

BC FINANCIAL SERVICES AUTHORITY

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

AND IN THE MATTER OF

**MY HOA JHAND
(155029)**

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

[These Reasons have been redacted before publication.]

DATE AND PLACE OF HEARING: Via Written Submissions

HEARING OFFICER: Andrew Pendray

Introduction

1. On May 9, 2025, BC Financial Services Authority (“**BCFSA**”) issued a Notice of Administrative Penalty (the “**NOAP**”) in the amount of \$10,000 to My Hoa Jhand (the “**applicant**”) 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 the applicant had contravened the *Real Estate Services Rules*, BC Reg 209/2021 (the “**Rules**”) as follows and issued a \$5,000 administrative penalty for each contravention:
 - Section 30(e) by failing to maintain the confidentiality of information respecting the applicant’s seller client when they provided details to another brokerage to relay to a buyer;
 - Section 34 by failing to act with reasonable care and skill when the applicant permitted a licensee from another brokerage to make representations of the client’s property, including whether the applicant’s client had paid GST, directly to the buyer instead of referring the buyer to their licensee, to the buyer’s brokerage, or to seek other professional advice.
3. The NOAP was served by way of an email sent to the applicant on May 12, 2025, and also by registered mail to the applicant’s address at her brokerage.
4. The applicant completed an application for reconsideration of the NOAP under section 57(4) of RESA on August 20, 2025, 70 days after the 30-day deadline for her to request an opportunity to be heard under section 57(2)(d) of RESA. This is my decision as to whether the applicant should be allowed an extension of the time to make her request for an opportunity to be heard.

5. On this application, the applicant was represented by her accountant.

Issues

6. The issue is whether the applicant should be granted an extension of time to file her request for an opportunity to be heard.

Jurisdiction and Standard of Proof

7. 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. Section 57(2)(d) requires a person to submit that application within 30 days of receipt of the notice of administrative penalty unless a longer time is permitted by the superintendent.
8. The superintendent has delegated the statutory powers and duties set out in section 57 to Hearing Officers.

Background and Submissions

9. The NOAP was issued on May 9, 2025.
10. BCFSA effected service of the NOAP on the applicant on May 12, 2025. The deadline for the applicant to make a request for an opportunity to be heard regarding the NOAP would have been June 11, 2025.
11. The applicant made her request for an opportunity to be heard on August 20, 2025 by completing, through her representative, an Administrative Penalty Reconsideration Request Form. That day is 70 days after the June 11, 2025 deadline. Prior to submitting that form, the applicant’s representative contacted BCFSA to indicated an intention to proceed with an application for reconsideration of the NOAP on August 9, 2025, some 59 days beyond the 30-day deadline.
12. In her August 20, 2025 reconsideration request form, the applicant provided submissions regarding the circumstances of the non-compliance issues identified in the NOAP.
13. In general terms, the penalties issued in the NOAP relate to the applicant having her daughter, Gagan Jhand (“**GJ**”), who is licensed under RESA as a representative for property management services with a property management brokerage, respond to inquiries from a potential buyer in respect of a residential property listing held by the applicant.
14. In her submissions on this application, the applicant explained that she had received an initial inquiry from a potential buyer, SC, on May 5, 2023. That inquiry, from SC, poses the following questions:

Is this a resale by owner or brand new from the developer, unoccupied? Will there be GST on the purchase?
15. The applicant indicated that at that time, her assistant was on extended health leave. The applicant submitted that when she received the May 5, 2023 inquiry she was not at her computer, that as English was her fourth language, and she had requested that GJ provide translation of the inquiry and basic technical support to her. A May 6, 2023 email from the applicant to GJ reads as follows:

Hello Gagan, please help mom read & explain what we need update please.
16. The applicant indicated that she had requested GJ’s assistance in order to ensure that all of the information from SC’s inquiry was obtained and nothing was missed. The applicant explained that

during her assistant's absence she received help from family members in order to assist her with translation services and other "IT-related matters".

