

BC FINANCIAL SERVICES AUTHORITY

**IN THE MATTER OF THE *PENSION BENEFITS STANDARDS ACT*
SBC 2012, c 30 as amended**

**AND IN THE MATTER OF
RICHMOND ELEVATOR MAINTENANCE LTD.
As Administrator for the Pension Plan for the Employees of
Richmond Elevator Maintenance Ltd
(Plan Number: P086414-1)**

**REASONS FOR DECISION REGARDING
ADMINISTRATIVE PENALTY RECONSIDERATION**

[These Reasons have been redacted before publication.]

DATE AND PLACE OF HEARING: Via Written Submissions

HEARING OFFICER: Gareth Reeves

Introduction

1. On June 26, 2025, the Superintendent of Pensions (the “**Superintendent**”) of the BC Financial Services Authority (“**BCFSA**”) issued a Notice of Administrative Penalty (the “**NOAP**”) in the amount of \$25,000 to Richmond Elevator Maintenance Ltd. (“**Richmond Elevator**”) as the administrator of the Pension Plan for the Employees of Richmond Elevator Maintenance Ltd. plan number P086414-1 (the “**Plan**”) pursuant to section 116 of the *Pension Benefits Standards Act*, SBC 2012, c 30 (the “**PBSA**”) and section 136 of the *Pension Benefits Standards Regulation*, BC Reg. 71/2015 (the “**PBSR**”).
2. In the NOAP, the Superintendent determined that Richmond Elevator had committed the following contraventions:
 - a. It had contravened section 38(1) of the PBSA and section 47 of the PBSR by failing to file audited financial statements for the Plan’s fiscal year ended December 31, 2022 and December 31, 2023 within 180 days of the Plan’s fiscal year end; and
 - b. It had contravened section 37(5) of the PBSA and section 43(5) of the PBSR by failing to provide prescribed information to the International Union of Elevator Constructors, Local 82 (the “**Union**”) within 30 days after receiving a request.
3. The NOAP imposed a \$10,000 administrative penalty for the failure to file audited financial statements and \$15,000 for the failure to provide requested information.
4. Richmond Elevator filed a notice of objection to the NOAP under section 126 of the PBSA on July 23, 2025. The reconsideration of the NOAP proceeded by written submissions.

5. On September 12, 2025, BCFSA Hearings Division (“**Hearings**”) provided Richmond Elevator with the record in this matter and set deadlines for the parties’ submissions. Hearings directed Richmond Elevator to provide any further submissions on the reconsideration by October 3, 2025. BCFSA was to provide its response submissions within 21 days of receipt of Richmond Elevator’s submissions and Richmond Elevator had 7 further days to submit any reply materials. Richmond Elevator provide[d] no further materials by October 3, 2025 and BCFSA made its submissions on October 15, 2025. On October 22, 2025, Richmond Elevator requested an extension citing “unforeseen circumstances”. It did not provide a duration for the requested extension. On October 23, 2025, Hearings emailed Richmond Elevator to ask them what unforeseen circumstances had occurred and how long they required for an extension and to remind Richmond Elevator that the October 22, 2025 deadline was limited to reply materials in response to BCFSA’s submissions. Richmond Elevator provided no response to Hearings. No extension has been granted.
6. My reasons regarding the reconsideration of the NOAP are below.

Issues

7. The issue is whether the NOAP should be rescinded, varied, or confirmed. If I decide to vary the penalty, I must also decide what penalty to impose.

Jurisdiction and Standard of Proof

8. This application for reconsideration is brought pursuant to section 126 of the PBSA, which requires the Superintendent to reconsider an administrative penalty; to rescind, vary, or confirm the administrative penalty; and to serve the objector with written notice of the reconsideration. Section 126(3) of the PBSA requires the Superintendent to issue reasons, unless the Superintendent rescinds the administrative penalty.
9. The Superintendent has appointed BCFSA’s Hearing Officers to act in the Superintendent’s capacity for the purposes of the statutory powers and duties set out in sections 116 and 126 of the PBSA.
10. The standard of proof is the balance of probabilities.

