

BC FINANCIAL SERVICES AUTHORITY

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

**AND IN THE MATTER OF
TAO (TERRY) GUO**

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

[This Decision has been redacted before publication.]

DATE AND PLACE OF HEARING: Via Written Submissions

HEARING OFFICER: Gareth Reeves

Introduction

1. On January 22, 2025, the BC Financial Services Authority ("**BCFSA**") issued a Notice of Administrative Penalty (the "**NOAP**") in the amount of \$8,250 to Tao (Terry) Guo 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. Guo had contravened section 21 of the *Real Estate Services Rules*, BC Reg 209/2021 (the "**Rules**") by failing to provide documents to demonstrate whether he came into compliance by dispersing monies that Menethil Properties Ltd. ("**Menethil**") held as rental proceeds or security deposits as required by two Non-Compliance Warning Letters dated December 9 and 18, 2024 respectively. The deadline for compliance in the December 18, 2024 Non-Compliance Warning Letter ("**Letter 2**") was December 24, 2024. The NOAP imposed a base penalty amount of \$1,000 and daily penalty amounts of \$250 per day from December 25, 2024 to January 22, 2025.
3. The NOAP was served on Mr. Guo on January 22, 2025.
4. Mr. Guo applied for a reconsideration of the NOAP under section 57(4) of RESA on April 5, 2026, 401 days after the 30-day deadline for his request for an opportunity to be heard under section 57(2)(d) of RESA. This is my decision as to whether Mr. Guo should be allowed an extension of the time to make his request for an opportunity to be heard.

Issues

5. The issue is whether Mr. Guo should be granted an extension of time to file his request for an opportunity to be heard.

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. 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.
7. The superintendent has delegated the statutory powers and duties set out in section 57 to Hearing Officers.

Background

Regulatory History

8. Mr. Guo was first licensed in British Columbia as an Associate Broker in the trading services category with Menethil on June 10, 2021. On June 1, 2023 he added the rental property management category and became a managing broker at Menethil.
9. On February 10, 2025, Mr. Guo’s licence was suspended by an order in urgent circumstances under section 45 of RESA: *Menethil Properties Ltd. (Re)*, 2025 BCSRE 29 (“**Menethil 1**”). In that proceeding, Chief Hearing Officer Pendray determined there was a *prima facie* case made out that Mr. Guo was in breach of section 6 of RESA and section 28 of the Rules because he had effectively abandoned his duties as a managing broker and referred all matters concerning Menethil to Mr. David Song, who had been a managing broker with Menethil since January 20, 2020 until his managing broker licence was cancelled on September 7, 2023 as a result of various accounting and record keeping contraventions: *Song (Re)*, 2023 BCSRE 30.
10. I note that Mr. Guo became a managing broker at Menethil while Mr. Song’s disciplinary proceeding was proceeding and in that proceeding Mr. Song’s position was, among other things, that his managing broker licence should be cancelled and that he be allowed to be licensed as a representative.
11. I also note that Mr. Guo takes some issue with some of the findings in *Menethil 1*. The facts underlying *Menethil 1* are not particularly germane to this proceeding, although they overlap to some extent, and I will not address them herein.
12. On April 25, 2025, Menethil’s accounts were frozen, Menethil’s licence was suspended, Mr. Song was ordered to cease providing real estate services, and Mr. Song and Menethil were ordered to produce various documents by way of an in urgent circumstances under section 45 of RESA and a freeze order under section 46 of RESA: *Menethil Properties Ltd (Re)*, 2025 BCSRE 75. In that proceeding, Chief Hearing Officer Pendray determined there was a *prima facie* case that Menethil’s trust accounts were being mismanaged, Mr. Song and Menethil were providing real estate services despite their licenses being inoperative as a result of the order in *Menethil 1*, and Mr. Song had failed to wind up Menethil by April 15, 2020 as required by a condition on his licence.
13. On May 21, 2025, Mr. Guo surrendered his licence.

