

BC FINANCIAL SERVICES AUTHORITY

IN THE MATTER OF THE *REAL ESTATE SERVICES ACT*

SBC 2004, c 42 as amended

IN THE MATTER OF

**FREYJA PRIT
(159189)**

REASONS FOR DECISION REGARDING LIABILITY

[This Decision has been redacted before publication.]

Date of Hearing: October 16 - 18, 2023
Counsel for BCFSA: Laura Forseille
Counsel for the Respondents: Self-Represented
Hearing Officer: Andrew Pendray

Introduction

1. On June 23, 2023 the BC Financial Services Authority (“BCFSA”) issued, pursuant to section 40 of the *Real Estate Services Act* (“RESA”), an amended notice of discipline hearing (the “Notice of Hearing”) in relation to Freyja Prit, Adelina Yin Ko, and Cathay Pacific Realty Ltd¹.
2. The Notice of Hearing alleges that Ms. Prit breached section 3 of RESA by providing real estate services to clients in respect of a number of property transactions when she was not licensed to do so from July 5, 2018 through September 20, 2018.
3. The Notice of Hearing further alleges that Ms. Prit committed professional misconduct within the meaning of section 35 of RESA as a result of failures to properly disclose in writing to a client whether she would represent them, failed to keep her managing broker apprised of real estate services and other activities she was performing, and failing to take various steps as required by the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*, SC 2000, c 17 (the “PCMLTFA”).

¹ The allegations against Ms. Ko and Cathay Pacific were heard separately.

4. This hearing proceeded by way of an oral hearing. BCFSA was represented by legal counsel. Ms. Prit was self-represented.

Notice of Hearing

5. The Allegations against Ms. Prit are set out in a Second Amended Notice of Discipline Hearing (the 'Amended Notice of Hearing') as follows:

1. Freyja Prit breached section 3 of the RESA in that, she, without being licensed to do so or otherwise being exempt from licensing under RESA:

- a. Between on or about July 5, 2018 to on or about September 20, 2018, inclusive, provided real estate services to [Individual 1] (“[Individual 1]”), [Company 1] (“[Company 1]”), or both of them for or in expectation of remuneration in relation to the purchase and sale of real property of up to ten (10) properties, including but not limited to five (5) with civic addresses at:

- i. [Property 1], Grand Forks, British Columbia;
- ii. [Property 2], Creston, British Columbia;
- iii. [Property 3], Salmon Arm, British Columbia;
- iv. [Property 4], Grand Forks, British Columbia; and
- v. [Property 5], Keremeos, British Columbia; and
(collectively, the “**Purchase Deals**”)

- b. Between on or about July 5, 2018 to on or about September 1, 2018, inclusive, provided real estate services to [Company 2] (“[Company 2]”), [Individual 2], or both of them for or in expectation of remuneration in relation to the lease of real property with a civic address at [Property 6], Terrace (the “**Lease Deal**”).

2. Freyja Prit committed professional misconduct within the meaning of sections 35(1)(a) and (d) of the RESA in that, while licensed as an associate broker in relation to Cathay Pacific Realty Ltd. in the trading and rental property management categories, she:

- a. In or about May 2018, failed to disclose in writing and in the form approved by the Real Estate Council of British Columbia at the time (the “Council”) to [Individual 1], [Company 1], or both of them whether or not she would represent [Individual 1], [Company 1], or both of them, respectively, as a client in relation to the Purchase Deals contrary to the Rules, sections 5-8 [*Disclosures*] and 5-10 [*Disclosure of representation in trading services*];

- b. In or about May 2018, failed to disclose in writing and in the form approved by the Council to [Company 2], [Individual 2], or both of them whether or not she would represent [Company 2], [Individual 2], or both of them, respectively, as a client in relation to the Lease Deal contrary to the Rules, sections 5-8 [*Disclosures*] and 5-10 [*Disclosure of representation in trading services*];

- c. In or about May to July 2018, failed to keep her managing broker, Adelina Yin Ko, informed of the real estate services and other activities being performed by her on behalf of Cathay Pacific Realty Ltd. for [Individual 1], [Company 1], [Company 2], [Individual 2], or any of them contrary to the Rules, section 3-2(2) [*Keeping managing broker informed*];
- d. Between on or about September 21, 2018 to on or about October 4, 2018, failed to verify the existence of [Company 3] (“[Company 3]”) within 30 days of the date of her receipt on or about September 4, 2018 of three deposits paid by [Company 3] as required by the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*, SC 2000, c 17 and the regulations enacted thereunder at the relevant time (collectively “*PCMLTFA*”);
- e. Between in or about May 1, 2018 to on or about October 31, 2018, failed to take reasonable measures to determine if [Individual 1] was acting on behalf of a third party or, in the alternative, to record those reasonable measures and the identifying information of the third party obtained as a result of those measures as required by *PCMLTFA*; and
- f. Failed to make a suspicious transaction report to the Financial Transaction and Reports Analysis Centre of Canada before November 30, 2018 regarding the Purchase Deals where she had, within her knowledge at the time, grounds for reasonable suspicion that the Purchase Deals were related to the commission or the attempted commission of money laundering, including, but not limited to:
- i. The Purchase Deals constituted several transactions occurring close together in time;
 - ii. [Individual 1] had a well publicized criminal record;
 - iii. Some or all of the deposit funds were being paid by [Company 3], who was not a party to the underlying contracts;
 - iv. [Company 3's] name explicitly references marijuana; and
 - v. Some or all of the Purchase Deals closed in favour of a numbered company who was not a party to the original contract
- where such a report was required by *PCMLTFA*;

each and all contrary to the Rules, section 3-4 [*Duty to act honestly and with reasonable care and skill*].

Issues

6. The issues are:
- Did Ms. Prit breach section 3 of RESA as described at item 1 of the Amended Notice of Hearing?
 - Did Ms. Prit commit professional misconduct within the meaning of sections 35(1)(a) and (d) of RESA as described at item 2 of the Amended Notice of Hearing?

Jurisdiction and Procedure

7. Pursuant to section 2.1(3) of RESA the Superintendent of Real Estate (the “Superintendent”) may delegate any of its powers. The Chief Hearing Officer and Hearing Officers of the Hearings Department of BCFSA have been delegated the statutory powers and duties of the Superintendent of Real Estate with respect to sections 42 through 53 of RESA.
8. BCFSA must prove its case on the balance of probabilities, that is, it must prove that it is more likely than not that the facts as alleged occurred. In order to make a finding against the respondents, I must find that the evidence is “sufficiently clear, convincing and cogent” to satisfy that test: *FH v McDougall*, 2008 SCC 53, [2008] 3 S.C.R. 41.
9. Evidence is generally considered as a matter of procedure². As an administrative tribunal the Superintendent is not bound by court rules of evidence, and in the absence of any statutory provision to the contrary, may consider any evidence it considers relevant, including hearsay evidence: *Adams v. British Columbia (Superintendent of Motor Vehicles)*, 2019 BCCA 225 (CanLII).
10. Further, the fact that the legislation may provide for a formal structure for enforcement proceedings does not preclude hearsay evidence from being admitted at a hearing³. There is no provision in RESA which imports civil or criminal rules of evidence into the administrative proceedings held by the Superintendent. The Superintendent may, however, draw upon principles underlying court rules of evidence to exclude or assess evidence.
11. The Superintendent must also afford procedural fairness to a respondent where a decision may affect his or her rights, privileges or interests. This right includes a right to be heard. The Superintendent affords every respondent an opportunity to respond to the case against him or her by providing advance notice of the issues and the evidence, and an opportunity to present evidence and argument. The Superintendent must determine facts, and decide issues set out in the Notice of Discipline Hearing, based on evidence. The Superintendent may, however, apply its individual expertise and judgment to how it evaluates or assesses evidence.

