

**IN THE MATTER OF THE *REAL ESTATE SERVICES ACT***

**AND IN THE MATTER OF**

**JACOB (JACK) STEPHANIAN**

**WRITTEN REASONS FOR ORDER IN URGENT CIRCUMSTANCES**

DATE AND PLACE OF HEARING: August 12, 2016  
Office of the Real Estate Council  
Vancouver, B.C.

DISCIPLINE HEARING COMMITTEE: D. Peerless

COUNSEL FOR THE APPLICANT  
REAL ESTATE COUNCIL OF BC: Esther Jeon

**INTRODUCTION**

An ex parte hearing was held on August 12, 2016, pursuant to sections 39 and 45(1) and (2) of the *Real Estate Services Act* (“RESA”) by a one person Discipline Hearing Committee (“Committee”) of the Real Estate Council of BC (“Council”) to consider an application by the Council for an Order in Urgent Circumstances suspending the licence of Jacob (Jack) Stephanian (“Mr. Stephanian”).

Section 45(1) and (2) state:

- (1) A discipline committee may act under this section if the committee considers that
  - (a) there has been conduct in respect of which a discipline committee could make an order under section 43 against a licensee,
  - (b) the length of time that would be required to complete an investigation or hold a discipline hearing, or both, in order to make such an order would be detrimental to the public interest, and
  - (c) it is in the public interest to make an order under this section against the licensee.
- (2) If the circumstances referred to in subsection (1) apply, the discipline committee may, by order, do one or more of the following:

- (a) suspend the licensee's licence;
- (b) impose restrictions or conditions on the licensee's licence or vary any restrictions or conditions applicable to the licence;
- (c) require the licensee to cease or to carry out any specified activity related to the licensee's real estate business.

Upon reading the affidavit of Carmen deFoy ("Ms. deFoy" ) sworn August 12, 2016, and hearing submissions from legal counsel for the Council, the Committee issued an Order in Urgent Circumstances ("Order") on August 12, 2016, that the licence of Mr. Stephanian be suspended effective immediately pursuant to section 45(2) of the RESA.

These are the written reasons for the Order.

## **BACKGROUND**

Mr. Stephanian had been licensed since November 9, 2010, as a representative to provide trading services. At the time of the Order, Mr. Stephanian was licensed with Coldwell Banker Prestige Realty and his managing broker was Mr. [REDACTED] L [REDACTED]. Ms. [REDACTED] M [REDACTED] ("Ms. M [REDACTED]") is one of the directors and officers of the brokerage.

On or about August 3, 2016, Ms. deFoy , a compliance officer with the Council was asked by Mr. G. Thiele, Director of Legal Services for the Council ( " Mr. Thiele" ) to review a link to the United States Drug Enforcement Administration's ("DEA") Most Wanted Fugitives page at <https://www.dea.gov/fugitives/1a/074EA306-8648-481D-ACCC-204E0C4B24D1.shtml>. This link led Ms. deFoy to the DEA's website ("DEA Website") which showed the profile of a wanted fugitive named Jacob Stephanian. Ms. deFoy also reviewed a link to [www.jackshotlist.com](http://www.jackshotlist.com). ("Stephanian Website"), that appeared to be a website where Mr. Stephanian advertised his trading services.

As a result of these searches, Ms. deFoy commenced an investigation to determine whether the "Jacob Stephanian" on the DEA's Most Wanted Fugitives Website was the same Jacob Stephanian licensed with the Council.

## **EVIDENCE**

### **Affidavit of Ms. deFoy**

Ms. deFoy provided the Council with an Affidavit that detailed the results of her investigation as follows:

#### **1. Application for Licence with the Council**

Ms. deFoy stated that on or about October 8, 2010, Mr. Stephanian submitted an Application for Representative, Associate or Managing Broker Licence to the Council (the "Application Form").

