

BC FINANCIAL SERVICES AUTHORITY

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

AND IN THE MATTER OF

[APPLICANT 1]  
(Former Licence Number [redacted])

**REASONS FOR DECISION REGARDING QUALIFICATION**

**[These Reasons have been redacted before publication.]**

I. INTRODUCTION

1. [Applicant 1] (“**[Applicant 1]**”) applied to the Real Estate Council of British Columbia (“**RECBC**”) to be licensed as a representative in the trading category with [Brokerage 1] on July 21, 2021. BC Financial Services Authority (“**BCFSA**”) assumed RECBC’s regulatory accountabilities on August 1, 2021. [Applicant 1] submitted a revised application seeking to be licensed at the same level and category with [Brokerage 2] (the “**Brokerage**”) on January 5, 2022. This is my decision pursuant to section 13 of the *Real Estate Services Act*, SBC 2004, c 42 (“**RESA**”) regarding whether he is suitable, of sufficient good reputation, and fit to be licensed under section 10 of RESA.
2. [Applicant 1] was previously licensed as a trading services licensee in the representative category from November 15, 2005 to January 30, 2014. [Applicant 1] was subject to three disciplinary orders during his time as a licensee: [Consent Order 1] regarding a failure to notify his managing broker that a deposit had not been received; [Consent Order 2] regarding his conduct in taking occupation of a property under a contract of purchase and sale, failing to complete on the contract, changing the locks on the property, and then refusing to return possession until just before the registered owner obtained a writ of possession; and [Consent Order 3] regarding his creation of false purchase and sale contract documents, deposit documents, and other documents in order to obtain commission advances he was not entitled to. The underlying conduct occurred in late 2006 for the first two consent orders and 2013 for the third. As a result of the third consent order, [Applicant 1] was barred from applying to be relicensed for three years. Those consent orders are reported here: *[Consent Order 1 Link]*; *[Consent Order 2 Link]*; *[Consent Order 3 Link]*.
3. [Applicant 1]’s application disclosed [Consent Order 3]. [Consent Order 3] noted his prior discipline. As a result, BCFSA made inquiries about [Applicant 1]’s suitability, reputation, and fitness. [Applicant 1] provided responses and attended an interview.

4. On June 6, 2023, BCFSA wrote to [Applicant 1] to give notice under RESA, s 13(3) that the Superintendent of Real Estate (the “**Superintendent**”) had concerns regarding whether he was suitable, of sufficient good reputation and fit to be licensed, was considering refusing to issue him a licence, and offered him an opportunity to be heard.
5. [Applicant 1] requested that opportunity to be heard and was provided a timeline to provide submissions, which he provided on July 27, 2023.
6. For the reasons indicated below, I have decided that [Applicant 1] is not suitable, of sufficient good reputation, and fit to be licensed as a representative in the trading services category at this time.

## II. ISSUES

7. There are three issues before me:
  - a. Has [Applicant 1] met the statutory burden to satisfy the Superintendent that he is “of good reputation and suitable to be licensed” as a representative with the Brokerage in the trading services category, as required by RESA, s 10(a)?
  - b. Has [Applicant 1] met the statutory burden to satisfy the Superintendent that he has not “held a licence that was suspended or cancelled under real estate, mortgage broker or securities legislation ... for a reason that reveals the [[Applicant 1]] as unfit to be a licensee” as required by RESA, s 10(d)(ii)?
  - c. Has [Applicant 1] met the statutory burden to satisfy the Superintendent that he has not “been disciplined by a professional body ... for a reason that reveals [[Applicant 1]] as unfit to be a licensee” as required by RESA, s 10(d)(iii)?
8. The second and third issue are effectively the same in this case and I will consider them together, below.

## III. JURISDICTION

9. I am the Superintendent of Real Estate and therefore hold the statutory powers and duties with respect to sections 10 and 13 of RESA.

