

CITATION: Dehideniya (Re), 2023 BCSRE 29

Date: 2023-08-30

File # 19-053

THE BC FINANCIAL SERVICES AUTHORITY

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

AND

IN THE MATTER OF

**JITENDRA ANGELO DEHIDENIYA
(176190)**

CONSENT ORDER

RESPONDENT: Jitendra Angelo Dehideniya, Trading Representative, Renanza Realty Inc,
while licensed with West Coast Realty Ltd. dba Sutton Group-West Coast
Realty (Coquitlam)

DATE OF CONSENT ORDER: August 30, 2023

COUNSEL: Catherine Davies, Legal Counsel for the BC Financial Services Authority
Phil Cote, Legal Counsel for the Respondent

PROCEEDINGS:

On August 30, 2023, the Superintendent of Real Estate (the "Superintendent"), or the Superintendent's authorized delegate, of BC Financial Services Authority ("BCFSA") accepted the Consent Order Proposal (the "Proposal") submitted by Jitendra Angelo Dehideniya ("Mr. Dehideniya").

WHEREAS the Proposal, a copy of which is attached hereto, has been executed by Mr. Dehideniya.

NOW THEREFORE, having made the findings proposed in the attached Proposal, and found that Mr. Dehideniya committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* ("RESA") and sections 30(a), 30(d), 30(f), 30(h), and 34 of the *Real Estate Services Rules* (the "Rules"), pursuant to section 43 of the RESA the Superintendent orders that:

1. Mr. Dehideniya pay a discipline penalty to BCFSA in the amount of \$30,000 within six (6) months from the date of this Order;

2. Mr. Dehideniya at his own expense, register for and successfully complete the Real Estate Trading Services Remedial Education Course as provided by the Sauder School of Business at the University of British Columbia within three (3) months from the date of this Order;
3. Mr. Dehideniya pay enforcement expenses to BCFSa in the amount of \$1,500 within six (6) months from the date of this Order.

If Mr. Dehideniya fails to comply with any term of this Order, the Superintendent may suspend or cancel his licence without further notice to him, pursuant to sections 43(3) and 43(4) of the RESA.

Dated this 30 day of August 2023 at the City of Vancouver, British Columbia.

Superintendent of the BC Financial Services Authority

“JONATHAN VANDALL”

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

Attch.

File # 19-053

BC FINANCIAL SERVICES AUTHORITY

IN THE MATTER OF THE *REAL ESTATE SERVICES ACT*

SBC 2004, c 42 as amended

IN THE MATTER OF

**JITENDRA ANGELO DEHIDENIYA
(176190)**

CONSENT ORDER PROPOSAL BY JITENDRA ANGELO DEHIDENIYA

BACKGROUND AND FACTS

This Consent Order Proposal (the “Proposal”) is made by Jitendra Angelo Dehideniya (“Mr. Dehideniya”) to the Superintendent of Real Estate (the “Superintendent”) of the BC Financial Services Authority (“BCFSa”) pursuant to section 41 of the *Real Estate Services Act* (“RESA”).

For the purposes of the Proposal, Mr. Dehideniya, and the Superintendent have agreed upon the following facts:

