Citation: Meng (Re), 2025 BCSRE 40
Date: 2025-03-10
File No. 23-4527

BC FINANCIAL SERVICES AUTHORITY

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

AND IN THE MATTER OF

FAN JIAN MENG
(162148)

AND

VINCENT MENG PERSONAL REAL ESTATE CORPORATION
(162148PC)

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 8, 2025, the BC Financial Services Authority ("**BCFSA**") issued a Notice of Administrative Penalty (the "**NOAP**") in the amount of $6,000 to Fan Jian Meng and Vincent Meng Personal Real Estate Corporation (collectively, "**Mr. Meng**") 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 Mr. Meng had contravened the following sections of the *Real Estate Services Rules*, BC Reg 209/2021 (the "**Rules**") as follows:

   a. Section 34 when acting as a seller's agent by sending the buyer's agent a fully signed contract of purchase and sale in the amount of $1,030,000 for a property on Ross Drive, Vancouver (the "**Property**") when the seller meant to counter offer at $1,038,000 and then subsequently sending a counteroffer at $1,038,000 which the buyer signed, resulting in two signed contracts of purchase and sale in different amounts; and

   b. Section 41 by publishing a false or misleading strata maintenance fee amount in a listing in December 2020 when he knew or ought to have known the actual fees when he received the strata corporation documents in August 2020.

3. BCFSA sought to impose a $5,000 penalty for the alleged contravention of section 34 of the Rules (the "**Section 34 AP**") and $1,000 for the alleged contravention of section 41 of the Rules.

4. Mr. Meng applied for a reconsideration of the Section 34 AP under section 57(4) of RESA. Mr. Meng agreed to pay the $1,000 administrative penalty for the alleged contravention of section 41 of the Rules. The application proceeded by written submissions.

Issues

5. The issue is whether the Section 34 AP 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 and Findings

10. The evidence and information before me consists of an investigation report completed by BCFSA, the tabs thereto, and the information provided by Mr. Meng 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 the information before me. Specifically, I have left out any information pertaining to the alleged contravention of section 41 of the Rules because Mr. Meng has not challenged that finding. The below represents a summary of the relevant facts in relation to the Section 34 AP.

11. Fan Jian Meng was first licensed as a representative in the trading services category on July 5, 2011. He became licensed in the rental property management services category as well on January 8, 2020 and has remained licensed in that fashion since that date. Vincent Meng Personal Real Estate Corporation was first licensed on September 22, 2014 and has been licensed in the same fashion as Mr. Meng since that date.

12. In late 2020, the owner of the Property (the "**Seller**") engaged Mr. Meng to list the Property for sale. At the material time, it was listed for $1,088,000.

13. On December 17 2020,[1] an interested buyer (the "**Complainant**") viewed the Property and became interested in purchasing it.

14. On December 28, 2020, the Complainant's agent, Hyunsoo (Jake) Kim, prepared an offer to purchase the Property on behalf of the Complainant in the amount of $1,008,000 (the "**First Offer**") and submitted it to Mr. Meng. The Seller did not accept the First Offer.

15. On January 3, 2021, Mr. Kim submitted a second offer on behalf of the Complainant to Mr. Meng to purchase the Property for $1,030,000 (the "**Second Offer**").

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[1] I note that Mr. Meng's submissions and some of the evidence refers to dates and times in a time zone other than PST. I have referred to dates and times in the PST time zone for consistency.

16. On January 4, 2021, the Seller, through Mr. Meng, countered the Second Offer at $1,038,000. Mr. Meng says, and I find, that he told Mr. Kim over the phone that the Seller's minimum price was $1,038,000.

17. On March 5, 2021, Mr. Kim submitted a third offer to purchase the Property for $1,030,000 on behalf of the Complainant (the "**Third Offer**"). The Third Offer provided for a completion date of June 29, 2021 with the possession and adjustment dates both set for June 30, 2021.