## IV. ONUS

10. The applicant has the onus to satisfy me that they are of sufficient good reputation and suitable to be licensed in the category and level for which they apply. They must also establish they are fit to be licensed: RESA, s 10(a) and (d).
11. To help licensees understand how I generally consider the good reputation, suitability, and fitness of an applicant, BCFSA has published an explanation of its administrative process on its website: [Good Reputation, Suitability, and Fitness for Individual Licensees | BCFSA](#). I am guided by that document, but it does not bind me. I must consider good reputation, suitability, and fitness in light of all the applicable circumstances.
12. I must also afford procedural fairness to an applicant where a decision may affect their rights, privileges, or interests. This right includes a right to have an opportunity to be heard. RESA, s 13(3) requires that applicants be provided an opportunity to be heard before the Superintendent refuses to issue a licence to them. After receiving a licence application, including certain required

disclosures, BCFSA reviews the material and may make inquiries or conduct investigations under RESA, s 11. If, on the basis the information discovered in those initial inquiries and investigations, BCFSA has concerns that may result in a refusal to issue a licence to the applicant, then a delegate of the Superintendent provides notice of that intention with an explanation of the concerns that suggest the individual may not have discharged their onus under RESA, s 10. That notice offers the individual an opportunity to be heard, notes that the Superintendent may conduct further investigations under RESA, s 11 if that opportunity is requested, and notes that the applicant may be ordered to pay expenses of the opportunity to be heard if they are unsuccessful. If the applicant requests an opportunity to be heard, BCFSA may conduct such further investigation as necessary, and then will ask the individual for final written submissions on the issue of their suitability. Those final submissions may include documents, evidence, statements, and argument.

13. I must determine facts and decide issues based on the material obtained during BCFSA's inquiries and investigation and based on the applicant's submissions. I must scrutinize the materials and submissions with care and ensure that the material relied on is sufficiently clear, convincing, and cogent to satisfy me that the applicant is suitable, of sufficient good reputation, and fit to be licensed on a balance of probabilities. I may, however, apply individual expertise and judgment to how I evaluate or assess the material.

#### **V. BACKGROUND AND PROCESS**

14. The material before me consisted of: [Applicant 1]'s applications, responses, interviews, and submissions and the above noted consent orders as summarized by BCFSA staff; certain court materials from civil claims as noted below; BCFSA's letter to [Applicant 1] giving him notice of his opportunity to be heard; and [Applicant 1]'s submissions on that opportunity to be heard.
15. While I have reviewed and considered the above material, the following summary of the background and process is not intended to comprehensively recite that material and information. It is intended to provide context for my reasons.
16. RECBC received [Applicant 1]'s application to be licensed as a representative licensee in the trading category with [Brokerage 1] on July 2, 2021. He disclosed in that application that he was subject to previous disciplinary orders before RECBC. [Applicant 1] submitted a revised application on January 5, 2022 seeking to be licensed with the Brokerage.
17. [Applicant 1]'s previous disciplinary orders are:
  - a. [Consent Order 1], in which he consented to a \$750 discipline penalty, remedial education, and payment of \$750 in expenses for failing to advise his managing broker that a deposit cheque was not received.
  - b. [Consent Order 2], in which he consented to a 90-day suspension, remedial education, and payment of \$750 in expenses for his misconduct related to an attempted purchase of property. In that case, he admitted that he removed subjects without having financing in place, provided a deposit cheque which was returned for insufficient funds, changed the locks without the registered owner's knowledge despite the fact that the owner had changed the locks to exclude him, occupied the property prior to completion pursuant to an amendment to the agreement but failed to return possession after completion did not

occur until just before the owner obtained a writ of possession. Notably, this misconduct included deceptive dealing or wrongful taking.

