

CITATION: Hamzehali (Re), 2024 BCSRE 108

Date: 2024-12-05

File # 18-865

BC FINANCIAL SERVICES AUTHORITY

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

AND

IN THE MATTER OF
AMIRMOHSEN HAMZEHALI
(163196)

AND

AMIR HAMZEHALI PERSONAL REAL ESTATE CORPORATION
(163196PC)

AND

OKSANNA SUVOROV
(156416)

AND

LORA RENZULLO
(167280)

CONSENT ORDER BY AMIRMOHSEN HAMZEHALI
AND AMIR HAMZEHALI PERSONAL REAL ESTATE CORPORATION

[This Order has been redacted before publication.]

RESPONDENTS: Amirmohsen Hamzehali, Trading Representative, RLPS Limited
Partnership (doing business as Royal LePage Sussex (West
Vancouver))

Amir Hamzehali Personal Real Estate Corporation

DATE OF CONSENT ORDER: December 5, 2024

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

PROCEEDINGS:

On December 5, 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 Amirmohsen Hamzehali ("A. Hamzehali") and Amir Hamzehali Personal Real Estate Corporation ("A. Hamzehali PREC").

WHEREAS the Proposal, a copy of which is attached hereto, has been executed by A. Hamzehali and A. Hamzehali PREC.

NOW THEREFORE, having made the findings proposed in the attached Proposal, and in particular having found that A. Hamzehali and A. Hamzehali PREC committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* ("RESA") and sections 34 (then section 3-4) of the *Real Estate Services Rules* (the "Rules"), pursuant to section 43 of the RESA the Superintendent orders that:

1. A. Hamzehali and A. Hamzehali PREC jointly and severally pay a discipline penalty to BCFSA in the amount of \$40,000 within six (6) months from the date of this Order. \$10,000 shall be paid within seven (7) days from the date of this Order and the remaining \$30,000 shall be paid over the following six (6) months in equal monthly instalments;
2. A. Hamzehali and A. Hamzehali PREC jointly and severally pay enforcement expenses to BCFSA in the amount of \$2,000 within two (2) months from the date of this Order.

If A. Hamzehali and A. Hamzehali PREC fail 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 5th day of December, 2024 at the City of Victoria, 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. Consent Order Proposal

BC FINANCIAL SERVICES AUTHORITY

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

**HAMZEHALI AMIRMOHSEN
(163196)**

AND

**AMIR HAMZEHALI PERSONAL REAL ESTATE CORPORATION
(163196PC)**

AND

**OKSANNA SUVOROV
(156416)**

AND

**LORA RENZULLO
(167280)**

**CONSENT ORDER PROPOSAL BY HAMZEHALI AMIRMOHSEN
AND AMIR HAMZEHALI PERSONAL REAL ESTATE CORPORATION**

BACKGROUND AND FACTS

This Consent Order Proposal (the "Proposal") is made by Amirmohsen Hamzehali ("Hamzehali") on his own behalf and on behalf of and Amir Hamzehali Personal Real Estate Corporation ("Hamzehali PREC") 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, Hamzehali, Hamzehali PREC, and the Superintendent have agreed upon the following facts:

1. Hamzehali (163196) has been licensed as a trading representative since December 1, 2011.
2. Hamzehali became licensed as Hamzehali PREC (163196PC) on July 11, 2013.
3. Hamzehali was at all relevant times licensed as a trading representative with RLPS Limited Partnership dba Royal LePage Sussex (West Vancouver).

4. This matter arises from a complaint dated March 14, 2019 made to BCFSA (the "Complaint") by [Complainant 1] ("GB").
5. GB submitted the Complaint on behalf of the [Company 1] (the "Purchaser"), who purchased property at [Property 1], West Vancouver, BC (the "Property"). The Property was sold to the Purchaser in a contract of purchase and sale dated April 7, 2017, for \$6,725,000 (the "Transaction").
6. Hamzehali acted as listing agent in the Transaction. During the course of the Transaction and at all relevant times, Hamzehali worked with the help of a licensed assistant, Lora Renzullo ("Renzullo"). The Purchaser had an agency relationship with Oksanna Suvorov ("Suvorov").
7. [Individual 1] ("PG") was the director of the corporate seller, [Company 2] (the "Seller"). PG was also the owner/builder of the house which was built on the Property in 2016 (the "2016 House").
8. In 2014, Hamzehali was PG's agent for the purchase of the Property. At that time, the Property had an older house on it which was in "tear down" condition.
9. On April 12, 2016, PG entered a Multiple Listing Contract to list the Property with Hamzehali PREC as his designated agent.
10. When the Property was listed, the feature sheet indicated "Approx. Year Built: 2016".
11. On September 9, 2016, during the course of the listing, Hamzehali asked PG via email for a copy of the occupancy permit or any documents showing the house was built in 2016 and that GST is payable on the sale. No reply from PG was provided.
12. On September 16, 2016, in response to an email chain regarding a home inspection from an interested party, PG advised Hamzehali and Renzullo that approximately "10-15% of the original foundation was kept. The foundation is almost all new as well."
13. On January 26, 2017, PG completed a Property Disclosure Statement (the "PDS"). Both Renzullo and Hamzehali were present while PG completed the PDS.
14. On the PDS, PG answered "yes" to the question "Has a final building inspection or a final occupancy permit been approved."
15. At the time the PDS was completed, Hamzehali had still not received an occupancy permit or final building inspection from PG after asking for it in September 2016. In fact there would be no occupancy permit for the 2016 House because the District of West Vancouver (the "District") only provided occupancy permits for newly constructed homes, and it considered the 2016 House to be a renovation. In addition, the final building inspection had not been passed at that time.
16. The District determined that the 2016 House was a renovation because it assessed the 2016 House as under 75% brand new construction, based on the application materials submitted from the developer.
17. Suvorov, on behalf of her client, the Purchaser, contacted Renzullo in March 2017 to arrange a viewing of the Property.
18. On April 7, 2017, the Property was sold to the Purchaser in a contract of purchase and sale dated April 7, 2017, for \$6,725,000. The completion date was May 4, 2017, and possession was May 5, 2017. The Property sold for \$6,725,000 inclusive of the GST which the Seller paid.

