

CITATION: Mills (Re), 2024 BCSRE 47

Date: 2024-07-16

File # 19-625

BC FINANCIAL SERVICES AUTHORITY

IN THE MATTER OF THE *REAL ESTATE SERVICES ACT*

SBC 2004, c 42 as amended

AND

IN THE MATTER OF

WENDY MILLS

(148934)

AND

WENDY MILLS PERSONAL REAL ESTATE CORPORATION

(148934PC)

CONSENT ORDER

[This Order has been redacted before publication.]

RESPONDENTS: Wendy Mills, Representative, RCJCPBSJ Realty Corporation doing business as Keller Williams Realty VanCentral

Wendy Mills Personal Real Estate Corporation

DATE OF CONSENT ORDER: July 16, 2024

COUNSEL: Gareth Reeves, Senior Legal Counsel for the BC Financial Services Authority
John Trueman, Legal Counsel for the Respondents

PROCEEDINGS:

On July 16, 2024, 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 Wendy Mills, on their own behalf and on behalf of Wendy Mills Personal Real Estate Corporation.

WHEREAS the Proposal, a copy of which is attached hereto, has been executed by Wendy Mills, on their own behalf and on behalf of Wendy Mills Personal Real Estate Corporation.

NOW THEREFORE, having made the findings proposed in the attached Proposal, and in particular having found that Wendy Mills and Wendy Mills Personal Real Estate Corporation committed professional misconduct within the meaning of section 35(1)(a) and (c) of the *Real Estate Services Act* (“RESA”) and contravened sections 7(3)(a) and 27(1) of RESA and sections 29(2)(a), 30(a), 30(b), 30(d), 30(f), 33, 52, and 54 of the *Real Estate Services Rules* (the “Rules”) and committed conduct unbecoming a licensee within the meaning of section 35(2)(a), (b), and (c) of RESA, pursuant to section 43 of the RESA the Superintendent orders that:

1. Wendy Mills’s and Wendy Mills Personal Real Estate Corporation’s licences be cancelled effective July 18, 2024;
2. Wendy Mills and Wendy Mills Personal Real Estate Corporation jointly and severally pay a discipline penalty to BCFSA in the amount of \$110,000 within six (6) months from the date of this Order; and
3. Wendy Mills and Wendy Mills Personal Real Estate Corporation jointly and severally pay enforcement expenses to BCFSA in the amount of \$5,000 within six (6) months from the date of this Order.

If Wendy Mills and/or Wendy Mills Personal Real Estate Corporation 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 16th day of July, 2024 the City of Victoria, British Columbia.

Superintendent of the BC Financial Services Authority

“Original signed by Jonathan Vandall”

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

Attch.

File # 19-625

BC FINANCIAL SERVICES AUTHORITY

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

AND

IN THE MATTER OF

**WENDY MILLS
(148934)**

AND

**WENDY MILLS PERSONAL REAL ESTATE CORPORATION
(148934PC)**

**CONSENT ORDER PROPOSAL BY WENDY MILLS
AND WENDY MILLS PERSONAL REAL ESTATE CORPORATION**

BACKGROUND AND FACTS

This Consent Order Proposal (the "**Proposal**") is made by Wendy Mills ("**W Mills**") on her own behalf and on behalf of and Wendy Mills Personal Real Estate Corporation ("**WM PREC**") 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, W Mills on her own behalf and on behalf of WM PREC and the Superintendent have agreed upon the following facts:

1. W Mills (148934) has been licensed as a trading representative since July 19, 2006. She has the following licensing history:
 - a. City Realty Ltd (X027906) from July 19, 2006 to January 9, 2009;
 - b. Crest Realty Westside Ltd trading as "RE/MAX Crest Realty Westside" from January 9, 2009 to March 18, 2013;
 - c. Macdonald Realty Ltd (X001949) from March 18, 2013 to July 30, 2014;
 - d. City Realty Ltd trading as "RE/MAX City Realty" (X027906) from July 30, 2014 to September 28, 2016;
 - e. RCJCPBSJ Realty Corporation trading as "Keller Williams Realty VanCentral" (X033018) (the "**Brokerage**") from September 28, 2016 to present.
2. WM PREC became licensed on August 26, 2016.
3. W Mills was at all relevant times licensed as a trading representative with the Brokerage.