- c. [Consent Order 3], in which he consented to cancellation of his licence, a three-year ban on reapplication, completion of remedial education, and payment of \$1,500 in expenses for forging two contracts of purchase and sale, certain correspondence, and deposit documents in order to obtain commission advances.
18. [Consent Order 3] also notes that [Applicant 1] was suspended from the Insurance Council of British Columbia from January 1, 2005 to May 11, 2005, when his licence was terminated and states that he would be required to attend a suitability hearing should he reapply for licensing by the Insurance Council. BCFSA's inquiries have indicated the Insurance Council suspended him because he failed to take certain courses required of him. In other words, it was not a disciplinary matter.
  19. BCFSA's records indicate that [Applicant 1] did not pay the enforcement expenses portion of [Consent Order 3] until September 23, 2021, 2 months and 21 days after he first applied to be relicensed.
  20. In an interview performed by BCFSA investigators on May 9, 2022, [Applicant 1] indicated that he understood he had previously misconducted himself and had put the public at risk. [Applicant 1] said he accepted what he had done and that the discipline he received was warranted. He advised that his conduct resulting in [Consent Order 2] happened because he removed subjects on the transaction based on a verbal confirmation that funding was available, and he acknowledges he should have obtained a commitment letter.
  21. [Applicant 1] advised that [Consent Order 3] stemmed from issues with alcohol abuse, online gambling issues, and the breakup of his marriage. He admitted during the interview that the conduct related to properties that were not actually for sale when he created the false documents. He advised that he was enrolled in counselling to address his alcohol abuse issues and that he continued to seek counselling. He further advised that he sees a counsellor every few months. However, [Applicant 1] provided no documentary or independent proof of that counselling, stating that his counsellor does not provide letters of that sort. He advised that he no longer gambles but that he does consume alcohol from time to time, but never to excess.
  22. [Applicant 1] has acknowledged that the conduct underlying the last consent order was embarrassing for him, his family, and his children. He says he "owns" his mistakes. He stated he has changed, and he believes the risks underlying his previous conduct "are gone." He has acknowledged that his previous conduct may have undermined public confidence in the real estate profession. He indicated that he hopes to return to the real estate industry, be a better realtor, and be a better person. He says he would be able to explain to younger people the things that they cannot do and that they should not underestimate the regulator.
  23. He advised, in the interview, that he is willing to accept conditions on his licence and that he intends to continue working in his then current role as a food broker until he is on his feet.
  24. BCFSA has been advised that [Applicant 1] has been permanently expelled from membership with the Real Estate Board of Greater Vancouver in regard to trading services. BCFSA's correspondence with the Victoria Real Estate Board indicates that this may impact his ability to provide real estate services with brokerages that are members of that board and other real estate

- boards. This permanent ban resulted from [Consent Order 3]. Although in some cases disciplinary steps taken by real estate boards may be relevant, BCFSA previously indicated to [Applicant 1] that this was it was not directly relevant to the suitability decision in this case and I agree. I have decided to give the ban little weight because it flows from RECBC's [Consent Order 3], and that is an issue for [Applicant 1] to resolve, should he become relicensed. Just like the Insurance Council suspension, other than noting it, I have decided it does not bear on my decision in any way.
25. After [Applicant 1]'s licence cancellation, he worked as an unlicensed assistant and worked in two sales positions. He also bought and sold some properties as a principal, either in his own name or on behalf of his company.
  26. [Applicant 1] also volunteered with the [Redacted] Humane Society and the BC Humane Society in 2020 and 2021 and with [Redacted] Minor Hockey as an assistant coach from 2014 to 2016.
  27. [Applicant 1] has been involved in three civil claims involving unpaid debts. Those debts are to a former girlfriend, a former girlfriend, and business partner, and a former legal counsel. Each of those matters resulted in consent court orders in 2022 requiring [Applicant 1] to make payments according to payment plans. BCFSA's inquiries have indicated [Applicant 1] is up to date on those payments, as of the dates BCFSA sought confirmation. However, BCFSA was advised that he has not always complied with the payment plans.
  28. Those consent orders include:
    - a. A \$4,000 order arising from a Small Claims settlement conference dated February 4, 2022;
    - b. A \$8,815.99 consent order regarding legal fees dated April 14, 2022; and
    - c. A \$110,000 consent order dated July 8, 2022.
  29. The latter two orders included terms regarding payment of the amounts owing from funds held in trust in relation to another proceeding. It appears there was some dispute between the holders of those consent orders regarding their priority to those trust funds.
  30. [Applicant 1] completed his Real Estate Licensing Examination on June 25, 2021 on his second attempt. He also completed the Real Estate Trading Services Remedial Education Course in April 2018, as required by [Consent Order 3] with RECBC.
  31. On June 6, 2023, BCFSA provided [Applicant 1] with notice under RESA, s 13(3) that it had concerns regarding whether he was suitable, of sufficient good reputation, and fit to be licensed and was considering refusing to issue his licence and offering him an opportunity to be heard. That letter set out the above background and offered [Applicant 1] an opportunity to be heard regarding his application.
  32. The June 6, 2023 letter also summarized the delegate of the Superintendent's concerns regarding [Applicant 1]'s suitability, good reputation, and fitness. In short, that letter states that [Applicant 1] has the onus of demonstrating that he has rehabilitated himself since his past misconduct. It notes that the misconduct demonstrated a general trend toward increasingly serious misconduct culminating in serious dishonesty. It noted that [Applicant 1]'s recent debt litigation mirrored the conduct that resulted in [Applicant 1]'s [Consent Order 2] by requiring the parties to proceed all the way to orders before [Applicant 1] would comply with his obligations. The letter notes that there is