Background and Evidence

12. The evidence and information before me included a significant number of documents from a Book of Documents, as well as the evidence of two witnesses, [Investigator 1], BCFSA investigator; and Ms. Prit.
13. I have reviewed and considered all of the evidence and information before me. The following is intended to provide context for my reasons.

Ms. Prit's Licensing History

14. Ms. Prit was first licensed as a trading representative in June 2010. She was licensed as a trading representative with Cathay Pacific Realty Ltd. (the “Brokerage” or “Cathay Pacific”) from June 2016 to May 2017. Effective from May 30, 2017 to July 4, 2018, and again from September

² *Cambie Hotel (Nanaimo) Ltd. v. British Columbia (General Manager, Liquor Control and Licensing Branch)*, 2006 BCCA 119, para. 38.

³ *Cambie Hotel*, paragraph 38.

21, 2018 to September 20, 2020, Ms. Prit was licensed as an associate broker at Cathay Pacific. She was subsequently licensed from September 21, 2020 to November 2, 2021 as an associate broker for a commercial leasing company.

15. Of significance for this hearing, Ms. Prit was unlicensed from July 5, 2018 to September 20, 2018 inclusive.

The Complaint

16. On September 17, 2018, the former Real Estate Council of British Columbia ("RECBC") received a complaint from [Complainant 1], the managing broker of a real estate brokerage in Vernon, BC.
17. In the September 17, 2018 complaint form [Complainant 1] indicated that he was making a complaint against Ms. Prit due to the fact that she was unlicensed and had made an offer on a listing held by his brokerage. Specifically, [Complainant 1] indicated that:

An unlicensed person (Freyja Prit) drafted an offer on August 20, 2018 on a listing we had in Salmon Arm. The fact that she was unlicensed came to light when we attempted to obtain a form from her regarding the deposit. I did a Licensee search on the RECBC site.

I spoke to Freyja Prit's Managing Broker on September 6th and it came up during the conversation that Ms. Prit had delivered a number of deposit cheques to the office in the previous 2 weeks but she had not spoken to her for a few days. She didn't recall the deposit cheques for this transaction when we spoke.

I advised her of the issue of her unlicensed representative drafting Contracts and she stated that she hadn't been licensed for some time.

18. [Investigator 1] testified that she had been an investigator with BCFSA since August 2021, and that prior to that she had been a compliance officer with RECBC since October 2018. [Investigator 1] indicated that she had been assigned to investigate [Complainant 1]'s complaint regarding Ms. Prit in January 2019.
19. [Investigator 1] explained that as part of her investigation she had conducted open source searches, spoken with witnesses, and reviewed each of the deal files for the transactions Ms. Prit was alleged to have been involved in while she was unlicensed for the period from July 2018 through September 20, 2018. [Investigator 1] obtained those deal files from the managing broker of Ms. Prit's then brokerage, Cathay.

The Property Transactions

[Property 1], Grand Forks, British Columbia

20. [Investigator 1] was taken through the deal file documents associated with this transaction. Those documents included the contract of purchase and sale, the trade record sheet, a Receipt of Funds Record and an Individual Identification Information Record form. Both the Receipt of Funds Record and the Individual Identification Information Record form are forms that realtors are required to complete/file by the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*.

21. The initial contract of purchase and sale for this commercial property is dated June 27, 2018. The buyer is listed as “[Individual 1] or Assignee”. The June 27, 2018 contract of purchase and sale indicates that it had been prepared by Ms. Prit, and Ms. Prit was identified as the buyer’s designated agent. The offer price was \$319,000, with a proposed completion date of August 1, 2018. The viewing date of the property was identified as having been June 26, 2018.
22. A counter-offer was received, and eventually accepted by [Individual 1] on August 2, 2018, for a purchase price of \$322,000.
23. Ms. Prit completed a Receipt of Funds record form on August 16, 2018, which indicated that she had received \$32,000 by way of cheque for the purposes of a security deposit for the purchase of [Property 1].
24. A copy of the deposit cheque contained within the deal file shows that the cheque was issued from “[Company 3]” (“[Company 3]”).
25. The Individual Identification Information Record form completed by Ms. Prit for this transaction indicates that Ms. Prit had verified the identification of [Individual 1] by way of his BCID.
26. Ms. Prit did not complete section B of the Individual Identification Information Record form, which is entitled “Verification of Third Parties”.
27. On September 21, 2018, a law firm wrote to Ms. Prit’s brokerage to inform it that on that date transfer documentation was accepted in the Land Title Office in respect of [Property 1]. That letter identifies “[Company 1]” as the buyer of [Property 1].
28. On September 24, 2018, a trade record sheet was completed in respect of the purchase of [Property 1], pursuant to Rule 8-5 of the Real Estate Services Rules (the “Rules”). [Investigator 1] indicated in her evidence at the hearing that the trade record sheet would be completed by the managing broker of the brokerage engaged in the sale of the property at the time of completion of the deal.
29. The September 24, 2018 trade record sheet indicates a contract date of June 27, 2018, and identifies the buyer as “[Company 1].” The trade record sheet indicates that an initial deposit of \$32,000 was paid on August 17, 2018 with that deposit having been paid by “[Company 3]”.
30. Ms. Prit is identified on the trade record sheet as having received “Licensee Remuneration” in the amount of \$6,978.32 in respect of that transaction. That amount was noted to have been disbursed to Ms. Prit on September 24, 2018.

[Property 2], Creston, British Columbia

31. [Investigator 1] was taken through the deal file documents associated with this transaction. Those documents included the contract of purchase and sale, the trade record sheet, a Receipt of Funds Record and an Individual Identification Information Record form.
32. The initial contract of purchase and sale for this commercial property is dated July 27, 2018. The buyer is listed as “[Individual 1]”. The July 27, 2018 contract of purchase and sale indicates that it had been prepared by Ms. Prit, and Ms. Prit was identified as the buyer’s designated agent.

33. The offer price was \$199,000, with an initial deposit of \$30,000 and a proposed completion date of September 28, 2018.
34. Ms. Prit completed a Receipt of Funds record form on September 1, 2018, which indicated that she had received \$30,000 by way of cheque for the purposes of a security deposit for the purchase of [Property 2].
35. A copy of the deposit cheque contained within the deal file shows that the cheque was issued from “[Company 3]”.
36. The Individual Identification Information Record form completed by Ms. Prit for this transaction indicates that Ms. Prit had verified the identification of [Individual 1] by way of his BCID.
37. Ms. Prit did not complete section B “Verification of Third Parties”, of the Individual Identification Information Record form.
38. On September 28, 2018, a law firm wrote to Ms. Prit’s brokerage to inform it that on that date transfer documentation was accepted in the Land Title Office in respect of [Property 2]. That letter identifies “[Company 1].” as the buyer of [Property 2].
39. On October 1, 2018, a trade record sheet was completed in respect of the purchase of [Property 2], pursuant to Rule 8-5 of the Rules.
40. The October 1, 2018 trade record sheet indicates a contract date of July 27, 2018, and identifies the buyer as “[Individual 1]”. The trade record sheet indicates that an initial deposit of \$30,000 was paid on September 4, 2018, with that deposit having been paid by “[Company 3]”.
41. Ms. Prit is identified on the trade record sheet as having received “Licensee Remuneration” in the amount of \$4,918.73 in respect of that transaction. That amount was noted to have been disbursed to Ms. Prit on October 1, 2018.