18. Mr. Meng says that Mr. Kim contacted him on March 5, 2021, to re-open negotiations and that in those discussions Mr. Meng told Mr. Kim that his client was still insisting on the minimum price from their previous discussions, $1,038,000. I accept that this conversation occurred and that it likely occurred verbally, given there is no evidence that it occurred in writing. In my view, this conversation likely happened after Mr. Kim sent the Third Offer. I find this because of Mr. Kim's email sent at 9:47 pm on March 6, 2021, quoted below. That email specifically references an hour-long conversation between Mr. Meng and the Seller, after which the Seller agreed to the $1,038,000 price. I find it unlikely that such an hour-long conversation would have occurred if the Seller was prepared to accept the lower price. Therefore, I find that Mr. Meng advised Mr. Kim of the Seller's position over the phone after Mr. Kim sent the Third Offer and before Mr. Meng sent the 9:47 pm email.

19. On March 6, 2021 at 9:47 pm, Mr. Meng delivered a copy of the Third Offer signed by the seller to Mr. Kim. The email from Mr. Meng attaching the fully executed Third Offer states:

> "Hi Jake,
> After talking with the seller for one hour, finally she agreed the price as 1,038K.
>
> Pls find the counter offer."
>
> [*sic*]

20. Mr. Meng says the following in his submissions regarding how he handled the Third Offer:

> I didn't realize the seller didn't change the number on the offer to 1,038,000. I mistakenly forwarded the counter offer without changing the price from CAD 1,030,000 to CAD 1,038,000."

21. In my view this indicates, and I find, that Mr. Meng forwarded the Third Offer to the Seller without making any changes to it and expected the Seller to make the necessary changes to the price before sending it back. He did not review it to ensure the change occurred and instead forwarded it on to Mr. Kim.

22. Mr. Kim provided the fully executed Third Offer to the Complainant. I do not have evidence of when exactly this happened. It is clear that the Complainant obtained a copy of the fully executed Third Offer. I find it likely occurred very shortly after Mr. Kim received Mr. Meng's email. In any event, the timing of when the Complainant received the Third Offer is not particularly relevant here.

23. At 10:20 pm on March 6, 2021, Mr. Meng sent Mr. Kim a counteroffer to the Third Offer (the "**Counteroffer**") which contained the following changes:

    a. It changed the purchase price to $1,038,000,

    b. It changed the completion date to July 29, 2021, and

    c. It changed the possession and adjustment dates to July 30, 2021.

24. The email attaching the Counteroffer simply states, "Here you go, Jake." Mr. Meng's evidence is that he called Mr. Kim to explain that he had sent the fully signed Third Offer in error and that Mr. Kim said in this call that he and the Complainant noticed the price difference between the email and the Third Offer. I accept this evidence. Given how terse the 10:20 pm email is, I find it is likely

that Mr. Kim and Mr. Meng spoke between 9:47 pm and 10:20 pm and that Mr. Meng likely explained that the Third Offer was sent in error and the Counteroffer would be sent to Mr. Kim. In my view, the 10:20 pm email would not have been so short if that call had not occurred. It is not clear to me who initiated that call, based on the evidence before me, but that fact is not relevant for the purposes of this decision.

25. Mr. Kim then delivered the Counteroffer to the Complainant who signed it on March 6, 2021.

26. The Complainant says that Mr. Kim told her on the phone, before sending the Counteroffer for her to sign, that there was an error on the contract. Mr. Kim confirms that he advised the Complainant of the issue. I find that Mr. Kim spoke with the Complainant on the phone and explained what had occurred regarding the Third Offer and the Counteroffer.