The NOAP

14. The NOAP was issued on January 22, 2025
15. BCFSA deposited the NOAP with Canada Post to be delivered to Mr. Guo’s brokerage and to be delivered to his last known address on January 22, 2025. Pursuant to section 18 of the Rules and section 4.1 of the *Real Estate Services Regulation*, BC Reg 506/2004 service was deemed effective on January 29, 2025.

16. Based on the date of deemed delivery, the deadline for Mr. Guo to make a request for an opportunity to be heard regarding the NOAP was February 28, 2025.
17. On January 24, 2025, Mr. Guo emailed BCFSA regarding his attempts in late 2024 to end his role as managing broker of Menethil and his plans to not continue to be involved in Menethil's operations. I note that this email is sent from the same email to which the NOAP was delivered by BCFSA on January 22, 2025.
18. On January 31, 2025, Mr. Guo and Mr. Song exchanged a series of text messages. The messages provided to me are written in Chinese and Mr. Guo has provided a translation of only one message from Mr. Song, but from his commentary it is clear that they are discussing the NOAP. In particular, Mr. Guo's submissions say "Context: After receiving notice of the escalated daily penalties, I followed up with Mr. Song immediately to ensure compliance. ..." The only thing that the "notice of the escalated daily penalties" could be referring to in this context is the NOAP.
19. I understand from his submissions that Mr. Guo was out of the country for an extended period in early 2025. The exact date of his departure is not clear to me, but he states, and I accept, that he was overseas when he received the NOAP in late January 2025. At this time, he was caring for [Family Member 1] who was suffering from advanced [Medical Condition 1], which he had had since 2022. [Family Member 1]'s health was sometimes stable but marked by significant acute crises. Mr. Guo also says [Family Member 2] was hospitalized on an emergency basis twice between January and April 2025. The record shows that, from February 11 to 21, 2025, [Family Member 2] was treated in Hong Kong for low back pain that appears to have arisen from a degenerative disorder. She was treated again from March 3 to 14, 2025.
20. Mr. Guo returned to Canada on April 7, 2025. It appears that Mr. Guo accepted Mr. Song's representation in late January that Mr. Song would handle the NOAP and, as a result, Mr. Guo did nothing to address it until Mr. Guo returned to Canada and received a demand letter from BCFSA regarding the NOAP. Mr. Guo then sent a message to Mr. Song, who responded that he would "pay it" and "handle it properly". Mr. Guo submits that he believed that the payment would be handled. I note that there is no indication that, despite having received the NOAP, Mr. Guo expected the NOAP to be challenged. It appears he only expected that it be paid.
21. On April 15, 2025, Mr. Guo suffered a systemic [Medical Condition 2]. He was taken to the emergency room as a result on April 19, 2025. In the following months, he experienced sustained [medical symptoms redacted]. Mr. Guo also states that he suffered negative impacts to his executive cognitive functions that made tracking "complex legal deadlines nearly impossible." Mr. Guo indicates this continued until about June 2025.
22. In late April 2025, [Family Member 1] was admitted to an ICU in Beijing because of [Medical Condition 3]. It appears that he was in hospital and on ventilation for several days. It also appears that this may have been a complication related to [Medical Condition 1] and part of his declining health over this period.
23. On May 5, 2025, Mr. Guo responded to an investigation letter from BCFSA in regard to his conduct as managing broker at Menethil. In that email he speaks to the attempts he made to have Mr. Song take steps to address the issues with the brokerage.
24. On March 20, 2026, Mr. Guo received correspondence from the Real Estate Council of Alberta indicating that the NOAP was unresolved. He then contacted BCFSA on March 23, 2026 regarding the NOAP. I have not been provided with any of this correspondence and draw my understanding from Mr. Guo's submissions regarding them.
25. Mr. Guo requested an opportunity to be heard on April 5, 2026. That date is 401 days, or 13 months and eight days, after the 30-day deadline.

