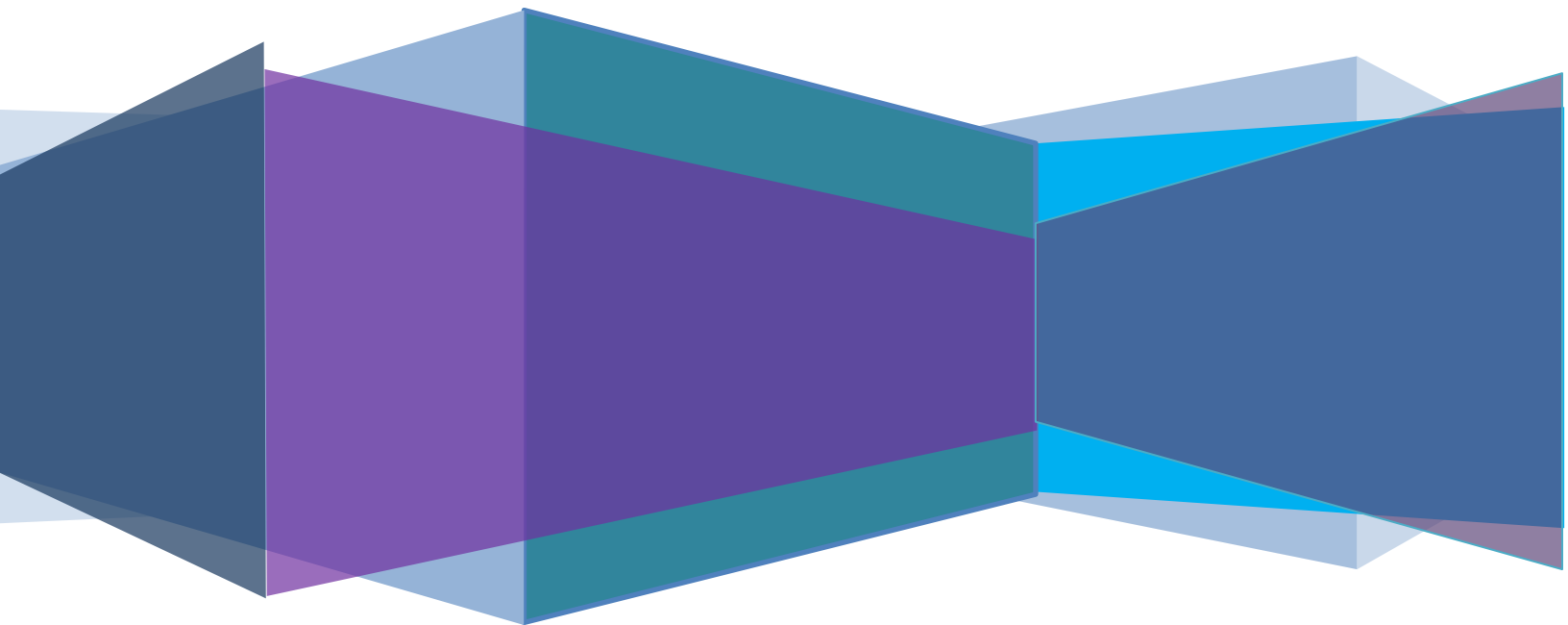




Financial Services Tribunal

2024-2025 Annual Report

Covering the reporting period from
April 1, 2024 – March 31, 2025





Financial Services Tribunal

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Message from the Chair

I am pleased to submit the Annual Report of the Financial Services Tribunal (the “FST” or the “Tribunal”) for the fiscal year beginning April 1, 2024, and ending March 31, 2025. This report is submitted pursuant to section 242.1(5)(d) of the *Financial Institutions Act* and section 59.2 of the *Administrative Tribunals Act*.

APPEAL ACTIVITY

New Appeals – During the reporting period, four new appeals were filed with the Tribunal. Two of the new appeals were filed under the *Real Estate Services Act*, one was filed under the *Mortgage Brokers Act*, and one was filed under the *Financial Institutions Act* (regarding a decision of the Insurance Council of BC). Further details regarding these appeals are provided later in this report.

Appeals Carried Over – Five appeals were carried over from the previous reporting period. Two of these appeals were filed under the *Real Estate Services Act* and three were filed under the *Mortgage Brokers Act*. During the reporting period the Tribunal closed all of these carried-over appeals.

Matters Outstanding – Of the nine appeals that were before the Tribunal during this reporting period, five appeals were closed and four appeals remained outstanding at the close of the reporting period. Three of these outstanding appeals are with the panel for a final decision and one was at an early stage with parties still exchanging documents at the end of the reporting period.

Judicial Reviews – During this reporting period, one new petition for judicial review of an FST decision was filed in the BC Supreme Court. There were five other inactive petitions for judicial review of FST decisions currently before the BC Supreme Court. These inactive petitions were all carried over from prior reporting periods and are inactive because the petitioners have not pursued these matters.

FORECAST OF WORKLOAD FOR THE NEXT REPORTING PERIOD

Based on recent historical averages, the Board expects to receive five to seven appeals each year and that pace continued this year with the Board receiving four new appeals and considering a total of nine appeals during the reporting period.

In 2022 and 2023 the BC Government passed the *Mortgage Services Act*, SBC 2022, c 27 and the *Money Services Businesses Act*, SBC 2023, c 29 but has not yet brought these into force. If either of these acts are brought into force in the next reporting period, it may result in higher appeal volumes.

The FST currently has seven members, all of which are ad hoc part-time members. It is expected that this number will decrease to five members in the next reporting period due to retirement. Being a Tribunal comprised of ad hoc part-time members means that they have other work or personal obligations preventing them from devoting full time to being a member. This structure of a tribunal generally works for lower volume tribunals. However, as volumes increase and matters become more complex, it is becoming increasingly difficult for FST members to devote the amount of time required by the appeals. The FST may need to consider appointing more than seven members to deal with the increased workload and the limitation on existing members given the ad hoc part time appointment structure.

TRENDS NOTED

The FST has attempted to design its process to be as accessible, efficient, and expeditious as possible for all British Columbians, but continues to face unique challenges with respect to hearing appeals involving self-represented parties. The FST continues to hear many appeals from self-represented individuals, who may have financial sector expertise but who are unfamiliar with the legalistic process of appearing before a quasi-judicial appeal tribunal. Of the nine appeals before the FST during the reporting period, half involved self-represented appellants.