4. [Individual 1] (“**Individual 1**”) purchased [Property 1], Vancouver, BC, [redacted] (the “**Property 1 Property**”) for \$208,000 on March 28, 2013.
5. In the fall of 2017, W Mills and WM PREC acted as agent for [Individual 1] for the sale of [Property 1] for a total purchase price of \$417,000, which closed on October 18, 2017.
6. After [Property 1] sold, W Mills and [Individual 1] agreed that [Individual 1] would invest \$60,000 into a co-ownership investment scheme whereby W Mills would acquire a property at [Property 2], Maple Ridge, BC (“**Unit 21**”) and [Individual 1] would receive a \$20,000 profit after W Mills resold the property.
7. On January 7, 2018, W Mills signed a form of Co-Ownership Agreement for Unit 21 which provided that W Mills, named “Teamcity” in the agreement, would contribute \$130,000 to the purchase and [Individual 1] would contribute \$60,000 and that “[Individual 1] will receive \$20,000 for her investment of \$60,000 for a total of \$80,000.” The agreement provided that W Mills would acquire the property in her name and hold it in trust for [Individual 1] in proportion to her interest. A version signed by [Individual 1] is not available but the dotloop.com records show she signed on this date.
8. On January 8, 2018, [Individual 1] paid W Mills \$60,000 by cheque and W Mills deposited that sum into her personal account on that same date. The account was overdrawn by \$43,916.82 before the cheque was deposited, resulting in a \$15,283.18 positive balance after deposit of the cheque, and the account was back into a negative balance of \$5,300.57 by January 17, 2018.
9. W Mills did not acquire Unit 21. She took some steps to acquire Unit 21, including viewing Unit 21 twice and discussing the purchase price with the apparent owner. When she decided not to acquire Unit 21, W Mills did not advise [Individual 1] that she had not acquired Unit 21 and in fact represented to [Individual 1] that she had acquired Unit 21.
10. On July 6, 2018, W Mills wrote to [Individual 1] to advise that Unit 21 had sold and would be closing in mid August 2018.
11. W Mills paid back [Individual 1] \$20,000 from the purported investment in Unit 21 by way of:
 - a. July 23, 2018 - \$2,500;
 - b. July 25, 2018 - \$2,500;
 - c. July 28, 2018 - \$1,000;
 - d. August 9, 2018 - \$2,000;
 - e. September 1, 2018 - \$2,000;
 - f. September 21, 2018 - \$5,000; and
 - g. September 28, 2018 - \$5,000.
12. On August 20, 2018, [Individual 1] asked for her \$60,000 principal back while waiting for a new investment so she could make \$60.00 a month in a high interest savings account.
13. On August 20, 2018, W Mills responded to [Individual 1] to advised that she had another unit available in the same complex and could do another investment of the same sort as Unit 21 right away.

14. On September 11, 2018, W Mills signed a second Co-Ownership Agreement for the purchase of [Property 3], Maple Ridge, BC (“Unit 48”) with W Mills paying \$160,000 and [Individual 1] paying \$60,000. The Co-Ownership Agreement for Unit 48 was in substantially the same form as the Co-Ownership Agreement for Unit 21. The agreement states that “[Individual 1] will receive \$20,000 for her investment of \$60,000 for a total of \$80,000”. The agreement provided that W Mills, again named “Team City” in the agreement, would acquire the property in her name and hold it in trust for [Individual 1] in proportion to her interest. [Individual 1] did not sign this document, but she viewed it and understood it governed their agreement regarding Unit 48.
15. W Mills did not acquire Unit 48. She took no steps to acquire Unit 48. W Mills had no intention of acquiring Unit 48. W Mills did not advise [Individual 1] that she had not acquired Unit 48 and in fact represented to [Individual 1] that she had acquired Unit 48.
16. On May 18, 2019, W Mills emailed [Individual 1] as part of an exchange regarding Unit 48 and said “If you want me to sell the townhouse and take a loss then you will also be taking a loss.” The email also discusses tradespersons showing up to do work on Unit 48 which would allow another draw from the bank. W Mills represented in these emails that she had acquired Unit 48, was unable to sell it for a profit, and that she was having renovation works done on Unit 48.
17. W Mills also represented to [Individual 1] that she had rented out Unit 48.
18. Between July 2019 and February 2020, W Mills paid [Individual 1] a further \$8,000 as follows:
 - a. July 2, 2019 - \$2,000;
 - b. July 17, 2019 - \$1,000;
 - c. October 15, 2019 - \$3,000;
 - d. February 5, 2020 - \$1,000; and
 - e. February 12, 2020 - \$1,000.
19. On April 20, 2020, [Individual 1] filed a Notice of Civil Claim against W Mills, seeking recovery of the remaining amounts owing to her.
20. On October 2, 2020, W Mills and [Individual 1], both acting with independent legal advice, agreed to settle the civil suit for a payment of \$62,500 from W Mills to [Individual 1]. The civil proceeding was dismissed by consent on October 27, 2020.
21. A client-agent relationship arose between W Mills and [Individual 1] in regard to [Individual 1]’s investment in Unit 21 and Unit 48 in this matter as a result of the agreements regarding Unit 21 and Unit 48, the services W Mills provided to [Individual 1] in relation to the acquisition or purported acquisition of Unit 21 and Unit 48, and the actions W Mills took in regard to acquiring an interest in Unit 21 on behalf of [individual 1].
22. Throughout the 2018-2020 period, W Mills was experiencing extraordinary personal and family stresses that severely affected her well-being and professional capacity. Since the events described above, W Mills has made substantial efforts to resolve these issues and has carried on her real estate practice to the present date without incident.
23. W Mills has no prior formal discipline record.