Background

11. The evidence and information before me consists of a hearing record prepared by BCFSA, the information provided by Richmond Elevator in its notice of objection, and BCFSA’s submissions. 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.
12. On November 27, 2017, the Financial Institutions Commission, BCFSA’s predecessor regulator, issued Richmond Elevator a \$500 administrative penalty for failing to file its audited financial statement for the year ending December 31, 2016 by the due date of June 30, 2017, filing it on September 1, 2017 instead. The Commission also issued \$13,000 in other administrative penalties for other late-filed statements and reports for the 2016 fiscal year.

The Financial Statements

13. The Plan’s fiscal year end is December 31. It failed to submit the Plan’s audited financial statements for the years ended December 31, 2022 and 2023 (collectively, the “**Statements**”) within 180 days of its fiscal year end, which would be due by June 29, 2023 and June 28, 2024, respectively.
14. On August 23, 2024, BCFSA emailed Richmond Elevator a reminder to submit the Statements.

15. On October 9, 2024, following a telephone call between Richmond Elevator and BCFSA, BCFSA emailed Richmond Elevator to again remind it of its obligation to file the Statements.
16. On December 10, 2024, BCFSA emailed again to remind Richmond Elevator to file the Statements. BCFSA requested that Richmond Elevator file the Statements by December 16, 2024.
17. On March 10, 2025, BCFSA issued a direction pursuant to section 113 of the PBSA requiring Richmond Elevator to file the Statements by March 21, 2025.
18. On March 24, 2025, BCFSA wrote to Richmond Elevator to note that Richmond Elevator had not met the March 21, 2025 deadline to file the Statements. BCFSA advised that if Richmond Elevator required an extension, it should request one by March 28, 2025.
19. On March 25, 2025, following a brief email exchange, Richmond Elevator wrote to advise that it had retained an accountant to prepare the Plan's audited financial statements and requested an extension of the deadline to May 9, 2025.
20. On March 31, 2025, BCFSA granted Richmond Elevator an extension to the deadline to file the Statements to May 9, 2025, pursuant to section 5(1) of the PBSA.
21. By June 26, 2025, Richmond Elevator had not filed the Statements as required.
22. On July 4, 2025, Richmond Elevator filed the Statements.

The Request for Records

23. On December 20, 2024, the Union, who is the certified exclusive bargaining agent for some of Richmond Elevator's employees pursuant to a certification issued by the British Columbia Labour Relations Board dated September 23, 2024, wrote to Richmond Elevator to request, pursuant to section 37(5) of the PBSA, the following records in relation to the plan:
 - a. the 3 most recent annual information returns filed in relation to the Plan;
 - b. the 2 most recent actuarial valuation reports and cost certificates filed in relation to the Plan; and
 - c. the 3 most recent audited financial statements filed in relation to the Plan(collectively, the "**Records**").
24. The Union's request cited both section 37(5) of the PBSA and section 43(5) of the PBSR and the 30-day deadline for Richmond Elevator to provide the Records.
25. On February 18, 2025, the Union wrote to BCFSA to report a breach of section 37(5) of the PBSA by Richmond Elevator in failing to provide the Records.
26. On March 11, 2025, the Superintendent issued a direction, pursuant to section 113 of the PBSA, directing Richmond Elevator to provide the Union with the Records.
27. On March 17, 2025, Richmond Elevator emailed BCFSA to advise that the Union no longer required the Statements. Other than this email, there is no indication in the record before me that the Union actually withdrew its request for the Statements and I do not find that it did.
28. On March 18, 2025, Richmond Elevator told BCFSA that no member of the Plan was also a member of the Union, which contradicted the Union's December 20, 2024 request.

29. On March 19, 2025, Richmond Elevator emailed BCFSA to state that no employee of Richmond Elevator was a member of the Union, but that this would change if a contract was signed.
30. On March 25, 2025, BCFSA emailed Richmond Elevator to confirm that the Union was certified by the British Columbia Labour Relations Board as a bargaining agent for certain employees of Richmond Elevator. BCFSA reiterated that section 37(5) of the PBSA required Richmond Elevator to provide the Records and reminded Richmond Elevator of the possible administrative penalties that could flow from the failure to deliver the Records.
31. On March 31, 2025, in the email granting Richmond Elevator an extension to file the Statements, BCFSA advised Richmond Elevator that there was no extension of the deadline in the March 11, 2025 direction. BCFSA noted that Richmond Elevator should provide the Statements to the Union once it filed them. BCFSA again reminded Richmond Elevator of the possible administrative penalties associated with a failure to comply.
32. On April 30, 2025, BCFSA issued a demand for Richmond Elevator to comply with section 37(5) and the March 11, 2025 direction for compliance. BCFSA demanded compliance by May 23, 2025. BCFSA also reminded Richmond Elevator of the possible administrative penalties that could result from a failure to comply with its demand.
33. On May 28, 2025, the Union confirmed with BCFSA, via email, that it still required the Records from Richmond Elevator.
34. By June 26, 2025, Richmond Elevator had not provided the Records to the Union as required.