[Property 3], Salmon Arm, British Columbia

42. This was the property transaction that led to the September 17, 2018 complaint received by RECBC.
43. The initial contract of purchase and sale for this commercial property is dated July 27, 2018. The buyer is listed as “[Individual 1]”. The July 27, 2018 contract of purchase and sale indicates that it had been prepared by Ms. Prit, and Ms. Prit was identified as the buyer’s designated agent.
44. On October 15, 2018, a trade record sheet was completed in respect of the purchase of [Property 3], pursuant to Rule 8-5 of the Rules.
45. The Individual Identification Information Record form completed by Ms. Prit for this transaction on September 1, 2018 indicates that Ms. Prit had verified the identification of [Individual 1] by way of his BCID.
46. Ms. Prit did not complete section B “Verification of Third Parties”, of the Individual Identification Information Record form.

47. On October 15, 2018, a law firm wrote to Ms. Prit's brokerage to inform it that transfer documentation had been accepted in the Land Title Office in respect of [Property 3]. That letter identifies "[Company 1]" as the buyer of [Property 3].
48. The October 1, 2018 trade record sheet indicates a contract date of July 27, 2018, and identifies the buyer as "[Individual 1]". The trade record sheet indicates that an initial deposit of \$50,000 was paid to the seller and not held by the Brokerage.
49. Ms. Prit is identified on the trade record sheet as having received "Licensee Remuneration" in the amount of \$7,300.13 in respect of that transaction. That amount was noted to have been disbursed to Ms. Prit on October 18, 2018.

[Property 4], Grand Forks, British Columbia

50. [Investigator 1] was taken through the deal file documents associated with this transaction. Those documents included the contract of purchase and sale, the trade record sheet, a Receipt of Funds Record and an Individual Identification Information Record form.
51. The contract of purchase and sale on this property was completed by Ms. Prit, with Ms. Prit identified as the buyer's designated agent, and is dated August 13, 2018. The buyer is identified as being "[Individual 1]".
52. The offer sets out a purchase price of \$350,000, with an initial deposit to be paid of \$30,000, and a completion date of September 28, 2018. [Individual 1] signed a counter-offer on August 15, 2018, for a purchase price of \$365,000.
53. Ms. Prit completed a Receipt of Funds record form on September 1, 2018, which indicated that she had received \$30,000 by way of cheque for the purposes of a security deposit for the purchase of [Property 4].
54. A copy of the deposit cheque contained within the deal file shows that the \$30,000 deposit cheque was issued from "[Company 3]".
55. The Individual Identification Information Record form completed by Ms. Prit for this transaction indicates that Ms. Prit had verified the identification of [Individual 1] by way of his BCID. Ms. Prit noted that [Individual 1] was the "Owner/President of [Company 3]".
56. Ms. Prit did not complete section B of the Individual Identification Information Record form, which is entitled "Verification of Third Parties".
57. On September 28, 2018 a law firm wrote to Ms. Prit's brokerage to inform that on that date transfer documentation had been accepted for registration in the Land Title Office regarding [Property 4]. The law firm identified the buyer of [Property 4] as having been "[Company 1]".
58. On October 1, 2018, a trade record sheet was completed in respect of the purchase of [Property 4], pursuant to Rule 8-5 of the Rules. That trade record sheet indicates a contract date of August 13, 2018, and identifies the buyer as "[Individual 1]". The trade record sheet indicates that an initial deposit of \$30,000 was paid on September 4, 2018 by "[Company 3]".

59. Ms. Prit is identified on the trade record sheet as having received "Licensee Remuneration" in the amount of \$7,855.31. That amount was noted to have been disbursed to Ms. Prit on October 1, 2018.

[Property 5], Keremeos, British Columbia

60. [Investigator 1] was taken through the deal file documents associated with this transaction. Those documents included the contract of purchase and sale, the trade record sheet, a Receipt of Funds Record and an Individual Identification Information Record form.
61. The contract of purchase and sale on this property was completed by Ms. Prit, with Ms. Prit identified as the buyer's designated agent, and is dated August 15, 2018. The buyer is identified as being "[Individual 1]".
62. The offer sets out a purchase price of \$147,300, with an initial deposit of \$30,000, and a completion date of October 31, 2018.
63. Ms. Prit completed a Receipt of Funds record form on September 1, 2018, which indicated that she had received \$30,000 by way of cheque for the purposes of a security deposit for the purchase of [Property 5].
64. A copy of the September 1, 2018 deposit cheque contained within the deal file shows that the \$30,000 deposit cheque was issued from "[Company 3]".
65. The Individual Identification Information Record form completed by Ms. Prit for this transaction indicates that Ms. Prit had verified the identification of [Individual 1] by way of his BCID.
66. Ms. Prit did not complete section B of the Individual Identification Information Record form, which is entitled "Verification of Third Parties".
67. On October 31, 2018, a law firm wrote to Ms. Prit's brokerage to inform it that on that date transfer documentation was accepted in the Land Title Office in respect of [Property 5]. That letter identifies "[Company 1]" as the buyer of [Property 5].
68. On October 31, 2018, a trade record sheet was completed in respect of the purchase of [Property 5], pursuant to Rule 8-5 of the Rules.
69. The October 31, 2018 trade record sheet indicates a contract date of August 15, 2018, and identifies the buyer as "[Individual 1]". The trade record sheet indicates that an initial deposit of \$30,000 was paid on September 4, 2018, with that deposit having been paid by "[Company 3]".
70. Ms. Prit is identified on the trade record sheet as having received "Licensee Remuneration" in the amount of \$8,351.91 in respect of that transaction. That amount was noted to have been disbursed to Ms. Prit on November 1, 2018.

[Property 6], Terrace

71. [Investigator 1] was taken through the deal file documents associated with this transaction. Those documents included an offer to lease, a trade record sheet, a Receipt of Funds Record and an Individual Identification Information Record form.
72. The initial offer to lease for this commercial property is dated July 17, 2018. The tenant is listed as “[Company 2]” The July 17, 2018 offer to lease identifies Cathay Pacific as the name of the brokerage who prepared the offer, but does not specify a licensee. Ms. Prit is, however, identified as the tenant’s designated agent.
73. Ms. Prit completed a Receipt of Funds record form on September 2, 2018, which indicated that she had received \$35,000 by way of cheque on August 2 and September 1, 2018 for the purposes of a security deposit for the lease of [Property 6].
74. A copy of the deposit cheque contained within the deal file shows that the cheque was issued from “[Company 3].”
75. The Individual Identification Information Record form completed by Ms. Prit for this transaction indicates that Ms. Prit had verified the identification of [Individual 2] by way of his BCID.
76. Ms. Prit did not complete section B “Verification of Third Parties”, of the Individual Identification Information Record form.
77. On November 29, 2018, a trade record sheet was completed in respect of the lease of [Property 6], pursuant to Rule 8-5.
78. The November 29, 2018 trade record sheet indicates a contract date of July 17, 2018, and identifies the buyer as “[Company 2] & [Individual 2].”
79. Ms. Prit is identified on the trade record sheet as having received “Licensee Remuneration” in the amount of \$2,799.01 in respect of the transaction. That amount was noted to have been disbursed to Ms. Prit on November 29, 2018.