Reasons for Suitability Decision  
[Applicant 1]

- some indication that [Applicant 1] has rehabilitated himself, but that these similarities suggest he is not sufficiently rehabilitated such that he “will comply with [his] regulatory obligations and comport [him]self generally in a manner that does not bring the industry into disrepute, does not undermine public confidence in the real estate industry, and is not contrary to the best interests of the public without the need for individual, compulsory supervision”. In the same vein, it notes that “conditions cannot “bootstrap” suitability requirements.”
33. On July 1, 2023, [Applicant 1] wrote a letter requesting an opportunity to be heard. In that letter, [Applicant 1] expressed his desire to regain his licence, and reiterated that he acknowledges the seriousness of his misconduct. He notes that he has completed the required education, sought counselling, and continues to be committed to personal development. He expresses a commitment to regulatory compliance and notes that he is willing to accept conditions on his licence.
  34. On July 7, 2023, BCFSA issued a letter to [Applicant 1] indicating that his opportunity to be heard would proceed and providing him a deadline of July 28, 2023 to provide his final submissions, including any evidence. The letter instructed [Applicant 1] to treat the submissions as final and to include all relevant information with it. It noted that he may want to consider whether conditions are appropriate and if so in what form. The letter enclosed a draft copy of BCFSA’s standard enhanced supervision conditions for [Applicant 1]’s reference.
  35. On July 27, 2023, [Applicant 1] made his submissions. Those are dated July 24, 2023, but were received July 27, 2023. It enclosed 11 reference letters and a copy of the draft enhanced supervisions conditions signed by himself and his proposed managing broker.
  36. [Applicant 1]’s submissions note that the period of his reapplication has been one of self-reflection. He states that the reapplication itself “stands as a testament to my commitment to learning from past errors and demonstrating my unwavering passion for real estate.” He states that he changed his proposed brokerage from [Brokerage 1] to [Brokerage 2] to have “adequate training, support, and guidance.”
  37. [Applicant 1] says the debts referenced above resulted from a “tumultuous period” in his life and the separation from his spouse. He notes that he resolved the claims by consent order and acknowledges occasional late payments, which include “technical issues or oversights.” He reiterates his commitment to avoiding his past mistakes. He acknowledges his past issues with alcohol and gambling and his commitment to avoid recurrence of those issues. He notes the ban by the Real Estate Board of Greater Vancouver and says that he may have the ability to deal with it and will do so if he becomes licensed. As I have noted above, I do not see that ban as particularly relevant to this decision.
  38. The reference letters are largely dated in July 2023. Some are undated, but may have been prepared in the July 2023 timeframe as well. They generally speak well of [Applicant 1] and his character including his dependability, responsibility, and compassion. However, few of them reference [Applicant 1]’s licence cancellation and those that do mention it do not set out whether the person knows about the events that resulted in the cancellation, except perhaps the letter from his ex-wife. Many disclose that [Applicant 1] has helped the individual personally or that he has volunteered in the community, including with [Redacted] Minor Hockey Association. A few of the letters describe the writer’s own qualifications. Those include a former [Redacted] City Councillor, a certified home inspector, a dentist, and a director with [Redacted] Health Authority. The letters also include [Applicant 1]’s ex-wife who attests to [Applicant 1]’s commitment as a father, his maturity,

- and his commitment to self-improvement. She writes quite positively of [Applicant 1] and indicates she knows about his past sanctions by RECBC.
39. I take the inclusion of the signed draft conditions with [Applicant 1]'s submissions to indicate he, and his managing broker, consent to those conditions should [Applicant 1] be relicensed.
40. On September 11, 2023, the delegate of the Superintendent tasked with rendering a decision on this matter went on an unexpected leave of absence. I understand that the delegate had made a preliminary decision to refuse [Applicant 1]'s licence and written reasons were being prepared but had not been completed or signed by the time that leave commenced. To provide [Applicant 1] with a decision, I have stepped in to make the decision. Although I am aware of the previous decision, I am not bound by it and considered the matter as if I were making the decision at first instance and the decision set out in this document is my own.