1. Mr. Dehideniya (176190) has been licensed as a trading representative since 2016.
2. Mr. Dehideniya was at all relevant times licensed as a trading representative with Sutton Group – West Coast Realty (X014036).
3. Mr. Dehideniya was at all relevant times a junior member of a team operating under the team name “The BC Elite Real Estate Group” (the “Team”).
4. Licensee SY operated as the lead of the Team and was Mr. Dehideniya’s mentor.
5. This matter arises from Mr. Dehideniya’s role in 2018 as a member of the Team, along with SY, who operated as buyer’s agent in the purchase and sale of a property located at [Property 1], White Rock, BC (the “Property”).
6. The Property was located in a strata development known as [Development 1] (the “Strata”). The Strata consisted of a four (4)-story, 39-unit, wood-frame building constructed in or around 1986.
7. In or around 2016, issues with the Strata’s exterior building envelope were identified. Numerous steps were taken by the Strata Council and owners over the next two years, as reflected in various strata documents, including the following:
 - a. May 25, 2016: Special General Meeting minutes: motion passed to retain services of an engineer to provide a complete building envelope assessment report;
 - b. May 5, 2017: Building Envelope Condition Assessment Report prepared by Building Science & Consulting Inc. showing findings of rot and deterioration, and a recommendation for repairs with a probable cost of \$2M, to be done in 2-3 phases;
 - c. August 22, 2017: Council meeting minutes stating Council had reviewed the final copy of the Building Envelope Condition Assessment Report;
 - d. October 17, 2017: Council meeting minutes stating Council would form a committee to investigate options to move the project forward, determine breakdown of each unit entitlement, with details to be distributed for next information meeting before end of 2017 or early 2018;
 - e. January 9, 2018: Council meeting minutes indicating motion passed to move building envelope project forward by obtaining two additional proposals to bring to owners.
8. The buyers were a retired couple interested in making a move to White Rock from Langley.
9. The buyers were referred to SY for real estate services.
10. In March 2018, SY and Mr. Dehideniya began a property search for the buyers.
11. The buyers viewed the Property on a few occasions.
12. On March 18, 2018, the seller and the buyers entered into a contract of purchase and sale (the “Contract”) for the Property. The Contract provided the following:
 - a. purchase price of \$379,000;

-
- b. completion date of May 23, 2018;
 - c. possession date of May 24, 2018;
 - d. deposit of \$20,000 to be paid within 24 hours of subject removal; and
 - e. subject conditions to be removed on or before March 21, 2018:
 - i. financing;
 - ii. inspection;
 - iii. approval of property disclosure statement;
 - iv. title search and approval of title;
 - v. review of strata documents (including 24 months of meeting minutes, form "B", by-laws, financial statements, strata plan, depreciation, and engineering reports (collectively, the "Strata Documents").
13. On or about March 20, 2018, the seller's agent sent the Strata Documents by email to Mr. Dehideniya.
 14. On March 21, 2018, the buyers signed an addendum removing all subject conditions.
 15. At no time prior to the removal of the subjects did Mr. Dehideniya provide the Strata Documents to the buyers.
 16. On May 23, 2018, the transaction completed.
 17. On May 23, 2018, the buyers began to move into the Property, and they were approached by one of the Strata Council members who asked them if they had been made aware of an upcoming rain screening of the building which came with an estimated \$50,000 levy.
 18. The buyers told BCFSA that they then contacted Mr. Dehideniya and SY who stated they were not aware of anything.
 19. On June 8, 2018, the buyers received the Strata Documents in the mail from Mr. Dehideniya.
 20. On April 10, 2019, the Strata held a special general meeting, and a resolution to approve a special levy in the amount of \$2,197,000 for the building envelope remediation work was passed.
 21. The levy with respect to the Property was in the amount of \$61,660.81.
 22. The buyers were unable to afford the levy and consequently listed the Property for sale.
 23. The buyers sold the Property in June 2019 for a price of \$400,000 with a \$61,660 levy/credit reduction.
 24. On April 18, 2019, BCFSA received a complaint from the buyers.
 25. Mr. Dehideniya told BCFSA that he did not provide the Strata Documents to the buyers as they did not have email and he could not print hundreds of pages and mail them.

26. Mr. Dehideniya told BCFSA that he first joined the Team in March 2018 and the buyers' purchase of the Property was the first deal he completed with SY and his second deal as an agent.
27. A Notice of Discipline Hearing was issued on June 20, 2022 and served on Mr. Dehideniya.
28. Mr. Dehideniya does not have any discipline history with BCFSA.

