suspend or cancel his license without further notice to him.

**ACKNOWLEDGEMENTS AND WAIVER OF APPEAL RIGHT**

1. Mr. Engelsman acknowledges and understands that the Council may refer or decline to refer the Proposal to the CORC. If the Proposal is referred to the CORC, it may be accepted or rejected by the CORC. If the Proposal is rejected by the CORC, the matter may be referred to a disciplinary hearing.
2. Mr. Engelsman acknowledges he has been urged and given the opportunity to seek and obtain independent legal advice with respect to the disciplinary process, the allegations contained in the Notice of Discipline Hearing, and the execution and submission of the Proposal to the CORC; and that he has obtained independent legal advice or has chosen not to do so, and that he is making the. Proposal with full knowledge of the contents and the consequences if the Proposal is accepted.
3. Mr. Engelsman acknowledges and is aware that the Council will publish the Proposal and the Consent Order or summaries thereof in its Report from the Council newsletter, on the Council's website, on CanLII, a website for legal research and in such other places and by such other means as the Council in its sole discretion deems appropriate.
4. Mr. Engelsman acknowledges and is 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 any Consent Order made by the Council in relation to this matter.
5. Mr. Engelsman hereby waives his right to appeal pursuant to section 54 of the RESA.

6. The Proposal and its contents are made by Mr. Engelsman for the sole purpose of resolving the Notice of Discipline Hearing in this matter and do not constitute an admission of civil liability. Pursuant to section 41(5) of the RESA, the Proposal and its contents may not be used without the consent of Mr. Engelsman in any civil proceeding with respect to the matter.

“L. S. J. Engelsman”

**Lawrence Samuel John Engelsman**

**Dated 21<sup>st</sup> day of May, 2019**