

BC FINANCIAL SERVICES AUTHORITY

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

AND IN THE MATTER OF

**[APPLICANT 35]
([Licence Number])**

AND

**[LICENSEE 1]
([Licence Number])**

**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 August 11, 2025, the BC Financial Services Authority (“**BCFSA**”) issued a Notice of Administrative Penalty (the “**NOAP**”) in the amount of \$1,000 to [Applicant 35] (“**[Applicant 35]**”) and [Licensee 1] 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 [Applicant 35] and [Licensee 1] had contravened section 93.1 of the *Real Estate Services Rules*, BC Reg 209/2021 (the “**Rules**”) by failing to respond to a 2025 Real Estate Brokerage Data Call (the “**2025 Data Call**”) by the March 31, 2025 deadline in the manner prescribed by the Superintendent of Real Estate (the “**superintendent**”) or at all.
3. [Applicant 35] and [Licensee 1] applied for a reconsideration of the NOAP under section 57(4) of RESA. The application proceeded by written submissions.

Issues

4. The issue is whether the August 11, 2025 NOAP should be cancelled or confirmed.

Jurisdiction and Standard of Proof

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

Background

9. The evidence and information before me consists of an investigation report completed by BCFSA, the tabs thereto, and the information provided by [Applicant 35] and [Licensee 1] 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.

Regulatory History

10. [Applicant 35] was first licensed as brokerage in the trading services category on June 5, 2014 and has been licensed in that fashion until August 7, 2025, when its licence was terminated.
11. [Licensee 1] was and remains the sole director of [Applicant 35] at all relevant times.
12. [Licensee 1] was first licensed as a representative in the trading service category on September 1, 1999. Except for a brief period in 2000, a period from May 2001 to May 2003, and a brief period in 2013, [Licensee 1] has been continually licensed since that date. He became licensed at the broker level on June 28, 2010 and has been an associate broker or managing broker since that date. He became managing broker of [Applicant 35] on June 5, 2014 and was licensed in that role until August 7, 2025 when he transferred to [Brokerage 1] doing business as “[Brokerage 1]” as an associate broker.
13. [Applicant 35] and [Licensee 1] have no formal discipline history of which I am aware. They were issued a letter of advisement on May 2, 2024 for failing to comply with a data call issued under section 93.1 of the Rules in early 2024. That letter of advisement advised [Applicant 35] and [Licensee 1] that failure to comply with future data calls could result in the issuance of administrative penalties and it noted that a contravention of section 93.1 of the Rules could attract a \$1,000 administrative penalty for a first contravention or a \$2,000 administrative penalty for a subsequent contravention. Because the conduct underlying the letter of advisement was not subject to formal regulatory action, I do not consider it proof that [Applicant 35] and [Licensee 1] previously contravened the Rules, but I do consider it proof that they were explicitly warned of the requirement to respond to data calls issued under section 93.1 of the Rules and the consequences of failing to respond.

The 2025 Data Call

14. On January 16, 2025, the superintendent published the following:

- a. An advisory regarding the 2025 Data Call to managing brokers, associate brokers, and brokerages advising that they were required to participate in the 2025 Data Call seeking information on sales of residential properties with a firm date between February 16, 2025 and March 15, 2025 and regarding all Home Buyer Recission Period rescissions during the 2024 calendar year. The advisory noted that if there were no transactions or rescissions to report, a “NIL” submission was required. It further advised that the submission period was from February 18, 2025 to March 31, 2025 and submissions must be made through BCFSA’s online Integrated Regulatory Information System portal (“**IRIS**”). Finally, the advisory noted that failure to respond could attract administrative penalties and provided links to various pieces of information including the associated regulatory statement.
- b. A 2025 Real Estate Brokerage Data Call information page explaining the purpose of the 2025 Data Call and advising of a Webinar to be held on February 6, 2025 regarding the 2025 Data Call.
- c. 2025 Real Estate Brokerage Data Call Instructions which explained the process to respond to the 2025 Data Call and reiterated the penalties and deadlines associated with it. The instructions also state:

“If a brokerage does not have any real estate transactions or rescissions to report, the brokerage is still required to make a NIL submission when prompted on the IRIS portal.”
- d. A regulatory statement, 2025 Real Estate Brokerage Data Call Requirements, RESA 25-001 (the “**Reg Statement**”) which explained that the 2025 Data Call was made pursuant to section 93.1 of the Rules and applied to all brokerages licensed to provide trading services. The Reg Statement provided that submissions were due on or before March 31, 2025, specified the required contents of the submissions, and provided that brokerages were required to submit their submissions through IRIS. The Reg Statement also stated:

“If a brokerage does not have any relevant information to provide, the brokerage must make a submission reporting no transactions.”

and

“If a brokerage does not have any relevant information to provide, the brokerage must make a submission reporting no rescissions.”