Submissions

The Financial Statements

35. Richmond Elevator accepts that it contravened section 38(1) of the PBSA and section 47 of the PBSR by failing to file the Statements, but requests leniency. Richmond Elevator advises that its President's son and mother, who were Richmond Elevator's Plan Administrator and Controller respectively, died on May 28, 2022 and July 2, 2022, respectively. Both individuals had been working full-time immediately prior to their passing. Following those passings, Richmond Elevator employed two interim controllers before finding their current Pension Administrator and Controller. Richmond Elevator submits that it inadvertently missed filing the Statements during this period because of the turmoil resulting from the deaths noted above.
36. BCFSA submits that a "moderate level of leniency" is justified in this case in light of the above information supplied by Richmond Elevator and the administrative penalty should be varied from \$10,000 to \$5,000. BCFSA notes that it was advised that the statements had been prepared before the May 9, 2025 extended deadline but a miscommunication between Richmond Elevator and its service provider, [Service Provider 1], resulted in the filings not being made until July 4, 2025. BCFSA notes that Richmond Elevator has received a previous administrative penalty for late filings in 2017 and that the superintendent's approach to administrative penalties has changed since that time to reflect a greater need for specific and general deterrence and to uphold public confidence in the regulation of pension administration in British Columbia.

The Request for Records

37. Richmond Elevator requests the cancellation of the \$15,000 administrative penalty associated with the failure to deliver the Records to the Union. Richmond Elevator submits that both the Union's request and the NOAP cited the wrong sections. Richmond Elevator submits that section 37(5) of the PBSA deals with Old Age Security offset provisions and that section 43(5) of the PBSR does not exist. Richmond Elevator submits that its response to the Union's requests demonstrate "a

principled adherence to statutory due process” and that it “cannot act on improperly grounded requests”. Richmond Elevator submitted that it intended to provide the Union with the Records by the end of July 2025, regardless of the defects in the request or the outcome of this reconsideration.

38. BCFSA submits that Richmond Elevator is incorrect regarding the contents of section 37(5) of the PBSA and section 43(5) of the PBSR. BCFSA submits that the citations in the Union’s request and the NOAP were correct. BCFSA argues that, in any event, the Union’s request clearly identified the information it requested and there is no requirement in section 37(5) of the PBSA for the Union to cite the sections that require production of records under that section. BCFSA submits that Richmond Elevator, as the Plan’s administrator is expected to know what its obligations are under the PBSA and PBSR and to comply with those obligations. BCFSA also notes that Richmond Elevator had the opportunity to raise these concerns earlier because BCFSA had issued the March 11, 2025 direction for compliance under section 113 of the PBSA, a demand letter on April 30, 2025, and follow ups on March 25, 2025 and March 31, 2025. BCFSA submits that Richmond Elevator ignored the Union’s request and ignored BCFSA’s demands and reminders. BCFSA submits that there is no reason to cancel or vary the administrative penalty.

Reasons and Findings

Applicable Legislation

39. Section 37(5) of the PBSA requires an administrator of a pension plan to provide a copy of any prescribed record, on payment of reasonable costs making copies to a trade union whose membership includes or consists of members of the plan, up on receipt of a request from that trade union. Section 43 of the PBSR provides as follows, in relevant part:

Examination and provision of information

43 ...

- (4) For the purposes of section 37 (5) of the Act, the following records are prescribed in relation to a pension plan:

...

- (d) the 3 most recent annual information returns filed in relation to the plan under section 38 (1) (a) of the Act;
 - (e) the 2 most recent actuarial valuation reports and cost certificates filed in relation to the plan under section 38 (1) (b) of the Act;
 - (f) the 3 most recent audited financial statements filed in relation to the plan under section 38 (1) (c) of the Act;
- (5) The administrator must fulfill the duties under section 37 (2) or (5) of the Act within 30 days after receipt of a request.

