

BC FINANCIAL SERVICES AUTHORITY

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

AND IN THE MATTER OF

SARMAD MEHRBOD

(167840)

AND

SAM MEHRBOD PERSONAL REAL ESTATE CORPORATION

(167840PC)

**REASONS FOR DECISION REGARDING
ADMINISTRATIVE PENALTY RECONSIDERATION REQUEST**

[These Reasons have been redacted before publication.]

DATE AND PLACE OF HEARING: Via Written Submissions

HEARING OFFICER: Gareth Reeves

Introduction

1. On June 12, 2024, the BC Financial Services Authority (“**BCFSA**”) issued a Notice of Administrative Penalty (the “**NOAP**”) in the amount of \$6,000 to Sarmad Mehrbod and Sam Mehrbod Personal Real Estate Corporation (collectively, “**Dr. Mehrbod**”) pursuant to section 57(1) and 57(3) of the *Real Estate Services Act*, RSBC 2004, c 42 (“**RESA**”).
2. In the NOAP, BCFSA determined that Dr. Mehrbod had contravened the *Real Estate Services Rules*, BC Reg 209/2021 (the “**Rules**”) as follows:
 - a. Section 40(2) of the Rules, by failing to identify his brokerage on his Facebook page;
 - b. Section 40(2) of the Rules, by failing to identify his brokerage on his Instagram page;
 - c. Section 40(3)(b) of the Rules, by failing to use the licensee name of his personal real estate corporation on his Instagram page, and
 - d. Section 41 of the Rules, by publishing false or misleading advertising on his Instagram page, by doing the following:
 - i. stating “Top 1% REALTOR in Van” and “REBGV Medallion Club” without any explanatory qualifying information,
 - ii. making references to being part of a team when he was not registered with a team, and
 - iii. providing inaccurate differences between listing and sales prices for eight transactions;

- e. Section 41 of the Rules, by publishing false or misleading advertising on his Facebook page, by using unregistered team names and referencing being part of a team when he was not registered with a team; and
 - f. Section 41 of the Rules, by publishing false or misleading advertising on his website, when he posted testimonials that indicated he was part of a team when he was not registered with a team.
3. Dr. Mehrbod applied for a reconsideration of the NOAP under section 57(4) of RESA. The application proceeded by written submissions.

Issues

4. The issue is whether the June 12, 2024 NOAP should be cancelled or confirmed.

Jurisdiction and Standard of Proof

5. This application for reconsideration is brought pursuant to section 57(4) of RESA, which requires the Superintendent of Real Estate (the “**superintendent**”) to provide a person who receives an administrative penalty with an opportunity to be heard upon request.
6. Section 57(4) of RESA permits the superintendent to cancel the administrative penalty, confirm the administrative penalty, or, if the superintendent is satisfied that a discipline hearing under section 40 of RESA would be more appropriate, cancel the administrative penalty and issue a notice of discipline hearing.
7. The superintendent has delegated the statutory powers and duties set out in section 57 to Hearing Officers.
8. The standard of proof is the balance of probabilities.

Background

9. The evidence and information before me consists of an investigation report completed by BCFSA, the tabs thereto, and the information provided by Dr. Mehrbod in the application for reconsideration. The investigation report in this matter involved two real estate licensees and I was provided only the tabs relevant to Dr. Mehrbod’s conduct. The following is intended to provide some background to the circumstances and to provide context for my reasons. It is not intended to be a recitation of all of the information before me.
10. Sarmad Mehrbod was first licensed on February 11, 2014 as a representative in the trading services category. He has remained so licensed since that date, except for a period of just over a month in March 2024. Sam Mehrbod Personal Real Estate Corporation was first licensed on March 11, 2015. As at the date of the NOAP, Dr. Mehrbod was not and had not been registered as a member of a team.
11. On January 4, 2024, BCFSA Investigations conducted a review of various internet sites associated with Dr. Mehrbod. That review revealed the below information.
12. Dr. Mehrbod’s website included testimonials which stated, the following:
 - a. “We had a great experience. Their team was very patient.”¹;
 - b. “It’s been great working with Sam and his team!”;

¹ I note that all quotes below have been reproduced from the materials including spelling and grammar errors

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- c. "Sam and his team were very knowledgeable"; and
 - d. "I have had an outstanding experience with Sarmad and his team!"
13. Dr. Mehrbod's Facebook page on that date had the name "Sam Mehrbod Personal Real Estate Corporation". It did not identify his brokerage.
14. On Dr. Mehrbod's Facebook page, he made a post, dated January 4, 2023, with an image showing the following text "SAM MEHRBOD PRECT TEAM HELPING HUNDREDS OF CLIENTS MAKE THEIR REALTY DREAMS A REALITY!" and showing pictures of Dr. Mehrbod and three other licensees.
15. Dr. Mehrbod's Facebook page also had a video posted in which Dr. Mehrbod states "Hey, this is Sam and Mohammed from Sam Homes Team" and also stating "So the longer ... moral of the story is who you work with actually matters. There has to be a team at your fingertips that can show up, that can get it done and get you to the finish line when the right property comes for you." The information before me does not indicate when that video was posted to Dr. Mehrbod's Facebook page.
16. Dr. Mehrbod's Instagram page on that date had the name "Sam Mehrbod Real Estate Team". It also stated "Top 1% REALTOR in Van" and "REBGV Medallion Club". It did not identify his personal real estate corporation's licensee name. It also did not identify his brokerage. A variety of posts on his page concerned his real estate services including posts about transactions on which he had provided real estate trading services.
17. Several posts on Dr. Mehrbod's Instagram account referred to a purported "team". These included the following posts:
- a. A May 6, 2020 video with the phrase "Dr. Sam Mehrbod Personal Real Estate Corporation Team" and showing three other individuals' photos;
 - b. A December 30, 2020 post with the text "our team worked hard and we pulled this off" in reference to a successful listing;
 - c. A January 2021 post showing a screenshot of a client testimonial stating, among other things, "Sam and his team, especially [Individual 1], proved that time and again with their thorough knowledge of home construction and the market.";
 - d. A February 8, 2021 post with the text "Could not be more proud of our team's work";
 - e. An April 9, 2021 post with the text "really great team work" included to describe a successful listing;
 - f. A May 6, 2021 video with the phrase "Dr. Sam Mehrbod Personal Real Estate Corporation Team" shown;
 - g. A July 21, 2021 post with the text "great team work" describing a court ordered sale;
 - h. An October 11, 2021 post with the text "Proud of our team at @excellencia_homes and sales team" followed by a list of four tagged accounts including other licensees;
 - i. A January 2022 post with an image featuring the text "\$37,000,000 SOLD IN 2021 By Sam Homes Team" and images of Dr. Mehrbod, two other licensees, and a fourth person who does not appear to be a licensee;
 - j. A February 23, 2022 post with the text "Our client bought this from Winnipeg, all done remotely our team went and filmed every condo in the market and we were able to score this 2 bed newer built by Bosa for them.";
 - k. A March 17, 2022 post with the text "It's unique feeling where our team worked on two buildings across from each other.";