- 15. On January 24, 2025, BCFSA emailed out a Brokers’ Brief to managing brokers, which included information regarding the 2025 Data Call. This email reminded managing brokers of the deadline for submissions and the risk of administrative penalties for non-compliance. It also reminded recipients of the February 6, 2025 information webinar that BCFSA planned to hold.
- 16. On February 6, 2025, BCFSA held an information webinar regarding the 2025 Data Call and made the slides and a recording of the webinar available on BCFSA’s website. The slides for the webinar explained how to complete the required submissions, including how to input the required information into the required spreadsheet workbooks and how to make the submission through IRIS. The slides for the presentation noted that a submission was required if the brokerage had no transactions to report and provided instructions on how to make a report in that case.
- 17. On February 18, 2025, the opening day for submissions for the 2025 Data Call, BCFSA emailed [Licensee 1] an IRIS service request for the 2025 Data Call. The request provided a link to the service request and noted the March 31, 2025 deadline.
- 18. On February 21, 2025, BCFSA emailed all managing brokers a Brokers’ Brief advising that the 2025 Data Call was open for submissions. That email described the information sought in the 2025 Data Call, reiterated the risk of an administrative penalty if a submission was not made, reiterated the deadline, and provided links for information on the 2025 Data Call. It also specifically noted that brokerages with nothing to report were required to make a “NIL” submission.

19. On March 20, 2025, BCFSA emailed all managing brokers a Brokers' Brief including a reminder of the deadline and possible administrative penalties associated with the 2025 Data Call.
20. On March 24, 2025, BCFSA emailed [Licensee 1] a reminder regarding the IRIS service request previously sent to him. That reminder noted the submission was due March 31, 2025 and had not been submitted.
21. On March 28, 2025, BCFSA emailed [Licensee 1] to remind him of [Applicant 35's] obligations under the 2025 Data Call and that non-compliance could result in an administrative penalty.
22. [Applicant 35] did not submit a response to the 2025 Data Call through IRIS.

Submissions

23. [Licensee 1] submits that he believed that BCFSA was seeking statistical information on buyers and sellers and did not think he needed to take further steps because [Applicant 35] had not done any deals "for a few years now". [Licensee 1] noted that he had closed [Applicant 35] and changed brokerages.
24. [Licensee 1] submits that he has been a managing broker of [Applicant 35] for over 10 years and has complied with previous trust and Canada Revenue Agency audits and were always in compliance. [Licensee 1] submits that it should have been more clear that submissions were required even if there was no activity to report. He submits that BCFSA should have made a call before the due date, not after. He submits that \$1,000 is a significant sum for a brokerage that is no longer operating and is not generating income. He submits that he recently moved from Kelowna to Vancouver Island for a fresh start.

Reasons and Findings

Applicable Legislation

25. 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.
26. 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.
27. 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. Section 93.1 of the Rules is placed in Category A. Section 27(1) of the Rules provides that a contravention of a section designated in Category A may attract a \$1,000 administrative penalty for a first contravention or \$2,000 for a subsequent contravention.
28. 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.

29. Section 93.1 of the Rules states as follows:

Records or information provided on request

- 93.1** As requested by the superintendent and in accordance with any requirements specified by the superintendent, a licensee must provide to the superintendent records or information, including personal information, in the possession or control of the licensee.

Analysis

30. 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.