PROPOSED FINDINGS OF MISCONDUCT

For the sole purposes of the Proposal and based on the Facts outlined herein, Mr. Dehideniya proposes the following findings of misconduct be made by the Superintendent:

1. Mr. Dehideniya committed professional misconduct within the meaning of section 35(1)(a) of the RESA when, as buyers' agent in relation to a contract of purchase and sale dated March 18, 2018 of a strata property located at [Property 1], White Rock, BC (the "Property") and an addendum removing all subjects dated March 21, 2018 (the "Addendum") he:
 - a. failed to make inquiries into the strata's building envelope remediation project and disclose same to the buyers prior to the preparing the buyers' offer for purchase and sale of the Property and prior to the buyers signing the Addendum, contrary to section 30(a) [*act in the bests interests of the client*] (formerly section 3-3(a)), section 30(h) [*use reasonable efforts to discover facts respecting any real estate that the client is considering acquiring*] (formerly section 3-3(h)), section 30(f) [*disclose to the client all known material information respecting the real estate services, and the real estate and the trade in real estate to which those services relate*] (formerly section 3-3(f)), and section 34 [*act with reasonable care and skill*] (formerly section 3-4) of the Rules;
 - b. failed to obtain, review, and provide to the buyers a complete set of strata documents prior to the buyers signing the Addendum, contrary to section 30(a) [*act in the best interests of the client*] (formerly section 3-3(a)) and section 34 [*act with reasonable care and skill*] (formerly section 3-4) of the Rules; and
 - c. failed to advise the buyers to seek independent professional advice regarding the potential risks associated with the building envelope remediation project identified in the Property's strata documents prior to signing the Addendum, contrary to section 30(d) [*advise client to seek independent professional advice*] (formerly section 3-3(d)) of the Rules.

PROPOSED ORDERS

Based on the facts herein and the Proposed Findings of Misconduct, Mr. Dehideniya proposes that the Notice of Discipline Hearing in this matter be resolved through the following Orders being made by the Superintendent, pursuant to section 43 of the RESA:

1. Mr. Dehideniya pay a discipline penalty to BCFSA in the amount of \$30,000 within six (6) months from the date of this Order.
2. Mr. Dehideniya, at his own expense, register for and successfully complete the Real Estate Trading Services Remedial Education Course as provided by the Sauder School of Business at the University of British Columbia within three (3) months from the date of this Order.
3. Mr. Dehideniya pay enforcement expenses to BCFSA in the amount of \$1,500 within six (6) months from the date of this Order.

4. If Mr. Dehideniya fails to comply with any of the terms of this Order, the Superintendent may suspend or cancel Mr. Dehideniya's licence without further notice to him.

ACKNOWLEDGEMENTS AND WAIVER OF APPEAL RIGHT

1. Mr. Dehideniya acknowledges and understands that the Superintendent may accept or reject the Proposal. If the Proposal is rejected by the Superintendent, the matter may be referred to a disciplinary hearing.
2. Mr. Dehideniya acknowledges that he has been urged and given the opportunity to seek and obtain independent legal advice with respect to the disciplinary process, the allegations contained in the Notice of Discipline Hearing, and the execution and submission of the Proposal to the Superintendent; and, that he has obtained independent legal advice or has chosen not to do so, and that he is making the Proposal with full knowledge of the contents and the consequences if the Proposal is accepted.
3. Mr. Dehideniya acknowledges and is aware that BCFSA will publish the Proposal and the Consent Order or summaries thereof on BCFSA's website, on CanLII, a website for legal research and in such other places and by such other means as BCFSA in its sole discretion deems appropriate.
4. Mr. Dehideniya hereby waives his right to appeal pursuant to section 54 of the RESA.
5. If the Proposal is accepted and/or relied upon by the Superintendent, Mr. Dehideniya will not make any public statement(s) inconsistent with the Proposal and its contents. Nothing in this section is intended to restrict Mr. Dehideniya from making full answer and defence to any civil or criminal proceeding(s).
6. The Proposal and its contents are made by Mr. Dehideniya for the sole purpose of resolving the Notice of Discipline Hearing in this matter and do not constitute an admission of civil liability. Pursuant to section 41(5) of the RESA, the Proposal and its contents may not be used without the consent of Mr. Dehideniya in any civil proceeding with respect to the matter.

"ANGELO DEHIDENIYA"

JITENDRA ANGELO DEHIDENIYA

Dated 14th day of August, 2023