



## **DECISION OF THE DIRECTOR**

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**In the Matter of:** *Business Practices and Consumer Protection Act, SBC 2004, c. 2, and Travel Industry Regulation*

**Respondent:** Vacasa Canada ULC

**Licence Number:** 75826

**Case Number:** 30349

**Adjudicator:** Robert Penkala

**Date of Decision:** August 18, 2020

**\*Corrigendum: the adjudicator has removed reference to contravention of section 9 (3), stated incorrectly in the original decision on page 6. In all other respects this decision is unvaried.**

### **INTRODUCTION**

Consumer Protection BC is the licensing body for travel agents and wholesalers in British Columbia. As such, it administers the *Business Practices and Consumer Protection Act* and the *Travel Industry Regulation*. Where licensed entities violate the Act or Regulation it is authorized to impose administrative penalties and issue remedial orders.

Vacasa Canada ULC (“licensee”, “respondent”, or “Vacasa”) is a company licensed by Consumer Protection BC to sell travel services from premises in Kelowna, BC. On January 22, 2020 Consumer Protection BC carried out an inspection at Vacasa’s premises and identified evident contraventions of sections 9 (3) and 12.1 (g) of the Regulation, namely: omitting its Consumer Protection BC licence number from visual advertisements, and issuing customer receipts lacking required information (licensee’s address and licence number).

On June 23, 2020 an inspector issued a Report to the Director. The Report cites previous inspections of Vacasa relating to the requirements of the Regulation, as well as evidence supporting

the current allegations. I have been delegated by the director to decide based on the evidence in this case whether the violations occurred and if so, whether penalties or other enforcement actions are warranted.

### **OPPORTUNITY TO BE HEARD**

Prior to the director or delegate taking enforcement action under the Act, the respondent must have an opportunity to be heard.

On July 2<sup>nd</sup>, 2020 I sent a letter to Vacasa via e-mail initiating a hearing on the matters in the Report, giving it until July 23<sup>rd</sup> to respond to the allegations. (The inspector had separately delivered the Report to the licensee.)

The letter explains that the director (or delegate) must impartially consider the licensee's response before deciding whether the contravention occurred. It cites possible consequences if the allegations are proven. Vacasa requested a telephone call to discuss the case with me and we did so on July 15<sup>th</sup>. On July 22<sup>nd</sup> Vacasa delivered an email response to the Report ("Response"). The Response submits that Vacasa took steps to address the display of licence number in visual advertisements and has added information to its customer receipt portal. Based on my interactions with Vacasa and its delivery of the Response, I conclude it has been provided with the relevant materials and an appropriate opportunity to be heard.

### **ALLEGED CONTRAVENTIONS**

The respondent allegedly:

1. failed to display its licence number on a form of visual advertising, namely on a company website; and,
2. in two transactions occurring in 2019 issued customer receipts that do not contain required business information (address, and licence number).

### **LEGISLATION**

The following provisions of the Regulation are relevant to this decision:

**9 (3)** A licensee must include the licensee's licence number in a visual advertisement respecting the licensee's business.

**12.1** When a licensee receives a payment [...] for travel services, the licensee must give the person making the payment [...] a receipt that includes (g) the licensee's name, address, telephone number and licence number.

## **INSPECTOR'S EVIDENCE**

### **Absence of licence number in visual advertisements**

- In June 2019 the inspector accessed the Vacasa website. She contends the respondent was using an inactive licence number (#35451) on its website (issued to a different entity later purchased by Vacasa), rather than the licence number 75826 issued to the respondent by Consumer Protection BC. The evidence in Tab 8 included in the Report is a computer screenshot purporting to demonstrate this.
- On February 27, 2020, the inspector was in a conference call with Vacasa about making the changes to the website. Vacasa said it could add its licence number below each BC property in order to comply with s. 9 (3). The inspector says the changes discussed were implemented “as of the time of this Report.”

### **Absence of licensee’s addresses and licence number on receipts**

- Evidence exhibits in Tabs 11, 11a, 12, 12a, and 13 appended to the Report consist of copies of reservations, payment confirmation, and rental polices (collectively, “receipts”) for the sale of travel accommodation to two separate consumers for use in December 2019. (In one case the transaction appears to have been concluded in November, in the other case the transaction date is not indicated).

## **RESPONDENT'S EVIDENCE**

Vacasa’s written Response consists of the following statement from its Regional Director (Canada):

“Earlier this year, we worked with one of your inspectors on her concerns regarding our receipts and the placement of our license on Vacasa's website. We made many adjustments to our systems and website to accommodate this as best we could.

- Guest information is available in our Trip Portal (our version of a receipt) whenever possible
- Vacasa's CPBC license is located in the description of every BC unit

Sadly, it appears our attempts have not fully satisfied CPBC. We respectfully request specific instructions from CPBC to help us rectify the situation.

I will formally dispute any fines at this time as we have made good-faith attempts to comply with the regulations.”

## **ANALYSIS**

***Did the respondent fail to display its licence number on a form of visual advertising, contrary to section 9 (3) of the Regulation?***

Websites actively used by travel suppliers to offer and promote services and brand information are a form of visual advertising. This is not in dispute. However, the evidence produced by the inspector to support the alleged contravention of sec. 9 (3) of the Regulation does not appear to be a screenshot of the website at a certain point in time, but rather, I believe, a record of a “web archive” search associating four web links, addresses, or search data, a date or other numeric sequence, an entity with the acronym VRMA, and the name “2018 RentChalets”. This screen shot is not, in itself, clearly a representation of an actual website used by the respondent to advertise its business.

