

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 99]
([Licence number redacted])
REASONS FOR DECISION REGARDING
ADMINISTRATIVE PENALTY RECONSIDERATION REQUEST

DATE AND PLACE OF HEARING: Via Written Submissions

HEARING OFFICER: Gareth Reeves

Introduction

1. On February 11, 2026, the BC Financial Services Authority (“**BCFSA**”) issued a Notice of Administrative Penalty (the “**NOAP**”) in the amount of \$3,500 to [Applicant 99] pursuant to section 57(1) and 57(3) of the *Real Estate Services Act*, SBC 2004, c 42 (“**RESA**”).
2. In the NOAP, BCFSA determined that [Applicant 99] had contravened sections 28(1)(c) and 28(3) of the *Real Estate Services Rules*, BC Reg 209/2021 (the “**Rules**”) by failing to provide adequate supervision to [Licensee 1] to ensure she had completed a Receipt of Funds Record and verified the sources of three bank drafts intended as deposit payments on the purchase of a property in New Westminster (the “**Property**”) and by failing to ensure the records of his brokerage were maintained in accordance with RESA, the Rules, and the *Real Estate Regulation*, BC Reg 506/2004 (the “**Regulations**”). The NOAP sought to impose a \$2,500 penalty for the alleged contravention of section 28(1)(c) of the Rules and a \$1,000 penalty for the alleged contravention of section 38(3) of the Rules.
3. [Applicant 99] 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 administrative penalties issued in the 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, an email dated June 24, 2022 from an office administrator for [Brokerage 1] doing business as “[Brokerage 1]” (the “**Brokerage**”), a November 2, 2024 email from [Applicant 99] to BCFSA Investigations and the included email chain, a November 9, 2023 email from BCFSA Investigations to [Applicant 99] and the included chain and attached documents, a November 14, 2023 email from [Applicant 99] to BCFSA Investigations and the included email chain, and the information and documents provided by [Applicant 99] 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 of the information before me.

General Background

10. [Applicant 99] was first licensed as a representative in the trading services and rental property management services categories on June 4, 1990. He added the strata management services category on August 27, 2013. He first became licensed as an associate broker on June 4, 2000 and as a managing broker on July 30, 2003. He has been licensed at multiple brokerages and has held up to four concurrent managing broker licenses during his time as a managing broker licensee. The alleged misconduct relates to [Applicant 99]’s role as managing broker with the Brokerage.
11. [Applicant 99] has no disciplinary history.
12. On July 14, 2020, [Licensee 1] signed a policy and procedures manual for the Brokerage (the “**Policy**”) acknowledging that she had read and understood it.
13. The Policy instructed licensees at the Brokerage to complete receipt of funds forms and identification as required by the Financial Transactions and Reports Analysis Center of Canada (“**FINTRAC**”) under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*, SC 2000, c 17 (“**PCMLTFA**”) if deposit cheques were given by someone other than a buyer. It stated that licensees who receive funds for transactions from someone other than a person they have identified must complete a receipt of funds record and keep the record and notes that if the funds are paid by cheque, the licensee need not prepare a receipt of funds record and can instead “write on the cheque, when received, property address, and from who” [sic]. It also stated that licensees were to confirm whether clients were acting on a 3rd party’s instructions and to complete a third-party record if so.
14. In the summer of 2021, [Licensee 1] represented [Client 1], [Client 2], [Client 3], and [Client 4] (the “**Buyers**”) in respect of the purchase and sale of a property at [Property 1], New Westminster (the “**Property**”).
15. On June 2, 2021, the Buyers entered into a contract of purchase and sale to purchase the Property (the “**CPS**”). The CPS required the Buyers to pay a deposit of \$500,000 by July 7, 2021. The CPS allowed the Buyers to assign the CPS to another party without notice to the seller, but required the Buyers to pay any profit from that assignment to the seller.