## VI. REASONS FOR DECISION

41. [Applicant 1] has the onus to prove he is currently of sufficient good reputation and suitable to be licensed at the level and in the category applied for on a balance of probabilities. [Applicant 1] must also demonstrate that he has not been disciplined or had a licence cancelled or suspended under real estate legislation in British Columbia for a reason that reveals he is unfit to be licensed. These issues are not mutually exclusive. An offence conviction, licence refusal, or discipline proceeding can be grounds to find an applicant unsuitable or lacking in sufficient good reputation in addition to rendering them unfit.
42. Where the applicant makes legal arguments, I am not bound to accept the law as described by them: *International Woodworkers of America, Local 2-69 v Consolidated-Bathurst Packaging Ltd*, [1990 CanLII 132 \(SCC\)](#), [1990] 1 SCR 282 (SCC) at para [32](#). I note therefore that good reputation, suitability, and fitness under RESA are similar to “good character” and “fitness” requirements under other legislation in British Columbia and Canada. Where I consider relying on a case that is of particular import that goes beyond the general principles explained to the applicant in BCFSA's correspondence, the notices to the applicant, or the material published by BCFSA or a case that appears determinative of the issue against the applicant, BCFSA provides notice of that case and an opportunity for the applicant to provide submissions on it. That did not occur here.
43. A hearing committee of the Law Society of British Columbia summarized good character and fitness principles in *Applicant 3 (Re)*, [2010 LSBC 23](#). Fitness encompasses good character. In the context of the legal profession, the hearing committee quoted the principle that “a lawyer must not only show that he or she has all the attributes of good character – honesty being one of them – the lawyer must also show that he or she has other attributes from which a forecast of future integrity can be made”: at para 19. The standard is not one of perfection, but an applicant must establish good character at the time of the hearing and that the determining factor is the public interest: at paras 19 and 23.
44. I will address the issue of [Applicant 1]'s fitness under RESA, s 10(d) first and then turn to the issue of [Applicant 1]'s suitability and good reputation.

### A. Fitness

45. In determining whether [Applicant 1] is fit to be licensed within the meaning of RESA, s 10(d), I must consider whether one of the triggering events in section 10(d)(i)-(iv) has occurred and if so

whether [Applicant 1] has rehabilitated himself. The triggering events in section 10(d)(ii) and (iii) have occurred. [Applicant 1]'s licence was cancelled [Date Redacted] and he was barred from reapplication for three years. I conclude that in [Consent Order 3], [Applicant 1]'s licence was cancelled for a reason that, at that time, rendered him unfit to be licensed. I find the preceding conduct that resulted in his [Consent Order 1] reprimand and [Consent Order 2] suspension informed the [Consent Order 3] cancellation. The question before me is whether he has rehabilitated himself since then such that he is presently fit to be licensed.

