

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

**IN THE MATTER OF
LORRAINE SUSAN FUGLE**

AND

ADVANCED PROPERTY MANAGEMENT INC.

CONSENT ORDER

RESPONDENTS: Lorraine Susan Fugle, Managing
Broker, Advanced Property
Management Inc.

Advanced Property Management Inc.,
Brokerage

DATE OF REVIEW MEETING: December 7, 2015

DATE OF CONSENT ORDER: December 11, 2015

CONSENT ORDER REVIEW COMMITTEE: C. Lindberg
S. Lynch, Chair
C. Squires

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

PROCEEDINGS:

On December 7, 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 Lorraine Susan Fugle and Advanced Property Management Inc.

WHEREAS the ASF, a copy of which is attached hereto, has been executed by Lorraine Susan Fugle, Advanced Property Management Inc. and on behalf of the Council;

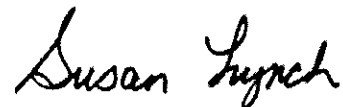
NOW THEREFORE, the Committee having made the findings proposed in the attached ASF, and in particular having found that Lorraine Susan Fugle and Advanced Property Management Inc. committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act*, orders that:

1. Lorraine Susan Fugle be reprimanded;
2. Advanced Property Management Inc. be reprimanded;
3. Lorraine Susan Fugle and Advanced Property Management Inc. 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
4. Lorraine Susan Fugle and Advanced Property Management Inc. be jointly and severally liable to pay enforcement expenses of this Consent Order to the Council in the amount \$1,500.00 within sixty (60) days from the date of this Order.

If Lorraine Susan Fugle and Advanced Property Management Inc. 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 11th day of December, 2015 at the City of Vancouver, British Columbia.

ON BEHALF OF THE CONSENT ORDER REVIEW COMMITTEE



S. Lynch, Chair
Consent Order Review Committee

Attch.

IN THE MATTER OF THE REAL ESTATE SERVICES ACT

S.B.C. 2004, c. 42

IN THE MATTER OF

LORRAINE SUSAN FUGLE (#153362)

AND

ADVANCED PROPERTY MANAGEMENT INC. (X028799)

AGREED STATEMENT OF FACTS,
PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

The following agreement has been reached among Lorraine Susan Fugle ("Ms. Fugle"), Advanced Property Management Inc. ("Advanced") and the Real Estate Council of British Columbia (the "Council").

- A. Ms. Fugle hereby consents to an Order to be made pursuant to sections 41 and 43 of the *Real Estate Services Act* (the "Act") that she be reprimanded and that she pay, jointly and severally with Advanced, a discipline penalty to the Council in the amount of \$2,500 within ninety (90) days of the date of the Order herein. Further, she agrees to pay, jointly and severally with Advanced, enforcement expenses of this Consent Order to the Council in the amount of \$1,500 within sixty (60) days from the date of the Order herein. Ms. Fugle further consents to an Order that if she fails to comply with any of the terms of the Order set out above, a Discipline Hearing Committee may suspend or cancel her licence without further notice to her pursuant to sections 43(3) and 43(4) of the Act.
- B. Advanced hereby consents to an Order to be made pursuant to sections 41 and 43 of the *Real Estate Services Act* (the "Act") that it be reprimanded and that it pay, jointly and severally with Ms. Fugle, a discipline penalty to the Council in the amount of \$2,500 within ninety (90) days of the date of the Order herein. Further, it agrees to pay, jointly and severally with Ms. Fugle, enforcement expenses of this Consent Order to the Council in the amount of \$1,500 within sixty (60) days from the date of the Order herein. Advanced further consents to an Order that if it fails to comply with any of the terms of the Order set out above, a Discipline Hearing Committee may suspend or cancel its licence without further notice to it pursuant to sections 43(3) and 43(4) of the Act.
- C. As a basis for this Order, Ms. Fugle and Advanced acknowledge and agree that the facts set forth herein are correct:
1. Ms. Fugle was at all relevant times licensed as the managing broker of Advanced.

2. Ms. Fugle's licensing history is as follows:

Start Date	End Date	Brokerage	Licence Level	Licence Category
21/12/2009	Present	Advanced Property Management Inc.	Managing Broker	Rental, Strata
27/11/2009	21/12/2009	Advanced Property Management Inc.	Managing Broker	Rental
27/11/2007	26/11/2009	Advanced Property Management Inc.	Representative	Rental

3. On February 25, 2015 compliance staff of Council ("Council Staff") conducted an Office and Records Inspection (the "Inspection") of the rental management and strata management operations of Advanced as a result of a report of unlicensed activity. The contraventions set out in paragraphs 4 through 11 of this Part B of this Agreed Statement of Facts were noted during the course of the Inspection.
4. The Advanced website, as of February 19, 2015, stated that TM was an employee of Advanced when in fact her license had been transferred to another brokerage on January 15, 2015.
5. The Advanced website, as of February 19, 2015, stated that MM, AB, and AF were "currently preparing to write the examination for property management", when in fact this was not true.
6. The Inspection disclosed that:
- (a) AB, an unlicensed assistant, signed a "Move-In Inspection Report" on May 24, 2013, for rental property located at 1XX2 H Avenue; and
 - (b) LA, an unlicensed assistant, signed a "Move-In Inspection Report" on November 25, 2013, for rental property located at #01-XX8 B Road.
7. The rental management and strata management service agreements did not include a description of the records that are to be kept by a brokerage on behalf of the client.

8. Ms. Fugle stated to the Council Staff that the signatories on the Advanced trust accounts are Ms. Fugle, MM and LA. MM and LA are unlicensed assistants of Advanced.
9. The Council Staff noted that the monthly contingency transfer of \$750 for EPS6X was not made from the operating trust account to the contingency trust account within seven days following the end of the month of September 2014.