16. On July 7, 2021, [Licensee 1] received three bank drafts in the following amounts payable to the Brokerage in trust: \$190,000, \$160,000, and \$150,000. The name of the purchaser for the \$190,000 draft was [Individual 1]. The name of the remitter on the \$160,000 draft was [Client 4]. On the back of all three drafts, [Licensee 1] hand wrote that they had been received from [Client 4] on July 7, 2021 in relation to the Property. I conclude the handwriting is [Licensee 1]'s because the handwriting appears to have [Licensee 1]'s signature on it and it comports with the nature of the transaction that the drafts would be delivered to [Licensee 1] as the Buyers' agent.
17. On July 13, 2021, an addendum was prepared and signed assigning the CPS to [Company 1].
18. The deal file materials provided by the Brokerage to BCFSA Investigations in this matter contained the following documents related to PCMLTFA compliance:
 - a. Four May 30, 2021 dated client identification forms each of which records information for [Client 1] and [Client 2];
 - b. A May 30, 2021 dated client identification form which records information for [Client 4];
 - c. A May 30, 2021 dated client identification form which records information for [Client 3];
 - d. A July 7, 2021 dated client identification form which records information for [Individual 1], which indicates that [Individual 1] was "Name on one deposit" *[sic]*;
 - e. A July 7, 2021 dated Receipt of Funds Record form (the "**RFR Form**") identifying [Licensee 1] as the licensee on the transaction and recording the receipt of the \$190,000 draft. That RFR Form did not record that the remitter of that draft was [Individual 1], who was not involved as a buyer in the purchase of the Property. The documents in the deal file provided by the Brokerage in this matter indicate that [Individual 1] was the Chief Executive Officer of [Company 1]; and
 - f. A July 12, 2021 dated client identification form for [Company 1] noting [Licensee 1] as the licensee in the transaction.
19. The trade record sheet prepared by the Brokerage recorded the receipt of the three deposit drafts on July 8, 2021 and recorded that they were received from "[Client 3]". The File Requirements section also indicated the need for completion of FINTRAC client identification forms and records that the individual identification forms were received on July 30, 2021 and the corporate identification form was received on August 11, 2021.
20. In an interview with BCFSA Investigations, [Applicant 99] indicated he did not know if [Licensee 1] had prepared the above noted forms. In my view, it is unlikely that anyone other than [Licensee 1] had prepared these forms given their contents, the dates on those forms, and the fact that [Licensee 1] was in the best position, as the Buyers' agent, to obtain the information set out in those documents.
21. The deal file provided by the Brokerage to BCFSA Investigations did not include receipt of funds forms for the \$160,000 or \$150,000 drafts.
22. In his interview, [Applicant 99] confirmed that he spoke to [Licensee 1] regarding the transaction only after it had completed. He also confirmed that he was not directly involved in the transaction, did not recall ever talking to the Buyers, did not know who [Individual 1] was, and did not discuss [Individual 1] with [Licensee 1].
23. On November 21, 2023, BCFSA Investigations emailed [Applicant 99] to ask him to describe his involvement to fulfill the Brokerage's anti-money laundering obligations and compliance with the PCMLTFA in the transaction involving the Property. [Applicant 99] responded that same day as follows, in relevant part:

“Yes I make sure that all files are FINTRAC compliant, not only this file but all of them. This would involve having a checklist that me or staff go over making sure we have the correct Fintrac docs”

[sic]