Furthermore, as I understand the Report, the inspector is satisfied with certain features of Vacasa’s website made active after the conference call of February, which, it is said, embed the licence number on individual rental units seen on the website. I have visited the current Vacasa website and confirm that on the level of individual rental properties one finds the licence number on properties by clicking on “more information” link. While some of the BC properties are, according to the website, managed by an “affiliate” known as Resort Quest and do not display Vacasa’s licence number, I found several examples of rentals presumably managed directly by Vacasa that do state its licence number.

In the context of the inspector’s statement that Vacasa addressed the original section 9 (3) deficiency, Vacasa’s statement in the Response, and my examination of the website, I am satisfied that the original breach giving rise to the allegation is no longer pertinent. Moreover, because I find the evidence of the original alleged violation to be unclear, I have no proper basis to make an adverse factual finding. Thus, I do not find the allegation to be proven. In addition, the apparent remediation of the breach, acknowledged by the inspector, suggests to me that enforcement measures would not be called for in any case.

***Did the Respondent fail to include on customer receipts an address for the licensee, and its licence number, contrary to section 12.1 (g) of the Regulation?***

After reviewing the receipt evidence I have not located the business address associated with Vacasa’s Consumer Protection BC licence, or the licence number. I recognize that there are additional terms accessible to the consumer on the electronic portal which hosts the receipts. For example, the “Summary of General Rental Policies” agreed to by the consumers states, in sections “J” and “K”, the full vacation rental agreement and the unit-specific rental terms. The content of those terms is not available in the evidence I have reviewed, however I believe if there is any content directly relevant to the allegations it would obviously be cited by the respondent in its defence (either in the inspection process or in this hearing). Vacasa has made no such suggestion, and I find no reason to assume the omitted receipt information is contained in those additional terms.

The inspection, involving verification of all the relevant parts of receipt issuance, is a reliable basis to conclude that Vacasa has not embedded its BC business address (rather than an address for its corporate parent in Portland Oregon), and has omitted to cite its licence number in the receipt components exhibited in the Report. Vacasa has, then, violated the requirements of section 12.1 (g) of the Regulation in these two respects.

### **The Defence of Due Diligence**

The licensee is entitled to a complete defence against the allegations if it demonstrates that it took all reasonable steps to prevent the contraventions from occurring. I find that Vacasa has not set out any express evidence as a basis for such a defence. In the matter of Vacasa's website, no record of it having sought to make changes to web content has been offered. I note too, the Report sets out that the respondent was historically given notice by Consumer Protection BC regarding requirements of and 12.1 (g), yet for reasons that remain unclear, it has not addressed the technical web maintenance issues that would resolve the matter.

### **ENFORCEMENT ACTIONS**

As an adjudicator determining that the violations occurred as alleged, I may take one or more of the following actions:

- Issue a compliance order (under section 155 of the Act), which may direct the Respondent to:
  - stop a specified act or practice;
  - take specific actions to correct the issue; and,
  - repay Consumer Protection BC the costs of this inspection.
- Impose a penalty of up to \$5,000 on an individual, or up to \$50,000 on a corporation (under section 164 of the Act) since the cited violations of the Regulation are prescribed under the *Business Practices and Consumer Protection Regulation*.

I have considered each of these possible enforcement actions and determine it appropriate to make an order for remedial actions by the licensee (to comply with the relevant requirements) and for payment of costs in the inspection. I do not believe the breaches rise to the level where monetary penalties are needed. However, future violations of a compliance order, should they occur, could be liable to significant monetary penalties.

Although I am alert to the possibility of monetary penalties as a corrective measure authorized by the Act and supported by Consumer Protection BC policy, I will briefly outline the basis for my discretion to *not* issue such penalties in this case:

- With respect to the second allegation, the breaches demonstrated are limited in scope. The inspector found two receipts that are incomplete as to the cited section 12.1 (g) requirements.

- There is no evidence of disputes, associated harm, or disclosure omissions affecting consumers' material interests. I characterize the nature of the breach as a technical regulatory matter alone.
- I believe a compliance order to be a significant, and probably sufficient, incentive for future compliance.

### **Compliance Order**

Having found Vacasa responsible for contravention of section 12.1 (g) of the Regulation, I have authority under the Act to order reimbursement of Consumer Protection BC's costs for the relevant inspection, including preparation of the Report for this hearing. Recognizing the resources allocated to discovery and documentation of the violations, I impose **inspection costs of \$950** on the respondent. The Order enclosed with this decision gives formal notice to that end.

Further, I will order Vacasa to implement any necessary changes to its electronic booking platform to enable the creation of receipts for purchasers stating the licensee's address and licence number. Any failure to comply with these conditions in future may be the subject of additional proceedings for breach of the order and result in penalties against the respondent.

### **RECONSIDERATION OF DECISION AND ORDER**

This decision and the related Order may be reconsidered in accordance with Division 1 of Part 12 of the Act. A request for reconsideration must be submitted **within thirty days** of receiving this notice. *The request must be in writing, must be accompanied by a \$252 reconsideration application fee, and must identify the error the person believes was made or other grounds for which the reconsideration is requested.*

Please note that reconsiderations of determinations are subject to the provisions outlined in section 181 and 182 (2) of the Act. Requests for reconsideration should be addressed to:

Consumer Protection BC  
Attention: Shahid Noorani, VP Regulatory Services  
200 – 4946 Canada Way  
Burnaby, BC V5G 4H7

Or by email to: [shahid.noorani@consumerprotectionbc.ca](mailto:shahid.noorani@consumerprotectionbc.ca)

Considered on August 18, in Vancouver, BC by:



R Paul

R. Penkala, Mgr., Enforcement Hearings

Enc: Compliance Order