Ms. deFoy noted the following in Part D of the Application Form:

- (a) Mr. Stephanian indicated that his place of birth was Iran, he was a Canadian citizen and that he arrived in Canada on September 10, 2009. The month written in the date of birth field was illegible, and read “(illegible month) 6, 1950”. Mr. Stephanian enclosed a copy of his driver’s licence, which indicated a date of birth of January 6, 1950;
- (b) Mr. Stephanian did not provide an answer to the following question:  
  
*“If you resided outside of Canada for any period (other than as noted above), indicate the dates and locations (country and, if applicable, state, province or territory) of those periods of residency.”* (the “Residency Question”).
- (c) Mr. Stephanian answered “No” to the following question:  
  
*“Have you ever been convicted of or are you currently charged with a criminal or other offence under a federal or provincial enactment, or under the law of any foreign jurisdiction?”* (the “Charges and Convictions Question”).
- (d) Mr. Stephanian answered “No” to the following question:  
  
*“Have you ever been subject to bankruptcy, insolvency or receivership proceedings?”* (the “Bankruptcy Question”).

Ms. deFoy stated that on or about October 8, 2010, the Council retrieved Mr. Stephanian’s records from UBC Sauder School of Business, Real Estate Division which showed his successful completion of the Real Estate Trading Services Licensing Exam. Ms. deFoy noticed that the date of birth on his UBC profile was December 6, 1950.

Ms. deFoy stated that on October 8, 2010, the Council sent a letter to the managing broker of Mr. Stephanian’s proposed related brokerage and advised that Mr. Stephanian’s application for licence was deficient. In particular, the Council advised that Mr. Stephanian’s date of birth was illegible and his photo identification was too dark, among other missing details. The Council sent two subsequent letters to Mr. Stephanian’s proposed managing broker on October 14, 2010 and again on October 25, 2010, requesting further information to rectify the deficiencies on his licence application.

## 2. Amended Application for Licence

Ms. deFoy stated that on or about October 27, 2010, the Council received Mr. Stephanian’s amended licence application (the “Amended Application Form”).

On the Amended Application Form, Mr. Stephanian indicated that his date of birth was January 6, 1950, which matched the date of birth on a photocopy of his driver’s licence enclosed in the

application. However, the date of birth on his B.C. Care Card, a copy of which was also enclosed in the amended application, was December 6, 1950.

On or about October 27, 2010, Council staff spoke to Mr. Stephanian regarding the discrepancy in his date of birth. Mr. Stephanian explained to the Council staff that the date of birth on his B.C. Care Card was incorrect, and that the birthdate of January 6, 1950 on his driver's licence was the correct date of birth.

On the Amended Application Form, Mr. Stephanian again answered "No" to the Charges and Convictions Question. He answered "Yes" to the Bankruptcy Question and provided a copy of the bankruptcy discharge order dated May 18, 2004. Mr. Stephanian indicated that he arrived in Canada on September 10, 2009. He did not provide an answer to the Residency Question.

Ms. deFoy noted that Page 1 of the Amended Application Form showed a stamp of the Financial Institutions Commission ("FICOM"), dated November 2, 2010, indicating no criminal record for Mr. Stephanian.

Ms. deFoy stated that she had been advised by Mr. R. Fawcett ("Mr. Fawcett") the Executive Officer of the Council, that FICOM conducted criminal record checks on behalf of the Council at the time. Based on the information provided on Mr. Stephanian's Amended Application Form, in particular his name, date of birth and residency history, FICOM proceeded with a criminal record check and confirmed that there was no record on Mr. Stephanian.

Mr. Stephanian's licence was issued by the Council on November 9, 2010.

### 3. Applications for Renewal and Transfer of Licence

Ms. deFoy stated that on or about September 26, 2012, Mr. Stephanian submitted an application for licence renewal to the Council ("2012 Renewal Application"). He answered "No" to the Charges and Convictions Question.

On or about November 15, 2013, Mr. Stephanian submitted to the Council an application to transfer his licence from Re-Max Masters Realty to Coldwell Banker Legend Real Estate Group ("2013 Transfer Application"). He answered "No" to the Charges and Convictions Question. He also did not answer the Residency Question and did not provide a date of arrival in Canada.

