

CITATION: Moy (Re), 2024 BCSRE 9

Date: 2024-02-06

File # 20-1428

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

LENNY LEUNG MOY

(101229)

AND

ICON PROPERTY ADVISORS LTD.

(X024807)

CONSENT ORDER

RESPONDENTS: Lenny Leung Moy, Managing Broker, Icon Property Advisors Ltd,
Icon Property Advisors Ltd

DATE OF CONSENT ORDER: February 6, 2024

COUNSEL: Desiree Lee, Legal Counsel for the BC Financial Services Authority

PROCEEDINGS:

On February 6, 2024, the Superintendent of Real Estate (the "Superintendent"), or the Superintendent's authorized delegate, of the BC Financial Services Authority ("BCFSA") accepted the Consent Order Proposal (the "Proposal") submitted by Lenny Leung Moy ("L. Moy") on their own behalf and on behalf of Icon Property Advisors Ltd ("Icon").

WHEREAS the Proposal, a copy of which is attached hereto, has been executed by L. Moy and Icon.

NOW THEREFORE, having made the findings proposed in the attached Proposal, and found that L. Moy and Icon committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* ("RESA") and sections 53, 28(4), 28(1)(b), 28(3), 27(5), and 83(1) of the *Real Estate Services Rules* (the "Rules"), pursuant to section 43 of the RESA the Superintendent orders that:

1. L. Moy and Icon jointly and severally pay a discipline penalty to BCFSa in the amount of \$10,000 within three (3) months from the date of this Order;
2. L. Moy and Icon jointly and severally pay enforcement expenses to BCFSa in the amount \$2,000 within two (2) months from the date of this Order.

If L. Moy and/or Icon fails to comply with any term of this Order, the Superintendent may suspend or cancel their licences without further notice to them, pursuant to sections 43(3) and 43(4) of the RESA.

Dated this 6 day of February 2024 at the City of Vancouver, British Columbia.

Superintendent of the BC Financial Services Authority

"Original signed by Jonathan Vandall"

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

Attch.

File # 20-1428

BC FINANCIAL SERVICES AUTHORITY

IN THE MATTER OF THE *REAL ESTATE SERVICES ACT*

SBC 2004, c 42 as amended

IN THE MATTER OF

LENNY LEUNG MOY

(101229)

AND

ICON PROPERTY ADVISORS LTD.

(X024807)

CONSENT ORDER PROPOSAL BY LENNY LEUNG MOY

AND ICON PROPERTY ADVISORS LTD.

BACKGROUND AND FACTS

This Consent Order Proposal (the "Proposal") is made by Lenny Leung Moy ("L. Moy") and Icon Property Advisors Ltd. ("Icon") 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, L. Moy, Icon and the Superintendent have agreed upon the following facts:

A. LICENSING HISTORY

1. L. Moy (101229) has been licensed as a trading representative since 1996 and became a managing broker in 1999.
2. Icon (X024807) has been licenced since 1995. L. Moy was at all relevant times licensed as a managing broker with Icon.

B. REGULATORY HISTORY

3. The Real Estate Council of BC ("RECBC"), BCFSA's predecessor, has issued two Letters of Advisement ("LOA") against L. Moy:

- a. In File #15-380, an LOA was issued on February 26, 2019 following L. Moy's failure to be in active charge and control of the business of Icon and failure to properly and adequately supervise the then-strata manager pursuant to section 6(2) of the Real Estate Services Act ("RESA") and section (28)(1) (formerly, section 3-1(1)) of the Real Estate Services Rules (the "Rules") (the "2019 LOA").
 - b. In File #18-162, an LOA was issued on January 23, 2020 because L. Moy submitted a licensing renewal application on or around March 27, 2018, and rather than uploading proof of completion of the Re-licensing Education Program as required, L. Moy uploaded documents in relation to irrelevant coursework. L. Moy had not completed the course until April 11, 2018, at which point his licence had already expired, contrary to the requirements in place at the time.
4. Icon has no disciplinary history.
5. A Notice of Discipline Hearing on this matter was issued on October 19, 2023 and served on L. Moy and Icon on October 20, 2023.