Submissions

24. Regarding the alleged breach of section 28(1)(c) of the Rules, [Applicant 99] submits that he is in the office 45 or more hours per week Monday to Friday and is available by phone, email, and text message at all times.
25. He submits that he personally conducts weekly training sessions ten months of the year which are repeated twice weekly, streamed on Zoom, and archived on a private YouTube channel. He submits that he shares FINTRAC updates when such updates occur. He submits that he conducts a one-hour annual seminar on FINTRAC compliance which includes procedures regarding receipt of funds.
26. He submits that the Brokerage had a Policy and Procedure Manual, which [Licensee 1] signed which mandates a receipt of funds record for all third-party deposits. He submits that the manual is “updated constantly” and each licensee re-signs it every two years. He provided a copy of the manual signed by [Licensee 1].
27. He submits that the Brokerage employs a tracking system that emails licensees weekly regarding deficiencies. He submits that [Licensee 1] signed each deposit cheque to verify the source of funds, which he says represents “the highest practical level of internal oversight” over source verification.
28. [Applicant 99] submits that this error was a “one-off clerical error by an experienced licensee who has correctly handled multi-check deposits in the past” [sic]. He argues that supervision requires systems and guidance and cannot entirely prevent human error.
29. Regarding the alleged breach of section 28(3) of the Rules, [Applicant 99] argues that section 28(3) of the Rules only requires a record to be maintained if it is required by the RESA, the Regulations, or the Rules. He argues that RESA, the Regulations, and the Rules contain no requirement to maintain or complete the forms required by PCMLTFA and that BCFSA does not have legislative authority to enforce federal statutes.
30. Finally, [Applicant 99] argues that the \$3,500 in monetary administrative penalties are disproportionate and punitive rather than corrective. He submits that the funds were deposited, the funds were accurately recorded in the trade record sheet for the transaction, and the transaction completed without issue. Regarding the completion of the transaction without issue, [Applicant 99] says that the complaint that gave rise to the issue arose because the business partners involved had a falling out. He also argues that this is his first contravention and that fact demonstrates that his systems are “demonstrably high-functioning”.

Reasons and Findings

Applicable Legislation

31. 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.

32. 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.
33. 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. Sections 28(1) and 28(3) of the Rules are placed in Category B and A, respectively. Sections 27(1) and (2) of the Rules provides that contraventions in Category A may attract a monetary administrative penalty of \$1,000 for a first contravention and \$2,000 for a subsequent contravention and contraventions in Category B may attract a monetary administrative penalty of \$2,500 for a first contravention and \$5,000 for a subsequent contravention.
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.
35. Section 28 of the Rules provides as follows, in part:

Managing broker responsibilities

28 (1) A managing broker must

- (a) be actively engaged in the management of the managing broker's related brokerage,
- (b) ensure that the business of the brokerage is carried out competently and in accordance with the Act, the regulations and these rules, and
- (c) ensure that there is an adequate level of supervision for related associate brokers and representatives and for employees and others who perform duties on behalf of the brokerage.**

...

(3) A managing broker must

- (a) ensure that the records of the brokerage are maintained in accordance with the Act, the regulations and these rules, and**
- (b) ensure proper management and control of documents and other records related to licensing and regulatory requirements.

...

[emphasis added]

Analysis

36. 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 Section 28(1)(c)