The Investigation

80. RECBC wrote to Ms. Prit on January 30, 2019 to inform her that it was conducting an investigation to determine whether or not she had committed professional misconduct and/or conduct unbecoming a licensee as contemplated by section 35 of RESA, in respect of the [Property 3] transaction.
81. In a February 5, 2019 letter to [Investigator 1], Ms. Prit indicated that she had not engaged in any misconduct intentionally. Ms. Prit acknowledged that her licence had expired on July 4, 2018 and noted that she had been re-licensed on September 21, 2018. Ms. Prit explained that she had already been working with her client, [Individual 1], on that property since May 2018, and that she had written the offer on July 27, 2018.
82. In that February 5, 2019 letter Ms. Prit indicated that her managing broker had not been aware of the contract of purchase and sale for the [Property 3] property until all subjects had been removed and Ms. Prit had submitted the deal to her brokerage on September 4, 2018.

83. Ms. Prit noted in her February 5, 2019 letter that she had just returned to full time real estate work in the “Spring of 2018” after having been off work to recover from a health issue for approximately two and a half years. She explained that she lacked the funds to renew her license in July 2018, and noted that she was ultimately able to renew her licence prior to the completion of the sale of [Property 3].
84. Ms. Prit noted further that her relationship with [Individual 1] dated back to 2013, and that she and [Individual 1] had had a close relationship with respect to “the work and effort into the legalization of medical cannabis”.

Professional Standards

85. [Investigator 1] was taken to the Professional Standards Manual (the “Manual”) published by RECBC as of June 15, 2018. The preamble to the Manual explained that it was designed to ensure that licensees had the information they needed to carry out their duties under RESA. It notes that:

Licensees are expected to be knowledgeable about the Professional Standards, and are responsible for keeping up to date with additions and revisions to this information. The laws, regulations and policy rulings affecting real estate matters are subject to constant and continuing change, and information in the Professional Standards Manual is revised to keep pace with these changes.

86. [Investigator 1] was taken to page 20 of the Manual, which addressed section 5-10 of the Rules. That section of the Rules requires that before providing trading services to or on behalf of a party to a trade in real estate, a licensee must disclose to the party whether or not the licensee will represent the party as a client. Section 5-10(2) of the Rules sets out that the disclosure must be made in a form approved by RECBC. The Manual notes that:

The approved mandatory form is the Disclosure of Representation in Trading Services

87. [Investigator 1] stated in that the Disclosure of Representation in Trading Services Form was not present in any of the deal files she had reviewed in her investigation of Ms. Prit. [Investigator 1] also indicated that she had not seen the “Working With a Realtor (Designated Agency)” form in any of the deal files, which was a form that explained the relationship between a client and realtor, as well as the collection, use and disclosure of personal information.

Ms. Prit's Evidence

88. Ms. Prit admitted at the outset of her evidence that she had been unlicensed during the period from July 4, 2018 to September 21, 2018. She further acknowledged that she had provided real estate services to both [Individual 1] and [Individual 2], and to their company, [Company 3], during that period of time.
89. Ms. Prit provided a copy of what she said was the required disclosure form as contemplated by section 5-10 of the Rules. The form that Ms. Prit provided is entitled “Privacy Notice and Consent”, and is signed by [Individual 1] and [Individual 2], on May 1, 2018.

90. Ms. Prit indicated that at around that time there were new rules that were going to be coming into place in respect of legalized sale of marijuana, which would have impacted [Individual 1]'s business. She noted that she and [Individual 1] had a lengthy relationship, and that he had relied on her to assist him in keeping ahead of the curve in respect of being able to build his business in light of the anticipated changes to the sale of marijuana.
91. Ms. Prit stated that there was no money laundering involved in any of the transactions, and that in each of the transactions the sellers or landlord were aware that the purchase was being made in order to facilitate [Individual 1]'s business in the marijuana industry. She noted that the transactions in question had subject clauses indicating that municipal approval of the use of space was required before subjects would be removed.
92. Ms. Prit stated that the transactions at issue in the Amended Notice of Hearing were not simple deals, and that she had been required to travel to the various locations as part of her work on the transactions.
93. Ms. Prit testified that despite what she had indicated in her February 5, 2019 letter, she had in fact kept her managing broker, Ms. Ko, informed of her ongoing work for [Individual 1] while she was unlicensed. Ms. Prit stated that Ms. Ko had given her direction on what to write in the February 5, 2019 letter.
94. Ms. Prit provided further documents which she indicated supported her position that she had complied with the Rules in respect of the nature of her disclosure to [Individual 1] and [Individual 2].
95. Specifically, Ms. Prit provided copies of corporate filings for the "[Company 4]." Ms. Prit explained that this company was the formal name of [Individual 1]'s companies, or as she described it "the main parent company". These included change of directors forms, annual report forms, and T2 Corporation Income Tax Returns for the 2016 Tax year. Ms. Prit noted that she had to provide some of these corporate records in association with [Property 6] lease transaction.
96. Ms. Prit also provided a copy of an "Income Statement" for [Company 3] for the period of December 2012 through November 2013. Ms. Prit indicated that she had this document as a result of a previous deal she had done for [Individual 1] in 2014. She further provided copies of corporate tax returns for [Company 3] for the 2015 and 2016 tax years, which she indicated she had received from [Individual 1] in June 2018.
97. Ms. Prit further explained that her understanding of the rules regarding marijuana sales operations in 2018 was that a company was only going to be allowed to have five sales locations in the province, and that as a result it had been determined that [Individual 1]'s group of companies would purchase 15 locations, with five registered under the "[Company 3] banner", 5 under the "[Company 4]", and 5 under [Individual 1]'s numbered companies. Ms. Prit indicated that there was pressure to complete these deals due to a September 30, 2018 deadline that the provincial government had set out for applying to have a sales location. Ms. Prit acknowledged that she had been aware of [Individual 1]'s criminal record, but that she considered that record to largely be related to [Individual 1]'s marijuana advocacy.
98. Ms. Prit acknowledged that she knew that the deposit cheques for the property transactions were coming from [Company 3], but that she knew that [Company 3] was [Individual 1]'s source of

income and as such did not consider that a third party was involved. Ms. Prit explained that although the numbered companies were not listed on the contracts of purchase and sale, she did not have concerns in that regard as, from her perspective, [Individual 1] was going to be the owner of the properties regardless of whether it was a numbered company listed at the end of the day.

99. Ms. Prit stated that, in her view, there was simply no third party present in any of the property transactions at issue in this case.

Reasons and Decision

Did Ms. Prit breach section 3 of RESA as described at item 1 of the Amended Notice of Hearing?

100. Section 1 of RESA defines “real estate services” to mean rental property management services, strata management services, or trading services.

101. Section 3 of RESA sets out that a person must not provide real estate services to or on behalf of another, for or in expectation of remuneration unless the person is licensed to provide those real estate services, or is exempted by section 3(3) of RESA or the *Real Estate Services Regulation* (the “Regulations”) from the requirement to be licensed.