Submissions

26. In regard to the extension requests, Mr. Guo relies on his illness, [Family Member 2]'s illness, and [Family Member 1]'s illness. He also relies on his reliance on Mr. Song's assurances that Mr. Song would address the NOAP. Finally, he argues that he acted promptly once he was notified by the Real Estate Council of Alberta that the NOAP remained outstanding.
27. Regarding the substance of the NOAP, Mr. Guo made submissions that he reasonably relied on Mr. Song to address the issues with Menethil and continually reminded Mr. Song to resolve the problems raised by BCFSA. Mr. Guo submits evidence that Mr. Song continued to give assurances that the issues would be addressed.
28. Mr. Guo submitted evidence regarding his finances including his income in the last few years, his real property holdings in Alberta, and his expenses. In short, Mr. Guo and [Family Member 2] have been drawing down their RRSPs to meet financial obligations. He does not provide his RRSP balances. It appears some of this financial hardship has been compounded by [Family Member 2]'s hospitalization in 2025. That said, he and [Family Member 2] appear to own four properties including his primary residence. Only one of those properties appears to be encumbered by a mortgage based on Mr. Guo's statements regarding his expenses. I note that two of the properties are for sale and that Mr. Guo seems to be having some trouble finding a buyer given they have been listed for more than 200 days.
29. Mr. Guo submitted that there was confusion regarding his role as managing broker during the period from December 2024 onward. He submitted that he intended to transition his licence to an "inactive" status, which he submits is permitted in Alberta. He provides several emails to BCFSA and Mr. Song in which he indicates he is unable to continue on as managing broker after December 2024.

Reasons and Findings

Applicable Legislation

30. 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.
31. 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.
32. Section 26(2) of the Rules at the relevant time identified four categories, Category A, B, C, and D, for designated contraventions for the purpose of determining the amount of an administrative penalty. Section 23 of the Rules was placed in Category B. Section 27(2) of the Rules provided that the amount of an administrative penalty for a Category A contravention was \$2,500 for a first contravention and \$5,000 for a subsequent contravention.
33. Section 23(2)(d) of the Rules provides as follows:
 - 23** ...
 - (2) A licensee must promptly notify the superintendent, in writing, if any of the following circumstances apply:
 - (d) the licensee is charged with or convicted of an offence under a federal or provincial enactment or under a law of any foreign jurisdiction, other than

- (i) highway traffic offences resulting only in monetary fines or demerit points, or both, and
- (ii) contraventions in respect of which proceedings were commenced by means of a violation ticket under the *Offence Act* or a ticket under the *Contraventions Act* (Canada);

...

34. 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

35. 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. Although it could have been more clearly drafted, 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. In my view, the decision to extend the 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. Two comments on the above list are appropriate. First, the final factor is the primary factor and, to some extent, encompasses the preceding ones. Second, 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.
 39. The alleged contravention, based on Letter 2, commenced in November 2024 and, based on the NOAP, continued until at least January 22, 2025. The fact that the conduct is dated weighs against granting an extension.
 40. The amount at issue is \$8,250, that is a significant penalty but well below the maximum penalty of \$100,000 permitted for administrative penalties. In my view, this factor is neutral.
 41. The alleged contraventions are not complex; they relate to whether documents and responses were delivered or not. This weighs against granting an extension.
 42. The length of the delay is significant, being more than a year. This factor weights significantly against granting an extension.
 43. Mr. Guo’s explanation for the delay is that a series of health events impacting himself and his family delayed his response. That said, this only accounts for the period up until June 2025. It does nothing to account for the delay from June 2025 until he first took action to address the NOAP himself in March 2026. That is a period of nine clear months of effectively unexplained delay.
 44. Mr. Guo attempts to explain that delay by stating that he had relied on Mr. Song to address that issue. In my view, that reliance was clearly unreasonable. Mr. Guo had been dealing with Mr. Song since at least June 2023 and ought to have been well aware that Mr. Song’s managing broker’s licence was cancelled in September 2023. He also ought to have been aware of the clear issues with regulatory compliance Mr. Song had in the fall of 2024 given the escalating steps BCFSA was taking, which included the two non-compliance warning letters issued in November 2024 as referenced in the NOAP. In short, Mr. Guo ought to have known that Mr. Song was not sufficiently reliable to address the NOAP.
 45. Further, Mr. Guo’s attempts to explain the delay based on his reliance on Mr. Song are unpersuasive because the evidence indicates not that Mr. Guo relied on Mr. Song to challenge the NOAP or seek to have it reviewed, which it is not clear Mr. Song could have done, but merely to have Mr. Song pay the NOAP. The first time Mr. Guo appears to have given any thought to challenging the NOAP was when he was personally required to pay the NOAP. In my view, that is not a compelling explanation for the delay.
 46. It appears to me that Mr. Guo essentially paid no mind to challenging the NOAP and left its payment to Mr. Song without following up for more than a year. Several months of that year may have been spent dealing with significant family and personal health issues, but the bulk of that year were spent doing nothing and not following up.
 47. The delay in this matter and the lack of cogent explanation for the bulk of it weighs substantially against granting the extension.
 48. Regarding special or extenuating circumstances, I am willing, for the purposes of these reasons, to consider the health issues Mr. Guo raises to be extenuating. That said, they only explain a portion of the delay here.