- l. A April 6, 2022 image with the text “Dr. Sam Mehrbod Personal Real Estate Corporation Team” and a post stating “Thank you Real Estate Board of greater Vancouver for recognizing our team as top 1% medallion club qualifiers”;
 - m. A May 14, 2022 video featuring the text “\$37,000,000 SOLD IN 2021 By Sam Homes Team” and images of Dr. Mehrbod, two other licensees, and a fourth person who does not appear to be a licensee;
 - n. A May 15, 2022 post with the text “Thank your for your trust in SamHomes team. We are missing [Individual 1] in this photo”;
 - o. A July 26, 2022 post with the text “hire the right team & Sell at Top dollar, even in a cold market!” along with a video showing the same text;
 - p. A September 11, 2022 post with the text “Weekly real estate team planning session.”;
 - q. A March 8, 2023 video in which Dr. Mehrbod states “Hey, this is Sam and Mohammed from Sam Homes Team” and also stating “So the longer ... moral of the story is who you work with actually matters. There has to be a team at your fingertips that can show up, that can get it done and get you to the finish line when the right property comes for you.”;²
 - r. A November 24, 2023 video featuring the text “SAM MEHRBOD REAL ESTATE TEAM”;
 - s. A December 28, 2023 image with the text “SAM MEHRBOD PRECT TEAM HELPING HUNDREDS OF CLIENTS MAKE THEIR REALTY DREAMS A REALITY!” and showing pictures of Dr. Mehrbod and three other licensees.³
18. I note also that many of Dr. Mehrbod’s Instagram posts concerning real estate included the words “we” and “our” to describe the services provided. Many of the posts also tagged the accounts for other licensees. Those same licensees appeared in images alongside the text suggesting they were on a team.
19. Dr. Mehrbod’s Instagram account also included posts with the following statements regarding property listing and sale prices:
- a. On October 8, 2020, regarding a property on Beatty Street, Vancouver (the “**Beatty Property**”), “We just scored this beauty 40k below listed price.”;
 - b. On January 25, 2021, regarding a property on Laurel Street, Vancouver (the “**Laurel Property**”), “We just bought this 1050 sqft townhouse in a fully rain screened building, \$60k bellow it’s asking at \$795k.”;
 - c. On February 26, 2021, regarding a property on University Crescent, Burnaby (the “**University Property**”), “We scored this 1100 Sqft home for our client at [Property 1]. At 30k bellow it’s asking price of 600k.”;
 - d. On April 27, 2021, regarding a property on [Property 2], Maple Ridge (the “**Maple Ridge Property**”), “We listed and Sold this gem 85k above listed price in 4 days.”;
 - e. On August 17, 2021, regarding a property on East 13th Street, North Vancouver (the “**East 13th Property**”), “we bought this 3 year old 900+ sqft home 25k bellow asking.”;
 - f. On July 15, 2022, regarding a property on West 18th Avenue, Vancouver (the “**18th Ave Property**”), “Negotiated \$300k Bellow listing Price!”;⁴

² This is the same video as appeared on his Facebook page, as described above.

³ This is the same post and image as the January 4, 2024 post on his Facebook, as described above.

⁴ I note that the post refers to a property on West 14th Street. The Trade Record Sheet for this property indicates it was on 18th Street.

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- g. On April 5, 2023, regarding a property on Kenwood Road, West Vancouver (the “**Kenwood Property**”), “Listed for 5.3 mil. We got this at 4.5 mil for our client.”
20. In addition, another licensee tagged Dr. Mehrbod in an Instagram post on June 28, 2023 regarding a property on Mundy Street, Coquitlam (the “**Mundy Property**”) stating “We knew and were confident with the market, that’s why we could negotiate an bought this house for more than \$600k below the listing price!”.
21. I reiterate that although the above posts were made on the noted dates, they were all online on January 4, 2024.
22. The actual listing and sale prices for the above properties were as follows:
- a. The Beatty Property was originally listed for \$718,000. The listing price was reduced to \$698,000 and it sold for \$681,000. The difference between the original list price and the sale prices was \$36,000. The difference between the final listing and the sale prices was \$17,000.
 - b. The Laurel Property was listed for \$865,000 and sold for \$795,000. The price difference was \$70,000.
 - c. The University Property was listed for \$598,800 and sold for \$577,000. The price difference was \$21,800
 - d. The Maple Ridge Property was listed for \$899,000 and sold for \$985,000. The price difference was \$86,000.
 - e. The East 13th Property was listed for \$968,000 and sold for \$948,000. The price difference was \$20,000.
 - f. The 18th Ave Property was originally listed for \$2,788,000 before a price reduction to \$2,588,000 and it sold for \$2,485,000. The difference between the original listing and the sale prices was \$303,000. The difference between the final listing and sale prices was \$103,000.
 - g. The Kenwood Property was listed for \$5,280,000 and sold for \$4,575,000. The price difference was \$705,000.
 - h. The Mundy Property was originally listed for \$2,388,000. It was reduced twice: first to \$1,880,000 and then to \$1,790,800. It sold for \$1,750,008. The difference between the original listing and sale prices was \$638,792. The difference between the final listing and sale prices was \$40,792.
23. On April 9, 2024, Dr. Mehrbod provided a response to an investigation letter from BCFSA regarding the above issues. In that response Dr. Mehrbod said that he had used a person for marketing that did not understand the use of the term “team” within RESA and the Rules. He acknowledged responsibility for publishing non-compliant material and advised that he removed the material at issue. He admitted that the licensees mentioned in his posts did not operate as a team or provide trading services to his clients, except to refer their clients to him.
24. Dr. Mehrbod also provided proof of his qualification in 2023 for the “Top 1% Realtor in Van” statement on his Instagram. This proof is in the form of an email. That email is not dated but it refers to dates in February and March 2024 and a gala event occurring on March 20, 2024.
25. Regarding the discrepancies between the list prices and the amounts stated on Instagram, Dr. Mehrbod provided calculations for the various price differences relying on the original list prices in each case. He also stated “while careful attempts were made to indicate the price clearly, there are some instances where minor round ups in prices were made, I acknowledge that this is not acceptable and may cause mis leading”.