D. Proposed Acceptance of Findings and Waiver

1. Based on the Agreed Statement of Facts as outlined herein, and without making any admissions of liability, Ms. Fugle is prepared to accept the following findings if made against her by the Council's Consent Order Review Committee:
 - (a) That Ms. Fugle committed professional misconduct within the meaning of section 35(1)(a) of the Act in that with respect to the provision of certain rental property management services and certain strata management services as identified in the Inspection and as subsequently confirmed by a letter to Ms. Fugle from Council dated March 2, 2015:
 - (i) contrary to section 3-4 of the Council Rules and section 4-7 of the Council Rules, you failed to use reasonable care and skill and you published advertising that you knew contained a false statement concerning the provision of real estate services, in that you published or permitted to be published on the Advanced website as of February 19, 2015 information that stated TM was a licensee of Advanced when in fact her license had been transferred to another brokerage on January 15, 2015;
 - (ii) contrary to section 3-4 of the Council Rules and section 4-7 of the Council Rules, you failed to use reasonable care and skill and you published advertising that you knew contained a false statement concerning the provision of real estate services, in that you published or permitted to be published on the Advanced website as of February 19, 2015 information that stated MM, AB and AF were "currently preparing to write the examination for property management" when in fact none of MM, AB, or AF were preparing to write such examination;
 - (iii) contrary to section 6(2) of RESA and section 3-1(1) of the Council Rules, you failed to ensure that the brokerage performed certain duties and you failed to ensure the business of the brokerage was carried out in accordance with RESA and Council Rules, in that two unlicensed assistants, AB and LA, performed rental property management services by signing "Move in Inspection Reports" in 2013;

- (iv) contrary to section 5-1(5)(e) of the Council Rules and section 5-1(5.1)(e) of the Council Rules, you failed to ensure the service agreements for rental property management and strata management contained the necessary provisions concerning records, in that neither of Advanced's forms of service agreements for rental property management or strata management contained complete provisions relating to the records to be kept by Advanced;
- (v) contrary to section 5-1(7) of the Council Rules, you failed to ensure that all authorized signatories of the brokerage were a related licensee of the brokerage, in that you informed Council Staff that MM and LA were signatories for the Advanced trust accounts when in fact MM and LA were not licensed under RESA; and
- (vi) contrary to section 6(2) of RESA, you failed to ensure that the brokerage complied with section 7-9(4) of the Council Rules, in that the monthly contingency transfer of \$750.00 was not made from the operating trust account to the contingency trust account within seven (7) days following the end of the month of September 2014 for EPS 6X.

2. Based on the Agreed Statement of Facts as outlined herein, and without making any admissions of liability, Advanced is prepared to accept the following findings if made against it by the Council's Consent Order Review Committee:

- (a) That Advanced committed professional misconduct within the meaning of section 35(1)(a) of RESA in that, with respect to the provision of certain rental property management services and certain strata management services as identified in the Inspection and as subsequently confirmed by a letter from Council dated March 2, 2015:
 - (i) contrary to section 7(5)(a) of RESA, you provided real estate services by a person who was not licensed, in that you provided or permitted to be provided the services set out in paragraph B(6) above, being:
 - (a) AB, an unlicensed assistant, signed a "Move-In Inspection Report" on May 24, 21013, for rental property located at 1XX2 H Avenue; and
 - (b) LA, an unlicensed assistant, signed a "Move-In Inspection Report" on November 25, 2013, for rental property located at #01-XX8 B Road;
 - (ii) contrary to section 7-9(6) of the Council Rules, you failed to ensure that the authorized signatories of your trust account

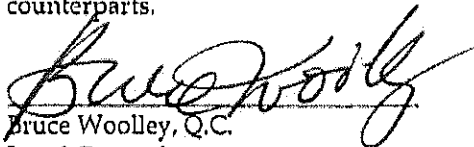
included at least two of certain persons as set out in section 7-9(6) of the Council Rules, in that Ms. Fugle informed Council Staff that Ms. Fugle, MM and LA were the only signatories of the Advanced's trust accounts and neither MM nor LA qualify as signatories under section 7-9(6) of the Council Rules; and

(iii) contrary to section 7-9(4) of the Council Rules, you failed to transfer or cause to be transferred certain moneys in a timely fashion, in that the monthly contingency transfer of \$750.00 was not made from the operating trust account to the contingency trust account within seven (7) days following the end of the month of September 2014 for EPS 6■

3. Ms. Fugle and Advanced hereby waive their right to appeal pursuant to section 54 of the Act.
4. Ms. Fugle and Advanced acknowledge that they have a right to seek independent legal advice before signing this Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver.
5. Ms. Fugle and Advanced acknowledge and are aware that the Council will publish the Consent Order and penalty herein in its Report from Council and on the Council's website.
6. Ms. Fugle and Advanced acknowledge and are aware that the Superintendent of Real Estate has the right, pursuant to section 54 of the Act, to appeal any decision of the Council, including this Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver, and Consent Order.

7. 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. The 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 counterparts.



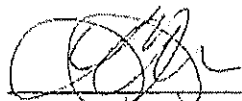
Bruce Woolley, Q.C.
Legal Counsel
Real Estate Council of British Columbia
As to Part B only (Agreed Statement of Facts)



Lorraine Susan Fugle
As to Parts A, B and C (Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver)

Dated Oct 5, 2015

Dated Oct 1, 2015



Advanced Property Management Inc.
As to Parts A, B and C (Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver)

Dated Oct 1, 2015