

BC FINANCIAL SERVICES AUTHORITY

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

AND IN THE MATTER OF

BOBBY CHIC
(170143 / 170143PC)

REASONS FOR DECISION REGARDING
PRELIMINARY ISSUE

[These Reasons have been redacted before publication.]

DATE AND PLACE OF HEARING: Via Written Submissions

HEARING OFFICER: Gareth Reeves

Introduction and Background

1. These are my reasons regarding a preliminary issue in the above noted matter.
2. On June 22, 2026, Bobby Chic submitted a reconsideration request in relation to a notice of administrative penalty issued against him by the BC Financial Services Authority (“**BCFSA**”) dated May 22, 2026 (the “**NOAP**”), which sought to impose a monetary administrative penalty of \$5,000 against Mr. Chic.
3. On my initial review of the file in the above matter, I identified that the NOAP referred to section 30(a) of the *Real Estate Services Rules*, BC Reg 209/2021 (the “**Rules**”) in the portion regarding the section of the Rules that was alleged to have been contravened, but then stated in the details portion that Mr. Chic had “failed to exercise reasonable care and skill, contrary to section 34 of the [Rules].”
4. On June 23, 2026, I issued directions to Mr. Chic and BCFSA to make submissions on two questions, which I paraphrase as follows:
 - a. Is the reference to section 30(a) of the Rules in the NOAP a failure to “indicate the rule that has been contravened” as required by section 57(2)(a) of the *Real Estate Services Act*, RSBC 2004, c 42 (“**RESA**”)?
 - b. If it was such a failure, what remedy should flow from that and what is the authority for the Superintendent of Real Estate’s (the “**superintendent**”) power to effect that remedy?
5. I directed the parties to provide submissions with BCFSA’s submissions being due on July 7, 2026, Mr. Chic’s response being due within 14 days of BCFSA’s submissions, and BCFSA’s reply being due within 7 days of Mr. Chic’s response. I also directed the parties to my previous decision in *Applicant 54 (Re)*, 2025 BCSRE 4 for their submissions.

6. BCFSA made submissions on June 24, 2026. BCFSA argued that the error was a clerical error or slip and the NOAP ought to have referred to section 34 of the Rules instead of section 30(a). It submitted that the detail portion of the NOAP was correct and made allegations consistent with a contravention of section 34 of the Rules. BCFSA submitted that the investigation report prepared in this matter, which is before me, also refers to section 34 of the Rules. BCFSA submits that it should be permitted to issue a corrected NOAP to remedy the clerical error as was the case in *Applicant 54 (Re)*.
7. Mr. Chic did not provide a response to BCFSA's submissions.
8. For the reasons that follow, I have decided that the error was a clerical error and that therefore BCFSA can correct the above issue by having the original decision maker issue a corrected notice of administrative penalty in this proceeding. The reconsideration will proceed on the basis of that corrected notice once issued.

Issues

9. The issues in this matter are as follows:
 - a. Is the reference to section 29(1)(b) of the Rules in the NOAP a failure to "indicate the rule that has been contravened" as required by section 57(2)(a) of RESA?
 - b. If it was such a failure, what remedy should flow from that and what is the authority for the superintendent's power to effect that remedy?

The Legislation Scheme and Delegation

10. The provisions of the RESA concerning administrative penalties are set out in Division 5 of Part 4 of RESA.
11. Section 56 of RESA permits BCFSA to designate provisions of RESA, the *Real Estate Services Regulation*, and the Rules as subject to administrative penalty and then to set the amount or range of amounts for contravention of a designated provision. It also sets a maximum administrative penalty at \$100,000.
12. Section 57(1) empowers the superintendent, on being satisfied that a contravention of a designated provision has occurred, to issue administrative penalties consisting of one or more of a monetary penalty specified in the Rules, a requirement to complete remedial education, or licence restrictions or conditions.
13. Section 57(2) states as follows:

57 ...

- (2) The notice under subsection (1) must do the following:
 - (a) indicate the rule that has been contravened;
 - (b) indicate the administrative penalty that is imposed;
 - (c) advise the person of the person's right to be heard respecting the matter;
 - (d) 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,
 - (i) the person is deemed to have acknowledged contravening the provision of this Act, the regulations or the rules, and
 - (ii) the administrative penalty becomes due and payable to the Authority.

