

BC FINANCIAL SERVICES AUTHORITY

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

AND

IN THE MATTER OF

JARNAIL SINGH SARAN
013246

SECOND ~~THIRD~~ AMENDED NOTICE OF DISCIPLINE HEARING

[This Notice has been redacted before publication.]

To: Jarnail Singh Saran
c/o Sutton Group - Alliance R.E.S.
201-5550 152 Street,
Surrey, BC, V3S 5J9

TAKE NOTICE that the Superintendent of Real Estate (the "Superintendent") of the BC Financial Services Authority ("BCFSA") will hold a discipline hearing under Part 4 of the *Real Estate Services Act* ("RESA") on ~~August 29 – September 2, 2022,~~ **January 30 – February 3, 2023, commencing at 9:30 am** in the Hearing Room at BCFSA's offices located at **600 – 750 West Pender Street, Vancouver, British Columbia** or in such other (including virtual) Hearing Room of which BCFSA informs you to determine whether your conduct contravened the RESA, the regulation made under the RESA (the "Regulation"), or any rules made under the RESA (the "Rules") in effect at the relevant time.

AND TAKE NOTICE that the allegations against you are as follows:

1. ~~Between in or about October 2014 to in or about July 2015 you~~ ~~You~~ committed professional misconduct within the meaning of section 35(1)(a) of the RESA in that you:
 - a) failed to take all reasonable steps to avoid a conflict of interest and failed to promptly and fully disclose the conflict to your clients, failed to properly disclose the nature of the representation and relationship in trading services, and failed to act in the best interests of your clients, when you:
 - i. represented both the seller and buyer of the property located at [Property 1], Williams Lake, BC, (the "[Property 1]") as a dual agent, without the knowledge and informed consent of both clients and without a modification of your duties by entering into a Limited Dual Agency Agreement; and
 - ii. subsequently represented both the seller of the property located at [Property 2], Chilliwack, BC (the "[Property 2]"), and the seller of the property located at [Property 3], Surrey, BC (the "[Property 3]") in a 'trade' wherein the seller of the [Property 2] acquired the [Property 3] and the seller of [Property 3] acquired the [Property 2] and both transactions involved the same two parties and occurred concurrently, without the knowledge and informed consent of both clients and

without a modification of your duties by entering a Limited Dual Agency Agreement

in contravention of section 3-3(i) and section 3-3(j) of the Rules [*duty to avoid and disclose conflicts of interest*]; section 5-10 of the Rules [*Disclosure of Representation*]; and section 3-3(1) of the Rules [*to act in best interest of client*];

- b) failed to promptly disclose all relevant facts relating to remuneration paid for trading service when:
 - i. in relation to [Property 1], while acting as a dual agent, you did not provide details of how [Licencee 1], a representative at your brokerage (“[Licencee 1]”) was involved in the transaction, what real estate services she provided, if any, and the breakdown of commission between [Licencee 1], yourself, and referral fee paid to a third party, [Individual 1] (“[Individual 1]”); and
 - ii. in relation to [Property 2] and [Property 3], you incorrectly completed the Disclosure of Remuneration forms on both sales, and never made proper disclosure to your clients of how [Licencee 1] was involved in the transaction, what real estate services she provided, if any, and the breakdown of commission between [Licencee 1], yourself, and referral fees paid to [Individual 1] and another third-party [Individual 2] (“[Individual 2]”)

in contravention of sections 3-4 [reasonable care and skill] and 5-11(2) of the Rules [*Disclosure of Remuneration*];

- c) failed to create and retain an accurate record of referral fees paid on the sale of [Property 1] and [Property 2] as required by sections 8-5 [trading records] and 8-5.2 of the Rules [record related to referral fees paid].

in contravention of sections 3-2(1)(b) [representative licensee responsibilities to provide records] and 3-4 of the Rules [*reasonable care and skill*]; section 8-5.2 [record related to referral fees paid];

- 2. Between in or about October 2014 to in or about July 2015, you ~~You~~ committed professional misconduct within the meaning of section 35(1)(g) of the RESA when you made a false or misleading statement in a document that is required or authorized to be produced or submitted under this Act, when you:
 - a) drafted the Record of Referral Fees Received on the [Property 1] transaction including the name of another licensee, [Licencee 1], notwithstanding that [Licencee 1] was not involved in the transaction, did not provide a referral, and did not act as an agent and neither [Licencee 1] nor you can identify what real estate services, if any, were provided by [Licencee 1] in the transaction; and
 - b) drafted the Contract of Purchase of Sale and the Disclosure of Remuneration for [Property 2], including the name of another licensee, [Licencee 1], notwithstanding that [Licencee 1] was not involved in the transaction and did not act as an agent and neither [Licencee 1] nor you can identify what real estate services, if any, were provided by [Licencee 1] in the transaction.
- 3. Between in or about October 2014 to in or about July 2015, you ~~You~~ committed professional misconduct within the meaning of section 35(1)(d) of the RESA by demonstrating incompetence in performing any activity for which a licence is required when you:

- a) failed to properly identify your client on the CREA Individual Identification Information Record for the [Property 1] transaction and the [Property 2] transaction, which is required under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* when you listed the directors as your clients;
- b) failed to properly ascertain the registered owners of [Property 1] and drafted the Multiple Listing Contract and the Contract for Purchase and Sale in the name of the sellers, when in fact they were not the registered owners and did not have the consent or authorization from the registered owners to list [Property 1] for sale;
- c) incorrectly prepared the Record of Referral Fees related to [Property 1] by indicating that a referral fee was received by the brokerage instead of paid out from the brokerage; and
- d) in relation to the sale of [Property 2] and [Property 3], incorrectly completed both Disclosures of Remuneration by making ~~the disclosures to the party who was not your client on both properties~~ the buyers of each respective property and not the sellers.

and/or in contravention of section 3-4 of the Rules [*reasonable care and skill*];

- 4. ~~Between in or about October 2014 to in or about December 2014, you~~ ~~You~~ committed conduct unbecoming pursuant to section 35(2)(b)-(c) of the RESA when you told your client, [Individual 3], that he would make \$200,000 in a few months by purchasing [Property 2] in exchange for [Property 3] and made a promise or representation about the future which was beyond a reasonable expectation and not made in good faith but to encourage [Individual 3] to purchase [Property 2] from your client.

AND FURTHER TAKE NOTICE that if the Superintendent finds you committed professional misconduct and/or conduct unbecoming, the Superintendent must make an order against you, and may also order you to pay enforcement expenses incurred by BCFSa under sections 43 and 44 of the RESA.

AND FURTHER TAKE NOTICE that if you do not attend the discipline hearing, the Superintendent may proceed with the discipline hearing in your absence and may make findings and orders under sections 43 and 44 of the RESA without further notice to you.

AND FURTHER TAKE NOTICE that you are entitled, at your own expense, to be represented by legal counsel and to participate in the discipline hearing.

Dated this 2nd ~~18~~ day of ~~December~~ July, 2022 at the City of Vancouver, British Columbia.

BC Financial Services Authority

“JONATHAN VANDALL”

Per: Jonathan Vandall
Vice President, Compliance and Enforcement
Province of British Columbia