One of the inevitable outcomes of this trend is that the FST is not able to mitigate the costs of dealing with self-represented parties who bring petitions for judicial review before the BC Supreme Court if they are dissatisfied with the FST's decision. These processes require the FST to retain outside legal counsel and the formal court system is not adept at handling self-represented parties or dealing with appeals with little or no merit. This has contributed to the delay in the resolution of the five outstanding petitions for judicial review before the courts.

On a related note, in recent years, Canadian legal discourse around how best to support self-represented individuals has embraced the opportunities inherent in generative AI. See for example, recent publications by the National Self-Represented Litigants Project.¹ The FST is monitoring this trend and has observed that generative AI tools appear to be increasingly used by self-represented appellants coming before it. The FST recognizes the benefit of a variety of AI and AI-adjacent technologies for both self-represented individuals and legal counsel alike and takes no issue with this approach to legal research and writing.

Reflecting on this AI trend, two observations from the FST experience are worth noting. First, self-represented appellants do not generally have the depth of legal experience required to effectively direct an AI tool to produce written submissions appropriate for defending their interests in a tribunal setting. Generative AI tools require inputs from the user and the quality of the output depends on the quality of the input. Second, in the experience of the FST, the accuracy and relevancy of AI-generated written submissions remain limited by the knowledge and expertise of the individual. For example, individuals who are not familiar with the jurisdiction of

¹ SLAW.ca, "Blog posts authored by the National Self-Represented Litigants Project" <https://www.slaw.ca/author/nsrlp> (accessed 16 April 2025).

the FST and the applicability of certain legislation cannot identify, and correct jurisdictional and legislation errors made by AI. This situation may be exacerbated by the inequality between low-cost AI applications typically available to self-represented individuals, and the more sophisticated, accurate, and closed-source applications that are available under contract to law firms and large organizations. These observations are not unique to the FST, and they track with the broader experience across Canada.

At this time the FST does not plan to require any parties to expressly disclose whether AI was used in drafting their submissions, as has been done in some Canadian courts. FST members are being advised to continue assessing each party's submission on their own merits and to bring the same critical eye to the arguments and evidence before them, regardless of whether it is submitted by a King's Counsel or a self-represented individual. This approach is consistent with the Canadian Judicial Council's *Ethical Principles for Judges* (2021) and *Guidelines for the Use of Artificial Intelligence in Canadian Courts* (2024).

PLANS FOR IMPROVING THE TRIBUNAL'S OPERATIONS

Ongoing work is being undertaken to improve the accessibility of information that is available to the public on the FST's website. In the current reporting period, the FST's *Practice Directives and Guidelines* were updated to make several housekeeping amendments, including adding a table of contents, consistency in formatting, and combining two sections that both dealt with the same topic. The FST also published an updated Notice of Appeal form during the current reporting period. Significant changes were made to this form, both to modernize the look and feel, and to ensure all aspects were expressed in plain language.

Stacy F. Robertson
Chair, Financial Services Tribunal

Contact Information

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Mandate

The FST hears appeals from institutions and individuals who want to contest enforcement decisions made by the:

- Insurance Council of British Columbia;
- Superintendent of Real Estate;
- Superintendent of Pensions;
- Registrar of Mortgage Brokers; and the
- Superintendent of Financial Institutions.

The FST has jurisdiction to hear appeals under the following British Columbia statutes:

- *Financial Institutions Act*;
- *Credit Union Incorporation Act*;
- *Mortgage Brokers Act*;
- *Pension Benefits Standards Act*;
- *Real Estate Services Act*; and the
- *Real Estate Development Marketing Act*.

Tribunal Membership

FST members are all legally trained and have extensive experience in administrative law. FST hearings are written hearings before a single panel member and therefore each member must be able to consider, decide, and write their own decisions.

During this reporting period, the FST membership consisted of the following individuals:

<i>TRIBUNAL MEMBER</i>	<i>ROLE</i>	<i>INITIAL APPOINTMENT</i>	<i>TERM EXPIRY/ RESIGNATION</i>
Stacy Robertson	Chair	December 13, 2021	December 13, 2029
Dr. Cristie Ford	Vice Chair	February 13, 2023	February 13, 2030
James (Jim) Carwana	Member	June 29, 2020	June 30, 2027
Michelle Good	Member	December 12, 2018	June 11, 2026
Ryan N. A. Hira	Temporary Member	May 27, 2024	March 14, 2025
Catherine McCreary	Member	June 29, 2020	June 30, 2027
Mona Muker	Member	February 13, 2023	February 13, 2025
Richard (Mike) Tourigny	Member	December 17, 2018	December 17, 2029

The FST bid farewell to Mona Muker who served as member from 2023 to 2025, and to Ryan N. A. Hira who served as a temporary member from May 2024 to March 2025. The FST thanks all its members for their service during the reporting period.

Biographies of members are provided in **Appendix 1** to this report.

Operations

The administrative support functions of the FST are provided as part of the Environmental Appeal Board cluster of tribunals (the “EAB cluster”) in Victoria.

In addition to the FST, the EAB cluster provides administrative support to six other quasi-judicial appeal tribunals. This clustering of administrative support for eight independent appellate tribunals has been done to assist government in achieving economic and program delivery efficiencies by allowing greater access to resources while, at the same time, reducing

administration and operating costs. In addition to the FST and the Environmental Appeal Board, the other clustered tribunals are:

- Community Care and Assisted Living Appeal Board;
- Energy Resource Appeal Tribunal;²
- Forest Appeals Commission;
- Health Professions Review Board;
- Hospital Appeal Board; and the
- Skilled Trades BC Appeal Board.

This clustering has resulted in significant savings to government through a shared services approach, particularly for tribunals with lower volumes of cases such as the FST with part time Chairs and ad hoc panel assignments. This arrangement has proven to be an effective and efficient means for providing administrative support to the Board, which in turn enables the Board to fulfill its appellate mandate effectively and efficiently. The shared services approach and common office has led to greater efficiencies in training new staff and having staff with a larger compliment of knowledge to address novel or complicated issues that arise for the FST.

Host Ministry responsibilities for administration of the Financial Services Tribunal (i.e. budget oversight and member appointments, as well as facilities and records supports, etc.) reside with the BC Ministry of Attorney General. The Tribunal and Agency Support Division (TASD), within the Ministry of Attorney General, has provided valuable support to the FST when needed, and has been an effective partner in dealing with emerging issues.

Appeal Activity

There were **four** new appeals filed with the FST during this reporting period, and they remained outstanding at the end of the reporting period. Three of these appeals are with the panels for a final decision and one was at an early stage with parties still exchanging documents at the end of the reporting period.

