

BC FINANCIAL SERVICES AUTHORITY

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

AND IN THE MATTER OF

**RIMPY HOTHI
(150979)**

**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 January 17, 2025, the BC Financial Services Authority (“**BCFSA**”) issued a Notice of Administrative Penalty (the “**NOAP**”) in the amount of \$4,000 to RimpY Hothi 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 Ms. Hothi had contravened the following sections of the *Real Estate Services Rules*, BC Reg 209/2021 (the “**Rules**”) as follows:
 - a. Section 40(2), by failing to identify her brokerage name on her Instagram, Linktree, YouTube, TikTok, and X accounts;
 - b. Section 40(3)(b), by failing to use the name of her personal real estate corporation on her Instagram, Linktree, TikTok, YouTube, and X accounts;
 - c. Section 40(6), by failing to indicate her real estate team’s name on her Facebook, Instagram, LinkedIn, Linktree, TikTok, YouTube, and X accounts; and
 - d. Section 41, by stating “Top 1% Realtor” or “Top 1% in Greater Vancouver” on her Facebook, Instagram, LinkedIn, Linktree, and X accounts without any qualifying information.
3. A \$1,000 administrative penalty was issued for each of the noted alleged contraventions.
4. Ms. Hothi applied for a reconsideration of the NOAP under section 57(4) of RESA. The application proceeded by written submissions.

Issues

5. The issue is whether the January 17, 2025 NOAP should be cancelled or confirmed.

Jurisdiction and Standard of Proof

6. 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.
7. 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.
8. The superintendent has delegated the statutory powers and duties set out in section 57 to Hearing Officers.
9. The standard of proof is the balance of probabilities.

Background

10. The evidence and information before me consists of an investigation report completed by BCFSA, the tabs to that report, and the information provided by Ms. Hothi in the application for reconsideration. 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.

Licensing and Disciplinary History

11. Rimpby Hothi was first licensed as a representative in the trading services category on February 7, 2007 and has been licensed in that fashion since that date. Rimpby Hothi Personal Real Estate Corporation was first licensed on June 27, 2016 and has been licensed in the same fashion as Rimpby Hothi since that date.
12. Ms. Hothi has been a member of the registered real estate team “Rimpby Hothi Group” since August 14, 2023.
13. Ms. Hothi, at the time of the relevant contraventions, had no formal disciplinary history. She has previously received a letter of advisement in August 2023 regarding certain alleged contraventions of sections 21, 30(d), and 34 of the Rules. The alleged contraventions in that letter were not proven in a discipline hearing or subject to any other formal enforcement process under RESA and I draw no conclusion from the issuance of that letter other than that Ms. Hothi was reminded of her obligations under the above noted sections of the Rules at the time.
14. Ms. Hothi was also issued a notice of administrative penalty in a separate file from the present one, for which Ms. Hothi has applied for an opportunity to be heard. That opportunity to be heard has not been resolved as of the date of these reasons and therefore I do not consider that administrative penalty as having any weight or relevance in regard to these reasons.

Background to Alleged Contraventions

15. On November 21, 2024, BCFSA obtained screenshots of Ms. Hothi’s Facebook, Instagram, LinkedIn, Linktree, TikTok, Youtube, and X pages.
16. The screenshots show the following:
 - a. Ms. Hothi’s then brokerage’s name was displayed on her Facebook and LinkedIn pages but not on her Instagram, Linktree, YouTube, TikTok, and X pages;