102. Trading services are further defined by section 1 of RESA as meaning the provision of any of the following services provided to or on behalf of a party in real estate:

- (a) advising on the appropriate price for the real estate;
- (b) making represent[at]ions about the real estate;
- (c) finding the real estate for a party to acquire;
- (d) showing the real estate;
- (e) negotiating the price of the real estate or the terms of the trade in real estate;
- (f) presenting offers to dispose of or acquire the real estate;
- (g) receiving deposit money paid in respect of the real estate

103. I note, at the outset of my reasons, that Ms. Prit does not submit that she was exempted from the requirement that she be licensed in order to provide real estate services generally, or trading services specifically, and I do not consider there to be any evidence to support a conclusion that she was exempted by section 3(3) or any of the exemptions set out at sections 2.1 through 2.12 of the Regulations. Although I accept that Ms. Prit had a longstanding relationship with [Individual 1], and that she had worked with him on previous real estate transactions, there was no evidence before me to indicate that she could be considered to have been an employee of [Individual 1], or any of his companies.

104. I consider it to be clear, on the evidence and information before me in this case, that Ms. Prit was providing real estate trading services on behalf of [Individual 1], [Individual 2], and [Company 3], in respect of each of the transactions set out at item 1 of the Amended Notice of Hearing.

105. I note that Ms. Prit admitted as much in her evidence at the hearing.

106. As set out above, Ms. Prit's licence expired as of July 4, 2018. She did not become licensed again until September 21, 2018.

107. I find that, during the intervening period of time, Ms. Prit continued to engage in trading services on behalf of each of [Individual 1], [Individual 2], and [Company 3].

108. Specifically, regarding each of the purchase deals, I find the evidence to show clearly that Ms. Prit was engaged in trading services activities, including presenting offers to acquire real estate and receiving deposit money paid in respect of the real estate.

109. Certainly Ms. Prit presented offers to acquire real estate in four of the five purchase transactions subsequent to her licence expiring on July 4, 2018. Further, even in the [Property 1] transaction, while the initial offer prepared by Ms. Prit was presented on June 27, 2018, prior to the expiry of her licence, the evidence shows that Ms. Prit remained involved in that transaction after the expiry of her licence, including receiving a counter-offer on August 2, 2018.

110. In each of the purchase transactions, other than [Property 3], Ms. Prit received deposit cheques during the period of time in which she was not licensed.

111. Ms. Prit also presented the offer to lease in the [Property 6] transaction during the period of time she was unlicensed, and received deposit money in relation to that transaction while she was not licensed.

112. It is equally clear, on the evidence before me, that Ms. Prit provided those unlicensed real estate services for remuneration. That Ms. Prit received remuneration, in the form of commission payments, in respect of each of the purchase deals and the lease deal, for the provision of her unlicensed real estate services is shown in the trade record sheets for each of those deals. In total, Ms. Prit received more than \$38,000 in commission payments for the real estate services she provided in relation to those deals.

113. Given the above, I find that Ms. Prit breached section 3 of the RESA when, without being licensed to do so or otherwise being exempt from licence under RESA, she provided real estate services to [Individual 1], [Individual 2], and [Company 2] for remuneration.

114. I note that I do not consider the evidence to support a conclusion that Ms. Prit can be said to have been providing real estate services to [Company 1].

115. Although Ms. Prit acknowledged that she was aware that [Individual 1] intended to purchase properties through a numbered company, I consider it to be clear that she was providing the real estate services to [Individual 1] personally, and note that she listed [Individual 1] as the buyer on each of the purchase contracts, and did not, in any of those contracts, identify [Company 1] as a buyer.

Did Ms. Prit commit professional misconduct within the meaning of sections 35(1)(a) and (d) of RESA as described at item 2 of the Amended Notice of Hearing?

116. At the material times, the term "professional misconduct" was defined under section 35 of the RESA as:

- 35(1)** A licensee commits professional misconduct if the licensee does one or more of the following:
- (a) contravenes this Act, the regulations or the rules;
 - ...
 - (d) demonstrates incompetence in performing any activity for which a licence is required

117. I will address each of the allegations against Ms. Prit in turn.

Failure to Disclose⁴

118. At the time of the purchase deals and the lease deal, the relevant rule regarding disclosure of an agency relationship was set out at Rule 5-10:

5-10 Disclosure of representation in trading services

- (1) Before providing trading services to or on behalf of a party to a trade in real estate, a licensee must disclose to the party whether or not the licensee will represent the party as a client.
- (2) A disclosure made under subsection (1) must be in a form approved by the council and include the following information:
 - (a) the duties and responsibilities of licensees to clients and unrepresented parties;
 - (b) how to file a complaint about a licensee's conduct.
- (3) Unless a licensee solicits or receives information from a party about the party's motivation, financial qualifications or needs in respect of real estate, a disclosure to the party is not required under subsection (1) when the licensee is only
 - (a) hosting an advertised open house, or
 - (b) providing factual responses to general questions from the party.

119. Rule 5-8 further provided that disclosures were required to be made in writing, and to be separate from a service agreement or any other agreement under which real estate services were provided and separate from any agreement giving effect to a trade in real estate.

120. As noted above, the form required by RECBC at the time Ms. Prit issued the offers in the Purchase Deals and the Lease Deal was the "Disclosure of Representation in Trading Services" form.

121. It is clear, in my view, that Ms. Prit did not complete that Disclosure of Representation in Trading Services form prior to providing trading services to [Individual 1], [Individual 2], or [Company 3].

⁴ The Real Estate Services Rules have been amended and renumbered, effective February 1, 2021. It is the Rules as they existed at the time of the allegations set out in the notice of hearing that are relevant.

The Disclosure of Representation in Trading Services form was not present in any of the deal files obtained from the brokerage in respect of the Purchase Deals and the Lease Deal.

122. It is of note, however, that the “Disclosure of Representation in Trading Services” was a new form, which licensees were required to use as of June 15, 2018.

123. When [Investigator 1] noted in her June 16, 2020 interview with Ms. Prit that she had not been able to identify the Disclosure of Representation in Trading Services form in any of the deal files, Ms. Prit indicated that she did not have the new form, as she believed she had [Individual 1] and [Individual 2] sign the former “Working With a Realtor” form on May 1, 2018.

124. The Working With a Realtor form was the predecessor form used prior to the amendments of the Rules on June 15, 2018.

125. Prior to June 15, 2018, Rule 5-10 read as follows:

5-10 Disclosure of representation and relationship in trading services

Before providing trading services to or on behalf of a party to a trade in real estate, a licensee must disclose the following to the party:

(a) the nature of the representation that the licensee will provide to the party;

(b) as applicable,

(i) that the licensee, or a related licensee, is or expects to be providing trading services to or on behalf of any other person, in any capacity, in relation to the same trade in real estate,

(ii) that the licensee, or a related licensee, is or expects to be receiving remuneration relating to trading services referred to in subparagraph (i) from any other person, and

(iii) the nature of the licensee’s relationship, or the relationship of the related licensee, with any person referred to in subparagraph (i) or (ii).

126. Prior to the June 15, 2018 amendments Rule 5-8 required that disclosures be made in writing, except for disclosure under Rule 5-10(b).