17. On May 6, 2023, GJ responded to SC by email, and indicated that the listing was unoccupied, that it was a resale by owner but brand new, and that the owners had already paid GST and that there would therefore be no GST payable by the new purchaser.
18. GJ followed up with SC again on May 6, 2023 to enquire as to whether she had a real estate agent, and indicated that she had copied a local agent if SC wished to consider her.
19. SC replied to GJ on May 6, 2023 and indicated that she would speak to her real estate agent and get back to GJ soon.
20. The applicant submitted in her application for reconsideration that the information that GJ had provided to SC in the May 6, 2023 email was based on the publicly listed MLS listing data sheet, which was provided to the seller. The applicant denied that GJ had provided any personal or confidential information about the seller to SC, and noted that the co-listing agent had been copied in her daughter's correspondence to the potential buyer.
21. The applicant further described the exchange of multiple emails between her and the buyers in the latter half of May and June 2023 regarding timing for ordering the Strata Form F. The applicant submitted that SC had obtained GJ's contact information via the internet, and that when she had received a call from SC asking about a strata Form F required for the closing of the sale of the property listed by the applicant, GJ had attempted to assist SC. In this regard, included in the documents provided by the applicant are emails from GJ to the applicant's brokerage asking if they were able to request a Form F; emails between GJ and SC, including GJ providing documents to SC, and emails that appear to be between GJ and SC's legal counsel and legal counsel for the seller.
22. The applicant indicated that once she became aware any regulatory gap or procedural misstep in her daughter's provision of information to SC, she reached out for professional advice from her brokerage, and began corrective actions including enrolling in the BCFSA Residential Trading Services Legal Update course in August 2025.

Submissions on Extension of Time

23. The applicant submitted that she did not become aware of the NOAP until July 31, 2025, when she physically came into her brokerage office and received the letter containing the NOAP. The applicant indicated that her managing broker had not followed-up with her about the NOAP upon receipt of the initial email of May 12, 2025, and she submitted that this lack of follow-up on the part of her managing broker contributed to her delay in responding.
24. The applicant further submitted that she had not been familiar with the BCFSA email address which had provided the NOAP, and that this lack of familiarity had led her to believe that this was a phishing email.
25. The applicant also submitted that she "faces substantial language barriers" and had experienced significant emotional distress as a result of this matter.
26. The applicant also provided a number of documents associated with her submission. These included an August 14, 2025 email from her managing broker, [Managing Broker 1]. [Managing Broker 1] indicated in that email that the applicant "physically received" the NOAP when she came in to the office on July 31, 2025. [Managing Broker 1] noted that he was unable to comment on why the applicant had not seen the email sent to her and copied to him, and noted that he had not followed up with the applicant directly after receiving the NOAP email as he had expected her to contact him.
27. [Managing Broker 1] went on to provide his thoughts on the applicant's conduct generally, her general dealings with her clients, and his general thoughts on education and keeping up to date in

the real estate industry. [Managing Broker 1] also discussed his views on the circumstances that led to the NOAP, and suggested that although GJ's involvement included the email signature of her brokerage, [Managing Broker 1]'s view was that GJ had simply been assisting with translation due to language barriers. Of note [Managing Broker 1] indicated that had the applicant asked for his advice, he would have told the applicant to refrain from giving the buyer any information and to direct her back to her realtor or lawyer.

Reasons and Findings

Applicable Legislation

28. Section 56 of RESA provides that BCFSA may designate specific provisions of RESA, 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.
29. 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.
30. Section 26(2) of the Rules at the relevant time identified four categories, Category A, B, C, D, E and F, for designated contraventions for the purpose of determining the amount of an administrative penalty. Sections 30(e) and 34 of the Rules were placed in Category C. Section 27(3) of the Rules provided that the amount of an administrative penalty for a Category C contravention was \$5,000 for a first contravention and \$10,000 for a subsequent contravention.
31. Sections 30(e) and 34 of the Rules provides as follows:

Duties to clients

30 Subject to sections 31 [*modification of duties*] and 32 [*designated agency*], if a client engages a brokerage to provide real estate services to or on behalf of the client, the brokerage and its related licensees must do all of the following:

...
(e) maintain the confidentiality of information respecting the client;

Duty to act with reasonable care and skill

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

32. 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 along with the time limit of "30 days or a longer period allowed by the superintendent" to request a reconsideration. If the person does not apply for reconsideration within the indicated timeline, including any extensions, the person is deemed to admit the contraventions and the penalty becomes due and payable to BCFSA.

