

Citation: Babaeian (Re), 2023 BCSRE 23

Date: 2023-07-25

File # 23-4513

BC FINANCIAL SERVICES AUTHORITY

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

AND

IN THE MATTER OF

**SOROUSH BABAEIAN
(147009)**

NOTICE OF ADMINISTRATIVE PENALTY

[This Notice has been redacted before publication.]

The Superintendent of Real Estate (the "Superintendent") of the BC Financial Services Authority ("BCFSA") issues this Notice of Administrative Penalty (the "Notice") pursuant to sections 57(1) and (3) of the *Real Estate Services Act*, SBC 2004, c 42 ("RESA").

TAKE NOTICE that the Superintendent is satisfied that you have contravened one or more rules designated as subject to administrative penalties under section 56(1)(a) of the RESA and section 26 of the *Real Estate Services Rules* (the "Rules"), collectively, the "Designated Rules".

TAKE NOTICE the Superintendent is imposing the following administrative penalties based on your having contravened the Designated Rules:

1. Rule: Section 21 First contravention: Yes; Base Penalty: \$1,000 Daily Penalty: 8 days x \$250 = \$2,000*.

Details: BCFSA made numerous attempts to reach S. Babaeian regarding the transaction deal file he had submitted to BCFSA related to the property located at [Property 1].

On January 6, 2023, BCFSA called S. Babaeian via his direct line and left a message to return the call. S. Babaeian did not return the call.

On March 31, 2023, BCFSA called S. Babaeian via his direct line, as well as to his brokerage. S. Babaeian did not return the call.

On March 31, 2023, BCFSA issued a letter to S. Babaeian, advising that an interview was scheduled on April 14, 2023 and he was required to confirm his attendance to BCFSA by April 6, 2023. The letter was sent by email as well as registered mail. The registered mail was delivered and signed for on April 4, 2023 by S. Babaeian's brokerage. S. Babaeian did not provide a response by April 6, 2023.

On April 12, 2023, BCFSA sent a Non-Compliance Warning Letter ("NCWL") to S. Babaeian by email and registered mail, requesting that he provide a response to a re-scheduled interview for April 21, 2023 by no later than April 19, 2023 (the "Compliance Warning Period"). S. Babaeian was advised that if the contravention was not remedied by April 19, 2023, the Superintendent may impose administrative penalties with a base amount and an additional daily amount for each day the contravention persists.

S. Babaeian did not provide a response by April 19, 2023.

On April 27, 2023, BCFSA staff attended S. Babaeian's brokerage and requested to speak to S. Babaeian. The office manager advised that S. Babaeian is unavailable but confirmed he is in town. BCFSA staff requested that S. Babaeian contact BCFSA by end of the day. On the same day, S. Babaeian contacted BCFSA and advised that he had medical concerns and issues with his email, hence he was unable to respond.

S. Babaeian responded to the Non-Compliance Warning letter on April 27, 2023, eight days after the Compliance Warning Period ended.

S. Babaeian came into compliance with BCFSA's request on April 27, 2023 and attended a rescheduled interview on May 05, 2023.

*The daily penalty is based on a daily penalty rate of \$250 multiplied by the number of penalty days i.e., the number of calendar days between the end of the Compliance Warning Period and the date compliance was achieved, including partial days.

(collectively the "Contravention").

Total administrative penalties: \$3,000

TAKE FURTHER NOTICE you may respond to this Notice by requesting an opportunity to be heard as follows (a "Reconsideration Request"):

- a. *Time limit:* You must deliver any Reconsideration Request so that BCFSA receives it within thirty (30) calendar days of the date you received this Notice (the "Response Deadline").
- b. *Format:* A Reconsideration Request Form must be completed.
- c. *Content:* A Reconsideration Request should explain how you exercised due diligence to prevent contravention of the Designated Rules. You may also provide any other information you believe the Superintendent should consider.
- d. *Delivery:* A Reconsideration Request may be delivered by email to APreconsiderations@bcfsa.ca and/or delivered to BCFSA's offices at 600 – 750 West Pender Street, Vancouver, BC V6C 2T8, Attention: Legal Services – Reconsiderations.

The date you received this Notice is the earliest date on which

- the Superintendent personally served you with the Notice (s 57(3)(a) or (b) of the RESA);
- the Superintendent provided “substituted service” by a method provided for in a court order (s 12 of the RESA); or
- the Superintendent provided this Notice to Canada Post for delivery to your mailing address (ss 18 and 19 of the Rules). This will normally also be the day it was emailed to you.

If BCFSa receives your Reconsideration Request by the Response Deadline, the Superintendent will consider your Reconsideration Request, and may cancel or confirm the administrative penalty. If BCFSa confirms an administrative penalty, payment is due immediately.

TAKE FURTHER NOTICE if you fail to deliver a Reconsideration Request by the Response Deadline, you are deemed to acknowledge your having contravened the specified Designated Rule (s 57(2)(d) of the RESA).

TAKE FURTHER NOTICE that unless you deliver a Reconsideration Request by the Response Deadline, you must pay the administrative penalty within thirty (30) calendar days of the date you received this Notice. The Reconsideration Request may be by email or otherwise in writing and should attach or include information respecting the due diligence exercised to avoid the contravention, any extenuating circumstances that prevented compliance, and any other information that you wish BCFSa to consider.

Dated this 25 day of July, 2023 at the City of Vancouver, British Columbia.

Superintendent of the BC Financial Services Authority

“JONATHAN VANDALL”

Per: Jonathan Vandall
Delegate of the Superintendent of Real Estate
Province of British Columbia