

Citation: Zarrabian (Re), 2023 BCSRE 26

Date: 2023-08-22

File # INC 20-1450

THE BC FINANCIAL SERVICES AUTHORITY

IN THE MATTER OF THE *REAL ESTATE SERVICES ACT*

SBC 2004, c 42 as amended

AND

IN THE MATTER OF

PIROOZ ZARRABIAN also known as PETER ZARRABIAN

(152582)

AND

RIF – RENT IT FURNISHED INC., doing business as RENT IT FURNISHED REALTY

(X029887)

CONSENT ORDER

[The Order has been redacted before publication.]

RESPONDENTS: Pirooz Zarrabian also known as Peter Zarrabian, Managing Broker, RIF –
Rent It Furnished Inc. doing business as Rent It Furnished Realty

RIF – Rent It Furnished Inc. doing business as Rent It Furnished Realty

DATE OF CONSENT ORDER: August 22, 2023

COUNSEL: Meredith MacGregor, Legal Counsel for the BC Financial Services Authority

PROCEEDINGS:

On August 22, 2023, the Superintendent of Real Estate (the “Superintendent”), or the Superintendent’s authorized delegate, of the BC Financial Services Authority (“BCFSA”) accepted the Consent Order Proposal (the “Proposal”) submitted by Pirooz Zarrabian also known as Peter Zarrabian (“Mr. Zarrabian”) and RIF - Rent It Furnished Inc. doing business as Rent It Furnished Realty (the “Brokerage”).

WHEREAS the Proposal, a copy of which is attached hereto, has been executed by Mr. Zarrabian and the Brokerage.

NOW THEREFORE, having made the findings proposed in the attached Proposal, and found that Mr. Zarrabian and the Brokerage committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* ("RESA"), pursuant to section 43 of the RESA the Superintendent orders that:

1. Mr. Zarrabian and the Brokerage be jointly and severally liable to pay a discipline penalty to BCFSA in the amount of \$17,000 payable within 5 months from the date of this Order.
2. Mr. Zarrabian and the Brokerage be jointly and severally liable to pay enforcement expenses to BCFSA in the amount of \$1,500 within 30 days from the date of the Order.
3. Mr. Zarrabian to successfully complete the Brokers remedial course within 60 days from the date of the Order.
4. The Brokerage to provide BCFSA monthly reconciliation of the Brokerage's trust accounts for a period of twelve (12) consecutive months commencing September 2023. Each monthly trust reconciliation is to be received by BCFSA no later than the end of the month following the month to which the trust reconciliation relates.
5. Mr. Zarrabian and the Brokerage be jointly and severally liable to pay the costs of an audit to be conducted by the BCFSA within eighteen (18) months of the date of the Order.
6. If either Mr. Zarrabian or the Brokerage fails to comply with any of the terms of the Order set out above, the Superintendent may suspend or cancel their licence without further notice to them.

If either Mr. Zarrabian or the Brokerage fails to comply with any term of this Order, the Superintendent may suspend or cancel their licences without further notice to them, pursuant to sections 43(3) and 43(4) of the RESA.

Dated this 22nd day of August, 2023 at the City of Victoria, British Columbia.

Superintendent of the BC Financial Services Authority

"JONATHAN VANDALL"

Jonathan Vandall
Delegate of the Superintendent of Real Estate
Province of British Columbia

Attch. Consent Order Proposal

BC FINANCIAL SERVICES AUTHORITY**IN THE MATTER OF THE REAL ESTATE SERVICES ACT
SBC 2004, c 42 as amended****IN THE MATTER OF
PIROOZ ZARRABIAN also known as PETER ZARRABIAN
(152582)****AND****RIF – RENT IT FURNISHED INC. doing business as RENT IT FURNISHED REALTY
(X029887)****CONSENT ORDER PROPOSAL BY
PIROOZ ZARRABIAN also known as PETER ZARRABIAN****AND****RIF – RENT IT FURNISHED INC. doing business as RENT IT FURNISHED REALTY****BACKGROUND AND FACTS**

This Consent Order Proposal (the "Proposal") is made by Pirooz Zarrabian also known as Peter Zarrabian ("Mr. Zarrabian") and RIF – Rent It Furnished Inc. doing business as Rent It Furnished Realty (the "Brokerage") to the Superintendent of Real Estate (the "Superintendent") of the BC Financial Services Authority ("BCFSA") pursuant to section 41 of the *Real Estate Services Act* ("RESA").