Analysis

33. Sections 57(2) and 57(4) of RESA provide that the superintendent must provide an opportunity to be heard if requested and must confirm the penalty, cancel the penalty, or cancel the penalty and issue a notice of discipline hearing or notice of hearing.
34. Section 57(2) of RESA sets out that the notice of administrative penalty issued under section 57(1) must advise the person to whom the penalty issued of their right to be heard respecting the matter and must advise the person that, if the person does not, “within 30 days or a longer period allowed by the superintendent, request such an opportunity to be heard”, the person will be deemed to have acknowledged contravening the provision in question with the administrative penalty becoming due and payable.
35. Although it could have been more clearly drafted, I consider the intention of the legislation is to provide a deadline of 30 days from the date of service for the recipient of an administrative penalty to apply for an opportunity to be heard which may be extended by the superintendent. This is confirmed by guidance published by BCFSA online entitled “Administrative Penalty Process”. Although I am not bound by that guidance, I am guided by it with regard to the process to be followed here and I take it as representing the regulator’s interpretation of its home statute and persuasive in that regard.
36. Many courts and regulators have addressed the question of late filing and have considered a variety of factors in regard to those filings in the circumstances of their processes. The BC Court of Appeal has a long-standing test expressed in *Davies v CIBC*, 1987 CanLII 2608 (BC CA) at para 20. This case has been relied on by other regulators in deciding whether to permit time extensions for appeals and reconsiderations: *Applicant v College of Physicians and Surgeons of British Columbia*, 2019 BCHPRB 13 CanLII) at paras 33-37.
37. I consider the decision to extend the 30-day deadline is discretionary and should be decided on the whole of the context. The applicant has the burden of demonstrating that the extension should be granted. The following, non-exhaustive factors are relevant to the exercise of the discretion to grant or refuse the extension:
 - a. The date(s) of the alleged contravention(s);
 - b. The amount at issue;
 - c. The complexity of the alleged contravention(s);
 - d. The length of the delay between the deadline and the reconsideration request;
 - e. The explanation offered for the delay;
 - f. If any special or extenuating circumstances impacted the applicant’s ability to apply within the timeline;
 - g. Whether the application, on the merits, is bound to fail;
 - h. Any prejudice to the applicant in denying or the superintendent in permitting the extension; and
 - i. Whether an extension would advance or stymie the interests of justice or the purposes of RESA as a whole and the administrative penalty provisions in particular, being efficient regulation of the real estate industry and the protection of the public.
38. At the outset of my consideration of the above noted factors, I note that the amount of the penalty in this case, while not insignificant, is the minimum penalty for each of the alleged contraventions,

and well below the potential maximum administrative penalty of \$100,000. I do not consider the amount at issue to be significant such that it would be a factor weighing in favour of granting an extension.

39. Turning to the length of delay, I consider the length of delay, whether that delay is viewed as a period of 59 days after the 30-day deadline when the applicant's representative first contacted BCFSA, or a period of 70 days beyond the deadline when the applicant submitted a request for reconsideration form, to be significant, and to weigh in favour of not granting an extension.
40. In reaching this conclusion, I do not consider the applicant to have provided any detail which would suggest that there were extenuating circumstances that impacted her ability to apply within the 30-day timeline. I note in this regard that the applicant's explanation for the delay was simply that she believed the email providing her with the NOAP was a "phishing" email, that she did not receive a physical copy of the NOAP until she attended her brokerage office on July 31, 2025, and that [Managing Broker 1] did not contact her to inform her of the receipt of the NOAP. In my view none of those explanations constitute extenuating circumstances.
41. First, the applicant provides no explanation for having concluded that an email from BCFSA, her regulator since 2021 from which she would have regularly received emails since that time, would cause her to believe that the email in question was a "phishing" email. The applicant further provides no evidence to indicate any steps she may have taken to confirm whether the email was a "phishing" email, or whether it was in fact an email from her regulator that attached important regulatory information. I consider such steps to be incumbent on any licensee who received what appeared to be an email from their regulator to take.
42. Second, while the applicant indicates that she did not attend her office until July 31, 2025, she provides no explanation as to why she did not do so for a period of over two months, and further provides no explanation of why she would not have a system in place to inform her of the receipt of mail at the office. I note in this regard that this was mail from the applicant's regulator, sent to her address for delivery registered with the regulator. In my view, it was incumbent upon the applicant to have a system in place to notify her that such mail had been received. Tied to this lack of information explaining the applicant's lack of awareness of the receipt of mail, is the applicant's apparent attempt to place blame on [Managing Broker 1] for not having contacted her to inform her of the NOAP. The applicant provides no information that would lead me to conclude that she was reliant on [Managing Broker 1] to inform her that she had received mail at the brokerage office. On the contrary, [Managing Broker 1] indicates that he was aware of the NOAP through receipt of the email from BCFSA, and that he had expected the applicant would contact him to discuss.
43. Finally, I acknowledge the applicant's submission that she faces substantial language barriers and had experienced emotional distress having to deal with the NOAP. The applicant has provided no explanation of how any language barriers she may experience, or her emotional distress, would have impacted her ability to apply for an opportunity to be heard within the 30-day deadline, let alone for another 59 to 70 days after the expiration of that timeline.
44. In my view, there were no extenuating circumstances in this case which impacted the applicant's ability to apply within the timeline, and I find the lack of extenuating circumstances to weigh against granting an extension.
45. Turning to the issues, I do not consider they are likely to be complex. Having reviewed the applicant's submissions, it strikes me that she acknowledges that she permitted GJ, who was a licensee from another brokerage, to make representations on her client's property as contemplated in the allegation respecting section 34 of the Rules. Further, she appears to acknowledge, that she provided at least some details to GJ to relay to SC as contemplated in the allegation respecting