26. Finally, Dr. Mehrbod thanked BCFSa for raising the issues and promised they would not occur in the future and noted his board membership and community involvement.

Submissions

27. Dr. Mehrbod's submissions in this matter request that "similar infractions" be combined under individual penalties to reduce the total amount. He submits that the penalties imposed will result in a "significant financial strain on my family and me".
28. He submits that his corrective actions taken after BCFSa notified him of the infractions should be taken into account. He expresses his regret and points to his lack of disciplinary record.
29. He submits that the penalties for his contraventions of sections 40(2) and 40(3)(b), for failing to display his brokerage name on his Instagram and Facebook and failing to use his personal real estate corporation's licensee name on his Instagram, are essentially the same oversight. He argues that an individual penalty for each is "excessively punitive" and it would be fair to have one penalty for all three.
30. Regarding his contraventions of section 41 of the Rules he submits as follows:
- a. He qualified for the awards he listed on his Instagram and has now posted the qualifying information online.
 - b. He notes that the teams rules materially changed on April 1, 2023, after many of the posts and the testimonials at issue were created. I address the nature of this change below.
 - c. There appears to be a duplication of penalties for postings on multiple websites, which he says is "overly harsh for a first-time offense".
 - d. The reviews at issue were pulled from Google Reviews unmodified and the clients referred to "team" to include the various professionals working on the transaction including lawyers, mortgage brokers, and movers that he recommended and not a "formal real estate team". He says he "could not control what the clients would have written."
31. He also submits that his social media accounts operate as personal and professional accounts and the professional aspects including his building company. He submits that this makes it "challenging" to comply with the Rules when his posts cover these diverse areas.

Applicable Legislation

32. Section 56 of RESA provides that BCFSa may designate specific provisions of RESA, the Real Estate Regulation (the "**Regulations**"), or the Rules as being subject to administrative penalties, and may establish the amounts or range of amounts of administrative penalty that may be imposed in respect of each contravention of a specified provision. Pursuant to section 56(2), the maximum amount of an administrative penalty is \$100,000. I note that up to June 30, 2021, that limit was \$50,000, although that point is not particularly material in this decision.
33. During the period over which the subject posts were published various amendments to the Rules were made.
34. For the purposes of this decision, I note that between June 15, 2018 and January 30, 2021, the Rules provided that a contravention of a section designated as eligible for an administrative penalty attracted a \$625 penalty for a first contravention, a \$1,250 penalty for a second contravention, and a \$2,500 penalty for a third or subsequent contravention: then section 2-24 of the Rules. In addition, the predecessor to current section 40 of the Rules, section 4-6, was designated as eligible for administrative penalties, but the predecessor to current section 41 of the Rules, section 4-7, was not.

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35. On and after February 1, 2021, the Rules provided a list of sections that, for the purposes of section 56(1) of RESA, were designated contraventions to which Division 5 (Administrative Penalties) of Part 4 of RESA applied. This was found in section 2-23 between February 1, 2021 and June 30, 2021, inclusive, and in section 26 thereafter.
36. During this latter time frame, section 26(2) (previously section 2-23(2)) of the Rules identified four categories, Category A, B, C, and D, for designated contraventions for the purpose of determining the amount of an administrative penalty. Sections 40 and 41 (sections 4-6 and 4-7 prior to August 1, 2021) of the Rules were placed in Category D. Section 27(4) (previously section 2-24(4)) of the Rules provided that Category D contraventions would attract a \$1,000 base penalty for a first contravention plus an additional \$250 per day, or part of a day, that the contravention continues.
37. Section 57(1) of RESA sets out that, if the superintendent is satisfied that a person has contravened a provision of RESA, the Regulations, or the Rules designated under section 56(1)(a) of RESA, the superintendent may issue a notice imposing an administrative penalty on the person. Section 57(2) requires that a notice of administrative penalty indicate the rule that has been contravened, indicate the administrative penalty that is imposed, and advise the person of the person's right to be heard respecting the matter.
38. During the material time prior to April 1, 2023, the only provision addressing teams was section 40(5) (and 4-6(5) prior to August 1, 2021) of the Rules which stated as follows: "If the superintendent approves a team name for a group of related licensees, real estate advertising may also identify the group by team name."
39. After April 1, 2023 the Rules provided as follows:
- 1** In these rules:
- "publish"**, in relation to real estate advertising, includes
- (a) causing or permitting real estate advertising to be published, and
- (b) displaying real estate advertising, or causing or permitting real estate advertising to be displayed;
- 38** ...
- (3) The licensee name of a personal real estate corporation is the legal name of the corporation.
- 40** (1) A licensee must not publish real estate advertising unless the advertising complies with this section.
- (2) In all cases, the licensee name of the brokerage must be displayed in a prominent and easily readable way.
- (3) Real estate advertising that identifies a managing broker, associate broker or representative must do so,
- ...
- (b) if that person is a personal real estate corporation or a controlling individual of a personal real estate corporation, by using the licensee name of the personal real estate corporation only.
- 41** A licensee must not publish real estate advertising that the licensee knows, or reasonably ought to know, contains a false or misleading statement or misrepresentation concerning real estate, a trade in real estate or the provision of real estate services.

Reasons and Findings

40. The imposition of an administrative penalty under section 57 of RESA is a discretionary decision. A request to reconsider the imposition of an administrative penalty requires a Hearing Officer to consider not only whether a contravention of RESA, the Regulations, or the Rules has occurred, but also whether a licensee exercised due diligence, that is: took reasonable steps or precautions, to prevent the contravention of the designated sections identified in the notice of administrative penalty. A Hearing Officer may also consider information on any extenuating circumstances that prevented compliance, or any other information the licensee believes a Hearing Officer should consider.