40. Section 38(1) of the PBSA requires pension plan administrators to file financial statements for their plans as prescribed. Section 47 of the PBSR provides as follows:

Filing of financial statements

- 47 (1)** The administrator of a pension plan must, within 180 days after the end of the plan’s fiscal year, file audited financial statements for the plan if
- (a) the plan text document of the plan contains a benefit formula provision and the market value of the benefit formula component’s assets is at least \$10 million as at the plan’s fiscal year end, or
 - (b) the plan is a collectively bargained multi-employer plan.

- (2) Audited financial statements filed under subsection (1) must be prepared in accordance with the accounting standards contained in the CPA Canada Handbook — Accounting and the CPA Canada Handbook — Assurance, as amended from time to time, except that those statements need not include information respecting benefit obligations.

41. Section 116 of the PBSA permits the Superintendent to impose, by order, an administrative penalty on a person if the person has, in the Superintendent's opinion, failed to file a record required by the PBSA within the period specified by the PBSR or if the person has failed to disclose information to persons within the period specified by the PBSR for that disclosure.
42. Section 116(4) of the PBSA provides that an administrative penalty cannot exceed \$250,000 in the case of a corporation or administrator or \$50,000 in the case of an individual, who is not an administrator. Section 136 of the PBSR prescribes tables indicating the maximum administrative penalty that can be imposed for certain contraventions. Sections 37(5) and 38(1) are both set out in Table 3 of Schedule 4 of the PBSR, as prescribed by section 136(4) of the PBSR, which prescribes that administrators who fail to file the records required by section 38(1) of the PBSA by the prescribed deadline, contained in section 47 of the PBSR, may be liable for an administrative penalty of up to \$50,000. It also prescribes that administrators who fail to disclose the information required by section 37(5) by the prescribed deadline, contained in section 43(5) of the PBSR, may be liable for an administrative penalty of up to \$125,000.

Analysis

43. The imposition of an administrative penalty under section 116 of the PBSA is a discretionary decision. A request to reconsider the imposition of an administrative penalty requires a Hearing Officer to consider not only whether the objector contravened the PBSA or PBSR, but also whether the objector exercised due diligence, that is: took reasonable steps or precautions, to prevent the contravention set out 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 objector believes a Hearing Officer should consider.

Section 38(1) of the PBSA: The Financial Statements

44. There is no dispute in this proceeding that Richmond Elevator was required to file the Statements or that it filed the Statements late.
45. Instead, Richmond Elevator requests leniency as a result of the deaths noted above and the resulting staffing and administrative problems that followed.
46. BCFSa generally supports the request for leniency, but indicates that an administrative penalty should still be imposed.
47. In my view, the submissions made by Richmond Elevator do not establish that it exercised due diligence or experienced extenuating circumstances that constitute a defence to the contraventions set out in the NOAP. Although I sympathize with Richmond Elevator and the circumstances it faced, with its principal losing two close family members and the business losing two key leaders, I find that those facts cannot sufficiently explain the substantial delay in filing the Statements. I note in this regard that the financial statements for the year ended December 31, 2022 were filed just over two years after they were initially due and the financial statements for the year ended December 31, 2023 were filed just over one year after they were initially due. I further find that the submissions were made more than approximately two months after the extended May 9, 2025 deadline. Although the circumstances described by Richmond Elevator go some way to explaining the contraventions, they are not sufficient to establish a complete defence by way of a demonstration

of due diligence or the existence of extenuating circumstances that prevented compliance. I will discuss their weight as mitigating factors below.

48. I note also that the alleged extenuating circumstances occurred well before the May 9, 2025 deadline which had been extended pursuant to section 5(1) of the PBSA. It is curious to me that the filing deadline was extended pursuant to section 5(1) when that section requires the person making the request to satisfy the Superintendent that there are “extenuating reasons” justifying an extension and it does not appear that BCFSa had been advised of any extenuating circumstances by March 31, 2025, when that extension was given; however, I have no authority in this proceeding to review that decision. I merely note here that Richmond Elevator missed that deadline, which was set based on its request, by approximately two months.
49. I therefore find that Richmond Elevator contravened section 38(1) of the PBSA and section 47 of the PBSR by failing to file the Statements by their deadlines.