24. A Notice of Discipline Hearing was issued on May 22, 2024 and served on W Mills on her own behalf and on behalf of WM PREC.

PROPOSED FINDINGS OF MISCONDUCT

For the sole purposes of the Proposal and based on the Facts outlined herein, W Mills and WM PREC propose the following findings of misconduct be made by the Superintendent:

1. W Mills committed professional misconduct within the meaning of section 35(1)(c) of the RESA [*wrongful taking or deceptive dealing*] while licensed as a trading services representative in relation to RCJCPBSJ Realty Corporation trading as "Keller Williams Realty VanCentral (X033018) (the "Brokerage") when W Mills engaged in the following conduct:
 - a. between in or about December 2017 to in or about September 2018, W Mills received \$60,000 from [Individual 1] under an agreement to purchase, renovate, and sell Unit 21 under a co-ownership agreement promising to return \$20,000 in profit to [Individual 1] on the sale of Unit 21 and, after taking certain preliminary steps to acquire Unit 21 but not acquiring Unit 21, represented to [Individual 1] that she had acquired Unit 21 in co-ownership with [Individual 1], had renovated it, and had sold it for a profit, none of which occurred, and returned only \$20,000 to [Individual 1] by September, 2018; and
 - b. between in or about August 2018 to in or about October 2020, W Mills represented to [Individual 1] that she would purchase, renovate, and sell Unit 48 using the \$60,000 from [Individual 1] that had purportedly been used in relation to Unit 21, in part using a co-ownership agreement promising to return \$20,000 in profit to [Individual 1] on the sale of Unit 48 and, after not acquiring Unit 48 or taking any steps to acquire it, represented to [Individual 1] that she had acquired Unit 48 in co-ownership with [Individual 1], had renovated it, and had rented it out, none of which occurred, and only paid \$70,500 of the \$80,000, composed of \$60,000 in initial investment and \$20,000 in promised profit, to [Individual 1] by October 2020
2. W Mills committed professional misconduct within the meaning of section 35(1)(a) of the RESA while licensed as a trading services representative in relation to the Brokerage when W Mills engaged in the following conduct:
 - a. engaged in the conduct described in paragraph 1, contrary to Rules, s 33 [*duty to act honestly*] (then Rules, s 3-4);
 - b. provided real estate services other than on behalf of the Brokerage by providing trading services to [Individual 1] regarding the acquisition or purported acquisition of Unit 21 and Unit 48 outside of the Brokerage, contrary to RESA, s 7(3)(a);
 - c. failed to promptly pay or deliver to the Brokerage the sum of \$60,000 received from [Individual 1], as principal, on January 8, 2018 in relation to the purported acquisition of Unit 21 contrary to RESA, s 27(1);
 - d. failed to keep W Mills's managing broker fully informed of the real estate services W Mills was providing to [Individual 1] regarding the purported acquisition of Unit 21 and Unit 48 contrary to Rules, s 29(2)(a) [*keep managing broker informed of real estate services provided*] (then Rules, s 3-2(2)(a));