There were also **five** appeals carried over from the previous reporting period. All five of these appeals were closed in the current reporting period after final decisions on the merits of the appeals were issued.

A summary of each appeal file is provided below.

A total of **seven** decisions were published by the FST during the reporting period. Five of these were final decisions on the merits of an appeal, one was a costs decision after the final decision on the appeal, and one was a preliminary decision on an application to strike a portion of a

² Formerly the Oil and Gas Appeal Tribunal and renamed as of September 1, 2023.

party's written submission. The full text of FST decisions can be found on the Board's website (<https://www.bcfst.ca/decision>), and on CanLII (<https://www.canlii.org/bc/bcfst>).

A summary of each decision is provided in **Appendix 2** to this report.

NEW APPEALS FILED

- **FST-FIA-24-A001 – FILED BY XIAOHUA (AVA) TIAN AND VIKING FINANCIAL SOLUTIONS LTD ON OCTOBER 16, 2024:** Appeal of a September 24, 2024 order of the Insurance Council of BC fining them \$15,000, requiring them to be supervised by a qualified insurance agent for two years, prohibiting them from acting as a nominee for any insurance agency, requiring them to complete professional development courses, and requiring them to pay \$1312.50 in costs of the investigation.
- **FST-MBA-24-A004 – FILED BY MANJOT KHUNKHUN ON AUGUST 19, 2024:** Appeal of a July 17, 2024 decision on liability and sanction by the Registrar of Mortgage Brokers. The liability portion of the decision found that the Appellant has conducted mortgage business in a manner prejudicial to the public interest, and the sanction portion of the decision ordered her to pay a penalty of \$37,500.
- **FST-RSA-24-A002 – FILED BY RASHIN ROHANI ON JUNE 17, 2024:** Appeal of a January 11, 2024 liability decision and a May 17, 2024 sanction decision by the Superintendent of Real Estate. The liability decision found that the Appellant had committed professional misconduct and conduct unbecoming a licensee. The sanction decision cancelled the Appellant's license and ordered her to pay a \$40,000 penalty and \$90,000 in enforcement expenses.
- **FST-RSA-25-A001 – FILED BY SWARAN SINGH DHALI WAL ON MARCH 20, 2025:** Appeal of a March 14, 2025 sanction decision by the Superintendent of Real Estate ordering the Appellant to pay a \$30,000 penalty and \$15,000 in enforcement expenses, and, suspending his license for six months and prohibiting him from re-applying for six months.

APPEALS CARRIED OVER FROM PRIOR REPORTING PERIODS

- **FST-MBA-24-A001 – FILED BY BILLIE AALTONEN ON JANUARY 17, 2024:** Appeal of a December 14, 2023 penalty and costs decision of the Registrar of Mortgage Brokers, ordering the Appellant to pay an administrative monetary penalty of \$30,000 and pay investigative costs of \$3240. Written submissions to the FST concluded on April 4, 2024 and the FST's final decision was issued 119 days later, on August 1, 2024. The FST allowed the appeal of the penalty decision and varied the administrative penalty to \$10,000.
- **FST-MBA-24-A002 – FILED BY JESICA PAULA ASHLEY LABONTE ON JANUARY 15, 2024:** Appeal of a December 15, 2023 penalty and costs decision of the Registrar of Mortgage Brokers, ordering the Appellant to pay an administrative monetary penalty of \$30,000, pay investigative costs of \$13,736, and that her registration is suspended and she is ineligible

to apply for re-registration for 24 months. Written submissions to the FST concluded on April 2, 2024 and the FST's final decision was issued 112 days later, on July 23, 2024. The Appellant only appealed the 24 month suspension and sought to admit new evidence regarding the impact of the suspension on her. The FST dismissed the appeal.

- **FST-MBA-24-A003 – FILED BY MURRAY ALLAN-A-DALE SAVAGE ON FEBRUARY 9, 2024:** Appeal of a June 1, 2023, liability decision and a January 12, 2024 penalty and costs decision of the Registrar of Mortgage Brokers. The liability decision found that the Appellant had conducted himself in a manner that would make him disentitled to registration and the penalty and costs decision cancelled his registration and ordered him to pay \$14,329.91 for investigative costs. Written submissions of the FST concluded on May 2, 2024 and the FST's final decision was issued 316 days later on March 13, 2025. The FST allowed the appeal and dismissed the finding of a breach of section 8(1)(a) of the Mortgage Brokers Act and varied the cancellation of the appellant's registration to a three year suspension and cancelled the costs award against the appellant.
- **FST-RSA-23-A001 – FILED BY BRIAN SCHIEBEL ON JANUARY 29, 2024:** Appeal of an October 27, 2023, decision of the Superintendent of Real Estate refusing to issue a licence and setting a two-year ineligibility period before the Appellant could reapply for registration and assessing \$5,000 in costs for the opportunity to be heard hearing. Written submissions of the FST concluded on April 23, 2024 and the FST's final decision was issued 134 days later on September 4, 2024. The FST dismissed the appeal except with respect to costs which the FST varied, with the consent of the Superintendent of Real Estate, to \$1,500.
- **FST-RSA-24-A001 – FILED BY WEI (VICKY) WANG ON FEBRUARY 5, 2024:** Appeal regarding a May 16, 2023, liability decision and a January 5, 2024, sanctions decision of the Superintendent of Real Estate. The liability decision found that the Appellant had committed professional misconduct and the decision on penalty and costs ordered her to pay an administrative monetary penalty of \$5000, complete professional development courses at the University of British Columbia, and the Real Estate Institute of Canada, and ordered her to pay \$22,958.18 of investigative costs. Written submissions to the FST concluded on May 8, 2024 and the FST's final decision was issued 174 days later on October 29, 2024. The FST allowed the appeal on procedural fairness grounds and set aside the liability and penalty findings of the Superintendent of Real Estate.

JUDICIAL REVIEWS OF FST DECISION

Based on historical averages, the Board expects to receive one petition for judicial review each year, and that pace continued this year with the Board receiving a petition for judicial review of its decision *Wei (Vicky) Wang and Vicky Wang Personal Real Estate Corp. v Superintendent of Real Estate*, 2024 BCFST 5.

This judicial review petition was filed by the Superintendent of Real Estate, who was the respondent in the appeal before the FST. The decision under review dealt with a real estate agent

who had been found by the Superintendent to have committed misconduct by intermingling her money with a client's money. The FST overturned that decision. This judicial review has not yet been set down for a hearing.

There are **five** other inactive petitions for judicial review of FST decisions currently before the BC Supreme Court. These inactive petitions were all carried over from prior reporting periods and are inactive because the petitioners have not pursued these matters.