The Section 40(2) Contraventions

41. The above facts establish that Dr. Mehrbod failed to indicate his brokerage's name on his Facebook and Instagram pages. This is contrary to section 40(2) of the Rules. The NOAP issued in this case issued two administrative penalties under that section for this conduct: one for Instagram and one for Facebook.
42. Dr. Mehrbod submits that these alleged contraventions of 40(2) should not result in two administrative penalties because they are essentially the same. Although Dr. Mehrbod has not phrased it in this way, I take him to be submitting that the imposition of two penalties in this case runs contrary to the "double jeopardy" principle in *Kienapple v R*, 1974 CanLII 14 (SCC) and *R v Prince*, 1986 CanLII 40 (SCC) ("**Prince**"), which precludes an individual from being sanctioned twice for effectively the same conduct. This principle has been applied in the context of regulatory enforcement in *McLeod v Law Society of British Columbia*, 2022 BCCA 280.
43. For the principle to apply, and to preclude two sanctions, there must be both a factual nexus between the events and a legal nexus between the contraventions: *Prince*, para 14. For a factual nexus to be present, the alleged contraventions must arise from the same act, transaction, or occasion: *Prince*, paras 17-20.
44. Even where there is a significant factual nexus between the allegations, there must also be a nexus between the contraventions. Assessing that nexus requires assessment of whether there are distinguishing elements of the contravention, if one of the alleged contraventions was merely a particularization of the other, or if the two contraventions are simply two methods of proving the same wrong: *Prince*, paras 32-37. As suggested by that assessment, consideration of the legal nexus does not involve a mere recitation of the elements of each alleged contravention to find a technical difference; instead, the overarching question is whether the "same cause, matter, or delict underlies both charges" or if they seek to address a different harm, fault, wrongdoing, or concern: *Prince*, para 39.
45. Regarding the factual nexus, the alleged contraventions of section 40(2) of the Rules overlap in time and there was some overlap in the content posted between Dr. Mehrbod's Instagram and Facebook accounts. This is indicated by at least one video post and image post appearing on both of Dr. Mehrbod's Facebook and Instagram pages.
46. That said, the evidence demonstrates that the overlapping content was not always posted on the same dates. For example, A single post was published on Dr. Mehrbod's Instagram on December 28, 2023 and then on his Facebook on January 4, 2024. I infer from this that some separate action was required to post content to each site.
47. Further, and more importantly, the username and biographical information were different on each of the sites. For example, on Instagram, Dr. Mehrbod's name was "Sam Mehrbod Real Estate Team" and he listed his PhD in construction management along with certain awards. On Facebook, Dr. Mehrbod's name was "Sam Mehrbod Personal Real Estate Corporation". I note that

the evidence Dr. Mehrbod has submitted indicates he qualified for the Top 1% of Realtors awards in late 2023, such that he must have updated his Instagram page with that information around the time of late 2023 and he did not update his Facebook page at the same time. These differences indicate that Dr. Mehrbod was separately maintaining these aspects of the pages and that doing so required separate acts or instances of inaction. Therefore, even though they were online at the same time, I conclude that operating each constitutes different acts or transactions sufficient to maintain separate charges for failing to prominently display a licensee's related brokerage's name contrary to section 40(2).

48. Dr. Mehrbod has not submitted any evidence that he exercised due diligence with regard to this contravention. He does indicate that his Facebook and Instagram were both used for personal and other business purposes, but that does not defeat the fact that they were both also being used for the purposes of advertising his real estate services. This is indicated by the content of the posts, the names he used on each site, and the content of his biographical information on Instagram. Each of those tied his social media sites to his status and work as a real estate licensee. In my view, Dr. Mehrbod chose to intermingle these different aspects of his life on social media and thereby chose to take on the challenges that might come along with that intermingling.
49. I note, in this regard, that BCFSA published guidance regarding real estate advertising dated May 4, 2021 entitled "Advertising Guidelines", which states that on social media sites licensees "must include the name of [their] related brokerage on [their] profile screen." Although that guidance is not binding on me, I find it is relevant both to the Dr. Mehrbod's failure to post that information and to his failure to exercise due diligence in determining whether he has complied with his obligations.
50. I therefore find that Dr. Mehrbod contravened section 40(2) of the Rules in two instances by failing to clearly and prominently indicate his brokerage's name on his Facebook and Instagram pages on January 4, 2024. As indicated above, I find there to have been two contraventions of section 40(2) in this regard.

The Section 40(3)(b) Contravention

51. Again, the facts are clear that Dr. Mehrbod did not display his personal real estate corporation's licensee name on his Instagram.
52. BCFSA has published guidance regarding the use of Personal Real Estate Corporations dated May 4, 2021 and entitled "Personal Real Estate Corporation Guidelines, which states as follows:

If you advertise a personal real estate corporation, you must only use the licensee name of the personal real estate corporation in your advertising. This includes advertisements in social media, other print advertising, television and radio. It is not you, as an individual, who are providing the services on behalf of your brokerage, but rather your personal real estate corporation.

When licensing a personal real estate corporation, make sure that the legal name of the personal real estate corporation is the name in which you wish to advertise. Using the term PREC is not permitted. You must use the entire "personal real estate corporation" term.
53. This guidance is not binding on me, but I consider it guiding and indicative of the regulator's general position regarding the requirements of the Rules and clearly reiterates the requirement in section 38(3) of the Rules that a personal real estate corporations licensee name is its legal name and of section 40(3)(b) of the Rules that licensees, if they advertise, must do so "if that person is a personal real estate corporation or a controlling individual of a personal real estate corporation, by using the licensee name of the personal real estate corporation only."

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54. Dr. Mehrbod argues, as above, that this contravention is essentially the same as the section 40(2) of the Rules contraventions, specifically the allegation regarding his Instagram page. Again, I consider this to be raising the issue of the “double jeopardy” rule.
 55. Regarding the factual nexus, both the allegations concerning Dr. Mehrbod’s failure to display his brokerage name and his failure to display his personal real estate corporation’s licensee name involve the same website and the same Instagram profile. In my view, it is likely that setting up and maintaining that profile would have involved effectively an event or course of conduct that overlapped in time. That said, the words he was required but failed to post are different and required Dr. Mehrbod to turn his mind to different aspects of his Instagram profile. He could have failed in one of these regards without failing in the other. Therefore, although the conduct was closely connected temporally and likely involved a single event, I find that it required two different and distinct failures to act in fact.
 56. In any event, regardless of the factual nexus, I conclude, for the reasons set out below, that there is not a sufficient legal nexus to support application of the “double jeopardy” principle.
 57. The contraventions at issue are founded on two different subsections of section 40 of the Rules. Section 40(2) deals with identification of the licensee’s brokerage and does not address, in any way, the licensee’s or their personal real estate corporation’s name. Section 40(3)(b) addresses the way in which the licensee identifies themselves when they operate through a personal real estate corporation.
 58. Although both sections concern the identification of persons involved in the provision of real estate services, they are aimed at the identification of different persons with different roles in the transaction.
 59. It is important for the public to know a licensee’s brokerage information because licensees act through and on behalf of their brokerage under the supervision of their managing broker. In dealing with licensees the public needs this information to assess what real estate services they will receive and who they might go to if issues arise from the licensee’s provision of real estate services.
 60. It is important for the public to know which licensee they are dealing with and further to know if they are dealing with a corporation or an individual because that difference may impact their ability to recover if something goes substantially wrong in the transaction.
 61. Therefore, these two sections are intended to address different issues or concerns and are sufficiently different to support a finding that Dr. Mehrbod contravened both sections 40(2) and 40(3)(b) of the Rules on his Instagram page.
 62. Dr. Mehrbod has not argued that he exercised due diligence in regard to displaying his brokerage’s name or his personal real estate corporation’s name on his Instagram page. As above, he has raised the complexity of managing pages that contain personal and professional posts. For substantially the reasons indicated above, I do not accept that Dr. Mehrbod exercised due diligence in regard to his compliance with section 40(3)(b): he chose to co-mingle his social media posts and BCFSa’s published guidance was clear with regard to the requirements and available for his reference.
 63. I therefore find that Dr. Mehrbod contravened section 40(3)(b) by failing to display only his personal real estate corporation’s licensee name, “Sam Mehrbod Personal Real Estate Corporation” on his Instagram page on January 4, 2024.