- e. failed to disclose to [Individual 1] in writing and in advance of providing any real estate services whether or not W Mills would represent [Individual 1] as a client in the transactions in relation to the proposed acquisitions of Unit 21 and Unit 48, contrary to Rules, ss 52 [*disclosures in writing*] (then Rules, s 5-8) and 54 [*disclosure of representation in trading services*] (then Rules, s 5-10);
 - f. used confidential information regarding [Individual 1] obtained as a result of W Mills's role as agent for [Individual 1] in the purchase of [Property 1], Vancouver, BC, [redacted] by [Individual 1] in or about 2013 and the sale of [Property 1], Vancouver, BC, [redacted] by [Individual 1] in or about 2017 to cause [Individual 1] to agree to provide W Mills \$60,000 in January 2018 in furtherance of the conduct described in paragraph 1, contrary to the Rules, ss 30(a) [*act in best interest of client*] (then Rules, s 3-3(a)); and/or
 - g. while in a client-agent relationship with [Individual 1] regarding the purported acquisitions of Unit 21 and Unit 48 and while engaging the conduct described in paragraph 1, W Mills engaged in the following conduct:
 - i. failed to act in the best interests of [Individual 1], contrary to the Rules, s 30(a) [*act in best interest of client*] (then Rules, s 3-3(a));
 - ii. failed to act in accordance with the lawful instructions of [Individual 1], contrary to the Rules, s 30(b) [*act in accordance with client's lawful instructions*] (then Rules, s 3-3(b));
 - iii. failed to advise [Individual 1] to obtain independent professional advice on matters outside W Mills's expertise regarding the terms of the proposed transactions or agreements to acquire Unit 21, Unit 48, or both before [Individual 1] agreed to those transactions or agreements, contrary to the Rules, s 30(d) [*advise client to seek independent professional advice*] (then Rules, s 3-3(d)); and/or
 - iv. failed to disclose to [Individual 1] that W Mills had not acquired Unit 21, Unit 48, or both within a reasonable time or at all, contrary to the Rules, ss 30(f) [*disclose all material information respecting real estate services*] (then Rules, s 3-3(f)); and/or
3. W Mills committed conduct unbecoming within the meaning of any or all of s 35(2)(a) [*conduct contrary to the public interest*], (b) [*undermines public confidence in the real estate industry*], and (c) [*brings the real estate industry into disrepute*] of the RESA while licensed as a trading services representative in relation to the Brokerage when W Mills engaged in any or all of the conduct described in paragraphs 1, 2(a), 2(f), or 2(g).

PROPOSED ORDERS

Based on the Facts herein and the Proposed Findings of Misconduct, W Mills and WM PREC 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. W Mills's and WM PREC's licences be cancelled effective July 18, 2024.
2. W Mills and WM PREC be jointly and severally liable to pay a discipline penalty to BCFSA in the amount of \$110,000 within six (6) months from the date of this Order.

3. W Mills and WM PREC be jointly and severally liable to pay enforcement expenses to BCFSA in the amount of \$5,000 within six (6) months from the date of this Order.
4. If W Mills or WM PREC fail to comply with any of the terms of this Order, the Superintendent may suspend or cancel their licences without further notice to them.

ACKNOWLEDGEMENTS AND WAIVER OF APPEAL RIGHT

1. W Mills and WM PREC 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. W Mills and WM PREC 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 have 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. W Mills and WM PREC 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. W Mills and WM PREC 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, W Mills and WM PREC will not make any public statement(s) inconsistent with the Proposal and its contents. Nothing in this section is intended to restrict W Mills or WM PREC from making full answer and defence to any civil or criminal proceeding(s).
6. W Mills and WM PREC acknowledge and are aware that the Superintendent is not bound to accept any application for relicensing or renewal of their licences. W Mills and WM PREC must always satisfy the Superintendent that they meet the requirements for a licence in section 10 of the RESA, and any Rules, regulations or other instruments made pursuant to the RESA.
7. The Proposal and its contents are made by W Mills and WM PREC 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 W Mills and WM PREC in any civil proceeding with respect to the matter.

"Original signed by Wendy Mills"

**WENDY MILLS on her own behalf and on behalf of
WENDY MILLS PERSONAL REAL ESTATE
CORPORATION**

Dated 15th day of July, 2024