127. In her June 16, 2020 interview with [Investigator 1], Ms. Prit explained that she considered at the time she was working for [Individual 1] and [Individual 2], that the appropriate disclosure form was the Working With a Realtor form. Ms. Prit indicated that she had [Individual 1] and [Individual 2] sign a “Privacy notice and consent” on May 1, 2018, which was before the new Disclosure of Representation in Trading Services (“DRTS”) form was required.

128. Ms. Prit provided a copy of that “Privacy Notice and Consent” document at the hearing of this matter.

129. In my view, there are a number of issues with that document, which lead me to believe that Ms. Prit failed to provide disclosure as required by Rule 5-10.

130. First, while the “Privacy Notice and Consent” document provided by Ms. Prit is signed by both [Individual 1] and [Individual 2], the date on the document is typed rather than written. While in many cases this fact would not necessarily give me pause as to when the document was in fact signed, the “Privacy Notice and Consent” in question contains, at the bottom of the page, an indication that it was a June 2018 web form. The indication that the form is from June 2018, causes me to question whether the date of May 1, 2018 that was typed onto the form is in fact accurate. In my view, it is more likely than not that Ms. Prit had [Individual 1] and [Individual 2] sign the Privacy Notice and Consent form in June of 2018.
131. Second, the “Privacy Notice and Consent” document provided by Ms. Prit is not, in fact, the Working With a Realtor disclosure form that was used prior to June 15, 2018.
132. As [Investigator 1] described in her testimony, the Working With a Realtor form was a form that explained the difference between the client and consumer relationship. [Investigator 1] indicated that the Privacy Notice and Consent form was a separate document from the Working With a Realtor form.
133. I accept [Investigator 1]’s evidence in this respect. The Privacy Notice and Consent form does not contain any information relating to the nature of representation that Ms. Prit was to provide to [Individual 1] or [Individual 2]. It makes no mention as to whether [Individual 1] and [Individual 2] were entering into a client relationship or a customer relationship, as the former Working With a Realtor form did. Rather, The Privacy Notice and Consent simply provides an explanation to consumers as to how their personal information may be collected and safeguarded.
134. Although I accept Ms. Prit’s description of a longstanding relationship with [Individual 1], I consider that the Rules required that she provide, in writing, disclosure to [Individual 1], [Individual 2], and [Company 3], as to the nature of the representation she would be providing to them before she provided trading services to them or on their behalf. There is no indication that Ms. Prit provided that disclosure to [Individual 1], [Individual 2], or [Company 3], either in the Working With a Realtor form (which I consider would have been the acceptable form of disclosure if Ms. Prit had provided that disclosure prior to June 15, 2018), or in the DRTS form.
135. I do not consider the Privacy Notice and Consent form to constitute the disclosure required by the Rules.
136. As a result, I find that the allegations set out at items 2(a) and 2(b) of the Amended Notice of Hearing have been made out.

Failure to Keep Managing Broker Informed

137. Rule 3-2(2) sets out that:

An associate broker or representative must

- (a) keep the managing broker informed of the real estate services being provided, and other activities being performed, by the associate broker or representative on behalf of the brokerage, and
- (b) immediately notify the managing broker if a deposit referred to in section 3-1(4) (a) [anticipated stakeholder deposit] of these rules has not been received.

138. In her February 5, 2019 letter to [Investigator 1] and RECBC, Ms. Prit wrote the following:

Managing Broker, Adelina Ko, was not aware of the contract of purchase and sale for [[Property 3]] until all the subjects had been completed removed, making it a firm deal and submitted to the office, Cathay Pacific Realty, on September 4, 2018.

139. At the June 16, 2020 interview with [Investigator 1], Ms. Prit was taken through the February 5, 2019 letter. Ms. Prit confirmed at that time that the letter was correct in stating that Ms. Ko had not been aware of the contract of purchase and sale relating to [Property 3] until September 4, 2018.

140. Ms. Prit went on to explain, in the June 16, 2020 interview, that she was not deliberately withholding the existence of the deal from her managing broker, but that her understanding had been that the managing broker wanted Ms. Prit to hold deal paperwork until it was a firm deal. Ms. Prit indicated that she had misunderstood her managing broker's direction, which was in fact to submit paperwork when there was a contract for purchase and sale, not, when all subjects were removed as Ms. Prit had understood.

141. Ms. Prit noted that she had to drive around to find a bank to in order to deposit the security deposit cheque on [Property 3] due to the fact that she had received the cheque over the long weekend in September 2018.

142. In her submissions, Ms. Prit indicated that she was of the view that she had kept her managing broker apprised, and pointed to the fact that a deposit cheque for the [Property 1] purchase deal had been deposited for "Cathay Pacific Realty – In Trust" on August 17, 2018.

143. In light of that August 17, 2018 deposit, I accept that there is some possibility that Ms. Ko had a degree of awareness that Ms. Prit was engaged in unlicensed real estate activities in respect of the [Property 1] purchase deal.

144. I do not, however, consider the evidence to support a conclusion that Ms. Prit was keeping Ms. Ko advised of all of the real estate services she was providing to [Individual 1], [Individual 2], and [Company 3] during the period of time she was unlicensed. A single deposit received by the Brokerage on August 17, 2018 does not, in my view, demonstrate that fact.

145. I note that Ms. Prit did not, in her evidence, in fact claim to have been keeping Ms. Ko apprised of all of the transactions, and I note further that all of the purchase deal deposits were in fact received over the course of the same long weekend in September 2018: September 1, 2018 for the deposits on [Property 2], [Property 4], [Property 5], and [Property 6].

146. In my view, given that Ms. Prit admitted not having kept Ms. Ko informed regarding the [Property 3] purchase deal prior to the receipt of the deposit cheque issued by [Company 3] on September 1, 2018, it is more likely than not that Ms. Prit engaged in the same practice with respect to the remaining purchase and lease deals relating to [Property 2], [Property 4], [Property 5], and [Property 6], and that it is more likely than not that Ms. Prit did not inform Ms. Ko of those deals until after she received the deposit cheques on September 1 and considered those to be "firm deals".

147. Given the above, I consider that allegation 2(c) set out in the Amended Notice of Hearing has been made out.

Allegations Relating to PCMLTFA

148. Section 3-4 of the Rules requires that when providing real estate services, a licensee must act honestly and with reasonable care and skill.

149. The allegations set out in the Amended Notice of Hearing at items 2(d) through 2(f) relate to Ms. Prit's responsibilities as a realtor under the PCMLTFA. I will consider each of those in turn.

150. The PCMLTFA Regulations (as they existed in the period of time during which the purchase and lease deals were completed), set out a variety of requirements in respect of record keeping for realtors.

151. Section 10 of the PCMLTFA Regulations provided that:

(1) Every person or entity that is required to keep a client information record under these Regulations in respect of a client shall, at the time that the client information record is created, take reasonable measures to determine whether the client is acting on behalf of a third party.

(2) Where the person or entity determines that the client is acting on behalf of a third party, the person or entity shall keep a record that sets out

(a) the third party's name, address and date of birth and the nature of the principal business or occupation of the third party, if the third party is an individual;

(b) if the third party is a entity, the third party's name and address and the nature of the principal business of the third party, and, if the entity is a corporation, the entity's incorporation number and its place of issue; and

(c) the relationship between the third party and the client.

(3) Where the person or entity is not able to determine that the client in respect of whom the client information record is kept is acting on behalf of a third party but there are reasonable grounds to suspect that the client is so acting, the person or entity shall keep a record that

(a) indicates whether, according to the client, the transaction is being conducted on behalf of a third party; and

(b) describes the reasonable grounds to suspect that the client is acting on behalf of a third party.