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49. Regarding the merits, I find that Mr. Guo is bound to fail on the substance of the matter. Despite his evidence that he was emailing BCFSA and Mr. Song indicating that he intended to step away from his role as managing broker effective January 2025, he did not take the appropriate steps to do so or to find out what he needed to do to do so. It was Mr. Guo's obligation to ensure his licensing status was properly addressed.
50. In addition, his argument regarding his reliance on Mr. Song is doomed to fail. Mr. Song's managing broker licence had been cancelled, he was clearly not considered suitable by the regulator to continue to run a brokerage, and Mr. Guo's email reminders that Mr. Song should run Menethil properly were clearly insufficient and improperly placed. Mr. Guo's obligation, as managing broker, was to be in active management of Menethil: see section 28(1) of the Rules. He should have become actively involved or actually withdrawn if he could not be actively involved.
51. Regarding Mr. Guo's finances, although it appears that Mr. Guo is having some difficulty meeting his obligations, I am not convinced that there is a meritorious argument that he cannot pay the NOAP. He owns several properties outright and has some savings. Although his properties may not be easily liquidated they can be borrowed against. The bar to demonstrate that an administrative penalty should be cancelled because of impecuniosity is high. Although the administrative penalty will have a significant impact on Mr. Guo, that is the necessary result of a regulatory sanction in many cases.
52. I find that Mr. Guo's arguments on the substance have little to no merit, which weighs substantially against granting an extension.
53. Turning to the issue of prejudice, the prejudice to Mr. Guo in denying the extension will be to deprive him of an opportunity to be heard, making the NOAP payable immediately. I note that this prejudice is reduced as a result of the lack of merit in his arguments and the substantial period he has shown no interest in addressing the NOAP. The prejudice to the superintendent will be to require a matter that is over a year old to proceed and to require regulatory resources to address arguments that have no real chance of success. Again, this weighs against granting an extension.
54. Considering all the above, I find that the interests of justice weigh against granting Mr. Guo an extension. In short, Mr. Guo has waited too long and placed his reliance on Mr. Song to resolve the NOAP when he had no reasonable basis to rely on Mr. Song. Although Mr. Guo and his family have suffered significant health issues, those issues do not explain the bulk of the delay here. Finally, Mr. Guo has no reasonable prospect of success on the merits.

Conclusion

55. Mr. Guo is not granted the extension to file his request for an opportunity to be heard.
56. The deadline for Mr. Guo to request an opportunity to be heard has passed. Pursuant to section 57(2)(d) of RESA, Mr. Guo is deemed to have acknowledged the contravention alleged in the NOAP and the \$8,250 administrative penalty is due and payable to BCFSA.

DATED at North Vancouver, BRITISH COLUMBIA, this 14th day of May 2025.

"Original signed by Gareth Reeves"

Gareth Reeves
Hearing Officer