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- b. Ms. Hothi's Facebook and LinkedIn pages showed the full name of Rimpby Hothi Personal Real Estate Corporation but the following pages showed the following:
 - i. Instagram page showed "Rimpby Hothi" and "rimpyhothiprec",
 - ii. her Linktree page showed "@RimpbyHothi",
 - iii. her TikTok page showed "RIMPY HOTHY PREC" and "@rimpyhothi",
 - iv. her YouTube page showed "RIMPY HOTHY PREC" and "@rimpyhothiprec3251", and
 - v. her X page showed "Rimpby Hothi" and "@RimpbyHothi";
 - c. None of the noted pages showed Ms. Hothi's real estate team's name, "Rimpby Hothi Group"; and
 - d. Ms. Hothi's page showed the following phrases on the following pages:
 - i. "TOP 1% IN GREATER VANCOUVER" on her Facebook;
 - ii. "Top 1% Realtor in Greater Vancouver" on her Instagram page;
 - iii. "TOP 1% OF ALL REALTORS IN GREATER VANCOUVER" on her LinkedIn page;
 - iv. "Top 1% Realtor In Greater Vancouver" on her Linktree page;
 - v. "Top 1% Realtor" on her TikTok page; and
 - vi. "Top 1% Realtor In Greater Vancouver" on her X page.
17. On December 5, 2024, BCFSA Investigations sent Ms. Hothi a Non-Compliance Warning Letter (the "NCWL") listing 23 alleged contraventions of sections 40(2), 40(3)(b), 40(6), and 41 of the Rules. Of these alleged contraventions, 22 comport with the alleged contraventions set out in the NOAP as broken down by section and webpage. The 23rd is an additional alleged contravention of section 41 of the Rules for the display of "Top 1% Realtor" on Ms. Hothi's TikTok page, which did not appear in any fashion in the NOAP.
 18. The NCWL set a December 12, 2024 deadline for Ms. Hothi to come into compliance. It advised that if she failed to come into compliance after that date daily penalties could accrue in addition to the base penalty for each contravention and that she could still receive an administrative penalty for the base amount for her contraventions if she came into compliance prior to that date.
 19. On December 10, 2024, Ms. Hothi emailed BCFSA Investigations a series of links showing that she had addressed most of the issues raised in the NCWL.
 20. I note that the amendments regarding Ms. Hothi's Top 1% status were made to note that the claim was based on the Multiple Listing Service's data for the greater Vancouver area and to note the years in which she achieved that status.
 21. On December 11, 2024, BCFSA Investigations and Ms. Hothi exchanged emails in which BCFSA confirmed that the pages had been brought into compliance except for Ms. Hothi's LinkedIn page. The emails indicate that Ms. Hothi had multiple LinkedIn pages some of which were not in compliance. The emails conclude with BCFSA Investigations asking that the LinkedIn pages be brought into compliance or deleted.
 22. On December 13, 2024, BCFSA Investigations and Ms. Hothi exchanged further emails regarding the LinkedIn issue in which Ms. Hothi attached correspondence she had exchanged with LinkedIn attempting to have the contravening LinkedIn pages deleted because she had lost access to the email address used for those accounts. This correspondence began on December 11, 2024 shortly after BCFSA Investigation's final email on December 11, 2024 asking that the LinkedIn pages be deleted or brought into compliance. It ended with Ms. Hothi asking LinkedIn to delete the contravening pages, to which she no longer had access.

Submissions

23. Ms. Hothi does not submit that she did not contravene the Rules as alleged in the NOAP. She submits that the administrative penalties should be cancelled because this is her first contravention and because she had brought herself into compliance in regard to contraventions identified in the NOAP.

Reasons and Findings

Applicable Legislation

24. Section 56 of RESA provides that BCFSA may designate specific provisions of RESA, the *Real Estate Services 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.
25. Section 26(1) of the Rules indicates that for the purposes of section 56(1) of RESA, contraventions of the Rules listed in section 26(2) of the Rules are designated contraventions to which Division 5 (Administrative Penalties) of Part 4 of RESA applies.
26. Section 26(2) of the Rules identifies six categories, Category A, B, C, D, E, and F, for designated contraventions for the purpose of determining the amount of an administrative penalty. Sections 40 and 41 of the Rules are placed in Category D. Section 27(4) of the Rules provides that a Category D contravention may attract a \$1,000 base penalty for a first contravention or a \$2,000 base penalty for a subsequent contravention plus a \$250 daily penalty for each day or part of a day that the contravention continues.
27. 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.
28. Sections 40 and 41 of the Rules provide as follows:

Restrictions and requirements

- 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,
- (a) if that person is an individual, by using the licensee name of the individual, or
- (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.
- (4) If real estate advertising includes an office address for the licensee, that address must be the address of the related brokerage office.
- (5) Real estate advertising published by a real estate team must identify the team's name.