...

152. Section 39(1) of the PCMLTFA Regulations provided that

39 (1) Subject to subsections (3), (4), (5), (6), 52(2) and 62(2), every real estate broker or sales representative shall, when engaging in an activity described in section 37, keep the following records:

(a) a receipt of funds record in respect of every amount that they receive in the course of a single transaction, unless the amount is received from a financial entity or a public body;

(b) a client information record in respect of every purchase or sale of real estate; and

(c) where the receipt of funds record or the client information record is in respect of a corporation, a copy of the part of official corporate records that contains any provision relating to the power to bind the corporation in respect of transactions with the real estate broker or sales representative.

153. Section 59.2 of the PCMLTFA Regulations further provided that for transactions in which a record was required to be kept pursuant to section 39(1), a real estate broker is required to:

(a) in accordance with section 64(1), ascertain the identify of every person who conducts the transaction;

(b) in accordance with section 65, confirm the existence of and ascertain the name and address of every corporation on whose behalf the transaction is conducted and the names of its directors; and

(c) in accordance with section 66, confirm the existence of every entity, other than a corporation, on whose behalf the transaction is conducted.

154. Section 65 of the PCMLTFA Regulations sets out that the existence of a corporation shall be confirmed and its name and address and the names of its directors shall be ascertained as of the time referred to in section 65(2) by referring to its certificate of corporate status, a record that it is required to file annually under the applicable provincial securities legislation or any other record that ascertains its existence as a corporation.

155. Section 65(2)(e) sets out that in the cases referred to in, *inter alia*, section 59.2(1)(b), the information required by section 65(1) shall be ascertained within 30 days after the transaction.

Failure to Verify

156. The deposit cheques for the purchase deals and the lease deal were all issued by [Company 3]. The deposit on [Property 1] was received by Ms. Prit on August 16, 2018, while she received the deposits on [Property 2], [Property 3], [Property 4], [Property 5] on September 1, 2018, and she completed the Receipt of Funds record form on [Property 6] on September 2, 2018.

157. BCFSA takes the position that despite the fact that the deposits were received not from [Individual 1], or [Individual 2] in the case of the lease deal, but rather from [Company 3], Ms. Prit did not take the steps required by section 65 of the PCMLTFA Regulations to confirm the existence of [Company 3] within 30 days of receiving the deposit in those transactions.

158. In support of its position in this regard, BCFSA points to the evidence of [Investigator 1], who indicated that she did not recall seeing any of the corporate documents Ms. Prit provided at the hearing of this matter in any of the deal files provided by Ms. Ko during the investigation into Ms. Prit's activities.

159. [Investigator 1]'s evidence was that there was no certificate of corporate status for [Company 3] in any of the deal files. She stated that she would have expected to see such certificates if the corporation was the purchaser in any of those deals.
160. Although Ms. Prit did provide a number of corporate documents at the time of the hearing, those documents did not include the certificate of corporate status, or any other record that ascertains [Company 3's] existence as a corporation. While Ms. Prit provided copies of what she indicated were income statements for [Company 3] dating to 2012 and 2013, I do not consider those documents to be of the type required by section 65 of the PCMLTFA Regulations.
161. Further, while Ms. Prit has also provided corporate income tax returns for [Company 3] for tax years ending in November 2017 (as well as previous years), I do not consider that document to be a document that in fact ascertains [Company 3's] existence as a corporation as required by section 65 of the PCMLTFA Regulations. I note in particular, in reaching this conclusion, that while [Individual 1] is listed as the President of [Company 3] in those tax return documents, that fact does not necessarily provide the names of the corporation's directors. There may well be other directors which are not identified in the corporate income tax returns. Further, and to put it simply, I do not consider the mere fact of filing a corporate income tax return to necessarily mean that a corporation exists. No records *from* a taxing authority were provided, such as a notice of assessment.
162. In my view, if Ms. Prit had in fact intended to take the steps to ascertain the existence of [Company 3], and the names of its directors, as she was required to do pursuant to the PCMLTFA Regulations, she would have obtained Annual Report filing forms and Notice of Change of Directors forms from BC Registry, as she in fact provided for the [Company 4].
163. In summary, I consider it to be clear that Ms. Prit was aware that she had received deposit monies from [Company 3]. As a result, I consider that she was required to take steps to confirm the existence of [Company 3] as a corporation, and to ascertain the names of its directors, within 30 days following the completion of the Purchase Deals and the Lease Deal.
164. On the evidence before me, which includes the fact that none of the documents provided by Ms. Prit at the time of the hearing were present on the deal files obtained from the brokerage, as well as the fact that the documents provided by Ms. Prit did not confirm the existence of [Company 3] as a corporation or the names of its directors, I find that the allegations set out at item 2(d) on the Amended Notice of Hearing have been made out.

Failure to Determine if Acting on Behalf of a Third Party

165. As set out above, section 10(1) of the PCMLTFA Regulations required that Ms. Prit, as a person required to keep a client information record, take reasonable measures to determine whether the client is acting on behalf of a third party.
166. In this case, a review of the Individual Identification Information Record forms completed for the purchase deals makes clear that Ms. Prit did not, in any of the purchase deals, take steps to determine whether or not [Individual 1] was acting on behalf of a third party.
167. This is despite the fact that, in her evidence, Ms. Prit indicated that the plan that she was assisting [Individual 1] with in and around the months of July through September 2018 specifically

involved the purchase of approximately 15 locations which would sell marijuana, of which 5 locations would be purchased by [Individual 1], 5 would be purchased by [Individual 2], and 5 would be purchased by the numbered company, [Company 1].

168. While it may be that Ms. Prit was not aware, when engaging in real estate services for [Individual 1], which properties he was ultimately going to have purchased by [Company 1], I consider it to be clear from Ms. Prit's evidence that she knew that would be the case for at least some of the properties.

169. Section B.1 of the Individual Identification Information Record form is entitled "Third Party Reasonable Measures". That section specifically sets out that where a realtor cannot determine whether there is a third party, or there is no third party, the realtor should complete section B.1. The questions in section B.1 provide the opportunity for the realtor to indicate whether the transaction was being conducted on behalf of a third party according to the client, and to indicate what measures the realtor had taken to ascertain the same, including asking the client if they were acting on behalf of a third party (or any other measures), and the date upon which such measures were taken.

170. Ms. Prit did not complete Section B on any of the Individual Identification Information Record forms for the purchase deals. In my view, given that Ms. Prit was aware of the plan to purchase a number of locations, and to have some of those locations listed under names other than [Individual 1]'s a reasonable measure to be taken would have been to ask [Individual 1] if the property purchase was being conducted on behalf of a third party. Ms. Prit did not indicate in her evidence that she had made such enquiries in respect of [Individual 1] when engaging in the purchase transactions, and, again, she did not complete section B.1 of the Individual Identification Information Record forms for any of the transactions.

171. While I appreciate that Ms. Prit now says that she did not view [Company 1] as a third party, given that she understood it to be one of [Individual 1]'s companies, I do not consider that fact to obviate the need for her to take reasonable measures to determine if [Individual 1] was acting on behalf of a third party, and to complete the required portions of the Individual Identification Information Record form.