The Section 41 Contraventions

64. To establish that a licensee contravened section 41 of the Rules, the following must be shown:
 - a. The licensee published the material by causing or permitting it to be published, displaying it, or causing or permitting it to be displayed;
 - b. The material was real estate advertising;
 - c. The content made a false or misleading statement or misrepresentation concerning real estate, a trade in real estate, or the provision of real estate services; and
 - d. The licensee knew or ought to have known the material contained the above noted false or misleading statement(s) or misrepresentation(s).
65. The question of due diligence arises in two contexts within that analysis. First, it arises in the knowledge section in regard to the licensee exercising due care regarding the content published. Once it is proven that the material contained false or misleading statements or misrepresentations, the question is whether the licensee exercised due diligence with regard to those statements or representations. Second, it arises in the publication analysis when addressing whether the licensee exercised due care when causing or permitting publication. In this second context, the question is whether the licensee exercised due care when causing, permitting, or continuing publication.
66. In many cases, the content question is of primary concern because the licensee is actively involved in the production and dissemination of the material and the question of care in publishing does not arise; however, in some cases the question of care in publication arises as well because the licensee shares, disseminates, or otherwise becomes connected to the publication after it is published. As is apparent from the below, this case involves primarily the first question, but the Mundy Property post raises the second because it was published on another licensee's Instagram page.
67. Leaving aside the issue of the Mundy Property post for the moment, I find that the other pages and posts at issue in this proceeding were real estate advertising published by Dr. Mehrbod.
68. All of the posts at issue concerned real estate services or the provision of real estate services and involved either explicit or implicit representations that the public should make use of Dr. Mehrbod's real estate services. His Instagram and Facebook pages both used names that inherently connected them to his real estate services business and his Instagram listed awards or honours associated with the provision of real estate services. Therefore all of the posts, including the Mundy Property post, were real estate advertising.
69. All of the pages were under Dr. Mehrbod's name and control, either directly or through others. This is indicated both by the content and by the steps Dr. Mehrbod was able to take during the investigation of this matter to remove or amend the subject posts.
70. The real issues in this case concern whether the material was false or misleading, whether Dr. Mehrbod knew or ought to have known that, whether Dr. Mehrbod exercised due diligence, and whether any of the contraventions trigger the double jeopardy principle discussed above. The Mundy Property posting also raises the issue of whether Dr. Mehrbod published it.
71. I will address those points as they relate to each alleged contravention. I will begin with whether Dr. Mehrbod published the Mundy Property post.

Publication of the Mundy Property Post

72. The evidence before me establishes that the Mundy Property post was made on another licensee's Instagram page. There is no evidence that Dr. Mehrbod accessed or controlled that page or that Dr. Mehrbod consented in advance to the post or being tagged in it. I find that the other licensee made the post and tagged Dr. Mehrbod in that post. Dr. Mehrbod cannot be said to have caused the other licensee to post the Mundy Property post.
73. The question then becomes whether Dr. Mehrbod permitted the post. In my view, the word "permitting" includes a meaning that encompasses both directly consenting to something and to allowing something to happen with knowledge, actual or implied, that it will occur or is occurring. The phrasing of the definition in the Rules, in particular the use of both "causing" and "permitting" together, suggests that the drafter intended that definition to apply beyond cases where the licensee consented in advance or actively pursued the publication. The word "permit" also indicates that the licensee alleged to have permitted the publication must have a degree of knowledge of the publication to be considered to have permitted it. In my view, that degree of knowledge includes actual knowledge and implied knowledge, that which the licensee reasonably ought to have known: see *R v Sault Ste Marie (City)*, [1978] 2 SCR 1299 at pp 1326-1329.
74. Dr. Mehrbod may not have made the June 28, 2023 Mundy Property post, but Instagram notifies users when they are tagged in posts and allows them to untag themselves. The evidence establishes that Dr. Mehrbod was tagged in the post and remained tagged in it until at least January 4, 2024. The evidence establishes that he used his Instagram during that period and updated it shortly before January 4, 2024. I find that it is more likely than not that Dr. Mehrbod was notified when he was tagged in that post and that he remained tagged for several months.
75. In my view, that tagging is sufficient to conclude that Dr. Mehrbod permitted the post and therefore published it within the meaning of the Rules. He was notified of the post on a social media platform that he used to promote his real estate services and to represent himself as a real estate licensee and therefore ought to have known he had been tagged and ought to have turned his mind to the question of whether he wanted to remain tagged. In that context, he permitted his own profile to remain tagged in that post for a significant amount of time.
76. I find that Dr. Mehrbod published the Mundy Property post within the meaning of the Rules.

Instagram

77. The NOAP groups together Dr. Mehrbod's alleged contraventions in relation to his publication of his awards, his use of and reference to unregistered team names, and his misrepresentation of price differences on Instagram. I will address each of those issues in turn below.

1. Awards

78. Regarding the awards statements, on January 4, 2024, Dr. Mehrbod's Instagram also stated "Top 1% REALTOR in Van" and "REBGV Medallion Club". It provided no qualifying information regarding how or when he qualified for these awards. Without that qualifying information the public could easily have concluded that these awards concerned times, volumes of transactions, or other qualifying criteria that they did not.
79. I note that BCFSAs Advertising Guidelines published May 4, 2021 noted the need for these kinds of awards or honours to indicate the basis for them including the source, date, and any qualifying information. In my view, this is necessary to ensure the nature of those awards is clearly communicated and the public is not misled into believing the awards indicate more than they do.