- (6) Subject to subsection (7), if a member of a real estate team publishes real estate advertising with respect to trading services, the advertising must identify the team's name.
- (7) Subsection (6) does not apply to real estate advertising with respect to rental property management services that are trading services in relation to the rental of real estate.

False or misleading advertising prohibited

- 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.

Analysis

29. 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.
30. I note that all of sections 40(2), 40(3)(b), 40(6) and 41 apply to real estate advertising. The pages at issue all identify Ms. Hothi as a real estate licensee and appear to be related or connected to her work as a licensee. Except her Youtube page, all pages at issue contain representations regarding her performance as a realtor and awards, rankings, or honours she has received. I find that she would not have listed those awards, rankings, or honours on the pages at issue if she did not mean to promote her real estate services on those pages.
31. Her Youtube page refers specifically to "RIMPY HOTHY PREC", which I find refers to RimpY Hothi Personal Real Estate Corporation and, in my view, there would be no reason to reference that corporation if the page were not meant to advertise real estate services.
32. I find each of the pages at issue are clearly intended to advertise her services as a real estate licensee.
33. Further, I find that each of the pages was published by Ms. Hothi within the meaning of the Rules. Publication includes a licensee causing or permitting publication or display of real estate advertising. Ms. Hothi clearly had access to the relevant sites and the power to control their contents. This is demonstrated by the fact that she made the required changes after she received the NCWL. I find that Ms. Hothi published the pages at issue.

Section 40(2)

34. Section 40(2) of the Rules requires licensees to prominently display their brokerage's name in their real estate advertising. The facts establish that Ms. Hothi's Instagram, Linktree, YouTube, TikTok, and X pages did not display her brokerage's name.
35. Ms. Hothi has raised no argument that she exercised due diligence in displaying her brokerage's name when creating or maintaining her Instagram, Linktree, YouTube, TikTok, and X pages. In any event, the fact that her Facebook and LinkedIn pages showed her brokerage's name indicates to me that she failed to exercise due diligence when creating and maintaining her Instagram, Linktree, YouTube, TikTok, and X pages in regard to displaying her brokerage's name. In my view, Ms. Hothi has not established that she exercised due diligence in setting up the relevant pages.

36. I find that Ms. Hothi contravened section 40(2) of the Rules by failing to display her brokerage's name on her Instagram, Linktree, YouTube, TikTok, and X pages from at least November 21, 2024 to December 10, 2024.

Section 40(3)(b)

37. Section 40(3)(b) requires a licensee's advertising to use the licensee name of a personal real estate corporation only. Section 38(3) of the Rules provides that the licensee name of a personal real estate corporation is its legal name, which in this case is "Rimpy Hothi Personal Real Estate Corporation".
38. The evidence establishes that Ms. Hothi's Instagram, Linktree, TikTok, YouTube, and X pages did not display the full legal name of Rimpy Hothi Personal Real Estate Corporation. In some instances, she used the shortened form PREC.
39. Regarding due diligence, Ms. Hothi again has not raised a due diligence defence. That said, I again note that her use of the full "Rimpy Hothi Personal Real Estate Corporation" name on her Facebook and LinkedIn pages indicates to me that she failed to use due diligence when setting up and maintaining her Instagram, Linktree, TikTok, YouTube, and X pages in this regard.
40. I also note that BCFSA has published guidance on its website entitled "Personal Real Estate Corporation Guidelines" dated May 4, 2021. That guidance explicitly provides that the shortened form "PREC" is not permitted in real estate advertising except in the case of Multiple Listing Service advertisements. The pages at issue here are not Multiple Listing Service advertisements. I note that I am not bound by this guidance, but I may be guided by it. In my view, this guidance represents the long-standing position of the regulator with regard to the advertising standards for personal real estate corporations. It also comports with the requirements of section 40(3)(b) of the Rules and provides a limited and rational exception from the requirements of that section.
41. Given Rimpy Hothi Personal Real Estate Corporation was first licensed in 2016, Ms. Hothi had a significant amount of time to familiarize herself with the requirements of advertising while operating through a personal real estate corporation and to review her regulator's guidance in that regard. Ms. Hothi has provided no evidence that she took any steps to do so.
42. In my view, Ms. Hothi has not demonstrated she exercised due diligence in regard to her compliance with section 40(3)(b) of the Rules.
43. I find that Ms. Hothi contravened section 40(3)(b) of the Rules by failing to display the full name of Rimpy Hothi Personal Real Estate Corporation on her Instagram, Linktree, TikTok, YouTube, and X pages from at least November 21, 2024 to December 10, 2024.