For the purposes of the Proposal, Mr. Zarrabian, the Brokerage, and the Superintendent have agreed upon the following facts:

1. Mr. Zarrabian's (152582) licensing history is as follows:

Brokerage	Licence Level	Licence Category	Date Range
VLR Management Ltd. (X029465)	Managing Broker	Trading, Rental, Strata	2010/02/19 – 2010/04/16
Unlicensed	n/a	n/a	2010/04/17 – 2010/11/02
Peter Zarrabian (152582)	Sole Proprietor	Trading, Rental, Strata	2010/11/03 – 2013/09/26
Home Park Realty Ltd. (X030946)	Managing Broker	Trading, Rental, Strata	2013/09/26 – 2016/10/11
RIF – Rent It Furnished Inc. (X029887)	Managing Broker	Trading, Rental	2016/10/11 – 2017/12/22

Unlicensed	n/a	n/a	2017/12/23 – 2018/02/18
RIF – Rent It Furnished Inc. (X029887)	Managing Broker	Trading, Rental	2018/02/19 to present

2. Mr. Zarrabian was briefly unlicensed from December 23, 2017, to February 18, 2018, but was otherwise at all relevant times licensed as the sole Managing Broker with the Brokerage.
3. The Brokerage (X029887) has been licensed since November 29, 2010, and it provides trading and rental property management services.
4. In May and June 2020, the Real Estate Council of British Columbia, now BCFSa (“BCFSa”), conducted a review of the Brokerage’s financial records as part of BCFSa’s Audit Outreach program (the “Outreach”).
5. During the Outreach, BCFSa found that the Brokerage’s pooled rental trust account was in a shortage position in the amount of \$3,578.18 (the “Total Shortage”). The Total Shortage consisted of five amounts from the dates below:
 - a. \$200.00 from February 2, 2017 (“Shortage Amount 1”);
 - b. \$2,150.00 from February 6, 2017 (“Shortage Amount 2”);
 - c. \$32.00 from February 14, 2017 (“Shortage Amount 3”);
 - d. \$461.29 from June 30, 2017 (“Shortage Amount 4”); and
 - e. \$734.89 from August 17, 2017 (“Shortage Amount 5”).
6. On June 18, 2020, BCFSa notified the Brokerage of the shortages noted in paragraph 5.
7. On June 23, 2020, the Brokerage replenished the Total Shortage to the pooled rental trust account.
8. The Brokerage provided the following explanations for the shortages noted in paragraph 5:
 - a. Shortage Amount 1 was due to a rental property manager failing to charge the strata move-in fee to the tenant. The Brokerage reimbursed the owner for the fee from the pooled rental trust account. A transfer from the Brokerage’s bank account to the pooled rental trust account should have been processed.
 - b. Shortage Amount 2 was due to the Brokerage owing the equivalent of one-month’s rent to the tenant as compensation. It was agreed with the Brokerage that the tenant would not have to pay rent that month. However, the rent for that month was still paid out to the owner from the pooled rental trust account even though there was no corresponding deposit from the tenant. A transfer from the Brokerage’s bank account to the pooled rental trust account should have been processed.
 - c. Shortage Amount 3 was due to an administrative and bank fee being charged twice. The refund was processed from the pooled rental trust account. A transfer from the Brokerage’s bank account to the pooled rental trust account should have been processed.
 - d. Shortage Amount 4 was due to the property management fee being accidentally charged twice. The refund was processed from the pooled rental trust account. A transfer from the Brokerage’s bank account to the pooled rental trust account should have been processed.