80. Although I am not bound by those guidelines, I find them useful in assessing whether Dr. Mehrbod's publication of his awards without qualifying information was false or misleading or made a misrepresentation.
81. In my view, these statements left open obvious inferences regarding the times during which Dr. Mehrbod qualified for these awards and what qualities were necessary for him to qualify for them. This rendered the statements misleading regarding his provision of real estate services.
82. Again, Dr. Mehrbod has not demonstrated any degree of due diligence with regard to his compliance with the requirements of section 41 of the Rules. He has not demonstrated he took any steps, prior to being notified by BCFSa of his obligations, to ensure his publication of his awards complied with the Rules or to understand if the representations he made were misleading. I also, as noted above, reject his argument that mingling his personal and business social media presence made it difficult for him to comply with the Rules.
83. Regarding the double jeopardy principle, I find it does not apply here. Posting these statements required a discrete separate act from the other contraventions alleged: he had to type the words necessary to make the publication on his Instagram profile. In my view, that leads to a conclusion that the legal nexus between this contravention and the others is not established. This contravention is distinct from the others in that it alone deals with publication of statements regarding awards. I note that section 41 of the Rules applies to a broad variety of statements that a licensee might make in the course of real estate advertising. Where those statements are of substantially different kinds, the making of an allegation under section 41 of the Rules can address a different concern for each allegation and therefore addresses a different wrong. Although offending statements might be included in a single publication, if they are sufficiently distinct in kind from the others, they warrant a separate response.
84. I therefore find that Dr. Mehrbod contravened section 41 of the Rules by publishing false or misleading statements or misrepresentations concerning the provision of real estate services by publishing the statements "Top 1% REALTOR in Van" and "REBGV Medallion Club" on his Instagram on January 4, 2024.

2. Team Names

85. Regarding Dr. Mehrbod's use of team names on Instagram, the evidence clearly establishes that Dr. Mehrbod made repeated representations from May 2020 until January 4, 2024 that he was providing real estate services together with a variety of different real estate licensees. This includes many uses of the word "team" along with his tagging those other licensees in his posts concerning real estate transactions. Together, these statements both explicitly and implicitly indicated that Dr. Mehrbod worked together with these licensees on transactions and gave the impression that a client who engaged Dr. Mehrbod would obtain the benefit of this "team" working for them.
86. Dr. Mehrbod has admitted that this was false and he in fact did not work with these other licensees on transactions. Those licensees would refer him deals and clients, but they did not provide real estate services on his transactions.
87. Trading services real estate teams and the advertising rules around them have been in place for some time. Teams operate within a brokerage and have been used by licensees to indicate to potential clients that they will benefit from the skills, experience, and work of the team when they engage that team. The licensees represent to the public that they work together to represent clients and can thereby more effectively market and sell real estate.

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88. An issue that arises in this matter, as Dr. Mehrbod notes, is that the rules surrounding teams have changed over time. For the purposes of this matter, the most relevant change is the change from the teams provisions prior to April 1, 2023 and those in effect after that date.
 89. Before April 1, 2023, the only provision regarding teams was section 40(5) (and 4-6(5) prior to August 1, 2021) of the Rules which stated as follows: “If the superintendent approves a team name for a group of related licensees, real estate advertising may also identify the group by team name.”
 90. That section states a conditional which permits the use of a team name in advertising where the superintendent (or previously the Real Estate Council) had approved the team name. This was taken by the regulator to mean that using a team name in advertising without approval contravened section 40(5) or 4-6(5) at the relevant times: see *Yin (Re)*, 2018 CanLII 67061 (BC REC); *Kang (Re)*, 2021 CanLII 75934 (BC REC). In the *Kang* case, the use of a team name in advertising also constituted a contravention of the predecessor to section 41 of the Rules.
 91. I pause to note that the above are both consent orders and not adjudicated decisions made after a contested hearing and are therefore of limited precedential value. That said, they show some indication of the position of the regulator at the relevant time regarding the requirements of the Rules.
 92. Effective April 1, 2023, the Rules were amended to include sections 42.1 to 42.4, which govern the operation of real estate teams. These rules require licensees to register as a team in certain circumstances including where the licensees “represent themselves to the public as a single entity”: Rules, s 42.2(1)(a). Licensees cannot provide real estate services through a team unless they are registered to that team. If they are registered to a team, they can only provide real estate services through that team and become designated agents of all the team’s clients. In addition, sections 40(5) and (6) and 42.4(6) of the Rules require that advertising by a real estate team identify the team’s name.
 93. In my view, the above indicates that the use of team names in advertising has been regulated through the Rules for the entire duration of the conduct at issue here. Through that time, the superintendent and the Real Estate Council have taken the position that licensees must not use team names or represent to the public that they are on a real estate team unless they are registered as such.
 94. In addition and regardless of these regulatory changes, I find that advertising that presents licensees as working together and that presents them as members of a “team” would give the public the impression that, if they engaged the licensees, they would obtain the benefit of representation by the team. The public may not necessarily know the details of real estate team registration, but I find that representing that individual licensees work together as a “team” would suggest that they would represent clients together and be appropriately registered as such.
 95. One further issue that arises from the above legislative history is that the allegation in this case is based in section 41 of the Rules, which was previously section 4-7 of the Rules prior to August 1, 2021, but the conduct spans to before that change. In my view, nothing of particular importance turns on that issue. The relevant provisions, section 41 and 4-7, were the same in content and all that changed, for the purposes of establishing a contravention, was the section reference. Further, the conduct at issue here consisted both of discrete individual posts and the general course of conduct engaged in by Dr. Mehrbod after the change in numbering. Both the continuing nature of the conduct and the fact that posts occurred after the change in numbering justify a reference to section 41.
 96. In regard to Dr. Mehrbod’s knowledge, I find that he knew or ought to have known that these posts were false or misleading. In my view, the course of conduct indicated by this series of posts indicates that he intended to represent to the public that the services they could obtain by engaging

him included a team of individual licensees working together to achieve positive results for them. This is indicated by his repeated use of the words “team”, “we”, and “our” in describing the real estate services provided and his repeated tagging of the same small group of licensees. In my view, Dr. Mehrbod was aware of the impression this would give and intended that impression to be made. If I am wrong in that regard, he ought to have known it, given it is apparent on the face of the material he published.

