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Strata Managers as Fiduciaries, or “Wow, I didn’t know that...”

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What is a Fiduciary Relationship?

- A person bound to act for another's benefit
- A relationship of trust and confidence
- Expectation to act for your benefit and not another's
- It's a list, but new relationships can be added





What are the Fiduciary Duties?

- Fiduciary Relationships give rise to Fiduciary Duties
- The conflicts rule
- The purchasing rule
- No profit rule





Strata Managers as Fiduciaries

- Are strata managers fiduciaries? YES
- Are the fiduciary duties owed to the Body Corporate? YES
- Can the Fiduciary Duties be influenced by Contract? YES
- Can the Fiduciary Duties be influenced by Statute? YES





What if there is a breach?

- Is the breach within the period of the relationship?
- What is the effect of disclosure?
- What are the remedies?





Wow, I did not know that!

- Disclosure legislation
- You're going to the Big House...
- Risky 'business' ...
- Freebies or Discounts
- Training Days or CPD



Trends, Truths, Toxins & Thoughts

- Trends – horizontal integration and \$ per client
- Truths – upselling and onboarding
- Toxins – commissions as a cancer
- Thoughts – professionals act professionally

The Pledge – Part One

- I'm mad as hell and I'm not going to take it anymore...
- Look for this from third party suppliers...

'Bugden Allen Graham Lawyers supports the strata sector through volunteer work for, and sponsorship of, peak stakeholders and educators. We never offer, or pay, commissions to strata managers, their associates or others, in exchange for the privilege of providing legal services to you.'

The Pledge – Part Two

- Look for this from your strata manager... before you sign up!

‘Secret commissions or benefits are a serious problem in the strata sector. Some strata managers, directly or through associates, receive commissions or other benefits from body corporate suppliers. We never ask for, or accept, directly or indirectly, commissions or other benefits from body corporate suppliers. That promise is part of our contract with you; see clause (x). Before deciding whether to engage us or another firm, as your strata manager, we recommend that you ask our competitors for the same promise and for it to be included in their contract.’

The Pledge – Part Three

- Test Cases ...
- *That's the way you do it* – Developer Consultancy
- *Money for nuthin'* – Insurance Commissions
- *Kickbacks for me* – General Commissions



Any questions?

If you have any questions about this presentation, please contact:

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