19. Hamzehali had previously requested the permit from his client and PG had told him it was not ready and they were waiting for a final inspection.
20. At no time did Hamzehali attempt to obtain occupancy permits for the Property from the District or confirm with the District that final inspection had passed.
21. The Purchaser did not discover that a portion of the old foundation remained and that the home was not considered a new build by the District until after purchasing the Property. After the Transaction, the Purchaser was required by the District to complete certain modifications to the 2016 Home in order to pass final inspection. This resulted in inconvenience and cost to the Purchaser.
22. On May 29, 2018, the Purchaser commenced a civil action in the BC Supreme Court against various defendants including the Seller, PG, Hamzehali and Hamzehali PREC, and insurance providers claiming damages (the "Civil Action"). The Civil Action was resolved by a private settlement agreement in June 2023.
23. The District's final inspection was approved on November 28, 2023.
24. The BC Housing New Homes Registry indicated that the Property's new home warranty commenced on May 4, 2017.
25. BC Housing administers the Homeowner Protection Act (the "HPA"). The HPA governs owner builders and dictates when new home warranties are required and what they must cover. For the purposes of the HPA, a "substantially reconstructed" property can qualify as a new build.
26. BC Housing considers a home to be substantially renovated and thus a new home for the purposes of the HPA, if:
 - a. A home has been changed so that 25% or less of the original structure above the foundation remains; or
 - b. 75% or more of the reconstructed home is new.
27. The Notice of Discipline Hearing ("NODH") in this matter was issued on February 7, 2024. An amended NODH was issued on March 18, 2024 to amend the hearing dates, and a second amended NODH was issued on October 1st, 2024 to revise the charges.
28. Hamzehali and Hamzehali PREC previously received two (2) warning letters and a letter of advisement from BCFSA and the Real Estate Council of British Columbia, predecessor of BCFSA, in 2019, 2020, and 2022 relating to advertising offences.

PROPOSED FINDINGS OF MISCONDUCT

For the sole purposes of the Proposal and based on the Facts outlined herein, Hamzehali and Hamzehali PREC propose the following findings of misconduct be made by the Superintendent:

1. Hamzehali and Hamzehali PREC committed professional misconduct within the meaning of section 35(1) of the RESA in that, in or about April 2016 to April 2017, while acting as the designated listing agent for the seller of a property at [Property 1], West Vancouver, BC (the "Property"), they:

- a. Failed to act with reasonable care and skill when they failed to discover and disclose that the Property did not have a final completed building inspection and occupancy permit from the District of West Vancouver, contrary to sections 34 of the Rules (then section 3-4); and
- b. Failed to act with reasonable care and skill when they allowed their client to make a false and/or misleading statement in the Property Disclosure Statement dated January 30, 2017, when their client selected “yes” when answering “has the final building inspection been approved or a final occupancy approved?”, contrary to section 34 of the Rules (then section 3-4).

PROPOSED ORDERS

Based on the Facts herein and the Proposed Findings of Misconduct, Hamzehali and Hamzehali PREC 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. Hamzehali and Hamzehali PREC be jointly and severally liable to pay a discipline penalty to BCFSA in the amount of \$40,000 within six (6) months from the date of this Order. \$10,000 shall be paid within seven (7) days of acceptance of this Order, and the remaining \$30,000 shall be paid over the following six (6) months in equal monthly instalments.
2. Hamzehali and Hamzehali PREC 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 this Order.
3. If Hamzehali or Hamzehali PREC fail to comply with any of the terms of this Order, the Superintendent may suspend or cancel their licences without further notice to them.

ACKNOWLEDGEMENTS AND WAIVER OF APPEAL RIGHT

1. Hamzehali and Hamzehali PREC 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. Hamzehali and Hamzehali PREC 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 have 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. Hamzehali and Hamzehali PREC 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. Hamzehali and Hamzehali PREC 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, Hamzehali and Hamzehali PREC will not make any public statement(s) inconsistent with the Proposal and its contents.

Nothing in this section is intended to restrict Hamzehali and Hamzehali PREC from making full answer and defence to any civil or criminal proceeding(s).

6. The Proposal and its contents are made by Hamzehali and Hamzehali PREC 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 Hamzehali and Hamzehali PREC in any civil proceeding with respect to the matter.

"Original signed by Amirmohsen Hamzehali"

**Amirmohsen Hamzehali on his own behalf and on
behalf of and Amir Hamzehali Personal Real Estate
Corporation**

Dated 3rd day of December, 2024