46. The guidance published by BCFSA sets out a list of non-exhaustive rehabilitation factors that should be considered where a fitness issue under RESA, s 10(d) arises. Those factors include whether the applicant has:
- a. paid restitution or damages to any person harmed by the conduct;
  - b. successfully completed or was discharged early from probation or parole [or satisfied other regulatory conditions or orders];
  - c. corrected the business or other practices that created a risk of harm to others;
  - d. obtained treatment for addiction or substance use conditions that contributed to the conduct, based on evidence from physicians or other persons competent to testify in that regard;
  - e. obtained treatment for mental health conditions that contributed to the conduct, based on evidence from physicians or other persons competent to testify in that regard;
  - f. completed or is enrolled in formal education or training courses for professional- or self-improvement-;
  - g. volunteers or volunteered with programs designed to provide social benefits;
  - h. fulfills their personal responsibilities; and
  - i. demonstrates a change in attitude from when the conduct occurred, including whether they acknowledge and appreciate the conduct, the conduct's seriousness, the circumstances that led to the conduct, and the impact of the conduct on victims and the public, as evidenced by any or all of the following:
    - i. the applicant's own testimony;
    - ii. the testimony of persons who know of the conduct and are familiar with the applicant's subsequent and current attitudes and behaviour; and
    - iii. testimony or statements from probation officers, parole officers or law enforcement officials competent to testify as to the applicant's social adjustments.
47. The starting point for [Applicant 1] regarding his rehabilitation is the serious misconduct underlying his disciplinary record. The [Consent Order 2] and [Consent Order 3] disciplinary matters concern very serious and intentional misconduct. The [Consent Order 2] matter involved [Applicant 1] intentionally depriving a rightful owner of their property without legal basis. The [Consent Order 3] matter involved the forgery of various documents and serious, repeated, and self-interested dishonesty in late 2013. That dishonesty required him to forge a significant number of documents,



- submit them to his brokerage, and then lie about the continuing status of the underlying, non-existent transaction. [Applicant 1] states that this conduct was related to and caused by his marital breakdown and alcohol and gambling issues.
48. The above list of rehabilitation factors does not include consideration of the passage of time on its own. As noted, I must consider all the circumstances and am not bound by that list. In my view, the passage of time is relevant. In [Applicant 1]'s case, approximately 10 years have passed since the conduct that gave rise to [Consent Order 3]. That is a substantial period. I note also that approximately seven years passed between the conduct that resulted in [Consent Order 2] and the conduct that resulted in [Consent Order 3]. Considered on its own, that passage of time weighs in [Applicant 1]'s favour. However, I do not consider the passage of time on its own. I consider it including what occurred or did not occur during that passage of time. The factors listed above help to inform that consideration.
49. Regarding payment of restitution and compliance with regulatory orders, there is no evidence before me that [Applicant 1] repaid the \$10,290.22 advance he obtained on November 1, 2013 noted in [Consent Order 3]. That consent order indicates that it had not been repaid by the date of the consent order on [Date Redacted], stating that the "matter has not been resolved" by that date. It may have been repaid thereafter. Because no evidence was submitted, I do not know. I further note that [Applicant 1] did not pay the expenses portion of his consent order until after he applied for relicensing. The order did not set a specific deadline for that payment but did require it be paid before he could be relicensed.
50. Regarding the correction of his business practices, [Applicant 1] has been employed and involved in real estate transactions. I am not aware of any issues that have arisen since [Consent Order 3] regarding [Applicant 1]'s business practices except for a substantial unpaid debt resulting in a \$110,000 consent order against him.
51. [Applicant 1] says he obtained treatment for the alcohol and gambling issues that contributed to his previous misconduct.
52. He completed the required education to become relicensed prior to his application.
53. He volunteered with the [Redacted] Humane Society and the BC Humane Society in 2020 and 2021 and with [Redacted] Minor Hockey as an assistant coach from 2014 to 2016. It is unclear what specifically he did with the Humane Societies. One of the reference letters he supplied suggests he had some ongoing involvement with [Redacted] Minor Hockey. [Applicant 1] has not disclosed any details regarding any currently ongoing volunteer activities.
54. The reference letter from [Applicant 1]'s ex-wife states that he has fulfilled his personal responsibilities as a father and is well regarded by his children. However, he has not fulfilled his personal responsibilities to his creditors, as evidenced by the consent orders referenced above.
55. [Applicant 1] states that he has changed his attitude following his discipline by RECBC. He professes to a commitment to self-improvement. He has sought out and continues to undertake counselling. However, I note I have no evidence regarding the nature and results of that counselling from the counsellor, except for [Applicant 1]'s own statements that they have been useful. [Applicant 1]'s application is supported by 11 reference letters that speak positively of him. Most of the reference letters do not disclose that they know or have a sense of the seriousness of [Applicant 1]'s previous misconduct. They do not therefore speak to the referees knowing what it is