37. The first allegation made in this proceeding is an alleged breach of section 28(1)(c) of the Rules, which requires managing brokers to ensure an adequate level of supervision of the associate brokers and representatives of the brokerage. The specific allegation is that [Applicant 99] failed to ensure that [Licensee 1] prepared receipt of funds records as required under PCMLTFA and to verify the sources of the bank drafts she received.
38. The *Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations*, SOR/2002-184 (“**PCMLTFR**”) section 58(1) requires real estate licensees to keep a receipt of funds record in respect of every amount they receive. The definition of a “receipt of funds record” in section 1(2) of the PCMLTFR requires that the record must include the date of the receipt; the name, address, date of birth, and principal business or occupation of the person from whom or on behalf of whom the funds are received; the amount of the funds received; the method of receipt; the currency; the number of any affected account and the account holder; the name and address of every other person or entity involved in the transaction; and the purpose of the transaction.
39. It is important to note that PCMLTFA and its regulations do not prescribe a form for the receipt of funds record. There is also no requirement that this information be contained in a single record. I note in this regard that section C of the RFR Form in the file specifically identifies the need to use separate identification forms. So long as the required information is contained in a record, that is sufficient.
40. A review of the information obtained in this case demonstrates that the required information was in fact recorded for each of the drafts. The \$190,000 draft identified on its face that the funds came from [Individual 1] and the handwriting on the back of the drafts recorded the name of the person from whom [Licensee 1] received the claimed funds and the date they were received. The drafts themselves identified the amount received, the currency, the method of payment, and the associated accounts. The individual identification forms then contained the necessary address, date of birth, business or occupation, and purpose of the transaction for everyone involved in the transaction. I do note that the name of the account holder might not be recorded for the \$150,000 draft given the draft itself does not name the remitter. That said, there is no evidence that the funds were not paid from [Client 4] as indicated on the draft in evidence before me.
41. The underlying allegation that the Brokerage did not have the necessary receipt of funds records is not made out.
42. Regarding the further allegation that [Applicant 99] failed to ensure [Licensee 1] had verified the source of the three drafts in question, it is not clear to me what obligation [Licensee 1] had in these circumstances to take steps beyond recording the information required in the receipt of funds record or to identify the individuals and the company involved in the transaction. For example, there does not appear to be evidence before me that the transaction was a suspicious transaction that required separate reporting under section 7 of the PCMLTFA or that the persons involved in the transaction were politically exposed persons, or heads of international organizations that might require further reasonable measures to ascertain facts that might support further reporting.
43. I therefore find that there was no failure to ensure [Licensee 1] took steps to verify the source of funds in this case.
44. As a result of the above findings, I cannot find that [Applicant 99] failed to ensure that [Licensee 1] completed the required source of funds records or to ensure that [Licensee 1] verified the source of funds. The evidence in fact establishes that the training, policies, and supervision employed by [Applicant 99] in this case were sufficient to achieve compliance in this particular circumstance.

45. I therefore cancel the administrative penalty issued for the alleged contravention of section 28(1)(c) of the Rules.

Contravention Section 28(3)

46. I turn to the alleged contravention of section 28(3) of the Rules. This allegation is not clearly particularized in the NOAP and is also not particularized in BCFSA's investigation report. From the context it appears that this allegation relates to the above alleged failures to maintain required PCMLTFA forms. I take that to be the allegation and, for the reasons indicated above, I find that the allegation is not established on the evidence before me. It appears to me that the records maintained by the Brokerage were sufficient to meet its FINTRAC obligations.

47. I therefore cancel the administrative penalty issued for the alleged contravention of section 28(3) of the Rules.

48. As a result of the above findings, I do not need to comment on [Applicant 99]'s arguments concerning the scope of the superintendent's jurisdiction and its overlap with PCMLTFA obligations; however, the record before me and the submissions of [Applicant 99] suggest that some comment on this point is necessary. In my view, there is a question as to whether the wording of section 28(3) of the Rules requires a brokerage to keep FINTRAC records; I do not answer that question here. I will however note that the regulators under RESA have consistently taken the position that to fail to ensure compliance with PCMLTFA obligations constitutes professional misconduct, conduct unbecoming, a failure to supervise, or a failure to act with reasonable care and skill: see *Singh Bains (Re)*, 2013 CanLII 18903 (BC REC); *Sandhu (Re)*, 2014 CanLII 33028 (BC REC); *Ko (Re)*, 2023 BCSRE 50; *Prit (Re)*, 2023 BCSRE 51; *Wen (Re)*, 2019 CanLII 45456 (BC REC). It is clear that the superintendent considers compliance with PCMLTFA to constitute an important part of the regulatory regime and considers that it has jurisdiction to take action under various sections of RESA or the Rules where non-compliance occurs. In my view, it would therefore behoove brokerages to ensure they maintain records of their compliance with PCMLTFA even if the specific wording of section 28(3) of the Rules does not address the issue squarely. Given the scope of that jurisdiction, these records could be producible by licensees, including brokerages, in an investigation under section 37(4) of RESA.

Conclusion

49. I find that the contraventions of sections 28(1)(c) and 28(3) of the Rules alleged in the NOAP are not made out on the record before me.

50. I cancel the NOAP.

DATED at North Vancouver, BRITISH COLUMBIA, this 19th day of May, 2026.

"Original signed by Gareth Reeves"

Gareth Reeves
Hearing Officer