Section 37(5) of the PBSA: The Request for Records

50. Richmond Elevator is incorrect that the Union and the NOAP cited the wrong sections. It appears that Richmond Elevator is referring to the legislation that preceded the PBSA which was the *Pension Benefits Standards Act*, RSBC 1996, c 352, which was replaced by the current PBSA. It is not clear to me what regulations Richmond Elevator is referencing but the PBSR does contain a section 43(5), it is set out above. The relevant sections of the PBSA and the PBSR are the same now as they were when the Union made its request for the Records on December 20, 2024.
51. Section 37(5) of the PBSA required Richmond Elevator to deliver the Records to the Union upon request. Section 43(5) of the PBSR prescribed a 30-day deadline for Richmond Elevator to provide the Records. Richmond Elevator did not provide those records by the deadline.
52. Richmond Elevator does not argue that it exercised due diligence in attempting to meet its obligations, it argues that it was not required to respond because the Union cited the wrong section. The Union did not cite the wrong section and did not need to cite any section in its request. Although Richmond Elevator has clearly consulted some legislation, it has consulted the wrong legislation and misinformed itself regarding its obligations. In my view, a reasonable exercise of due diligence would have resulted in Richmond Elevator consulting the correct legislation. I find that Richmond Elevator has not established that it exercised due diligence in attempting to comply with section 37(5) of the PBSA and section 43(5) of the PBSR.
53. I therefore find that Richmond Elevator contravened section 37(5) of the PBSA and section 43(5) of the PBSR when it failed to provide the Records in response to the Union’s December 20, 2024 request within 30 days of receiving that request.

Penalty Amount

54. Turning to the question of the penalty amount, I note that the PBSA is public protection legislation intended to create reasonable constraints that protect the investments of beneficiaries while still encouraging employers to participate and offer pensions to their employees. Within that framework, the Superintendent exercises supervisory authority to ensure pensions are administered in compliance with regulatory constraints. Within that framework, administrative penalties exist to ensure compliance. Although such sanctions can be significant and impose heavy burdens on recipients, their primary purpose is aimed at future compliance: *Thow v BC (Securities Commission)*, 2009 BCCA 46. They operate to sanction those who fail to comply with the PBSA with the goals public protection and the maintenance of public confidence in provincially regulated pensions. Administrative penalties achieve these goals by way of denunciation; educating respondents, the industry, and the public; rehabilitating respondents; specifically deterring respondents from future misconduct, and generally deterring others from committing similar

misconduct. Assessing the appropriate sanction requires assessment of the circumstances as a whole to determine the sanction that will best serve the above goals. This includes, but is not limited to, assessment of the gravity of the contravention, the consequences or harms that flowed from it, the duration of the misconduct, the history of the recipient, any mitigating or aggravating circumstances, prior sanctions issued by the Superintendent, and the impact of the sanction on the goals of regulatory legislation generally.

55. In regard to Richmond Elevator's failure to file the Statements, that conduct is significant but not, on its own, serious. A pension plan's financial statements are one piece of information that an administrator provides to BCFSA which allows the Superintendent to properly monitor the activities of a pension plan and ensure that it is operating within reasonable bounds and not taking on undue risk. Without that information the Superintendent is limited in its ability to take proactive and protective measures with regard to a pension plan. That, in turn, places beneficiaries at risk and erodes the public's confidence in the plan, and to some extent the pension industry as a whole.
56. Richmond Elevator's conduct in this case is aggravated by three factors.
57. First, the conduct at issue occurred after Richmond Elevator received an administrative penalty for the same conduct in 2017. The conduct at issue relates to effectively the second and third time that Richmond Elevator failed to file the Plan's financial statements on time and despite prior sanction for that conduct.
58. Second, the conduct involves two failures to file the Plan's financial statements and is in that sense, repeated.
59. Third, the Statements were filed late despite repeated and direct reminders from BCFSA, the issuance of a direction for compliance under section 113 of the PBSA, and an extension to the filing deadline being granted pursuant to section 5(1) of the PBSA.
60. A direction for compliance is not a simple reminder, it is the simplest regulatory intervention the Superintendent can take, but it is a regulatory intervention and the failure to comply with that direction is aggravating.
61. The relevance of the extension granted under section 5(1) of the PBSA is somewhat more complex. On the one hand, the extension was granted pursuant to Richmond Elevator's request, which makes missing that deadline more serious. On the other hand, the extension diminishes the seriousness of the lengthy delay that occurred in Richmond Elevator's filing of the Statements from their original due dates.
62. There is also the mitigating factor of the death of Richmond Elevator's President's son and mother, important principals of Richmond Elevator with regulatory responsibilities in 2022. This is the primary mitigating factor and goes some way to explaining what occurred in this case. I note in this regard that it appears that the contraventions were contained to the contraventions before me and therefore it appears that Richmond Elevator was able to remain mostly compliant and to focus on substantive compliance and avoiding direct harm to beneficiaries, despite substantial disruption to its business and compliance operations.
63. I note that the force of this mitigating factor is substantially tempered by the extension granted under section 5(1) of the PBSA, which occurred after the above extenuating circumstances had occurred and after Richmond Elevator had substantial time to address the effects of those extenuating circumstances.
64. Assessing the above globally, I find that Richmond Elevator's contravention of section 38(1) PBSA and 47 of the PBSR is significant, but does not rise to the level of being serious. Given the extension under section 5(1) of the PBSA, the filing was only two months late. The fact that it was late appears