- e. Shortage Amount 5 was due to a rental property manager miscalculating the prorated rent a tenant owed. The Brokerage had to pay the difference to the owner. The difference was paid out to the owner from the pooled rental trust account. A transfer from the Brokerage's bank account to the pooled rental trust account should have been processed.
9. In or around December 3, 2020, BCFSA reviewed the Brokerage's financial statements for the period ending September 30, 2020, and they found a pooled rental trust account shortage in the amount of \$2,195.00 with a posting dated back to July 19, 2019 ("Shortage Amount 6").
10. On December 3, 2020, BCFSA notified the Brokerage of Shortage Amount 6.
11. On December 3, 2020, the Brokerage advised BCFSA that Shortage Amount 6 was due to an ongoing dispute with the owner of a rental property managed by the Brokerage. The owner instructed the Brokerage to pay Shortage Amount 6 to the tenant as compensation and the owner would pay back the amount to the Brokerage. However, the owner has not paid the Brokerage back and the Brokerage had been attempting to collect the amount back from the owner, unsuccessfully up to that date.
12. On December 7, 2020, the Brokerage replenished Shortage Amount 6 to the pooled rental trust account.
13. A Notice of Discipline Hearing was issued on September 16, 2022 and served on Mr. Zarrabian and the Brokerage. An Amended Notice of Discipline Hearing was issued on July 13, 2023 and served on Mr. Zarrabian and the Brokerage. A Second Amended Notice of Discipline Hearing was issued on July 19, 2023 and served on Mr. Zarrabian and the Brokerage.
14. Mr. Zarrabian has no prior discipline history with BCFSA.
15. No complaint was received with respect to these matters.
16. There is no evidence of any harm to any client of the Brokerage or member of the public in relation to this matter.

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17. The Brokerage was the subject of a Consent Order, dated April 11, 2016 (the "2016 Consent Order"). The Brokerage was reprimanded and ordered to pay a discipline penalty in the amount of \$5,000.00 and enforcement expenses in the amount of \$1,500.00. The Consent Order Review Committee found that the Brokerage:
 - a. failed to maintain proper books, accounts, and records;
 - b. failed to maintain and prepare monthly reconciliation of bank statements for each trust account; and
 - c. failed to maintain and prepare a monthly trust liability and asset reconciliation for each pooled trust accountin contravention of section 25 of the RESA and sections 8-2 and 8-3 of the Rules (now sections 80 and 81 of the Rules).
18. Mr. Zarrabian was not the managing broker of the Brokerage during the time of the conduct at issue in the 2016 Consent Order.
19. After the 2016 Consent Order, the director of the Brokerage hired a new Trained Accounting Professional as company controller (the "Controller") and a new managing broker.

20. Also after the 2016 Consent Order, the Brokerage was placed on enhanced supervision conditions which required submitting monthly trust reconciliations for review by BCFSA and quarterly audits be conducted. The director of the Brokerage, along with P. Zarrabian and the Controller, participated in this process.
21. The director of the Brokerage says that they relied on the Controller to manage the financial books and records including the trust reconciliations and monthly trust liability summaries. P. Zarrabian reviewed the trust liability summaries on a monthly basis.

PROPOSED FINDINGS OF MISCONDUCT

For the sole purpose of the Proposal and based on the Facts outlined herein, Mr. Zarrabian and the Brokerage propose the following findings of misconduct be made by the Superintendent:

1. Mr. Zarrabian committed professional misconduct within the meaning of section 35(1)(a) of the RESA in that, while the managing broker of RIF – Rent It Furnished Inc. doing business as Rent It Furnished Realty (the “Brokerage”), he:
 - a. failed to identify six shortages in the Brokerage’s pooled rental trust account for a total amount of \$5,773.18 between February 2017 and September 2020, contrary to section 3-1(1)(b) [*ensure that business is carried out competently and in accordance with the Act, regulations, rules and bylaws*] and section 3-1(3)(a) [*ensure the trust accounts and records are maintained in accordance with the Act, regulations, rules and bylaws*] of the Rules.
2. The Brokerage committed professional misconduct within the meaning of section 35(1)(a) of the RESA in that the Brokerage:
 - a. was in a shortage position of six amounts totaling \$5,773.18 between February 2017 and September 2020 in the Brokerage’s pooled rental trust account, contrary to section 7-5(1)(a) and 7-5(1)(b) (now section 73(1)(a) and (b)) [*brokerage must not make payments out of a trust account if the payment will reduce the account to a negative balance or the trust account record or trust ledger to which the payment relates already has a negative balance*] of the Rules;
 - b. failed to identify and take immediate steps to eliminate the negative balance as set out in paragraph 2.a, contrary to section 7-5(2) [*brokerage must take immediate steps to eliminate negative balance*] of the Rules; and
 - c. failed to notify BCFSA of the negative balance within 10 days after the day on which the negative balance occurred, as set out in paragraph 2.a, arose, contrary to section 7-5(3)(b) [*duty to notify the Council (BCFSA) of a negative balance*] of the Rules.

