



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

- AND -

GUY ALEXANDER SCOTT

-AND-

KELOWNA GOLF SKI & BORGATA LODGE LTD.

-AND-

CHRIS LEWIS

**CONSENT ORDER UNDER SECTION 49 OF
THE *REAL ESTATE SERVICES ACT*
S.B.C. 2004, c. 42**

Guy Alexander Scott ("Scott"), Kelowna Golf Ski & Borgata Lodge Ltd. ("KGSB") and Chris Lewis ("Lewis"), and the Staff of the Superintendent of Real Estate ("Staff") consent to, and the Superintendent of Real Estate (the "Superintendent") makes the following orders:

A. ORDERS

Pursuant to section 49 of the *Real Estate Services Act*, S.B.C. 2004, c. 42 (the "*Act*"), the Superintendent orders THAT:

1. Scott, KGSB and Lewis will, jointly and severally, pay an administrative penalty in the amount of **\$12,500**, immediately upon execution of this Order, pursuant to section 49(2)(d) of the *Act*;

2. Scott, KGSB and Lewis will, jointly and severally, pay the costs of the investigation in the amount of **\$7,500**, immediately upon execution of this Order, pursuant to section 49(2)(c) of the *Act*;
3. The penalty hearing currently set down for February 5-7, 2013, is adjourned generally.

B. FACTS AND ADMISSIONS

As the basis for these Orders, Scott, KGSB and Lewis acknowledge the following facts as correct and make the following admissions:

1. KGSB was incorporated in British Columbia on July 2, 2004. KGSB's registered and records office is located at 204 – 3185 Via Centrale, Kelowna, BC. Scott is the sole director and officer of KGSB.
2. Lewis is employed by Scott and KGSB.
3. Neither KGSB, nor Scott nor Lewis is licensed to provide real estate services in the Province of British Columbia.
4. In November 2006, Staff received a complaint in which it was alleged that Scott was providing rental property management services without being licensed to do so, contrary to the provisions of the *Act* (the "First Complaint"). In the course of the subsequent investigation of the First Complaint, Scott advised Staff that he managed both short term vacation rentals (for which licensing under the *Act* was not required) and long term rentals (for which licensing is required) for owners of strata lots in a complex known as Borgata Lodge, located at 3185 Via Centrale Way, Kelowna ("Borgata Lodge").
5. In April 2007, Scott received a warning letter from Staff, on the understanding that he would stop advertising his services as a rental property manager and that he would cease providing such services in respect of long term rentals unless and until he became licensed under the *Act* to do so.
6. In May 2007, Staff received a second complaint which indicated that Scott was continuing to provide rental property management services without being licensed to do so.
7. An investigation ensued, and Scott was charged with the offence of providing real estate services when not licensed to do so. Scott pleaded guilty to one count, and on October 30, 2008, was sentenced to a \$500 fine. In his sentencing submissions, Scott's defence counsel advised the Court that Scott was no longer

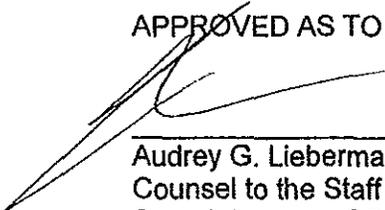
engaged in long-term rentals, but rather was limiting himself to short-term (nightly) rentals, for which he had a business license.

8. In October 2009, the Office of the Superintendent of Real Estate received a third complaint that Scott was providing rental property management services without being licensed to do so. The complainant owned a strata lot at Borgata Lodge, and had retained Scott as her rental property manager. The complainant advised that in the summer months her unit was usually rented on a short term basis, but during the winter months it was rented for longer periods of up to eight (8) months. The complainant also indicated that Scott advertised using the website www.borgatalodge.com. This resulted in an investigation by Staff.
9. Contrary to the assurances given by Scott to Staff in 2007, and to the Court in October 2008, Scott, KGSB and his employee, Lewis, continued to provide rental property management services for which licensing is required, contrary to section 3 of the *Act*, including the following particulars:
 - (a) Several websites, which have been linked to Scott and KGSB, advertised properties for rent to university students for the academic year, being a period of some eight (8) months.
 - (b) Scott and Lewis were prepared to rent units, on a long term basis, to, respectively, an investigator retained by Staff and to a prospective tenant.
 - (c) Scott and KGSB entered into an 11-month lease with a tenant on behalf of an owner, which had been scheduled to end in May 2012; however, the tenants terminated the lease in September 2011.
 - (d) Lewis indicated to prospective tenants on at least one occasion that he had condominium units in three buildings available for leases of up to one year.
 - (e) In providing rental property management services in respect of long term leases, Scott, KGSB and Lewis advertised units for rent; showed units to prospective tenants; found tenants; and collected rent. Rent was deposited into KGSB's account from which the management fee was deducted and the balance remitted to the owner(s).
10. On April 13, 2012, the Superintendent issued a Cease Order, pursuant to sections 49 and 51 of the *Act*, enjoining Scott, KGSB and Lewis from providing real estate services, including rental property management services, until such time as they become licensed to do so.

C. WAIVER

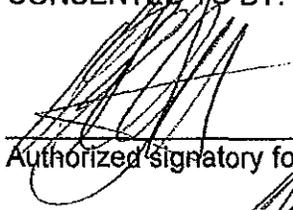
- 11. Scott, KGSB and Lewis waive their right to appeal both the within Order and the Cease Order, dated April 13, 2012, pursuant to section 54 of the Act.

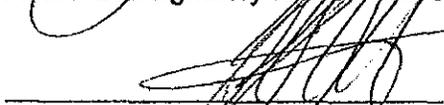
APPROVED AS TO FORM AND CONTENT:



Audrey G. Lieberman
Counsel to the Staff of the
Superintendent of Real Estate

CONSENTED TO BY:

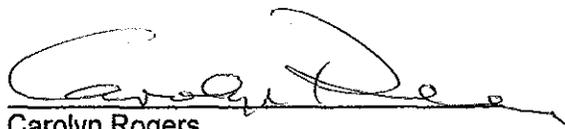


Authorized signatory for Kelowna Golf Ski & Borgata Lodge Ltd.

Guy Alexander Scott

Chris Lewis

Dated at the City of KELOWNA, in the Province of British Columbia, this 5 day
of FEB, 2013



Carolyn Rogers
Superintendent of Real Estate
Province of British Columbia