97. Dr. Mehrbod has made no argument that he exercised due diligence with regard to these representations and I find that he did not. In this regard, I am conscious of BCFSA's guidance on real estate teams on its website under Teams Information, published January 31, 2023 and in the Advertising Guidelines published May 4, 2021. This information was available to Dr. Mehrbod when he was making or involved in the posts at issue and he should have referenced it before publishing.
98. Again, I reject Dr. Mehrbod's intermingling argument for the reasons set out above.
99. Regarding the double jeopardy argument, I find that Dr. Mehrbod's representations regarding teams involved multiple posts over a significant period, and this allegation is factually distinct from almost all the other allegations.
100. Although the posts appeared on Instagram, it involved individual posts as opposed to his profile information, like the section 40(2) and 40(3)(b) contraventions and the contravention involving publication of his awards.
101. There is some overlap between the posts making teams representations and those making inaccurate pricing representations, but Dr. Mehrbod could have made his representations regarding teams without also making representations regarding pricing on each of the posts at issue and *vice versa*.
102. Considering the matter as a whole, the allegations regarding the teams representations on Instagram address a distinct type of wrong that the above mentioned contraventions do not. I will address the issue of double jeopardy as it relates to the allegations regarding teams representations on Facebook below.
103. I therefore find that Dr. Mehrbod contravened section 41 of the Rules by publishing false and misleading statements or misrepresentations concerning the provision of real estate services by publishing statements on his Instagram that indicated and implied that he was part of a real estate team with other licensees when he was not.

3. Pricing Information

104. Regarding the published pricing information, I conclude that the pricing information discussed above was false or misleading regarding each of the trades in real estate at issue and the real estate services provided in regard to those trades.
105. For reference, the following demonstrates the published versus the actual price differences for each property:
 - a. For the Laurel Property he stated the difference as \$60,000 when it was \$70,000;
 - b. For the University Property he stated the difference as \$30,000 when it was \$21,800;
 - c. For the Maple Ridge Property he stated the difference as \$85,000 when it was \$86,000;
 - d. For the East 13th Property he stated the difference as \$25,000 when it was \$20,000;
 - e. For the Kenwood Property he represented the difference as \$800,000 when it was \$705,000;

- f. For the Beatty Property he stated the difference as \$40,000 when, taking the original listing price, it was \$36,000 or, taking the final listing price, it was \$17,000;
 - g. For the 18th Ave Property he stated the difference as \$300,000 when, taking the original listing price, it was \$303,000 or, taking the final listing price, it was \$103,000; and
 - h. For the Mundy Property the post stated the difference as \$600,000 when, taking the original listing price, it was \$638,792 or, taking the final listing price, it was \$40,792
106. In my view these posts were inaccurate in two regards.
107. First, it is false and misleading regarding the actual numbers. Even taking the original listing prices, which Dr. Mehrbod does, and comparing them to the final sale prices each calculation is incorrect and therefore false. I do not accept that these were the result of reasonable rounding or shorthand. A useful example of this unreasonable rounding, even at the lower end of the instances noted above, is the Maple Ridge Property, for which Dr. Mehrbod stated a difference of \$85,000 in the Instagram post, but the actual difference was \$86,000. In my view, there was no reason to leave off the \$1,000. It did not result in a shorter or more concise post or otherwise aid in understanding the message. The posts do not indicate that the numbers used are approximate or rounded. In my view, publishing inaccurate pricing numbers is false and misleads the public regarding the subject trade in real estate and the services provided by the licensees acting on that transaction.
108. Approximations may be acceptable in certain cases, but only where the publication notes the numbers are approximate and the approximations are reasonable. None of the subject posts indicated they were approximate and even if they had, many were not reasonable approximations.
109. The Kenwood Property provides a clear example of an unreasonable approximation. In that instance, Dr. Mehrbod rounded up the listing price by \$20,000 and rounded down the sale price by \$75,000, which resulted in him overstating the price difference by \$95,000. That difference is significant and represents a completely unreasonable use of rounding.
110. Second, I do not find that it is acceptable practice to simply take the original listing price and compare it to the final sale price, as occurred in the posts concerning the Beatty Property, the 18th Ave Property, and the Mundy Property. Doing so suggests that Dr. Mehrbod was able to secure much more substantial reductions from the then listed price than he actually was. In my view, it is material to the nature of the real estate services provided by Dr. Mehrbod that the lower price was only obtained after intervening price reductions by the sellers. Simply stating the whole price difference suggests that the reduction was the result only of Dr. Mehrbod's (and his purported team's) real estate service when other factors were likely at play on the pricing point.
111. Regarding Dr. Mehrbod's knowledge of the inaccuracies, I find that Dr. Mehrbod knew they were inaccurate before they were published in all cases except the Mundy Property post. He argues that the issues arose from small rounding issues, but he has also admitted that the use of incorrect numbers was misleading. In my view, Dr. Mehrbod knew when he published the posts that the numbers used in them were not accurate. In the event I am wrong in this regard, I find that Dr. Mehrbod ought to have checked the numbers prior to publication to ensure they were accurate and not portrayed in a misleading way.
112. Regarding the Mundy Property post, Dr. Mehrbod ought to have known it was false or misleading or, if he could not confirm its veracity, he should have untagged his account from the post. As indicated above, Instagram allows users to untag themselves. Dr. Mehrbod's Instagram account was connected to his real estate activity by its name and biographical information and therefore he was linked to this post in regard to his real estate activities. By being tagged in the post, Dr. Mehrbod became connected to it as a licensee and he should have turned his mind to whether he wanted to remain connected to it. Once Dr. Mehrbod was tagged and notified that he was tagged, he should have either verified the information in the post and if he could not, untagged himself. It should also

be noted that the material before me shows that he was actively using his Instagram account during the time when it was tagged.

113. Dr. Mehrbod has submitted no evidence that he exercised due diligence regarding the pricing information. He does say that care was taken in regard to the numbers, but he does not state how the inaccuracies arose and, in my view, the inaccuracies in what amount to simple calculations and the choice to use often inflated numbers demonstrates a clear lack of care. I also reject his intermingling submissions as indicated above.
114. Turning to the double jeopardy issue, I find the principle does not apply here for the same reasons indicated in relation to the teams representations issue.
115. I therefore find that Dr. Mehrbod contravened section 41 of the Rules by publishing false and misleading statements or misrepresentations concerning the trades in real estate and the provision of real estate services by publishing statements on his Instagram that stated inaccurate differences between listing and sale prices in regard to the Beatty Property, the 18th Ave Property, the Laurel Property, the University Property, the Maple Ridge Property, the East 13th Property, the Kenwood Property, and the Mundy Property from the dates they were published until January 4, 2024.