27. At 10:38 pm on March 6, 2021, Mr. Kim emailed the fully signed Counteroffer back to Mr. Meng.

28. I note that, in her complaint, the Complainant says verbal negotiations occurred around the time of the First Offer and the Second Offer and the parties arrived at an understanding that the Complainant would offer to purchase the Property for $1,038,000. The Complainant then viewed the Property again with her son and decided not to purchase it. The Complainant says that after this occurred, the Seller attempted to have the Complainant make an offer of $1,030,000. The Complainant says Mr. Kim forgot about this portion of the negotiation and Mr. Meng noticed Mr. Kim had forgotten this and so they made the Counteroffer.

29. In my view the Complainant's account is not entirely accurate. I find that discussions about a $1,038,000 price likely occurred in early January 2021 and the Complainant may have changed her mind after a subsequent viewing. That said, there is no evidence that Mr. Kim forgot about the prior exchange of offers or that Mr. Meng took advantage of such forgetfulness. In my view, the evidence establishes that the Seller signed the Counteroffer in error and Mr. Meng forwarded it to Mr. Kim without noticing that error. This is reflected by Mr. Meng's email sent at 9:47 pm on March 6, 2021, which explicitly notes that it attaches a counteroffer and that the Seller agreed to a price of $1,038,000, not $1,030,000.

30. Further, the Complainant's statement that the Seller sought to have the Complainant make an offer at $1,030,000 in January 2021 does not comport with the evidence. Mr. Meng's evidence is that the $1,038,000 was the minimum acceptable sale price and the negotiations in January and March both reflect that position.

31. On March 10, 2021, the Complainant and the Seller signed an addendum to the Counteroffer pursuant to which the Complainant agreed to change the completion date to April 30, 2021 and to move the date for possession and adjustments to May 1, 2021. The Addendum also provided that the Seller would continue to stay in the Property at no cost until July 29, 2021 and that the Seller would pay the Complainant a $2,000 non-refundable security deposit and credit her $7,000 on completion.

32. On March 15, 2021, the Complainant removed subjects on the Counteroffer.

33. On April 30, 2021, the purchase and sale of the Property completed pursuant to the Counteroffer.

Submissions

34. Mr. Meng's submissions include factual submissions and copies of correspondence and documents. I have addressed those portions above in the Background and Findings section of these reasons.

35. Mr. Meng submits that he corrected his error quickly and there were no further issues arising from the error.

36. Mr. Meng also submits that the Property's assessed value has increased to $1,340,000 and so the Complainant has suffered no loss.

37. Mr. Meng submits that he would like the Section 34 AP cancelled due to uncertainty in the market this last year and his substantial expenses with a household including three children. I take this to be a submission that the administrative penalty is significant relative to his resources. I note that he has provided no documents or other information to substantiate his financial situation although he was provided an opportunity to make any further submissions if he wanted to in the course of this opportunity to be heard.

Reasons and Findings

Applicable Legislation

38. 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.

39. 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.

40. At the material time, section 26(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. Section 34 of the Rules was placed in Category C. Section 41 was placed in Category D. Section 27(3) of the Rules provided that Category C contraventions may attract a $5,000 administrative penalty for a first contravention and a $10,000 administrative penalty for a subsequent contravention. Section 27(4) of the Rules provided that Category D contraventions 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 amount for each day or part of a day that the contravention continues.

41. 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.

42. Sections 34 and 41 of the Rules provide as follows:

34 When providing real estate services, a licensee must act with reasonable care and skill.

Analysis

43. 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. In the case of a section 34 contravention, an analysis of whether the licensee exercised due diligence is required to assess whether a contravention has occurred at all. 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.

Alleged Section 34 Contravention

44. The question before me is whether a reasonably prudent licensee in Mr. Meng's circumstances would have done what he did. In my view, Mr. Meng failed to act in a reasonably prudent manner in this case.

45. I have previously found that a licensee failing to review a counteroffer before the period for acceptance of that counteroffer expired and assuming that the document was an acceptance of his client's offer was a failure to act with reasonable care and skill: *Lee (Re)*, 2025 BCSRE 1.