On or about September 22, 2014, Mr. Stephanian submitted an application for licence renewal to the Council ("2014 Renewal Application"). He again answered "No" to the Charges and Convictions Question.

On or about January 16, 2015, Mr. Stephanian submitted to the Council an application to transfer his licence from Coldwell Banker Legend Real Estate Group to Coldwell Banker Prestige Realty ("2015 Transfer Application"). He answered "No" to the Charges and Convictions Question and did not complete any field in Part D, including the Residency Question, the date of birth and arrival date in Canada, among others.

4. Discovery of Mr. Stephanian's Criminal History

Ms. deFoy stated that her review of the DEA Website indicated the following:

- (a) Mr. Stephanian was wanted for "Conspiracy to Distribute and Possess with Intent to Distribute Controlled Substances";
- (b) jurisdiction of the warrant was California;
- (c) his year of birth was 1949;
- (d) his place of birth was Iran; and
- (e) his last known address was Vancouver, B.C., Canada.

Ms. deFoy stated that on or about August 3, 2016, she reviewed the Stephanian Website. She noticed that the photographs on the Stephanian Website and the DEA Website bore a remarkable resemblance and appeared to be photographs of the same person.

On or about August 3, 2016, she reviewed Mr. Stephanian's licensing file and compared the photograph on Mr. Stephanian's driver's licence against the photograph of "Jacob Stephanian" on the DEA Website. The two photographs were also strikingly similar and appeared to be that of the same person.

Ms. deFoy stated that on or about August 4, 2016, she spoke to a US Marshal at the DEA's office regarding Jacob Stephanian's file. The Marshal confirmed that Jacob Stephanian was charged with conspiracy to traffic cocaine in 1999 and failed to appear in court in 2003. He fled the United States to Canada while he was released on bond awaiting sentencing. The US Marshal also confirmed that the DEA has two dates of birth on the record for Jacob Stephanian: December 6, 1949 and June 12, 1949.

Ms. deFoy noted that the date December 6, 1949 was exactly one year prior to the date of birth on Mr. Stephanian's BC Care Card of December 6, 1950, a copy of which was enclosed in his Amended Application Form to the Council.

Ms. deFoy stated that based on the striking resemblance in the photographs and similarities in the name and the date of birth she believed that the Jacob "Jack" Stephanian licensed with the Council was the same Jacob Stephanian on the DEA's Most Wanted Fugitives list.

Ms. deFoy stated that on August 8, 2016, Mr. Thiele sent an e-mail to Mr. L [REDACTED], and to Ms. M [REDACTED] with a copy to her and Mr. Fawcett. Mr. Thiele alerted Mr. L [REDACTED] and Ms. M [REDACTED] to the profile of a Jacob Stephanian on the DEA's Most Wanted Fugitives list and advised that the Council had reason to believe that the Jacob Stephanian sought by the DEA was the same Jacob Stephanian licensed at Coldwell Banker Prestige.

Ms. deFoy stated that on or about August 9, 2016, Mr. Thiele sent an e-mail (with a copy to her), to Mr. Stephanian regarding his profile on the DEA's Most Wanted Fugitives list. Mr. Thiele advised that the Council has been in contact with the US Marshals and expressed concerns about

Mr. Stephanian's criminal history and his failure to disclose it on his applications to the Council. Mr. Thiele advised Mr. Stephanian that he was required to attend the offices of the Council on August, 11, 2016 at 11:00 a.m. for a meeting to discuss the Council's concerns and also requested that he bring a number of documents to that meeting.

Ms. deFoy noted that that email was sent to Mr. Stephanian's last known e-mail address- [REDACTED] - that had been provided to the Council by Mr. Stephanian and noted on his licensing file. Mr. [REDACTED] L [REDACTED] was also copied on that e-mail and provided with details of the investigation.

Ms. deFoy stated that Mr. Stephanian did not respond to Mr. Thiele's e-mail and did not attend the meeting on August 11, 2016.