section 30(e) of the Rules. Certainly, I do not consider there to be any indication that any of the delay in meeting the 30-day deadline related to the applicant needing extended time to respond due to the complexity of the issues involved.

46. With respect to the remaining factors listed above, I note that I agree with prior decisions of the superintendent that have indicated that:

...The final factor is the primary factor and, to some extent, encompasses the preceding ones. I note that the question of merit, at the extension stage, is restricted to the question of whether the application is “doomed to fail” or has no merit such that it cannot succeed: see *Clock Holdings Ltd v Braich*, 2009 BCCA 269.¹

47. I consider that the reality of this application is that it is bound to fail. As I have set out above, even in explaining her view of the circumstances in her submissions provided with her Administrative Penalty Reconsideration Request Form, the applicant appears to acknowledge the contraventions. At page three of her submissions attached to that form, the applicant goes further and indicates that she “fully accepts the findings and penalties” and that she “recognizes the seriousness of the contraventions, accepts full responsibility, and is committed to ensuring these issues will not reoccur.”
48. The remainder of the applicant’s submissions focus on what she submits is the substantial financial and emotional hardship that the penalty would create, and she suggests “an alternative corrective measure – such as additional education or other compliance measures – rather than a severe financial penalty”.
49. In summary, the applicant acknowledges the contraventions and accepts responsibility for them, but simply seeks a penalty other than the financial penalties applied.
50. As set out above, breaches of section 30(e) and 34 of the Rules are each category C contraventions. The minimum monetary penalty that can be applied to a category C contravention is a \$5,000 penalty for a first infraction. Given that section 57(4) sets out that on an opportunity to be heard the only results permitted are to cancel the administrative penalty, confirm the administrative penalty, or cancel the administrative penalty and issue a notice of discipline hearing; I do not have jurisdiction to provide the resolution that the applicant seeks. Further, as the applicant has acknowledged the contraventions in question, and given that the penalties are applied are the minimum monetary penalties applicable, I reach the conclusion that the applicant’s application is bound to fail.
51. In the circumstances, I do not consider there is any real prejudice to the applicant in denying the extension requested. While the outcome will be that the applicant will not have an opportunity to be heard, and the NOAP will be payable immediately, the lack of merit to the applicant’s request for the opportunity to be heard is a relevant consideration. In my view, depriving an applicant of an opportunity to be heard on an application that is beyond the deadline and lacks merit is less prejudicial than depriving them of an opportunity that has some merit. As a result, I find this factor weighs against granting an extension.
52. Turning to the interests of justice and the overall balancing of the above factors, I find the lack of merit in the applicant’s arguments indicates that an extension should not be granted in this case. In my view, it does not comport with the purposes of section 57 of RESA to significantly extend the period to apply for an opportunity to be heard where there is no compelling reason for the delay, and the arguments the licensee seeks to raise lack merit.

¹ *Toosi (Re)*, 2025 BCSRE 95, at para. 22.

Conclusion

53. The applicant is not granted the extension to file her request for an opportunity to be heard.

54. The NOAP is now due and payable to BCFSA.

DATED at North Vancouver, BRITISH COLUMBIA, this 18th day of February, 2026.

“Original signed by Andrew Pendray”

Andrew Pendray

Hearing Officer