Section 40(6)

44. Ms. Hothi has been a member of the Rimpy Hothi Group team since August 2023. Section 40(6) has required licensees who are members of real estate teams to identify their team's name in their real estate advertising since April 1, 2023. None of the advertising at issue here identified the Rimpy Hothi Group.
45. Again, Ms. Hothi has raised no due diligence defence or submitted any evidence that she exercised due diligence. I see no reason on the record why Ms. Hothi did not, as a member of a team named after her, name her team on the noted pages. I note in this regard that all real estate services provided by members of a team are provided only through that team and all members of the team become designated agents of any client of a member of the team, as provided by sections 42.4(2) and (5) of the Rules. These are controlling features of how teams are meant to operate within the framework established by RESA and the Rules, and I find it unlikely that a licensee who registers

a team could exercise due diligence in regard advertising services they must provide through their team and fail to name the team in their advertising. I find that no due diligence defence has been established.

46. I find that Ms. Hothi contravened section 40(6) of the Rules by failing to identify her team, Rimpby Hothi Group, on her Facebook, Instagram, LinkedIn, Linktree, TikTok, YouTube, and X pages from at least November 21, 2024 to December 10, 2024.

Section 41

47. 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).
48. 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 in the way in which they caused, permitted, or continued publication.
49. 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. I have found above the pages at issue were real estate advertising and that they were published by Ms. Hothi in that she had direct control over them; therefore, this case involves the first question.
50. Regarding whether the use of the various forms of the statement “Top 1% Realtor in Greater Vancouver” was false or misleading, I note that BCFSA has published guidance on its website dated May 4, 2021 and entitled “Advertising Guidelines”. That guidance states that any statement of award or comparison must indicate the basis for the claim, award, or comparison including the source, date, and any qualifying information. I acknowledge that this guidance is not binding on me, but I find that it indicates the standing position of the superintendent regarding the requirements of the Rules and industry standards in the real estate industry. Further, I agree with the guidance because making comparative statements or statements of awards earned without indicating any qualifying information creates a risk that the public will be misled regarding what those awards mean and may lead the public to concluded that they mean more than they actually do or apply to times to which they do not.
51. The various statements regarding Ms. Hothi’s “Top 1%” status have no clarifying or qualifying information surrounding them, except for some reference to the greater Vancouver area. In my view, the statements are misleading because the public could easily conclude that the qualifications apply to times and volumes of sales to which they do not apply. This is demonstrated by Ms. Hothi’s clarifying information regarding the dates and data sources for those claims, which clarified that

those only applied for the period from 2021-2023 at the time and the source being from Multiple Listing Service data. In my view, prior to those amendments, the public could easily have concluded that Ms. Hothi's advertised status was achieved well before 2021.