Ms. deFoy stated that on August 11, 2016, at approximately 10:40 a.m., Mr. [REDACTED] L [REDACTED] spoke with Ms. Jeon, one of the Council's legal counsel. She stated that she was in Ms. Jeon's office at that time and Mr. L [REDACTED] was placed on speakerphone. During this call, Mr. L [REDACTED] advised that he had not been in contact with Mr. Stephanian.

#### 5. Criminal Conviction for Conspiracy to Traffic Cocaine

Ms. deFoy stated that during her review of a California criminal case, *The People of the State of California vs. Rouhel Raymond Feinstein and Marilyn Slome Feinstein* (22 September, 2004), County of Los Angeles BA242822 (Calif Sup Ct), ("Feinstein Case") she noted the following:

- (a) that the court discussed Mr. Stephanian's involvement with and conviction for conspiracy to traffic cocaine in the United States (*United States v. Jacob Stephanian et al.*, Case No. 99-CR-915-LGB);
- (b) in September 1999, Mr. Stephanian was indicted by a federal grand jury for conspiracy to possess cocaine with the intent to distribute;
- (c) on December 21, 1999, Mr. Stephanian pleaded guilty to the charge and was facing a possible fourteen-year term in the federal prison;
- (d) in March 2000, a detention hearing was held where the judge released Mr. Stephanian on \$75,000 bond and ordered him to surrender his passport and not to leave the state without the court's permission. At the detention hearing, Mr. Stephanian was ordered to remain under the "intensive supervision" of pretrial services and not to enter any airport, train or bus station or seaport;
- (e) while out of custody on bond awaiting sentencing, Mr. Stephanian was arrested twice for felony Grand Theft. Sometime between 2001 and 2003, Mr. Stephanian fled the United States; and

- (f) on April 18, 2003, Mr. Stephanian failed to appear in federal court sentencing. The judge issued a bench warrant for Mr. Stephanian's arrest.

Ms. deFoy stated that based on the chronology set out in the Feinstein Case, she believed that Mr. Stephanian resided in California from about 1999 to 2001.

6. Mr. Stephanian Resided in the United States

Ms. deFoy stated that 'Public Access to Court Electronic Records' ("PACER") is an electronic service that allows users to obtain case and docket information online from US district, federal appellate and bankruptcy courts.

Ms. deFoy stated that on or about August 11, 2016, she searched the PACER Case Locator, PACER's search tool, for documents relating to Mr. Stephanian's drug traffic case and bankruptcy proceedings in the United States.

She retrieved a court index for *United States v. Jacob Stephanian et al.*, Case No. 99-CR-915-LGB (the "Court Index"), the case in which Mr. Stephanian was convicted of conspiracy to traffic cocaine. The Court Index provided a chronology of the proceeding and access to some documents such as court orders, including a copy of the court order issued on August 18, 2003 with respect to this proceeding.

Ms. deFoy noted that the Court Index confirmed some of Mr. Stephanian's activities discussed in the Feinstein Case:

- (a) Mr. Stephanian pleaded guilty to the charge at the plea hearing on December 21, 1999;
- (b) a detention hearing was held on March 20, 2000 where Mr. Stephanian was released on a \$75,000 bond. As a condition of release, the residing judge ordered Mr. Stephanian to surrender his passport and not to enter premises of any bus, railroad, airport or seaport terminal which permits exit from the area of restricted travel without a court permit; and
- (c) Mr. Stephanian did not appear at the sentencing hearing on August 18, 2003. The judge issued a bench warrant for Mr. Stephanian's arrest;

Ms. deFoy stated that she also found a case summary showing that a "Hagop Jack Stephanian" filed for bankruptcy in the United States on September 9, 1992 (the "Bankruptcy Summary"). The Bankruptcy Summary showed that Mr. Stephanian had a Social Security Number in the United States. According to the United States Social Security Administration ("SSA") website, a social security number is a nine-digit identification number that was required in order to work, collect Social Security benefits and have access to other government services in the United States.

The fact that Mr. Stephanian had a Social Security Number at the time of filing bankruptcy in 1992 lead Ms. deFoy to believe that he was a resident in the United States in or around the 1990s.