46. In my view, this circumstance is similar to that in *Lee (Re)*, although that case involved the receipt of a counteroffer which the licensee assumed was an acceptance and this case involves the sending of an apparent acceptance which the licensee assumed was a counteroffer. In my view, it does not comport with the standard of reasonable care and skill for a licensee to receive a contractual document from their client and send it to a counterparty or counterparty's agent without reviewing it. Doing so puts the transaction at risk by placing the responsibility of properly modifying and executing contractual documents on clients who may not be sufficiently sophisticated to do so properly. Even if the client is sufficiently sophisticated to be expected to do so properly, the licensee's role as agent is to communicate the client's intent to the counterparties and, in my view, it is unreasonable for a licensee to assume, without confirming, that a document they intend to send to the other side properly communicates that intent.

47. I note that I have no evidence that the Seller was sophisticated enough to make changes to contractual documents on her own and without Mr. Meng's input or review. I also have no evidence that there was any urgency to delivery of the Counteroffer that might impact on Mr. Meng's ability to review the Counteroffer or to make the necessary changes himself for the Seller to initial.

48. Although Mr. Meng stated his client's correct position in his email attaching the fully signed Third Offer, that does not render his failure to review the document before sending it any more reasonable; instead, it merely mitigated the impact of that failure.

49. In my view, a reasonably prudent licensee in Mr. Meng's circumstances would have reviewed the fully executed Third Offer before he sent it to Mr. Kim.

50. I therefore find that Mr. Meng failed to act with reasonable care and skill when he sent Mr. Kim the fully signed Third Offer at a price of $1,030,000 when the Seller meant to send a counteroffer at $1,038,000.

51. Regarding the further step of then sending the Counteroffer to Mr. Kim for the Complainant to sign with the result that doing so resulted in two signed contracts of purchase and sale for the Property, I find that a reasonably prudent licensee in Mr. Meng's position would have at least attempted to secure a release of the fully signed Third Offer along with the Counteroffer in order to clarify his client's position.

52. I note in this regard that in *Kim (Re)*, 2025 BCSRE 35, I found that Mr. Kim did not contravene section 34 of the Rules when he permitted the concurrent existence of two contracts of purchase and sale in part because the facts fairly clearly established that there was a mistake on the Seller's part which was known, or ought to have been known, to the Complainant. In my view, Mr. Kim and the Complainant were in a different position regarding the two contracts in this case than Mr. Meng and the Seller were. The fully executed Third Offer was less beneficial to the Seller, Mr. Meng's

client, than it was to the Complainant, Mr. Kim's client. That difference meant that although there was little risk that Mr. Kim's client could legally insist on the terms of the fully signed Third Offer, there was still some risk, which fell on the Seller, Mr. Meng's client. In my view, Mr. Meng should have taken steps to eliminate or further reduce the risk that the Complainant would seek to enforce the fully signed Third Offer. Although that risk did not crystalize in this case, it was unreasonable for Mr. Meng to merely assume it would not and to have the only evidence to the contrary be a separate contract on different terms.

53. I therefore also find that Mr. Meng failed to act with reasonable care and skill when he, having delivered the fully executed Third Offer, sent the Counteroffer for the Complainant's signature without also securing a release of the fully executed Third Offer, resulting two signed contracts of purchase and sale in different amounts for the Property.

Penalty Amount

54. The penalty amount imposed by the NOAP for the Section 34 AP is $5,000, which is the minimum prescribed by section 27(3) of the Rules. I only have the power to confirm or cancel the Section 34 AP, I cannot vary it.

55. I note that I do not take the question before me to be whether the penalty issued is the correct one, but whether it falls within the scope of appropriate penalties to issue in response to the misconduct that occurred. The scope of my authority under section 57(4), does not permit a close investigation of precisely what the penalty should be or should have been. Further, the regime as a whole is intended to be efficient and summary in nature, as indicated by the limited orders under section 57(4) of RESA, the imposition of penalties by notice under section 57(1), and the use of the words "opportunity to be heard" in section 57(2)(d) and 57(4) of RESA as opposed to "hearing" used in other sections. In my view, therefore, the scope of review of the penalty amount is constrained in this proceeding to whether the penalty is appropriate.