Contravention: [Licensee 1]

31. The NOAP alleges a contravention of section 93.1 of the Rules against [Licensee 1] and [Applicant 35]. That section empowers the superintendent to request information from licensees and to specify the requirements for the response. The details and the requirements of the 2025 Data Call were specified in the Reg Statement. That instrument required brokerages to submit certain information with regard to sales with a firm date between a certain range and Home Buyer Rescission Period rescissions in calendar year 2024. It did not purport to impose an obligation on managing brokers directly.
32. Although RESA and the Rules impose significant management, supervisory, and operational obligations on managing brokers in regard to their brokerages, the fact that a brokerage has contravened a section of the Rules that imposes an obligation on brokerages, does not mean that the managing broker also contravened the same section: *Fisher (Re)*, 2025 BCSRE 5, at paras 85-90.
33. Although section 28(1), which specifies some of the management, supervisory, and operational obligations of managing brokers in relation to their brokerage, is designated as subject to an administrative penalty under Category B, the NOAP does not allege a contravention of that section or impose a penalty prescribed for such a contravention: see *Applicant 29 (Re)*, 2025 BCSRE 112 at paras 41-62 regarding the connection between a brokerage's contravention and a managing broker's liability under section 28(1).
34. I therefore conclude that [Licensee 1] did not contravene section 93.1 of the Rules because the Reg Statement authorizing the 2025 Data Call imposed obligations on [Applicant 35] and not [Licensee 1].

Contravention: [Applicant 35]

35. The Reg Statement specified that the superintendent required [Applicant 35], as a brokerage licensed in the trading category, to provide certain information and to provide that information by way of a submission through IRIS. It further specified that, if a brokerage had no information to report in relation to either the firm sales or the rescissions, the superintendent required the brokerage to make a submission through IRIS reporting no transactions.

36. [Applicant 35] made no submission through IRIS in response to the 2025 Data Call by March 31, 2025. Although it did not have any transactions to report, it was still required to make a submission to confirm that fact pursuant to the Reg Statement. It therefore contravened section 93.1 of the Rules by failing to make a submission in accordance with the requirements of the Superintendent as set out in the Reg Statement.

Due Diligence

37. Regarding due diligence, [Licensee 1] has not made any submissions regarding what steps he took to understand [Applicant 35's] obligations in regard to the 2025 Data Call. He does not state whether he attended the February 6, 2025 webinar, reviewed any of the correspondence BCFSA sent him to advise and remind him of [Applicant 35's] obligations, or sought out further information regarding the scope of [Applicant 35's] reporting requirements.
38. In my view, BCFSA repeatedly emphasized in its communications to managing brokers that the response to the 2025 Data Call was mandatory and required a "NIL" response where the brokerage did not have any transactions to report. Although [Licensee 1] notes that it may have been useful to have BCFSA staff place a telephone call to him before the March 31, 2025 deadline, it falls on [Licensee 1] to be aware of his regulatory obligations and BCFSA provided several avenues through which [Licensee 1] could inform himself of that obligation. That said, [Licensee 1]'s preferred method of communication is not relevant. BCFSA made a reasonable choice to correspond by email and managing brokers have a positive obligation to remain aware of their regulatory obligations.
39. I therefore find that [Applicant 35] has not established that it exercised due diligence in attempting to comply with its obligations.

Penalty Amount

40. The penalty amount issued in the NOAP is \$1,000. That is the prescribed amount for a first contravention of a section of the Rules designated in Category A, which includes section 93.1 of the Rules.
41. In my view, the penalty amount in this case is appropriate. [Licensee 1] has made no submission that indicates what steps he took to understand his obligations in regard to the 2025 Data Call. It appears he took no concrete steps despite the fact that he was explicitly warned in 2024 that [Applicant 35] could face an administrative penalty if it failed to comply with its obligations under section 93.1. In my view, that prior warning makes the \$1,000 administrative penalty appropriate even considering that [Applicant 35] is no longer generating revenue because it is no longer operating and in light of its lack of formal disciplinary history. In my view, the minimum monetary administrative penalty is within the scope of appropriate regulatory responses to [Applicant 35's] conduct in this case.

Conclusion

42. I find that [Licensee 1] did not contravene section 93.1 of the Rules because he is not licensed as a brokerage and the Reg Statement required brokerage licensees to respond to the 2025 Data Call. I therefore cancel the NOAP as it applies to [Licensee 1].
43. I find that [Applicant 35] contravened section 93.1 of the Rules by failing to provide its submission in response to the 2025 Data Call in accordance with the requirements of the superintendent specified in the Reg Statement.
44. I find that [Applicant 35] has not established that it exercised due diligence in attempting to comply with section 93.1 of the Rules.

45. I find that the \$1,000 administrative penalty was appropriate.
46. I confirm the \$1,000 administrative penalty as it applies to [Applicant 35].
47. The \$1,000 administrative penalty is now due and payable by [Applicant 35] to BCFSAs.

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

“Original signed by Gareth Reeves”

Gareth Reeves
Hearing Officer