14. Section 57(3) provides for service of the notice.
15. Section 57(4) requires the superintendent to provide the individual subject to an administrative penalty with an opportunity to be heard on the issue if requested. Following that opportunity to be heard the superintendent can cancel the administrative penalty, cancel it and issue a notice of discipline hearing or notice of hearing as applicable, or confirm it. There is no power under section 57(4) to vary the notice.
16. Section 57(5) and (6) render the amount of an administrative penalty a debt to BCFSA and require the funds paid to satisfy that debt to be used for educational purposes by BCFSA in the same way as if they were paid under section 44(4).
17. Section 57(7)(a) provides that once an administrative penalty has been imposed, no further proceeding can be taken on the matter under Part 4 of RESA, other than to enforce payment. Section 57(7)(b) provides that the fact of the penalty being imposed cannot be used, without the subject person's consent, in any proceeding under RESA respecting the matter, other than as specified in subparagraph (a), or in any civil proceeding respecting the matter.
18. Section 57.1 then permits the superintendent to publish the administrative penalty.
19. The superintendent's power to issue penalties under section 57(1) of RESA have also been delegated to the Director, Investigations, among others, and the power and duty to provide an opportunity to be heard under section 57(4) of RESA has been delegated to Hearing Officers. Hearing Officers are not involved in the matter before a request for an opportunity to be heard is submitted.
20. 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.¹ Sections 30(a) and 34 of the Rules are placed in Category C. Section 27(4) of the Rules sets out that Category C contraventions can attract an administrative penalty of a \$5,000 for a first contravention or \$10,000 for a subsequent contravention.
21. Sections 30(a) and 34 of the Rules provide as follows:
 - 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:
 - (a) act in the best interests of the client;
 - ...
 - 34** When providing real estate services, a licensee must act with reasonable care and skill.

Discussion and Analysis

Does the NOAP comply with section 57(2)(a)?

22. The first issue I must address is whether the NOAP complies with section 57(2)(a).
23. The evidence before me indicates that the NOAP states that Mr. Chic's actions were contrary to section 34 of the Rules and that there was a contravention of section 30(a) of the Rules, on my reading of the document. The reference to section 30(a) of the Rules is not repeated by the details

¹ I note that prior to July 1, 2024, section 26(2) identified four categories, Category A, B, C, and D. After that date Category E and Category F were added. This change did not materially impact the provisions at issue in this proceeding.

portion of the document itself or by the supporting evidence, though I do not decide here whether Mr. Chic's alleged conduct contravened section 30(a) of the Rules. In my view, it is a failure to "indicate the provision of [the Rules] that has been contravened" to indicate the incorrect section in the NOAP because it may cause confusion regarding what exactly the regulator alleges. There is no evidence that such confusion actually arose in this case, but such confusion is certainly possible and, in my view, the goal of section 57(1) of RESA is to ensure it is clear what section is alleged to have been contravened. Inconsistent references to different sections do not comply with section 57(2)(a) of RESA.

What remedy should flow from the failure to comply with section 57(2)(a) in this case?

24. The next question is what should occur as a result of the NOAP's noncompliance with section 57(2)(a) in this case. BCFSA submits that they should be permitted to correct what they say is a clerical error. Mr. Chic has not responded to oppose that position.
25. The fact the NOAP references section 30(a) of the Rules instead of section 34 of the Rules as a result of a slip or clerical error is clear on the face of the NOAP itself, given the content of the allegations, and given the content of the investigation report.
26. Mr. Chic has not argued that he has suffered any prejudice from the clerical error or that he will suffer any prejudice from a correction.
27. The error was caught sufficiently early that the only obvious consequence is a delay to these proceedings of a few weeks to allow submissions on this issue and a decision to be made. Mr. Chic can still make his submissions on the substance of NOAP and will be given time to do so once BCFSA corrects the NOAP.
28. In my view, this seems like a clear application of the principles regarding *functus officio* set out in *Applicant 54 (Re)* such that BCFSA should be permitted to correct the NOAP. If anything, given the content of the NOAP before me on this matter, this is a more clear case.

Conclusion and Directions

29. I find that the reference to section 30(a) of the Rules in the NOAP was a slip or error of a clerical nature and BCFSA meant to reference section 34 of the Rules. I find that this falls within the exceptions to the *functus officio* finality doctrine as described in *Applicant 54 (Re)* such that the original decision maker can issue a corrected NOAP to refer to the correct section.
30. In my view, the issuance of a corrected NOAP is similar to the issuance of a corrected decision amended with a corrigendum, it is not the making of a new order or decision. It is effective as at the date of the original NOAP. Therefore, once the original decision maker has issued a corrected notice, the opportunity to be heard in this matter will proceed.

DATED at North Vancouver, BRITISH COLUMBIA, this 16th day of July, 2026.

"Original signed by Gareth Reeves"

Gareth Reeves
Hearing Officer