Facebook

116. The evidence establishes that Dr. Mehrbod made two posts on his Facebook page that represented he was on a real estate team and used the name "Sam Homes Real Estate Team" on his Facebook profile.
117. The two posts included a video post and an image post. Both also appeared on Dr. Mehrbod's Instagram. The image post was made on Instagram on December 28, 2023 and on Facebook on January 4, 2024. The evidence does not establish when the video post was made to Facebook but it was posted to Instagram on March 28, 2023. Both remained published on January 4, 2024.
118. It is not clear how long the name "Sam Homes Real Estate Team" appeared on his Facebook page, but it appeared there on January 4, 2024.
119. Each of these gave the impression that Dr. Mehrbod was part of a real estate team and thereby gave a false or misleading impression of his real estate services for the same reasons as discussed above in regard to the Instagram posts.
120. As indicated above in regard to the Instagram posts, I find that Dr. Mehrbod knew the representations he made on his Facebook page were false or misleading regarding his provision of real estate services and, if I am wrong in that regard, he should have known it was false or misleading.
121. Regarding due diligence, I find that Dr. Mehrbod did not exercise due diligence. He has submitted no evidence that would demonstrate he did. The regulator had published reference material which was available to Dr. Mehrbod when he made these publications on his Facebook page and there is no evidence he sought out or consulted that material.
122. Again, I reject Dr. Mehrbod's intermingling argument.
123. Regarding the application of the double jeopardy principle to Dr. Mehrbod's Facebook posts, the difference in the name used on his Facebook and on his Instagram is sufficient to avoid the application of the principle on a factual basis.
124. For the two posts, the question is slightly less clear, but, as noted above, the difference in dates between the image posts indicates that separate steps were required to post the material to

Instagram and to Facebook. Even if that only required checking a box or clicking a button or link, it required a decision to publish the material in a different location separate from the Instagram publications. In my view, that is sufficient to justify a finding of a separate contravention.

125. I therefore find that Dr. Mehrbod contravened section 41 of the Rules by publishing false and misleading statements or misrepresentations concerning the provision of real estate services by publishing information on his Facebook that indicated and implied that he was part of a real estate team with other licensees when he was not.

Website

126. In regard to Dr. Mehrbod's website, the material before me establishes that the content of the testimonials was drafted by Dr. Mehrbod's clients or others and posted to Google Reviews. I have no evidence that Dr. Mehrbod consented to the publication of those reviews or controlled or approved their content before they were published on Google Reviews. The publication of those reviews appears to have occurred in 2019.
127. The evidence then establishes that these reviews were republished on Dr. Mehrbod's website. It is not clear when that occurred exactly, but they were visible on his website on January 4, 2024, when BCFSa reviewed them.
128. That republishing was sufficient, in my view, to constitute publication by Dr. Mehrbod. It required a decision to have those posts displayed on his website. That republication on Dr. Mehrbod's website indicated that he approved of these reviews and wanted them circulated to those who viewed his website to lend weight to his real estate advertising. In doing so, Dr. Mehrbod affirmed the truth and reliability of those reviews and their contents. Although it is true that Dr. Mehrbod had no control over the content of those posts when they appeared on Google Reviews, he did have control over whether they appeared on his website along with his other advertising material.
129. The contents of those reviews, as they relate to Dr. Mehrbod's status as a member of a team, were false and misleading regarding Dr. Mehrbod's provision of real estate services and particularly so in the context of his website, where that representation could take on a different and specialized meaning.
130. I find that Dr. Mehrbod ought to have known that these reviews were false and misleading and should have turned his mind to whether he wanted to republish them in light of their content. I do not find that the evidence establishes he specifically turned his mind to this issue, but the standard is whether he ought to have done so.
131. Dr. Mehrbod has not raised a due diligence defence and I find that one does not arise in regard to his republication of these reviews.
132. Finally, I find that because the republication occurred on his website as separate from his Facebook and Instagram and because it involved wholly different material, the double jeopardy principle does not apply.
133. I therefore find that Dr. Mehrbod contravened section 41 of the Rules by publishing false and misleading statements or misrepresentations concerning the provision of real estate services by publishing statements on his website that indicated and implied that he was part of a real estate team with other licensees when he was not.

Penalty Amounts

134. I turn then to the question of the penalty amounts imposed in this matter. This raises two issues, the appropriateness of the individual sanctions and the timing of the sanctions relative to the conduct.
135. The timing issue arises for the posts published prior to February 1, 2021, when the quantum of the penalty increased from \$625 for a first contravention to \$1,000 for a first contravention and when the contraventions of section 41 (formerly section 4-7) first became eligible for administrative penalty. The question is whether those posts, which contravened section 41 (formerly section 4-7) and were made before February 1, 2021, should attract an administrative penalty.
136. In my view, there are two reasons why they should attract such an administrative penalty in this case.
137. First, although some of the posts and the reviews were published before February 1, 2021, they remained online and available to be viewed by the public until at least January 4, 2024. In regard to the reviews, Dr. Mehrbod continued to publish them on his website during this period. This constituted continuous publication that occurred during the period during which section 41 (formerly 4-7) was eligible for an administrative penalty.
138. This is the benefit and danger of social media posts: they effectively exist perpetually. This is a benefit to licensees because they can create a significant and growing online presence that increases engagement and allows them to reach a potentially growing audience. The danger is that it requires an ongoing curation and monitoring of a possibly growing volume of material.
139. Second, regarding the publishing of team names, I find that the conduct constituted a continuing course of conduct in which the various posts, both individually and taken together, created a false or misleading impression that Dr. Mehrbod was acting as part of a team. That course of conduct continued into the period during which section 41 (formerly 4-7) was eligible for an administrative penalty.
140. Regarding the propriety of the individual sanctions, each administrative penalty issued was for the base amount prescribed for each contravention. In my view, each of the penalties was appropriate in the circumstances and in light of the contraventions underlying their issuance.
141. Dr. Mehrbod has submitted that the penalties should be combined to reduce the total amount issued. I do not have the authority to do that: I can only cancel or confirm the penalties.
142. I do note that the section 41 contraventions already combine various contraventions under a single issued penalty. BCFSA could have pursued a much greater number of administrative penalties, or issued a Notice of Discipline Hearing and pursued a greater sanction amount available through that process than the administrative penalty process would provide. In my view, Dr. Mehrbod is fortunate BCFSA did not pursue either of those alternative paths.
143. I also note that Dr. Mehrbod has pointed to his compliance with the Rules once BCFSA contacted him. I find that point is of effectively no weight in this matter for three reasons. First, the contraventions are multiple in kind and in conduct. Second, licensees are expected to know and follow the rules without BCFSA's reminder. Third, BCFSA has not sought to impose any daily penalty amounts for the contraventions in this matter.

Conclusion

144. I find that Dr. Mehrbod contravened the Rules as alleged in the NOAP.

145. I confirm the \$6,000 in administrative penalties issued under the NOAP.

146. The administrative penalties are now due and payable to BCFSA.

DATED at North Vancouver, BRITISH COLUMBIA, this 9th day of December, 2024.

“Original signed by GARETH REEVES”

Gareth Reeves
Hearing Officer