

BC FINANCIAL SERVICES AUTHORITY

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

AND

IN THE MATTER OF

ANDREW GRAHAM LEE
(159819)

AND

BURR PROPERTIES LTD.
(X025683)

FIRST SECOND AMENDED NOTICE OF DISCIPLINE HEARING

[This Notice has been redacted before publication.]

To: Andrew Graham Lee
Managing Broker
Burr Properties Ltd.
21 – 655 Fort Street
Victoria, BC, V8W 1G6

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21 – 655 Fort Street
Victoria, BC, V8W 1G6

TAKE NOTICE that the Superintendent of Real Estate (the “Superintendent”) of the BC Financial Services Authority (“BCFSA”) will hold a discipline hearing under Part 4 of the *Real Estate Services Act* (“RESA”) on ~~March 5 to 6, 2024~~ **November 4, 2024 commencing at 9:30 am** in the virtual Hearing Room at BCFSA’s offices located at **600 – 750 West Pender Street, Vancouver, British Columbia** to determine whether your conduct contravened the RESA, the *Real Estate Services Regulation* (the “Regulation”), or the *Real Estate Services Rules* (the “Rules”).

AND TAKE NOTICE that the allegations are as follows:

1. Burr Properties Ltd. (the “Brokerage”) and Andrew Lee Graham committed professional misconduct within the meaning of 35(1)(g) of the RESA in that, in the course of a BCFSA audit, the Brokerage and/or Andrew Lee Graham produced and/or submitted to BCFSA a copy of a letter approving a transfer from the trading services trust account (“Real Estate Trust Account”) dated June 27, 2022 (the “Approval Letter”). The Approval Letter was false or misleading in that the Approval Letter

purported to have been prepared and signed on June 27, 2022 when it was prepared and signed in or around January 2023.

2. The Brokerage committed professional misconduct within the meaning of section 35(1)(a) of the RESA in that:

a. in relation to trust shortages,

- i. in the Brokerage's property management trust account ("Property Management Trust Account"), there was a negative trust balance for the property located at [Property 1] in the amount of \$3,661.56 from October 14, 2022 to November 2, 2022;
- ii. in the Property Management Trust Account, there was a negative trust balance for the property located at [Property 2], in the amount of \$2,198.28 from on or around October 14, 2022 to November 17, 2022; and
- iii. the negative balances in the Property Management Trust Account, or either of them, were not immediately eliminated and reported to BCFSA

contrary to sections 73(1), (2) and (3) [*negative balances in trust accounts and trust records*] of the Rules;

b. the Brokerage failed to prepare or retain financial records necessary to ensure the appropriate and timely accounting of all transactions relating to real estate services provided by the Brokerage and its related licensees, contrary to section 79 of the Rules, in particular any or all of the following:

i. in relation to Property Management Trust Account:

1. the property management bank reconciliation balance did not agree to the property management trust liability and asset reconciliation balance for September 2022 and October 2022;
2. the September 2022 and October 2022 bank reconciliation for the Property Management Trust Account included numerous unreconciled items and unreconciled adjustments;
3. the September 2022 and October 2022 trust liability and asset reconciliation for the Property Management Trust Account included a balance under the "9999 Suspense" account, that did not pertain to a specific property;

ii. in relation to Real Estate Trust Account:

1. the Brokerage's trust ledger was not up to date, specifically the trust ledger on September 30, 2022 showed balances from trades in 2020;

2. The transactions in the September 2022 trust liability and asset reconciliation for the Real Estate Trust Account did not accurately reflect the transactions in the bank statement;
 - c. failed to have written services agreements, when that requirement was not waived, contrary to sections 43(1) and 43(2) of the Rules, with respect to:
 - i. [Property 3]; and/or
 - ii. [Property 4]; and/or
 - d. failed to prepare and retain records sheets that accurately reflect the transactions that occurred, contrary to section 84 of the Rules, including but not limited to the following:
 - i. the trade record sheet for trade #20564 states that a \$33,462.50 payment was made from the Real Estate Trust Account to [Firm 1] when that amount was actually transferred from the Real Estate Trust Account to the brokerage's general account;
 - ii. the trade record sheet for trade #20564 states that commissions of \$16,537.50 were deposited in "[Account 1]" when that amount was transferred to the Brokerage's commission trust account;
 - iii. the trade record sheet for trade #20565 states that \$1,500 was paid from Real Estate Trust Account to Burr Properties when it was actually paid from Real Estate Trust Account to the Brokerage's general account and then to an individual, JG, via cheque; and/or
 - iv. the trade record sheet for trade #20565 states that commissions of \$5,276.83 was deposited in "[Account 1]" when that amount was transferred to the Brokerage's commission trust account.
3. Andrew Graham Lee committed professional misconduct within the meaning of section 35(1)(a) of the RESA in that while the managing broker of the Brokerage, he:
 - a. failed to ensure that the business of the Brokerage was carried out competently and in accordance with the RESA, the Rules and/or the Regulations as set out in paragraph 2 above, contrary to section 28(1)(b) of the Rules; and/or
 - b. failed to ensure that the records of the Brokerage were maintained in accordance with the RESA, the Rules and/or the Regulations as set out in paragraph 2 above, contrary to section 28(3)(a) of the Rules.

AND FURTHER TAKE NOTICE that if the Superintendent finds you committed professional misconduct, the Superintendent must make an order against you, and may also order you to pay enforcement expenses incurred by BCFSA, under sections 43 and 44 of the RESA.

AND FURTHER TAKE NOTICE that if you do not attend the discipline hearing, the Superintendent may proceed with the discipline hearing in your absence and may make findings and orders under sections 43 and 44 of the RESA without further notice to you.

AND FURTHER TAKE NOTICE that you are entitled, at your own expense, to be represented by legal counsel and to participate in the discipline hearing.

Dated this 13th day of August 2024 at the City of Victoria, British Columbia.

Superintendent of BC Financial Services Authority

“Original signed by Chris Biscoe”

Chris Biscoe
Delegate of the Superintendent of Real Estate
Province of British Columbia