to have arisen from inadvertence, but it was late despite repeated reminders and a direction from the regulator that Richmond Elevator had failed to meet the initial deadline applicable to a section of the PBSA that forms an important element of the Superintendent's supervisory function under the PBSA.

65. The above, in particular the repeated misconduct occurring after reminders and a direction from the regulator, indicates to me that Richmond Elevator requires specific deterrence to ensure it does not misconduct itself again in the future and appropriately prioritizes its regulatory filings so that the Superintendent can properly supervise its operations. There is also a significant need for both general deterrence and a sanction that promotes public confidence in pensions generally for those same two reasons. The Superintendent must demonstrate to pension administrators and the public that a failure to file required financial statements that remain outstanding for an extended period will be met with appropriate regulatory sanctions.
66. Regarding prior sanctions, I have been provided with administrative penalties issued in *GML Mechanical (Re)*, 2022 BCSP 5; *Xaxli'p (Xaxli'p Health Centre) (Re)*, 2022 BCSP 1; and *Baywest Manufacturing Inc. (Re)*, 2021 BCSP 2. Each of those involved a \$2,000 administrative penalty issued to an administrator for a first failure to file a pension plan's annual information return contrary to section 38(1) of the PBSA.
67. I am also conscious of the fact that the maximum administrative penalty prescribed in the PBSR for a single contravention of section 38(1) of the PBSA by an administrator is \$50,000.
68. Richmond Elevator's conduct is worse than the misconduct in those three cases in regard to it being a subsequent contravention following a 2017 administrative penalty, its repeated nature, and its occurring after repeated reminders. If it were not for the fact that Richmond Elevator has suffered substantial disruptions to its compliance operations in 2022 and that it received an extension under section 5(1) of the PBSA, I would have no reservation in deciding that a \$10,000 penalty would be appropriate. Accounting for those factors, I find that a more significant regulatory sanction than was imposed in the above cases is appropriate and, given the failure to file relates to two years of financial statements, the sanction should be more than double the sanction in the above cases. I find this because there are effectively two contraventions of section 38(1) of the PBSA and section 47 of the PBSR here and they are both, relative to the 2017 administrative penalty, subsequent.
69. Acknowledging that exact precision is not possible in determining the appropriate sanction, I find that a \$5,000 administrative penalty for Richmond Elevator's contravention of section 38(1) of the PBSA and section 47 of the PBSR is within the range of reasonable sanctions. In my view, it is significant enough to specifically deter Richmond Elevator and to promote general deterrence and public confidence without being unnecessarily punitive. I therefore vary the penalty from \$10,000 to \$5,000.
70. Turning to the contravention of section 37(5) of the PBSA and section 43(5) of the PBSR, I find that Richmond Elevator's conduct was serious. In my view, it would have been relatively straightforward for Richmond Elevator to provide the Union with the Records and to advise the Union that Richmond Elevator had not yet filed the Statements. The fact that Richmond Elevator failed to do so for at least six months after the deadline and based on a spurious understanding of the legislation indicates to me that the contravention was not merely negligent, but that Richmond Elevator intended to not provide the Records because it believed it was not required to. This is further concerning given Richmond Elevator's correspondence with BCFSA on the issue and the date of the Union's certification indicates that Richmond Elevator was in the process of negotiating a collective agreement and its refusal likely hampered that process. Although I do not have any evidence of monetary harm caused by Richmond Elevator's failure to provide the Records, I find that harm resulted from the denial of the Union, and by extension the beneficiaries, of information to which they were statutorily entitled.