- they are supporting [Applicant 1] for. I do note that the letter from [Applicant 1]'s ex-wife speaks very positively about [Applicant 1] and his trajectory toward rehabilitation and it demonstrates an understanding of [Applicant 1]'s past misconduct. The writer obviously has known [Applicant 1] intimately and for a prolonged period.
56. After considering the material and weighing it, I conclude that [Applicant 1] has not established that he has rehabilitated himself to a sufficient extent to render him fit to be licensed. The 2022 consent orders in [Applicant 1]'s civil proceedings demonstrate that he has ongoing issues complying with his obligations and that echoes [Applicant 1]'s past misconduct. After giving those orders, [Applicant 1] then has a spotty record of compliance with those orders. Although the disciplinary conduct is dated, the civil proceedings breathe new life into [Applicant 1]'s past misconduct in a way that tends to indicate that [Applicant 1] is not rehabilitated in a way that would suggest he is willing and able to comply with his statutory and legal obligations under RESA and they reduce the importance of the mere passage of time since [Applicant 1]'s disciplinary proceedings.
57. I give some weight to the positive reference letters [Applicant 1] has submitted. However, their weight is diminished by the fact that the writers do not disclose an understanding of the seriousness of [Applicant 1]'s past misconduct and how that seriousness impacts his suitability for the licence he is seeking. Further, those letters, even the most persuasive one from [Applicant 1]'s ex-wife, do not address the overarching concern that [Applicant 1]'s past misconduct and current debt issues indicate that [Applicant 1] may not be willing or able to comply with his legal obligations without being compelled to. That willingness and ability is a crucial element of licensing. As noted in BCFSA's June 6, 2023 letter, in some cases conditions can be imposed where the application has demonstrated they are suitable, of sufficient good reputation, and fit to be licensed, but the Superintendent still expects that applicants will demonstrate they are able and willing to comply with their obligations without direct, compulsory oversight. [Applicant 1] has not demonstrated that.
58. I have also given some weight to [Applicant 1]'s volunteer work and community involvement. It would be useful to have more information regarding what exactly [Applicant 1] did with the Humane Societies and his work with the [Redacted] Minor Hockey Association. This volunteer work goes some way to show that [Applicant 1] has reformed himself. However, that volunteer work is now approximately two years old and does not indicate an ongoing commitment to self-improvement through community involvement. In my view, this does not demonstrate that [Applicant 1] has had a long-standing change in character that would show he is rehabilitated. Again, the recent litigation matters speak more directly and more clearly to those points.
59. I therefore conclude that [Applicant 1] has not proven he is presently fit to be licensed at this time as required by RESA, s 10(d).

**B. Suitability and Good Reputation**

60. In my view, an applicant cannot be suitable if they are unfit to be licensed. Therefore, my determination that [Applicant 1] is unfit precludes [Applicant 1] from being suitable and of sufficient good reputation.
61. I am of the view that [Applicant 1] has not demonstrated sufficient rehabilitation to show that he is suitable and of sufficient good reputation to be licensed. To do so, he would need to demonstrate more clearly that he is willing and able to comply with his legal obligations. He would also need to demonstrate more clearly that he has reformed his character. I am not satisfied that [Applicant 1]

has proven he has the “attributes from which a forecast of future integrity can be made”: *Applicant 3 (Re)*, [2010 LSBC 23](#) at para 19.

**VII. DECISION**

62. For the reasons set out above, I refuse to issue [Applicant 1] a licence pursuant to RESA, s 13.
63. [Applicant 1] is prohibited from applying to be licensed under RESA for a period of two (2) years from the date of this decision. In my view, [Applicant 1] can reapply after this time by using it to demonstrate his rehabilitation and a change in his character. He could do so by significant consistent contributions to his community and significant positive steps toward discharging his legal obligations as evidenced by the consent order he has entered into.
64. [Applicant 1] has a right to appeal this decision to the Financial Services Tribunal under section 54(1)(a) of RESA. [Applicant 1 will have 30 days from the date of this decision to make that appeal: *Financial Institutions Act*, RSBC 1996, c 141, s 242.1(7)(d) and *Administrative Tribunals Act*, SBC 2004, c 45, s 24(1).

DATED at Vancouver, British Columbia, this 27<sup>th</sup> day of October, 2023.

“Original signed by Blair Morrison”

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Blair Morrison  
Superintendent of Real Estate  
Province of British Columbia