- **Petition filed by Real Estate Council of British Columbia (S179917)** of FST decisions 2017-RSA-001(a) and (b), issued August 25, 2017 and October 6, 2017. Petition for judicial review filed October 24, 2017 and the FST's response was filed on November 10, 2017. The Real Estate Council of BC has not proceeded with its petition and has not pursued having the matter set down for hearing.
- **Petition filed by Arvind Shankar (S193245)** of FST decision 2018-MBA-001(a) issued January 15, 2019. Petition for judicial review filed March 25, 2019 and the FST's response was filed on May 1, 2019. Mr. Shankar has not proceeded with his petition and has not pursued having the matter set down for a hearing.
- **Petition filed by Real Estate Council of British Columbia (S1913100)** of FST decisions 2018-RSA-004(a) and (b) issued September 20, 2019, and November 13, 2019. Petition for judicial review filed November 19, 2019, and amended November 28, 2019 and the FST's response was filed on February 3, 2020. The Real Estate Council of BC has not proceeded with its petition and has not pursued having the matter set down for hearing.
- **Petition filed by Pamela Peen Hong Yee (S215684)** of FST decision 2019-FIA-007(a), issued April 13, 2021. Petition for judicial review filed June 14, 2021 and the FST's response was filed on July 12, 2021. Ms. Yee has not proceeded with her petition and has not pursued having the matter set down for hearing.
- **Petition filed by Robin Andrew Brown & Rob Brown and Associates Corp (221726)** from the FST's letter of April 14, 2022, stating that the FST does not have authority to waive its appeal filing fee. The petition for judicial review was filed June 3, 2022 and the FST's response was filed on July 7, 2022. The matter was initially set down to be heard in fall 2023. The court subsequently adjourned the matter at the request of the Mr. Brown with no specific terms to reset the hearing date.

PERFORMANCE INDICATORS AND TIMELINES

Section 59.2(b) and (d) of the *Administrative Tribunals Act* requires the Board to report on performance indicators and provide details of the elapsed time from filing to the date of final decision.

The FST appeal process has been designed to be timely, efficient, accessible, and cost effective for British Columbians. Appeals are primarily conducted in writing and are “on the record” only, which means that the entire case is not relitigated before the FST.

All four new appeals that were filed during the current reporting period received a substantive acknowledgement and response from the Board on the same day they were received, or the next business day.

For the five appeals that were closed within this reporting period, the average length of time from the Appellant filing their Notice of Appeal until close of the file when a written decision is issued was 254 days, compared to 282 and 228 days in the two prior reporting periods. The actual number of days for each of these five appeals in the current reporting period were 197, 190, 398, 219, and 267 days.

The Tribunal's *Practice Directives and Guidelines*, which are available on the Tribunal's website, provide that the Tribunal will endeavour to issue a copy of the final decision or order, including written reasons, to the parties within 120 days from receiving their last submissions. In the five appeals involving a final decision during the current reporting period, the decisions were released an average of 171 days after the close of submissions, compared to 184 days in the prior reporting period. The actual number of days for each of the five appeals were 119, 112, 316, 134, and 174.

Conducting a hearing in writing generally saves time and expense for both the parties and the Tribunal. A single member of the Tribunal hears and decides each appeal, which also keeps cost at a minimum. The Tribunal has established timelines for parties to file their written submissions on appeal to keep the process moving. However, as noted above, the FST continues to hear many appeals from self-represented individuals who are unfamiliar with the legalistic process of appearing before a quasi-judicial appeal tribunal.

Of the nine appeals before the FST during the reporting period, half involved self-represented appellants. Self-represented appellants have typically struggled to clearly identify appealable issues and to craft cogent written submissions. In turn, FST panel members typically require additional time to decipher and analyze the issues put forward by self-represented appellants. Occasionally panel members will determine it is necessary to seek further clarifying submissions from the parties, which also extends the submissions stage of an appeal.

As noted above, the Tribunal has observed that appeals before the FST have been increasingly complex, and many have been subject to numerous pre-hearing applications, which extend the amount of time between when an appeal is filed and the final decision. Because appeals are written and “on the record”, sometime these pre-hearing matters are determined as part of the final decision on the merits (rather than as stand-alone matters prior to final determination), thus expanding the scope of the final decision and increasing the length of time required for final decisions to be issued.

Public Interest Disclosure Act Reporting

The *Public Interest Disclosure Act (PIDA)* provides employees of some public bodies with protection from reprisal if they bring forward concerns about specific kinds of serious wrongdoing (i.e. whistleblower protection). The FST is one of the government bodies subject to *PIDA*.

Section 38 of *PIDA* requires the FST to report the number of disclosures of wrongdoing we receive and the results of any investigations we undertake each year. During this reporting period the FST did not receive any *PIDA* disclosures. The FST is unaware of any reports in which it, its staff, or its members (past or present) is alleged to have committed any wrongdoing.

Surveys

Section 59.2(e) of the *Administrative Tribunals Act* requires the FST to report the results of any surveys carried out by the FST during the reporting period. The FST did not conduct any surveys during this reporting period.

Statement of Financial Performance

(For the fiscal year ending March 31, 2025)

In fiscal year 2024/2025, the FST received **\$1700** from appellants in appeal filing fees, and incurred expenses of **\$165,703** as detailed below.

FIVE-YEAR COMPARATIVE CHART

Operating Result	2020/2021 \$	2021/2022 \$	2022/2023 \$	2023/2024 \$	2024/2025 \$
Appellant Fees	4,250	3,400	3,400	4,250	1,700
Funding	152,784	88,157	106,914	107,122	164,003
Expenses	(157,034)	(91,557)	(110,314)	(111,372)	(165,703)
Net	0	0	0	0	0
Expenses	2020/2021 \$	2021/2022 \$	2022/2023 \$	2023/2024 \$	2024/2025 \$
Salaries and Benefits	0	0	0	0	0
Professional Services	25,621	10,831	27,112	43,788	17,021
Board Fees & Expenses	131,413	80,726	83,202	67,584	148,682
Other	0	0	0	0	0
Total FST Expenses	\$157,034	\$91,557	\$110,314	\$111,372	\$165,703
# of FST Appeals	12	9	9	8	9
# of Published Decisions	10	6	6	3	7
# of Judicial Reviews	5	6	8	6	6

TERMINOLOGY NOTES

Salary and Benefits encompass the full-time staff who support the Tribunal. This number is zero because the Board's staff are shared with a cluster of other tribunals who bear that cost instead.