56. Mr. Meng submits that the Section 34 AP is significant relative to his finances and asks for it to be cancelled on that basis. I reject that argument because I have no evidence to establish that fact. In any event, although the Section 34 AP is significant and assuming for the purposes of argument that Mr. Meng's financial situation is relevant to the propriety of the penalty, it would take clear evidence of very significant financial hardship to render a $5,000 administrative penalty inappropriate.

57. Regarding the conduct at issue, there are several factors that are mitigating. The conduct involved a singular act that Mr. Meng corrected quickly and neither the Seller nor the Complainant suffered any harm.

58. Mr. Meng has no disciplinary history.

59. Further, Mr. Meng took steps to communicate the Seller's intent to Mr. Kim over the phone before sending the fully executed Third Offer and in the email enclosing it. Those steps mitigated the impact of Mr. Meng's conduct here. Those steps speak to the fact that this error was a mistake arising from Mr. Meng's negligence and not an intentional act.

60. All that being said, Mr. Meng's conduct in failing to review the fully signed Third Offer was reckless and demonstrated a troubling lack of care and the failure to take a simple step that would have avoided any risk to his client. In my view, that conduct warrants sanction and sections 26(2)(c) and 27(3) have indicated that the conduct, even at its minimum, can warrant a significant sanction. Further, Mr. Meng unreasonably failed to attempt to obtain a release of the fully signed Third Offer, which would have clarified the situation and reduced or eliminated his client's risk. In my view, the fact that no harm actually flowed from Mr. Meng's failure in that regard is mitigating to some extent but it does not make his conduct undeserving of sanction.

61. Looking at the matter as a whole, I find that the $5,000 sanction is appropriate. In my view, it is at the upper end of the scale of appropriate regulatory actions given Mr. Meng's failures and their consequences here, but it is within the scope of appropriate actions. I find this because the conduct at issue involves Mr. Meng acting recklessly with regard to the content of a contractual document. That document forms the core of most real estate transactions and licensees should know that significant care should be taken in dealing with these documents. In my view, the risks associated with careless handling of these documents are too high and Mr. Meng could have easily avoided any issue with a simple review of the document.

Conclusion

62. I find that Mr. Meng failed to act with reasonable care and skill when acting as a seller's agent by sending the buyer's agent a fully signed contract of purchase and sale in the amount of $1,030,000 for the Property when the seller meant to counter offer at $1,038,000 and then subsequently sending a counteroffer at $1,038,000 which the buyer signed, resulting in two signed contracts of purchase and sale in different amounts.

63. I also find that Mr. Meng failed to act with reasonable care and skill when he, having delivered the fully executed Third Offer, sent the Counteroffer for the Complainant's signature without also securing a release of the fully executed Third Offer, resulting two signed contracts of purchase and sale in different amounts for the Property.

64. I confirm the Section 34 AP in the amount of $5,000.

65. The administrative penalty of $5,000 for Mr. Meng's contravention of section 34 of the Rules is now due and payable to BCFSA.

66. Mr. Meng has not asked for an opportunity to be heard regarding the $1,000 administrative penalty for his alleged contravention of section 41 of the Rules. Pursuant to sections 57(2)(d)(i) and (ii) Mr. Meng was deemed to have acknowledged that contravention 30 days after receiving the NOAP and the $1,000 administrative penalty in that amount became due and payable to BCFSA on that date. I am not aware if Mr. Kim paid that amount. If he did not it remains due and payable to BCFSA which would make the total due and payable $6,000. If he did, then only $5,000 remains payable.

DATED at North Vancouver, BRITISH COLUMBIA, this 10th day of March, 2025.

"Originally signed by GARETH REEVES"

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Gareth Reeves
Hearing Officer