-
71. Richmond Elevator's conduct in failing to provide the Records appears to be based on a misconception regarding the statutory requirements that actually applied to its administration of the Plan, which in turn raises concerns regarding Richmond Elevator's understanding of its obligations generally. Although there is no evidence that Richmond Elevator is generally non-compliant with the PBSA, its lack of understanding of a relatively simple document production obligation causes me concern that it might not understand its obligations more broadly, which creates a significant risk of future non-compliance. This concern is elevated because Richmond Elevator's misconception persisted despite issuance of a direction under section 113 of the PBSA and the issuance of the NOAP, both of which cited the correct sections to Richmond Elevator. In my view, when the regulator takes action under the legislation, those subject to those actions should pay attention. This does not mean those who receive directions for compliance or NOAPs should merely accept that the regulator is correct, they are entitled to challenge the regulator's notices on the grounds that the wrong section has been relied on, among other grounds; however, I find it shows a significant lack of attentiveness to conclude that the regulator has repeatedly cited sections that either have absolutely no application or that do not exist at all. In my view, it should have struck Richmond Elevator as exceedingly improbable that the Union's counsel and the regulator consistently cited the wrong sections of the legislation and if Richmond Elevator really believed that was the case, it should have communicated this concern well before it received the NOAP.
72. I note, in addition to the above, that the maximum administrative penalty for a contravention of section 37(5) of the PBSA is \$125,000 as prescribed by the PBSR. This indicates to me that a contravention of section 37(5) of the PBSA is treated as, generally, more serious than a contravention of section 38(1), which is subject to a lower limit.
73. Richmond Elevator has not raised any mitigating circumstances that might apply to its contravention of section 37(5) of the PBSA and section 43(5) of the PBSR. I find that it has not established any such mitigating circumstances.
74. In regard to the goal of specific deterrence, in my view the above discussion indicates that Richmond Elevator requires substantial specific deterrence and an order that will demonstrate to it the need to be much more careful in future regarding its statutory obligations and to ensure that it complies with its obligations to produce information under section 37(5) of the PBSA within the timelines under section 43(5) of the PBSR.
75. Further, I find that the conduct in question, depriving a certified union of information about its members' pensions to which the union is statutorily entitled, should be strongly generally deterred. Administrators must understand that the Superintendent will not tolerate prolonged failures to comply with the obligation to produce already filed documents within a reasonable statutory deadline.
76. I also find that a substantial penalty is required to ensure public confidence in the administration of pensions in British Columbia. The public, and beneficiaries in particular, must know that information regarding their pensions, and the security of their financial futures, is readily and reasonably available to them, that administrators will comply with their obligations, and that the Superintendent will take meaningful action to respond to failures to provide that information. It is particularly concerning in this regard that the escalating steps taken by BCFSa to inform Richmond Elevator of its obligations were not effective, which could, if tolerated, undermine public confidence in the Superintendent's ability to ensure administrators comply with the legislation.
77. Neither party has directed me to any prior administrative penalties for contraventions of section 37(5) of the PBSA.
78. Considering the above, I find that \$15,000 is an appropriate administrative penalty for Richmond Elevator's contravention of section 37(5) of the PBSA and section 43(5) of the PBSR. I am conscious of the fact that this is Richmond Elevator's first contravention of those sections and that

the contravention, though apparently intentional, arose from a misapprehension of Richmond Elevator's obligations as administrator. That said, I am also conscious of the need for a significant sanction given the contravention continued for several months and to firmly dispel Richmond Elevator's intransigence despite being repeatedly advised of its obligations. In my view, a \$15,000 administrative penalty will be sufficient to correct Richmond Elevator's future conduct and to send a clear message to other administrators and the public while acknowledging that this is Richmond Elevator's first contravention of section 37(5) of the PBSA and section 43(5) of the PBSR and was also not a flagrant or willful attempt to defy known statutory obligations.