Professional Services reflects the cost of retaining outside legal counsel to represent the Tribunal in judicial review proceedings, to provide professional development to members at the

Tribunal's annual general meeting, and to provide legal advice on operational or case management matters throughout the year. Outside legal counsel are drawn from a prequalified list provided by the BC Ministry of Attorney General and are paid standard government rates. This category also encompasses outside professional services such as court recorders in the event of an oral hearing.

Board Member Fees and Expenses reflects the remuneration and expenses for the Chair and appointed members of the Tribunal. Outside of hearings and decision writing, remuneration may be incurred for time spent on case management, engaging in approved professional development, attending the Tribunal's annual general meeting, improving the Tribunal's processes and operations, and engaging with routine administrative and operational matters and meetings as required. The Chair and members are appointed on an as-and-when needed basis and are paid a per diem for the time they work in accordance with [Treasury Board Directive 1/24](#) and the BC Ministry of Attorney General's [Tribunal Performance Framework and Remuneration Plan](#). Members are also reimbursed for any authorized expenses according to those same policies. Pursuant to section 8.5.3 of Treasury Board Directive 1/24, the Tribunal publishes actual remuneration and reimbursement information [on its website](#). The "Board Member Fees and Expenses" category also reflects the direct costs incurred by the Tribunal when it meets in-person, routine office expenses at its registry, and any registration fees for professional development, such as training opportunities offered by the BC Council of Administrative Tribunals or the Council of Canadian Administrative Tribunals. This line also reflects the cost of the Board's IT infrastructure, including its website, case management system, and standard office software applications.

Appendix 1: Member Biographies

STACY ROBERTSON (CHAIR)

Stacy Robertson is a leader in the financial services industry and currently is the General Counsel of Harbourfront Wealth Management Inc. He previously was the VP Compliance and Regulatory Affairs at Wellington-Altus Private Wealth after spending approximately 10 years as Senior Enforcement Counsel at the Canadian Investment Regulatory Organization (previously the Investment Industry Regulatory Organization of Canada). He has experience in securities enforcement and compliance including member registration, complaints, internal audits, regulatory audits and inquiries and anti-money laundering and terrorist financing surveillance. Previously he worked as an associate and partner at several Vancouver based firms practicing in the areas of insurance, construction, employment, labour, and administrative law. Mr. Robertson has appeared before all levels of court in B.C., before the B.C. Labour Relations Board, the Canadian Industrial Relations Board, and the B.C. Securities Commission. He has extensive experience in administrative law and regulation and is currently the Chair of British Columbia's Hospital Appeal Board and Financial Services Tribunal. Previously, Mr. Robertson served as a member on the Employment Assistance Appeal Tribunal and the Eligibility Appeals Committee for B.C. School Sport. He has completed the Partners, Directors and Officers course through the Canadian Securities Institute. Mr. Robertson holds a Bachelor of Law from the University of New Brunswick, a Bachelor of Commerce from McMaster University, and a diploma from Moscow State University in Political History of Russia and the U.S.S.R.

DR. CRISTIE FORD (VICE CHAIR)

Cristie Ford is professor of law at the University of British Columbia's Peter A. Allard School of Law. Previously, Professor Ford held various teaching and research positions at Columbia University's School of Law, was a senior associate at Davis Polk & Wardwell LLP (New York) and worked as a barrister and solicitor at Guild Yule LLP (Vancouver). She is a member of the Investor Advisory Panels of both the Canadian Securities Administrators (the CSA IAP) and the Canadian Investment Regulatory Organization (CIRO IAP), the Counter Illicit Finance Alliance of B.C.'s Strategic Advisory Board, the Continuing Legal Education Society of B.C.'s Board of Directors, and Access to Justice B.C.'s Leadership Group. Professor Ford has been admitted to the Law Society of British Columbia, and the Bars of the (federal) Southern District of New York and the State of New York. She holds a Doctor of Juridical Science and a Masters of Law from Columbia University, a Juris Doctor degree from the University of Victoria, and a Bachelor of Arts (History) from the University of Alberta.

JAMES (JIM) CARWANA

James Carwana is a Mediator and Arbitrator in addition to being a Member of the Financial Services Tribunal. Previously, Mr. Carwana was Vice Chair at British Columbia Labour Relations Board, and Senior Counsel at Coutts, Weiler and Pulver. He has appeared before Committees of the House of Commons and Senate and acted as legal counsel in matters before all levels of

court and various administrative bodies. Active in his community, he is Director at Surrey Police Board and with the Beach House Theatre Society. Mr. Carwana's work has earned him a peer review legal rating of "Distinguished for High Professional Achievement with High Ethical Standing". He was previously a Lawyer with the Salvation Army Pro Bono Legal Clinic. Mr. Carwana holds a Bachelor of Laws and a Bachelor of Arts from the University of Toronto.

MICHELLE GOOD

Michelle Good is of Cree ancestry and a descendent of the Battle River Cree and a member of the Red Pheasant Cree Nation. She has worked with Indigenous organizations since she was a teenager and at 40 decided to approach that work in a different way by obtaining her law degree from the University of British Columbia. She is currently a student, a writer and is engaged in consulting work and part-time practice of law and tribunal work. Ms. Good was previously the Principal Lawyer at Michelle Good & Company. Her tribunal work includes four First Nation Taxation Assessment Appeal Review Boards, Workers Compensation Appeal Board Community Advisory Council and the Employment Standards Tribunal. She also serves as a Director for BC Assessment. In addition to her legal and tribunal work Ms. Good is an author. Her essay A Tradition of Violence selected was for the peer reviewed anthology entitled Keetsahnak, Our Sisters: Walking with Murdered Indigenous Women, Girls and Two-Spirit Peoples. Her novel Five Little Indians won the 2018 HarperCollins/UBC Best New Fiction Prize. Ms. Good received a Bachelor of Laws and Master of Fine Arts in creative writing from the University of British Columbia.

RYAN N.A. HIRA

Mr. Hira is a lawyer and a practising member of the British Columbia Bar. He is a partner at the Vancouver law firm Hira Rowan LLP. Mr. Hira maintains a broad litigation practice including civil litigation, commercial litigation, and criminal law. He has appeared in all levels of court in British Columbia and has also appeared in the Territorial Court of the Northwest Territories. Over the years, Mr. Hira has been invited to speak and present on a variety of legal subjects in both criminal and civil litigation, more recently with a focus on the law of policing.

Mr. Hira is a graduate from the Robson Hall law school at the University of Manitoba, where he was the director and founding member of the Robson Hall Racquets Club. Prior to law school, Mr. Hira attended the University of British Columbia where he obtained a Bachelor of Arts degree in Political Science, with a minor in history.

