

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

AND

IN THE MATTER OF  
MOLENIA GOLSHANI  
(152362)

**REASONS FOR DECISION ON APPLICATION**

**[This Decision has been redacted before publication.]**

**DATE OF APPLICATION:** September 19, 2023

**Counsel for BCFSA:** Menka Sull

**Counsel for Respondents:** Raminder Arora

**Hearing Officer:** Andrew Pendray

**Introduction**

1. On March 7, 2023, the Superintendent of Real Estate (the “superintendent”) issued, pursuant to section 40 of the *Real Estate Services Act* (RESA) a Notice of Hearing in respect of Molenia Golshani, a licensee under RESA.
2. The Notice of Hearing alleges that Ms. Golshani committed professional misconduct, as contemplated by section 35(1) of RESA, and/or conduct unbecoming within the meaning of section 35(2) of RESA. The allegations relate to real estate transactions occurring from 2013 to 2018, as well as real estate advertisements placed between 2017 and 2019.
3. The hearing of this matter is set to commence on October 23, 2023, continuing through October 25, 2023.
4. A pre-hearing conference was scheduled for September 19, 2023. At that pre-hearing conference, Ms. Golshani applied for an adjournment of the hearing, to the earliest agreeable date.

5. Ms. Golshani's position is that her legal counsel will not have the time required to prepare for the hearing, such that, in all likelihood, she would have to represent herself if the hearing proceeded as scheduled. Ms. Golshani further submits that due to the recent death of her father, she is not in an appropriate mental state to be able to prepare for a discipline hearing without representation.
6. BCFSA opposes Ms. Golshani's application for adjournment. BCFSA takes the position that the hearing should proceed as currently scheduled, and that to delay the hearing of this matter would prejudice the public's interest in having the hearing proceed in a timely manner.

### **Issue**

7. The issue is whether an adjournment of the discipline hearing scheduled for October 23 to 25, 2023, should be granted.

### **Background**

8. As set out above, the allegations set out in the Notice of Hearing relate to transactions and advertisements that occurred a number of years ago.
9. The Notice of Hearing was issued by the superintendent on March 7, 2023. BCFSA indicated in its submissions that initial disclosure was provided to Ms. Golshani in June 2023, with some additional disclosure in August 2023. In BCFSA's submission, the large majority of disclosure was provided in June 2023.
10. On August 31, 2023, counsel for Ms. Golshani contacted BCFSA to indicate that Ms. Golshani was requesting that the hearing be adjourned.
11. A formal application for adjournment to the Hearings Division of BCFSA was not brought until September 19, 2021.
12. Document disclosure has not yet been completed between the parties, nor have witness lists or will-say statements been provided.

### **Submissions**

#### Golshani

13. Mr. Arora, for Ms. Golshani, explained that this application was being brought due to the fact that if the hearing were to proceed as scheduled, Ms. Golshani would have to attempt to find new legal counsel, or be required to represent herself.
14. Mr. Arora explained that he was scheduled to represent another party in a trial in the Supreme Court of B.C. for the weeks leading up to the scheduled dates of this hearing, and that as a result he would not have time to prepare for Ms. Golshani's hearing. In Mr. Arora's submission, his inability to prepare would make it necessary for Ms. Golshani to find other legal counsel to represent her for the scheduled discipline hearing. Mr. Arora further submitted that as a result of the recent death of her father, Ms. Golshani did not appear to be in the emotional state to complete such the task of seeking alternate legal representation.
15. Mr. Arora noted that he had been out of the country for the previous month, and that as a

result had only brought the application for adjournment on now. Mr. Arora acknowledged having been aware of the potential difficulty with his calendar, but noted that it had only become apparent recently that the Supreme Court trial would be proceeding directly in advance of Ms. Golshani's discipline hearing.

16. In Mr. Arora's submission, the evidence did not show there would be prejudice in the granting of an adjournment in this case. He noted, in making that submission, that Ms. Golshani had not made any prior applications for adjournment, and that there was no significant history of delay on her part.
17. Mr. Arora noted that Ms. Golshani was not seeking an adjournment for an extended period of time, and that an adjournment of two to three months would permit her to be represented by legal counsel at a rescheduled discipline hearing.

#### BCFSA

18. BCFSA noted that Ms. Golshani's discipline hearing was one of a number of hearings relating to real estate transactions involving an unregistered mortgage broker that were set to take place over the course of the upcoming year. BCFSA submitted that there was prejudice in granting the adjournment in such circumstances, as the hearing of this matter may be delayed for a significant period of time due to those other hearings already being booked, with counsel for BCFSA having limited availability as a result of that fact.
19. BCFSA further submitted that the adjournment would create inconvenience and difficulty in arranging and rescheduling witnesses who were scheduled to appear at the October 23, 2023 hearing of this matter.
20. BCFSA further noted that the allegations against Ms. Golshani were serious in nature, and that the public had an interest in the hearing proceeding in a timely fashion.