Ms. deFoy noted that in the Feinstein case, the court discussed Mr. Stephanian's reliability as an informant with respect to staged auto accidents in fraudulent insurance claims. Ms. deFoy noted that the court described Mr. Stephanian's story as "objectively illogical", characterized him as an unreliable character and discussed his flight to Canada.

Ms. deFoy also noted from the Feinstein case:

- (a) the court did not accept Mr. Stephanian's story about his participation in staged auto accidents, concluding that he had in fact been in real auto accidents;
- (b) the first accident occurred in Beverly Hills, California, on July 16, 2000, while Mr. Stephanian was driving a 1997 silver Mercedes Benz with his girlfriend, as a passenger when the car was rear-ended by another vehicle;
- (c) the insurer of the vehicle at fault paid both the property damage to Mr. Stephanian's car and the bodily injury claims for both Mr. Stephanian and his passenger; and
- (d) another auto accident occurred on October 27, 2000, when Mr. Stephanian was driving a red 1995 Mercedes Benz, which was not registered under Mr. Stephanian's name. The car was repossessed by the registered owner who settled the matter without proceeding with an insurance claim.

Ms. deFoy stated that the information about these auto accidents led her to believe that Mr. Stephanian resided in California, at least from July 2000 to October 2000 and possibly longer, given that he maintained auto insurance and collected insurance claims arising from the first accident.

Ms. deFoy noted that in a British Columbia case, *United States of America v. Licht*, 2002 BCSC 1151, the court discussed Mr. Stephanian's activities in California in relation to the cocaine trafficking conspiracy which led to his arrest in the United States. Based on her review of that case and the court's finding of facts set out by the court, she believed that Mr. Stephanian was in California in 1999.

#### 7. Mr. Stephanian Resided in B.C. Prior to 2009

Ms. deFoy noted that Mr. Stephanian indicated on his application for licence that he arrived in Canada on September 10, 2009.

Ms. deFoy's review of the BC Court Services Online ("CSO") indicated there were 45 legal proceedings from 1990 to 2013 in which Mr. Stephanian was a party, 41 of which pre-dated Mr. Stephanian's purported arrival in Canada on September 10, 2009.



Ms. deFoy stated that on or about August 11, 2016, she spoke to staff at the Vancouver Court Registry and requested information on any legal proceeding involving Jacob Stephanian. The court registry staff informed her that there were numerous court entries in a period between 1990 to 2000 for criminal charges against Jacob Stephanian and Jack Hakob Stephanian; the following entries appeared in respect of the two names:

Jacob Stephanian:

- Communication for the purposes of prostitution
- Theft under \$5,000
- Failure to appear
- Driving while prohibited
- Peace bond (relating to his ex-girlfriend)

Jack Hakop Stephanian:

- Communication for the purposes of prostitution
- Failure to appear
- Driving without licence
- False statement to the Motor Vehicle Branch

Ms. deFoy stated that the court registry staff also informed her that there were two dates of birth on the record for Jacob “Hakop” Stephanian: January 6, 1950 and December 6, 1949. Ms. deFoy noted that both dates matched Mr. Stephanian’s date of birth in the Council’s records and in the DEA’s records, respectively.

Ms. deFoy also noted that the middle name “Hakop”, and its variations “Jakop” and “Hacob”, also appeared on the list of proceedings on the CSO website in relation to Mr. Stephanian’s litigation history in British Columbia. Ms. deFoy stated that on or about August 12, 2016, she spoke to the courthouse staff who confirmed that Mr. Stephanian was in fact convicted of some of the charges listed above.

Ms. deFoy stated that given the similarities in the names, the date of birth and the timeline of the court proceedings, she had reason to believe that Jacob “Hakop” Stephanian in the court registry with the above-noted charges was the Jacob Stephanian licensed with the Council.

### **SUBMISSIONS BY THE COUNCIL**

The Council reviewed Ms. deFoy’s Affidavit and the attached exhibits with the Committee, and submitted that based on that evidence, the Council had met the criteria for an order under section 45 of the RESA, as set out on pages 1 and 2 of this Decision.