PROPOSED ORDERS

Based on the Facts herein and the Proposed Findings of Misconduct, Mr. Zarrabian and the Brokerage propose that the Notice of Discipline Hearing in this matter be resolved through the following Orders being made by the Superintendent, pursuant to section 43 of the RESA:

1. Mr. Zarrabian and the Brokerage be jointly and severally liable to pay a discipline penalty to BCFSA in the amount of \$17,000 payable within 5 months from the date of this Order.
2. Mr. Zarrabian and the Brokerage be jointly and severally liable to pay enforcement expenses to BCFSA in the amount of \$1,500 within 30 days from the date of the Order.
3. Mr. Zarrabian to successfully complete the Broker’s remedial course within 60 days from the date of the Order.

4. The Brokerage provide BCFSA monthly reconciliations of the Brokerage's trust accounts for a period of twelve (12) consecutive months commencing September 2023. Each monthly trust reconciliation is to be received by the BCFSA no later than the end of the month following the month to which the trust reconciliation relates.
5. Mr. Zarrabian and the Brokerage be jointly and severally liable to pay the costs of an audit to be conducted by the BCFSA within eighteen (18) months of the date of the Order.
6. If either Mr. Zarrabian or the Brokerage fails to comply with any of the terms of the Order set out above, the Superintendent may suspend or cancel their licence without further notice to them.

ACKNOWLEDGEMENTS AND WAIVER OF APPEAL RIGHT

1. Mr. Zarrabian and the Brokerage acknowledge and understand that the Superintendent may accept or reject the Proposal. If the Proposal is rejected by the Superintendent, the matter may be referred to a disciplinary hearing.
2. Mr. Zarrabian and the Brokerage acknowledge that they have been urged and given the opportunity to seek and obtain independent legal advice with respect to the disciplinary process, the allegations contained in the Notice of Discipline Hearing, and the execution and submission of the Proposal to the Superintendent; and, that they have obtained independent legal advice or has chosen not to do so, and that they are making the Proposal with full knowledge of the contents and the consequences if the Proposal is accepted.
3. Mr. Zarrabian and the Brokerage acknowledge and are aware that BCFSA will publish the Proposal and the Consent Order or summaries thereof on BCFSA's website, on CanLII, a website for legal research and in such other places and by such other means as BCFSA in its sole discretion deems appropriate.
4. Mr. Zarrabian and the Brokerage hereby waive their right to appeal pursuant to section 54 of the RESA.
5. If the Proposal is accepted and/or relied upon by the Superintendent, Mr. Zarrabian and the Brokerage will not make any public statement(s) inconsistent with the Proposal and its contents. Nothing in this section is intended to restrict Mr. Zarrabian or the Brokerage from making full answer and defence to any civil or criminal proceeding(s).
6. The Proposal and its contents are made by Mr. Zarrabian and the Brokerage for the sole purpose of resolving the Notice of Discipline Hearing in this matter and do not constitute an admission of civil liability. Pursuant to section 41(5) of the RESA, the Proposal and its contents may not be used without the consent of Mr. Zarrabian and the Brokerage in any civil proceeding with respect to the matter.

"ERIKA WEIMER"

**ERIKA WEIMER, Authorized Signatory for RIF –
RENT IT FURNISHED INC. doing business as RENT
IT FURNISHED REALTY**

Dated 21st day of August, 2023

"PIROOZ ZARRABIAN"

**PIROOZ ZARRABIAN
Managing Broker**

Dated 21st day of August, 2023