172. In light of the above, I do not consider that Ms. Prit can be said to have taken reasonable measures to determine if [Individual 1] was acting on behalf of a third party in respect of the purchase deals, and I further do not consider Ms. Prit can be said to have recorded any such reasonable measures.

173. I therefore find that the allegation set out at section 2(e) of the notice of hearing is made out.

Failure to Make a Suspicious Transactions Report

174. Section 7 of the PCMLTFA required that every person referred to in section 5 (this includes real estate brokers) shall, in accordance with the regulations, report to the Centre every financial transaction that occurs or that is attempted in the course of their activities where there are reasonable grounds to suspect that:

- (a) The transaction is related to the commission or the attempted commission of a money laundering offence; or

- (b) The transaction is related to the commission or the attempted commission of a terrorist activity financing offence

175. In support of its position that there were reasonable grounds for Ms. Prit to suspect that the transactions in this case related to the commission or the attempted commission of a money laundering offence BCFSA says that:

- The Purchase Deals constituted several transactions occurring close together in time;
- [Individual 1] had a well publicized criminal record;
- Some or all of the deposit funds were being paid by [Company 3], who was not a party to the underlying contracts;
- [Company 3] name explicitly references marijuana; and
- Some or all of the Purchase Deals closed in favour of a numbered company who was not a party to the original contract.

176. Ms. Prit, on the other hand, indicated that she had explained the need for the deals to close in quick succession due to the September 18, 2018 provincial deadline for parties to apply for new marijuana sales locations. Ms. Prit further explained that she had long known [Individual 1] on a personal level as a result of their marijuana advocacy, and that she knew that he was running a business, noting that she had been working with [Individual 1] for a number of years and that his was not some “fly by night” operation.

177. Ms. Prit indicated that, from her perspective, there was nothing suspicious about any of the transactions in question. Simply put, she says she was working with [Individual 1] to purchase a number of locations for marijuana sales across the province in anticipation of new regulations regarding the sale of that product.

178. BCFSA submits that regardless of Ms. Prit’s evidence explaining the nature of the purchase deals and her knowledge of [Individual 1], the standard under section 3-4 of the Rules is whether or not a reasonable person would conclude that a suspicious transaction report would be warranted. A suspicious transaction report is required where there are reasonable grounds to suspect that the transactions in this case related to the commission or the attempted commission of a money laundering offence. In this case, BCFSA did not make arguments with respect to how they say a money laundering offence was occurring, nor did it put forward evidence establishing that “[Individual 1] had a well publicized criminal record”, as alleged in the Amended Notice of Hearing. While most of the Purchase Deals closed in the name of a numbered company that was not a party to the original contract, the evidence before me establishes that Ms. Prit had reason to believe that they were entities related to [Individual 1]. I also accept Ms. Prit’s evidence that she understood [Individual 1] intended to use the properties for the purpose of running lawful marijuana sales locations.

179. I find in this case that the evidence put forward by BCFSA is inadequate to support a finding that Ms. Prit breached the duty of reasonable care and skill in section 3-4 of the Rules when she failed to file suspicious transaction reports in this case.

180. While BCFSA submits that the standard is whether or not a reasonable person would conclude that a suspicious transaction report would be warranted, that must be based upon what a reasonable person would do with the knowledge of Ms. Prit in the circumstances. In my view, based upon the evidence before me, BCFSA has not satisfied its burden of proving that a reasonable person, with Ms. Prit’s knowledge of [Individual 1]’s plan and previous experience

working with him, would not have concluded that there were reasonable grounds to suspect that the purchase deals were transactions related to the commission or the attempted commission of a money laundering offence.

181. As a result, I do not consider the allegation set out at item 2(f) of the Amended Notice of Hearing has been made out.

Conclusion

182. I find that Ms. Prit breached section 3 of RESA when she provided trading services without being licensed to do so, when she:

- Between on or about July 5, 2018 to on or about September 20, 2018, inclusive, provided real estate services to [Individual 1], for or in expectation of remuneration in relation to the purchase and sale of real property identified as the Purchase Deals;
- Between on or about July 5, 2018 to on or about September 1, 2018, inclusive, provided real estate services to [Company 2], [Individual 2], or both of them for or in expectation of remuneration in relation to the lease of real property with a civic address at [Property 6], Terrace.

183. I further find that Ms. Prit committed professional misconduct within the meaning of section 35(1)(a) RESA when she:

- contravened Rule 5-10, as set out at allegation 2(a) of the Amended Notice of Hearing;
- contravened Rule 5-10, as set out at allegation 2(b) of the Amended Notice of Hearing; and
- contravened Rule 3-2(2), as set out at allegation 2(c) of the Amended Notice of Hearing.

184. I further find that Ms. Prit committed professional misconduct within the meaning of section 35(1)(a) and 35(1)(d) of RESA when she failed to act with reasonable care and skill, contrary to section 3-4 of the Rules by:

- Failing to verify the existence of a corporation within 30 days as required by the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*, SC 2000, c 17 and the regulations enacted thereunder at the relevant time (collectively "PCMLTFA"), as set out at item 2(d) of the Amended Notice of Hearing;
- Failing to take reasonable measures to determine if her client was acting on behalf of a third party, or to record such reasonable measures, as required as required by the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*, SC 2000, c 17 and the regulations enacted thereunder at the relevant time, as described at item 2(e) of the Amended Notice of Hearing.

185. I find that the allegation set out at item 2(f) of the Amended Notice of Hearing has not been proven on a balance of probabilities.

Sanctions

186. I retain jurisdiction to determine issues of sanctions and expenses, and will hear evidence and submissions from the parties concerning orders under section 43(2) of RESA, and expenses

under section 44(1) of RESA, and any other actions available to the Superintendent, at a date, time and place to be set.

187. BCFSA and Ms. Prit must advise the Hearing Coordinator, by December 22, 2023 of any request for an in-person hearing respecting sanctions, and why an in-person hearing is necessary or desirable. If an in-person hearing is directed, the Hearing Coordinator will contact the parties to arrange a suitable hearing date. Unless an in-person hearing is directed, any further evidence will be received through affidavits, and submissions respecting sanction will be received in writing. Subject to further directions, the parties must provide affidavit evidence and written submissions to the Hearing Coordinator and to each other as follows:

- BCFSA must provide any affidavits and written submissions by December 29, 2023;
- Ms. Prit must provide any responding affidavits and written response submissions by January 19, 2024;
- BCFSA must provide any reply affidavits and written reply submissions by February 9, 2024.

188. Any party may apply to vary these dates, seek leave to cross-examine on an affidavit, or address other procedural matters.

189. Once I have arrived at a decision on sanctions issues, I will issue additional reasons (a “Decision on Sanctions & Expenses”) that will form a part of this decision, make an order under section 43(2) of RESA, and make such other orders under RESA as I may deem appropriate.

190. Once an order has been made under Part 4, Division 2 of RESA, Ms. Prit will have a right to appeal to the Financial Services Tribunal under section 54(1)(e) of the RESA. Ms. Prit will have 30 days from the date of the sanction decision: *Financial Institutions Act*, RSBC 1996, ch 141, section 242.1(7)(d) and *Administrative Tribunals Act*, SBC 2004, section 24(1).

Issued at Kelowna British Columbia, this 8 day of December, 2023

“Original signed by Andrew Pendray”

Andrew Pendray
Chief Hearing Officer