### **REASONS FOR DECISION**

At the conclusion of the hearing, the Committee considered the affidavit evidence of Ms. deFoy, including all of the exhibits, and the submissions of the Council. The Committee was mindful of

its mandate to protect the public interest, and to preserve the public's confidence in the integrity of the profession, as well as the fact that this hearing had proceeded ex parte, and that Mr. Stephanian had not had the opportunity to be heard.

The Committee determined that the information contained in Ms. deFoy's affidavit was compelling, and painted a picture of deception and subterfuge on the part of Mr. Stephanian that spanned, at the very least, the time he has been licensed with the Council. The Committee agreed with Ms. deFoy's assessment, that based on the striking resemblance in the photographs and similarities in the names and the dates of birth, on the balance of probabilities, the Jacob "Jack" Stephanian licensed with the Council was:

- (a) the same Jacob Stephanian on the DEA's Most Wanted Fugitives list;
- (b) the same Jacob "Hakop" Stephanian in the Vancouver court registry; and
- (c) the same Jacob Stephanian who resided in California between 1999-2000.

The Committee found it troubling that on numerous occasions Mr. Stephanian deliberately failed to disclose to the Council very critical and material information that would have, or could have, had an impact on the Council's assessment of his suitability to be licensed. In particular, Mr. Stephanian's deliberate failure to provide the Council with residency information and his correct date of birth, would have, had it been provided, triggered a criminal record check in the United States and to the discovery of his criminal conviction and charges there, and in Canada.

The Committee noted that on August 9, 2016, Mr. Thiele had sent an email to Mr. Stephanian, wherein Mr. Stephanian was told he was under investigation and that he was required to attend the Council's office on August 11, 2016, to meet with Mr. Thiele to discuss the results of Ms. deFoy's investigation. The details of that investigation were provided to Mr. Stephanian in that email. The purpose of the meeting was to provide Mr. Stephanian with the opportunity to explain the findings of the investigation or otherwise convey his side of the story. As was noted by Ms. deFoy, Mr. Stephanian did not attend that meeting nor attempt to contact Mr. Thiele or Mr. L [REDACTED].

The Committee determined that Mr. Stephanian's failure to be truthful or forthcoming, at the very least, to his regulatory body, posed a significant risk to the public. It called into question his professional integrity, his character and reputation, his trustworthiness, and more importantly, whether or not he would have been licensed if the true facts of his background had been known to the Council.

The Committee was satisfied that there had been conduct in which a discipline committee could make an order under section 43 of the RESA, in that Mr. Stephanian committed professional misconduct with meaning of section 35(1)(a) when he:

- (a) made false or misleading statements in his applications for licensing contrary to section 35(1)(g) of the RESA; and

- (b) committed conduct unbecoming a licensee contrary to section 35 ( 2) (a), (b) and (c) of the RESA.

The Committee acknowledged that there were outstanding issues that would require further investigation by the Council; more specifically, those related to the BC criminal charges, the California bankruptcy, the Grand Theft charges in the US, and whether Mr. Stephanian would have been required to disclose any of the BC lawsuits to the Council. The Committee was satisfied that the length of time that would be required to complete the investigation and hold a discipline hearing in order to make an order under section 43 of RESA would be detrimental to the public interest.

The Committee determined that it was incumbent upon the Council and in the public interest in these circumstances to act promptly and alert the public about Mr. Stephanian's misconduct. It concluded that there was sufficient evidence to meet the criteria set out in section 45(1) of the RESA to suspend the licence of Mr. Stephanian.

### **DECISION**

The Discipline Hearing Committee ordered on August 12, 2016, that the licence of Jacob Stephanian be suspended effective immediately pursuant to section 45(2) of the RESA.

Dated at Vancouver, British Columbia this 17<sup>th</sup> day of August 2016.

FOR THE DISCIPLINE HEARING COMMITTEE



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D. Peerless  
Discipline Hearing Committee