#### **Discussion**

21. On an adjournment application, the onus of providing sufficient evidence to justify an adjournment is on the party bringing the application<sup>1</sup>. Here, Ms. Golshani says that without an adjournment, she will be forced to represent herself, and that to force her to do so would impede her right to a fair hearing.
22. There are a myriad of factors to be considered on an adjournment application. In *Wang (Re)*, 2023 BCSRE 7, I cited the discussion of those factors in the context of professional regulation as set out by the Ontario Court of Appeal in *Law Society of Upper Canada v. Igbinosun*, 2009 ONCA 484:

[37]... A non-exhaustive list of procedural and substantive considerations in deciding whether to grant or refuse an adjournment can be derived from these cases. Factors which may support the denial of an adjournment may include a lack of compliance with prior court orders, previous adjournments that have been granted to the applicant, previous peremptory hearing dates, the desirability of having the matter decided and a finding that the applicant is seeking to manipulate the system by orchestrating delay.

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<sup>1</sup> *Law Society of Upper Canada v. Igbinosun*, 2009 ONCA 484

Factors which may favour the granting of an adjournment include the fact that the consequences of the hearing are serious, that the applicant would be prejudiced if the request were not granted, and a finding that the applicant was honestly seeking to exercise his right to counsel and had been represented in the proceedings up until the time of the adjournment request. In weighing these factors, the timeliness of the request, the applicant's reasons for being unable to proceed on the scheduled date and the length of the requested adjournment should also be considered.

23. As I indicated in *Wang*, I consider the above-excerpted non-exhaustive list to provide an appropriate basis upon which to consider an adjournment application in the regulatory context. I am of the view that the overarching goal of the disciplinary process under RESA is the protection of the public, with a view to providing a fair and just process for the hearing of disciplinary cases.
24. I consider that in conducting disciplinary hearings, the Hearings Division must balance the public interest with the licensee's right to a fair hearing<sup>2</sup>. The protection of the public interest includes that the administration of justice moves forward in a timely and expeditious manner.
25. I consider my conclusion in this regard to be consistent with the comments of the B.C. Supreme Court in *Navarro v. Doig River First Nation*, 2015 BCSC 2173, where, in considering an adjournment application, Justice Dillon indicated that:

[19] There are numerous factors to be considered on an adjournment application. However, the paramount consideration is the interest of justice in ensuring that there will remain a fair trial on the merits of the action (*Cal-Wood Door* at para. 13; *Graham v. Vandersloot*, 2012 ONCA 60 at para. 12 (*Graham*)). Because the overall interests of justice must prevail at the end of the day, courts are generous rather than overly strict in granting adjournments, particularly where granting the request will promote a decision on the merits (*Graham* at para. 12). The natural frustration of judicial officials and opposing parties over delays in processing civil cases must give way to the interests of justice, which favours a claimant having his day in court and a fair chance to make out his case (*Graham* at para. 12).

26. Having regard to the factors set out in *Igbinosun* and *Navarro*, I am of the view that the circumstances of this case weigh in favour of granting the application for adjournment.
27. I accept that, in allowing Ms. Golshani's application, there will be some prejudice to the public. The hearing will not be heard in as timely a manner as it would otherwise have been, and there is certainly the prejudice that arises in the inconvenience that is experienced by BCFSA, witnesses and the public which may have had to set aside time to prepare for and attend the hearing. Adjournments granted close in time to the scheduled date of a hearing can, in my view, impede the effective administration of justice.
28. That said, the allegations in this matter, although the parties agree they are serious in nature, date to, at the most recent, 2019. Ms. Golshani is seeking an adjournment of only a short period of time, with her counsel indicating on this application that he will make himself available in December 2023 or January 2024 if counsel for BCFSA is available. In

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<sup>2</sup> *Wang (Re)*, 2023 BCSRE 7, para. 21.

my view, given the fact that the allegations are somewhat dated, an adjournment of only a few months time would not significantly prejudice the public interest in having this discipline hearing proceed in a timely manner.

29. I note further, that this is a first application for adjournment. This is not a case in which the evidence before me would indicate that Ms. Golshani has sought to manipulate the system by orchestrating delay. There have been no prior adjournments and, again, Ms. Golshani is seeking an adjournment of short duration, in order that she may have the assistance of legal counsel at the hearing. In my view, those factors weigh strongly in favour of granting an adjournment.
30. I note, finally, that I accept BCFSA's submission that Ms. Golshani could have brought her application for adjournment in a somewhat more timely manner, in that I consider that Ms. Golshani's counsel was likely aware of the potential difficulties with respect to his own calendar in advance of August 31, 2023, when he first contacted BCFSA to request an adjournment. While I consider that as a result of not bringing the application at an earlier date there is likely some inconvenience that will be experienced by counsel and scheduled witnesses<sup>3</sup>, I do not consider that factor to outweigh the overarching concern for a fair hearing on the merits.
31. Given the serious nature of the allegations against Ms. Golshani, I am of the view that allowing a relatively short adjournment in order to ensure Ms. Golshani is able to exercise her right to legal representation will ensure that a fair hearing on the merits is possible.
32. After considering all of the circumstances, I find that the interests of justice require that an adjournment be granted.

## **Conclusion**

33. The hearing of this matter, scheduled for October 23 through October 25, 2023, is adjourned to the earliest dates available to both parties.
34. The parties are directed to provide new proposed hearing dates to the Hearings Division by October 2, 2023.

Dated this 21<sup>st</sup> day of September, 2023, at the City of Vancouver, British Columbia

"Original signed by Andrew Pendray"

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Andrew Pendray  
Chief Hearing Officer

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<sup>3</sup> Although, as noted above, witness lists and will-say statements had not yet been exchanged at the time the application for adjournment was brought.