52. Ms. Hothi has not raised a due diligence argument regarding this contravention. In my view, no such argument is made out. The Advertising Guidelines were available to Ms. Hothi to review when creating and maintaining her Facebook, Instagram, LinkedIn, Linktree, and X pages. There is no evidence that she did so. In my view, given the availability of this information, Ms. Hothi ought to have known what was required of her and ought to have known that the way she displayed her Top 1% stats was misleading.
53. I find that Ms. Hothi contravened section 41 of the Rules by advertising her Top 1% status on her Facebook, Instagram, LinkedIn, Linktree, and X pages without sufficient qualifying statements from at least November 21, 2024 to December 10, 2024.
54. I note that the NOAP did not allege that Ms. Hothi similarly contravened section 41 of the Rules in regard to her TikTok page. It is not clear to me why that was left off, but I make no finding in that regard.

Penalty Amount

55. The penalty amounts issued in the NOAP are the base amounts prescribed by section 27 of the Rules for Category D contraventions. Section 40 and 41 of the Rules are both designated as Category D contraventions by section 26 of the Rules. BCFSa issued four administrative penalties: one for all of the contraventions of each of sections 40(2), 40(3)(b), 40(6), and 41 of the Rules.
56. Ms. Hothi submits that the NOAP should be cancelled for two reasons. First, that this is her first contravention of the Rules. Second, that she came into compliance before the deadline set out in the NCWL.
57. Regarding the first argument, in my view, the facts establish that Ms. Hothi failed to comply with various advertising requirements across her seven of her social media accounts. In my view, there is a degree of repetition in that fact that warrants a regulatory response, even on a first contravention. Further and although the NOAP grouped the contraventions of each section under one administrative penalty, I am of the view that each page constituted separate publications and therefore BCFSa could have sought a significantly greater penalty. I do not mean to say that a \$23,000 penalty would have been warranted or appropriate in this case; instead, I take the grouping of the penalties to demonstrate a degree of restraint in regard to the contraventions in this case.
58. In my view, given the contraventions involved multiple types of contravention across multiple pages the total penalty amount and the individual penalty amounts are appropriate.
59. Regarding the second argument, I acknowledge that Ms. Hothi came into compliance before the deadline set by the NCWL. That said, this does not change the fact that Ms. Hothi was not in compliance prior to BCFSa issuing the NCWL. It also does not change the fact that Ms. Hothi only came into compliance as a result of BCFSa indicating she was contravening the Rules. In my view, licensees have the primary responsibility to ensure their advertising complies with the Rules. They should ensure compliance before the regulator takes steps to remind them. I note in this regard that the NCWL specifically noted that Ms. Hothi could still face an administrative penalty if she came into compliance before the deadline set by the NCWL.
60. On that basis, I find that the fact that Ms. Hothi came into compliance before December 12, 2024 does not render the administrative penalties issued in the NOAP inappropriate.

Conclusion

61. I find that Ms. Hothi contravened the following sections of the Rules as follows:

- a. section 40(2) of the Rules by failing to display her brokerage's name on her Instagram, Linktree, YouTube, TikTok, and X pages from at least November 21, 2024 to December 10, 2024;
- b. section 40(3)(b) of the Rules by failing to display the full name of Rimpby Hothi Personal Real Estate Corporation on her Instagram, Linktree, TikTok, YouTube, and X pages from at least November 21, 2024 to December 10, 2024;
- c. section 40(6) of the Rules by failing to identify her team, Rimpby Hothi Group, on her Facebook, Instagram, LinkedIn, Linktree, TikTok, YouTube, and X pages from at least November 21, 2024 to December 10, 2024; and
- d. section 41 of the Rules by advertising her Top 1% status on her Facebook, Instagram, LinkedIn, Linktree, and X pages without sufficient qualifying statements from at least November 21, 2024 to December 10, 2024

62. I confirm the \$4,000 in administrative penalties issued in the NOAP.

63. The \$4,000 in administrative penalties is now due and payable to BCFSA.

DATED at North Vancouver, BRITISH COLUMBIA, this 11th day of March, 2025.

“Original signed by Gareth Reeves”

Gareth Reeves
Hearing Officer