CATHERINE MCCREARY

Catherine McCreary was diagnosed with Multiple Sclerosis in 1986 and the disability is often not apparent, although ever-present. She is a Member of the Financial Services Tribunal. Previously, she was a Member of the BC Human Rights Tribunal, and was a Lawyer, Mediator, Arbitrator and Investigator at Catherine McCreary Law Practice. Active in her community, Ms. McCreary is a Board Member with the British Columbia Council of Administrative Tribunals and was the Interim President at British Columbia Industrial Relations Association, and Board Member for Central1 Credit Union, VanCity Credit Union, and First Calgary Financial Credit Union. She holds the

designation of Chartered Director from McMaster University. Ms. McCreary holds a Bachelor of Laws from the University of Calgary.

MONA MUKER

Mona Muker is a review officer and adjudicator at WorkSafeBC and a tribunal member and adjudicator with the B.C. Employment Standards Tribunal. Previously, Ms. Muker was a staff lawyer and tribunals program manager at the Access Pro Bono Society of B.C., a lawyer with both the Maple Law Group and John Carlisle Law Corporation, and post-bar law clerk/attorney at the Orange County Public Defender's Office. Active in her community, she is a lawyer for the People's Law School. Ms. Muker is a member of the Canadian Bar Association (BC's Provincial Council, chair of the Legislation and Law Reform Committee, and is a Director with the B.C. Law Institute. She has been admitted to the Law Society of B.C. and the State Bar of California. Ms. Muker holds a Juris Doctor from Whittier College School of Law (California), and a Bachelor of Arts (Criminology) from Simon Fraser University.

RICHARD (MIKE) TOURIGNY

Mike Tourigny is a Member of the Environmental Appeal Board, Forest Appeals Commission and the Oil & Gas Appeal Tribunal, and a Member of the Financial Services Tribunal. Previously, Mr. Tourigny practiced law for over 30 years as a Commercial Litigation Partner with Lawrence & Shaw, Lang Michener and McMillan LLP. Active in his community, Mr. Tourigny was a Governor with Vancouver Community College and a volunteer lawyer for the BC Law Society Pro Bono Advice Program. He holds a Bachelor of Laws from the University of British Columbia.

Appendix 2: Decision Summaries

There were a total of **seven** decisions published by the FST during the reporting period. Five of these were final decisions on the merits of the appeal, one was a costs decision given after the final decision, and one was a preliminary decision on an application to strike a portion of a party's written submission. The following is a summary of these decisions.

The full text of FST decisions can be found on the Board's website (<https://www.bcfst.ca/decision>), and on CanLII (<https://www.canlii.org/bc/bcfst>).

JESSICA LABONTE V REGISTRAR OF MORTGAGE BROKERS, 2024 BCFST 1

The Appellant challenged a decision of the Registrar of Mortgage Brokers (the "Registrar") suspending her license for 24 months.

Following an investigation, the Register issued a notice of hearing alleging that: the Appellant failed to use reasonable due diligence when verifying the accuracy of income and documentation

she submitted to lenders; submitted inaccurate information in support of a borrower's income to a lender; and provided misleading or false information to lenders. The Registrar alleged that such conduct amounted to conducting mortgage business in BC in a manner prejudicial to the public interest, contrary to section 8(1) of the *Mortgage Brokers Act*, RSBC 1996, c 313 (the "*MBA*").

The Registrar further alleged the Appellant had failed to keep books and records necessary for the proper recording of business transactions and financial affairs, contrary to section 6(a) of the and *Mortgage Brokers Act Regulations*, BC Reg 100/73. The Registrar alleged the Appellant had not safely or securely stored her files, which, according to her, were stored in a friend's garage and damaged in a fire.

The Appellant entered into an Agreed Statement of Facts with the Registrar in which she admitted to the above allegations.

In a decision with respect to sanctions (the "Decision"), the Registrar ordered the following sanctions pursuant to sections (8)1 and 6(9) of the *MBA*: the Appellant's registration as a submortgage broker be suspended for 24 months; the Appellant to pay an administrative penalty in the amount of \$30,000.

The Appellant appealed the Decision to the FST, only with respect to the order suspending her license for 24 months (the "Suspension"). She contended that the Decision was arrived at through an unreasonable chain of analysis and that the Suspension was disproportionately harsh, punitive, and unreasonable.

The Appellant further applied to admit new evidence both of the impact of the Suspension and of her mental health and other factors impacting her at the time of the misconduct.

In dismissing the appeal, the FST concluded the following:

- a. The Appellant's application to admit new evidence was dismissed as it was largely an attempt to reargue her case on appeal;
- b. The Registrar had assessed the appropriate penalty for the Appellant's proven misconduct, guided by the relevant sanction principles to find that the Suspension was justified. The Suspension was not disparate from or outside the range of sentences imposed in prior decisions.

BILLIE AALTONEN V REGISTRAR OF MORTGAGE BROKERS, 2024 BCFST 2

The Appellant challenged a decision issued of the Registrar of Mortgage Brokers (the "Registrar") imposing an administrative penalty of \$30,000, after she was found to have conducted a mortgage business in BC in a manner prejudicial to the public interest, contrary to section 8(1) of the *MBA* (the "Penalty Decision").

After receiving a complaint related to the Appellant's practice and conducting an investigation, the Registrar issued a number of conditions to the Appellant's registration renewal pending a disciplinary hearing. The Penalty Decision followed earlier proceedings before the FST dealing with those conditions as well as a decision with respect to liability (the "Liability Decision").

In the Liability Decision, the Registrar found the Appellant had violated section 8(1) of the *MBA* by submitting inaccurate information in support of a borrower's income in two 2020 mortgage applications.

In the Penalty Decision, the Registrar set out the general factors to consider in determining an appropriate disciplinary penalty. The Registrar imposed an administrative penalty of \$30,000 to provide sufficient specific and general deterrence, and to ensure the public was protected by promoting the provision of accurate information in mortgage applications.

The Appellant contended the Registrar's decision was unreasonable overall and alleged additional more specific errors.

In reviewing the decision and considering the errors alleged, the FST concluded that:

- a. the Registrar erred in law in the treatment of the Appellant's financial hardship. The Registrar failed to consider that going through the misconduct process had a specific deterrent effect regarding the Appellant's future conduct, with the Appellant having learned her lesson through suffering the financial consequences of that process;
- b. the Registrar's determination regarding the Appellant's remorse and admission of liability, based on her initial position, was unreasonable as it lacked intelligibility and justification;
- c. the Registrar's finding that the Appellant was seeking a potential advantage was reasonable; and
- d. the Registrar's finding that the Appellant's decision to submit the applications with inaccurate information was not due to her personal stresses at the time was unreasonable.