C. FACTS

6. As part of the 2019 LOA, RECBC advised they would be conducting a follow up audit within six months.
7. An audit was conducted on November 16, 2020 (the "2020 Audit"), which revealed nine deficiencies including:
 - a. On or around August 14, 2020, \$20,000 was deposited into Icon's rental trust account on behalf of a third party when no real estate services were performed for that party, contrary to section 27(5) of the RESA; and
 - b. L. Moy personally owned a rental property at [Property 1], Vancouver, British Columbia (the "Property") which was managed by Icon, however L. Moy did not make the requisite disclosure of interest in trade in the form required, contrary to section 53 (formerly section 5-9 [Disclosure of interest in trade]) of the Rules.
8. The 2020 Audit report was provided to L. Moy on January 5, 2021.
9. On February 24, 2021, RECBC received a response from L. Moy which indicated how each deficiency from the 2020 Audit would be resolved.
10. An Audit Coordinator emailed L. Moy on March 25, 2021 to advise that the 2020 Audit file was closed.

D. PROPOSED FINDINGS OF MISCONDUCT

For the sole purpose of discipline proceedings against them by the Superintendent, and based on the facts outlined herein, L. Moy and Icon agree the following findings of misconduct be made by the Superintendent:

1. L. Moy committed professional misconduct within the meaning of section 35(1)(a) of the RESA in that he:
 - a. failed to submit a Disclosure of Interest in Trade Form to disclose that he personally owned a rental property at the Property which was managed by Icon, contrary to section 53 (formerly section 5-9 [Disclosure of interest in trade]) of the Rules; and
 - b. While licensed as the managing broker of Icon,
 - i. failed to ensure that the trust accounts of the Icon were maintained in accordance with the RESA, the Regulations, and the Rules, when on or around August 14, 2020, \$20,000 was deposited into the rental trust account of Icon on behalf of a third party when no real estate services were performed for that party, contrary to section 28(4) (formerly section 3-1(3)(a) [Managing broker responsibilities – Accounts and records]) of the Rules; and
 - ii. failed to ensure that a Disclosure of Interest in Trade Form was maintained for the Property by Icon, contrary to section 28(1)(b) and (3) (formerly section 3-1(3) [Managing broker responsibilities – Accounts and records] of the Rules.
2. Icon committed professional misconduct within the meaning of section 35(1) of the RESA when:
 - a. On or about August 14, 2020, \$20,000 was deposited into Icon's rental trust account on behalf of a third party when no real estate services were performed for that party, contrary to section 27(5) of the RESA; and
 - b. A written Disclosure of Interest in Trade was not retained for the Property, contrary to section 83(1) (formerly section 8-4(1) [General records]) of the Rules.

PROPOSED ORDERS

Based on the facts herein and the Proposed Findings of Misconduct, L. Moy and Icon propose 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. L. Moy and Icon be jointly and severally liable to pay a discipline penalty to BCFSA in the amount of \$10,000 within three (3) months from the date of this Order.
2. L. Moy and Icon be jointly and severally liable to pay enforcement expenses to BCFSA in the amount of \$2,000 within two (2) months from the date of the Order.
3. If either L. Moy or Icon fails to comply with any of the terms of the Order set out above, the Superintendent may suspend or cancel their licence without further notice to them.

ACKNOWLEDGEMENTS AND WAIVER OF APPEAL RIGHT

1. L. Moy and Icon acknowledge and understand 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. L. Moy and Icon acknowledge that they have 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 they have obtained independent legal advice or has chosen not to do so, and that they are making the Proposal with full knowledge of the contents and the consequences if the Proposal is accepted.
3. L. Moy and Icon acknowledge and are 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. L. Moy and Icon hereby waive their right to appeal pursuant to section 54 of the RESA.
5. If the Proposal is accepted and/or relied upon by the Superintendent, L. Moy and Icon will not make any public statement(s) inconsistent with the Proposal and its contents. Nothing in this section is intended to restrict L. Moy and Icon from making full answer and defence to any civil or criminal proceeding.
6. The Proposal and its contents are made by L. Moy and Icon 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 L. Moy and Icon in any civil proceeding with respect to the matter.

"Original signed by Lenny Moy"

"Original signed by Lenny Moy"

**Lenny Leung Moy, Managing Broker
Icon Property Advisors Ltd.**

**Lenny Leung Moy, Authorized Signatory for
Icon Property Advisors Ltd.**

Dated 5 day of February, 2024

Dated 5 day of February, 2024