Conclusion

79. I find that Richmond Elevator contravened section 38(1) of the PBSA and section 47 of the PBSR by failing to file the Statements by their deadlines.
80. Pursuant to section 126(2) of the PBSA, I vary the \$10,000 Richmond Elevator's contravention of section 38(1) of the PBSA and section 47 of the PBSR imposed in the NOAP down to \$5,000.
81. I find that Richmond Elevator contravened section 37(5) of the PBSA and section 43(5) of the PBSR when it failed to provide the Records in response to the Union's December 20, 2024 request within 30 days of receiving that request.
82. Pursuant to section 126(2) of the PBSA, I confirm the \$15,000 administrative penalty for Richmond Elevator's contravention of section 37(5) of the PBSA and section 43(5) of the PBSR imposed in the NOAP.
83. Pursuant to section 127(1) of the PBSA, Richmond Elevator has the right to appeal the above orders to the Financial Services Tribunal. Richmond Elevator has 30 days from the date of this decision to file any such appeal: *Financial Institutions Act*, RSBC 1996, c 141, s 242.1(7)(d) and *Administrative Tribunals Act*, SBC 2004, s 24(1).
84. Pursuant to section 116(7)(b), the \$20,000 in administrative penalties will become immediately due and payable to BCFSa if Richmond Elevator does not file an appeal of this decision within 30 days from the date this decision.

DATED at North Vancouver, BRITISH COLUMBIA, this 8th day of December, 2025.

"Original signed by Gareth Reeves"

Gareth Reeves
Hearing Officer

BC FINANCIAL SERVICES AUTHORITY
IN THE MATTER OF THE *PENSION BENEFITS STANDARDS ACT*
SBC 2012, c 30 as amended
AND IN THE MATTER OF
RICHMOND ELEVATOR MAINTENANCE LTD.
As Administrator for the Pension Plan for the Employees of
Richmond Elevator Maintenance Ltd
(Plan Number: P086414-1)

NOTICE OF RECONSIDERATION

The Superintendent of Pensions (the “Superintendent”) of the BC Financial Services Authority (“BCFSA”) has, pursuant to section 126 of the *Pension Benefits Standards Act* (the “PBSA”) and upon reading the submissions of Richmond Elevator Maintenance Ltd. (“Richmond Elevator”) and BCFSA, reconsidered the Notice of Administrative Penalty dated June 26, 2025 (the “NOAP”) issued against Richmond Elevator as administrator for the Pension Plan for the Employees of Richmond Elevator Maintenance Ltd. (the “Plan”) and has determined as follows:

- 1) Richmond Elevator contravened section 38(1) of the PBSA and section 47 of the *Pension Benefits Standards Regulation* (“PBSR”) by failing to file audited financial statements within 180 days after the end of the Plan’s fiscal year for the periods ending December 31, 2022 and December 31, 2023; and
- 2) Richmond Elevator contravened section 37(5) of the PBSA and section 43(5) of the PBSR by failing to provide prescribed records to the International Union of Elevator Constructors, Local 81 within 30 days of receipt of a request for those records.

AFTER RECONSIDERATION of the administrative penalties and in accordance with the accompanying reasons, the Superintendent has decided to:

- 1) Vary the \$10,000 administrative penalty issued in the NOAP for Richmond Elevator’s contravention of section 38(1) of the PBSA and section 47 of the PBSR to \$5,000.
- 2) Confirm the \$15,000 administrative penalty issued in the NOAP for Richmond Elevator’s contravention of section 37(5) of the PBSA and section 43(5) of the PBSR by failing to provide prescribed records to the International Union of Elevator Constructors, Local 81 within 30 days of receipt of a request for those records.

Total Confirmed or Varied Administrative Penalties
\$20,000

TAKE NOTICE that, pursuant to section 127(1) of the PBSA, Richmond Elevator has the right to appeal the above orders to the Financial Services Tribunal. It has 30 days from the date of this decision to file any such appeal: *Financial Institutions Act*, s 242.1(7)(d) and *Administrative Tribunals Act*, s 24(1).

AND FURTHER TAKE NOTICE that, pursuant to section 116(7)(b), the administrative penalties as confirmed or varied in this notice will become immediately due and payable to BCFSA if Richmond Elevator does not file an appeal of this decision within 30 days from the date this decision.

DATED at North Vancouver, BRITISH COLUMBIA, this 8th day of December, 2025.

“Original signed by Gareth Reeves”

Gareth Reeves
Hearing Officer