The FST allowed the appeal of the Decision and exercised its power to vary the decision pursuant to section 242.2(11) of the *Financial Institutions Act*, RSBC 1996, c 141. The FST varied the administrative penalty to \$10,000.

BRIAN SCHIEBEL V SUPERINTENDENT OF REAL ESTATE, 2024 BCFST 3

The Appellant appealed an order of the Superintendent of Real Estate (the "Superintendent") declining to issue him a license as a representative in the trading service category, on the basis

that the Appellant had not established he was suitable, of sufficient good reputation, and fit to be licensed at the time (the “Decision”).

The Appellant was subject to three disciplinary orders when acting as a licensed representative in the trading services category between 2005 and 2014. In the final order he consented to the cancellation of his licence and a three-year ban on re-application.

The Appellant re-applied for his licence in July 2021, amended January 2022. On June 6, 2023, following an investigation, the Superintendent decided that the Appellant had not discharged his obligation to prove that he was of good reputation and suitable to be licensed, according to section 10 of the *Real Estate Services Act*, SBC 2004, c 42 (“RESA”).

After receiving that original decision, the Appellant requested a hearing to provide additional evidence. Following that hearing, the Superintendent issued the Decision on October 27, 2023. It denied the Appellant a licence and prohibited him from reapplying for two years from the date of the Decision. The Appellant was ordered to pay \$5,000 in costs.

The Appellant appealed both the Decision and the associated costs. The Appellant declined to provide written submissions to the FST beyond the content of his notice of appeal.

Notwithstanding the Appellant’s failure to provide written submissions, the FST found that the record was sufficient to identify his positions and arguments.

The FST concluded that the Appellant’s claims could be separated into three distinct grounds of appeal, including whether the Superintendent erred in:

- a. finding that the Appellant had not met his onus to show he was of good reputation and suitable for licensure pursuant to section 10 of *RESA*;
- b. finding that the Appellant had not met his onus under section 10(d) to show that he had rehabilitated himself; and
- c. ordering the Appellant to pay expenses incurred by the BCFSA in relation to the opportunity to be heard.

The FST held that the Appellant had not met his burden to establish that the outcome reached in the Decision was unreasonable. It concluded that the Superintendent’s processes in relation to the Appellant were not characterized by bias. In addition, the FST held that the Superintendent did not err in ordering the Appellant to pay costs. In the proceedings before the FST, the Superintendent consented to reducing the costs order amount to \$1,500.

The FST upheld the Superintendent’s decision with respect to suitability and exercised its jurisdiction pursuant to section 242.2(11) of the *Financial Institutions Act*, RSBC 1996, c 141 (the “FIA”) to vary the costs order to \$1,500.

RASHIN ROHANI V SUPERINTENDENT OF REAL ESTATE, 2024 BCFST 4

Rashin Rohani (the “Appellant”), is appealing a finding of professional misconduct and subsequent penalties in a decision of the Superintendent of Real Estate (the “Superintendent”).

In this decision, the FST considered whether certain reply submissions in appeal proceedings before the FST were improper and if so, what remedies ought to arise from that conclusion.

In a September 18, 2024 letter, the Superintendent took the position that the Appellant made improper reply submissions in her appeal to the FST (the “Reply Submissions”), and sought an order from the FST striking out the impugned sections of the Reply Submissions.

The Superintendent contended the Reply Submissions were improper insofar as the Appellant raised new facts and arguments that were not included in the Appellant’s Submissions in Chief and further restated and expanded on her arguments in her Submissions in Chief.

The Appellant took the position that all of the Reply Submissions were proper. In the alternative, the Appellant contended it was within the FST’s discretion to attribute less or more weight to portions of the Reply Submissions depending on their propriety.

The FST reviewed its jurisdiction over its process, as set out in its *Practice Directives and Guidelines* (the “*Guidelines*”) as well as the *FIA* and the *Administrative Tribunals Act*, SBC 2004, c 45.

That FST concluded that it had the discretion to determine whether any written submission was improper as being non-compliant with the *Guidelines*, or otherwise, and if so, what the appropriate remedy should be for such non-compliance.

The FST found that the Reply Submissions were not in compliance with the *Guidelines*. The FST granted the Superintendent the right of sur-reply to certain Reply Submissions, and struck one paragraph of the Reply Submissions which referred to information not in the record.

WEI (VICKY) WANG AND VICKY WANG PERSONAL REAL ESTATE CORP. V SUPERINTENDENT OF REAL ESTATE, 2024 BCFST 5

The Appellants appealed the liability and penalty decisions of the Superintendent. In those decisions, the Superintendent ordered the Appellants to pay an administrative penalty and enforcement expenses and Ms. Wang to complete a course in ethics and trading services after the Appellants were found to have engaged in professional misconduct.

A complaint to the BCFSa from a client/buyer (Ms. Li and Mr. Xu) who purchased two properties with the assistance of the Appellant in 2016 resulted in an investigation in which it was revealed the Appellant had provided the buyer (a close friend) with \$50,000 to help fund the deposit on one of those properties. Those funds were reimbursed to the Appellant prior to completion of the sale.

The BCFSa amended the notice of disciplinary hearing (“NODH”) multiple times over the course of over 6 years. The fifth NODH was the first to contain the allegation that \$50,000 was loaned for the deposit on a Richmond property. Previous NODH’s referred to a loan on a different property.

A disciplinary hearing commenced on January 25, 2023. Ms. Li did not testify as a witness. As a result, the only evidence from Ms. Li was in the form of unsworn statements or hearsay from other witnesses.

The BCFSa took the position that in loaning the \$50,000, Ms. Wang actions constituted professional misconduct as she had breached the duty to take reasonable steps to avoid a conflict of interest and the duty to fully disclose to her client the conflict of interest, contrary to sections 30(i) and (j) of the *Real Estate Service Rules*, BC Reg 209/2021 and section 35(1)(a) of the *RESA*.

The Superintendent granted an adjournment of the initial hearing based on the fact that the Appellant was focused on an earlier NODH and had not received the most recent NODH until immediately prior to the hearing. However, the Superintendent refused further adjournment requests despite further amendments to the NODH, and the hearing recommenced on February 27, 2023.

Ms. Wang testified that the provision of \$50,000 was not related to the receipt of commission and argued that there was no conflict of interest involved in the transaction with respect to the Richmond property because the contract of purchase and sale was already binding by the time the deposit was requested.

