

Citation: Chang (Re), 2024 BCSRE 34

Date: 2024-05-23

File #: 22-3855

BC FINANCIAL SERVICES AUTHORITY

IN THE MATTER OF THE *REAL ESTATE SERVICES ACT*,

SBC 2004, c 42 as amended

AND

IN THE MATTER OF

Ernest Hsien-Yu Chang

And

Ernest Chang Realty

(153687)

NOTICE OF ADMINISTRATIVE PENALTY

[This Notice has been redacted before publication.]

The Superintendent of Real Estate (the "Superintendent") of 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: **30 (a)**; First contravention: Yes; Penalty: \$5,000;

Details: You did not promptly inform your then rental property management client that the rental property's strata company issued a Notice of Infraction and reported significant damages on the rental property. It was found that you did not inform your client of the subject matter until August 2, 2022, notwithstanding that you became aware of the matter on or about July 26, 2022. Additionally, you did not respond to your client's requests and did not provide rental inspection reports and tenancy agreement. In so doing you failed to act in the best interest of your client.

2. Rule: **30 (b)**; First contravention: Yes; Penalty: \$5,000;

Details: You failed to conduct a move-out inspection despite your then rental property management client's request regarding completing the inspection two days prior to the end of tenancy. In so doing you failed to act in accordance with the lawful instructions of your client.

3. Rule: **87**; First contravention: Yes; Penalty: \$1,000;

Details: You failed to provide your former rental property management client with records relating to rental property management services, including tenancy agreements and inspection reports, contrary to section 87 of the Real Estate Services Rules. Evidence available supports that the former client had made three written requests to you on August 2, 3 and 31, 2022, and that you failed to respond to those requests.

(Collectively the "Contraventions").

Total administrative penalties: \$11,000

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 each of the administrative penalties. 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 Rules (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 penalties 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 23rd day of May, 2024 at the City of Vancouver, British Columbia.

Superintendent of the BC Financial Services Authority

“Original signed by Raheel Humayun”

Per: Raheel Humayun
Delegate of the Superintendent of Real Estate
Province of British Columbia