The decision with respect to liability was issued on May 16, 2023 (the “Liability Decision”). The Superintendent concluded that Ms. Wang advanced the \$50,000 for the deposit in order to make a commission, because without the advance of those funds the sale would not have completed. The Superintendent held that the loan created a conflict of interest, and that Ms. Wang failed to disclose that conflict to Ms. Li. The decision with respect to sanctions was issued on January 5, 2024 (the “Sanction Decision”) and ordered an administrative penalty of \$5,000 and enforcement expenses of \$22,958.18 and ordered the Appellant to complete several courses within 90 days of the Order.

The Appellants appealed both Decisions to the FST. The Appellants contended that the BCFSa did not prove that lending the \$50,000 constituted a conflict of interest. The Appellants further submitted the decision with respect to liability was biased.

The FST held that the Superintendent’s decision was unreasonable, and further identified breaches of procedural fairness. The FST concluded the Superintendent erred by:

- a. relying on multiple instances of hearsay evidence, without explanation or analysis as to its reliability, which undermined the transparency and intelligibility of the Liability Decision, making it unreasonable;

- b. unreasonably concluding that the reason for the loan was for Ms. Wang to earn a commission, despite evidence to the contrary from Ms. Wang;
- c. failing to conduct the necessary analysis to arrive at the conclusion that the loan created or would have created conflict of interest issues;
- d. relying on without prejudice evidence to impose a requirement on Ms. Wang that she proceed with a hearing notwithstanding that the wrong property had been the subject of the allegations for over 5 years;

The FST allowed the appeal. The FST determined the procedural unfairness could not be cured by a new hearing, given that it had been over eight years since the impugned transactions took place, and Ms. Li and Mr. Xu were unable to testify at a new hearing. Therefore, the FST concluded that it was not in the public interest to subject the Appellants to further administrative proceedings and it set aside the Liability Decision, leaving no basis for the Sanction Decision.

The Superintendent has applied for judicial review of the decision on the merits, the hearing of which is likely to take place in the fall of 2025.

WEI (VICKY) WANG AND VICKY WANG PERSONAL REAL ESTATE CORP. v SUPERINTENDENT OF REAL ESTATE, 2025 BCFST 1

Subsequent to the decision above, the Appellant applied for costs of the appeal. The Superintendent did not seek costs and opposed the Appellant's application.

The FST noted that costs are not routinely awarded to the successful party at the FST and are discretionary. It identified the conduct to consider in making costs awards. The FST concluded that Ms. Wang's claim for costs primarily concerned behaviour that took place in the underlying proceedings. The FST held that costs under section 47 of the ATA costs may flow from pre-appeal conduct, but only where the underlying conduct was manifestly unfair, biased or capricious.

The FST concluded that the Superintendent's conduct in the underlying proceedings did not rise to the level of capriciousness required for a costs award, and declined to exercise its discretion to order costs for the appeal.

MURRAY ALLAN-A-DALE SAVAGE v REGISTRAR OF MORTGAGE BROKERS, 2025 BCFST 2

The Appellant challenged the decisions of the Registrar of Mortgage Brokers (the "Registrar") which resulted in the cancellation of his registration pursuant to the *MBA*.

In December 2019, the Appellant was arrested for Possession of Child Pornography contrary to section 163.1(4) of the *Criminal Code*, RSC 1985, c C-46. On May 3, 2021, the Appellant pled guilty. In April 2022, he was sentenced to a 10-month conditional sentence order followed by probation.

The Appellant was required to renew his registration as a submortgage broker with the Registrar prior to his sentencing. He submitted his registration application on August 24, 2021. In his application, he provided a declaration that he had been charged for the offence. He then exchanged emails with the Registrar's representative. The Appellant indicated he may receive a dismissal or a discharge with respect to his charges. He did not reveal that he had plead guilty, however, he was not specifically asked to provide this information.

On May 13, 2022, the Registrar suspended the Appellant from acting as a submortgage broker under section 8(2) of the *MBA*.

The Registrar rendered a decision with respect to liability on June 1, 2023 (the "Liability Decision") and a decision on penalties on January 12, 2024 (the "Penalty Decision").

In the Liability Decision, the Registrar determined that the Appellant acted contrary to section 8(1)(h) of the *MBA* by failing to inform the Registrar he pled guilty to the offence. The Registrar found that it was more likely than not the Appellant would serve a custodial sentence as soon as he entered his guilty plea, and his counsel would likely have advised him as such. Accordingly, the Registrar found the Appellant had made misleading statements to the Registrar with respect to his guilty plea and its consequences.

In the Penalty Decision, the Registrar ordered that under section 6(9) of the *MBA*, the Appellant must pay \$14,329.91 for investigative costs; and cancelled his registration under section 8(1)(b) of the *MBA*. The Registrar considered the Appellant's failure to advise the Registrar that he had pled guilty as an aggravating factor militating towards cancellation.

On appeal to the FST, the Appellant listed multiple grounds on which he submitted the Registrar's decision was unreasonable, including that:

- a. It was unreasonable to find the Appellant had an intent to mislead the Registrar by not disclosing his guilty plea and making representations as to the sentence he may receive from the court;
- b. The Registrar misapprehended the evidence with respect to the continued risk the Appellant presented to the community at large; and
- c. The penalty levied on the Appellant was excessive, arbitrary, punitive and disproportionate, and therefore unreasonable. In levying this penalty, the Registrar unreasonably failed to consider the evidence and misapprehended some of the evidence before him.

The FST held the following, with respect to the above-mentioned grounds:

- a. In the Liability Decision, the Registrar misapprehended the evidence in making the unreasonable finding that it was unlikely the Appellant's counsel advised him that a discharge was a likely outcome; and further misapprehended the evidence in concluding that the Appellant misled the Registrar in failing to disclose his guilty plea.
- b. In the Penalty Decision, the Registrar misapprehended the evidence with respect to the Appellant's ongoing risk to the community; and erred in principle by failing to consider lesser penalties and focusing on the reputation of the profession as opposed to the protection of the public when crafting a remedy.

The FST allowed the appeal and varied the Liability Decision under section 242.2(11) of the *FIA*, such that the finding regarding the Appellant making false or misleading statements was set aside. The FST varied the Penalty Decision, ordering a three-year suspension as opposed to a cancellation of the Appellant's registration.

As the Appellant was successful in the appeal, the FST varied the order requiring the Appellant to pay \$14,329.91 in investigative costs and ordered that the Appellant was not required to pay any costs of investigation or the hearing.