Citation: Vallee (Re), 2025 BCSRE 98
Date: 2025-05-29
File No. 23-5135

BC FINANCIAL SERVICES AUTHORITY

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

AND IN THE MATTER OF

ERIC VALLEE
(136578)

REASONS FOR DECISION REGARDING ADMINISTRATIVE PENALTY RECONSIDERATION REQUEST

[These Reasons have been redacted before publication.]

DATE AND PLACE OF HEARING:	May 8, 2025 and Via Written Submissions
HEARING OFFICER:	Gareth Reeves

Introduction

1. On January 7, 2025, BC Financial Servies Authority ("**BCFSA**") issued a Notice of Administrative Penalty (the "**NOAP**") in the amount of $5,000 to Eric Vallee pursuant to section 57(1) and 57(3) of the *Real Estate Services Act*, RSBC 2004, c 42 ("**RESA**").

2. In the NOAP, BCFSA determined that Mr. Vallee had contravened section 34 of the *Real Estate Services Rules*, BC Reg 209/2021 (the "**Rules**") by failing to act with reasonable care and skill when he told a potential buyer and their agent that he had submitted documents to cancel and relist a property in North Vancouver (the "**Property**") when he had not. BCFSA determined that the misrepresentation led the buyer to make an offer higher than the asking price and higher than the buyer preferred.

3. Mr. Vallee applied for a reconsideration of the NOAP under section 57(4) of RESA. On April 1, 2025, I directed that an oral hearing be held for Mr. Vallee to provide his evidence and submissions regarding this matter: *Vallee (Re)*, 2025 BCSRE 58. That hearing was held on May 8, 2025. At the hearing, I directed Mr. Vallee to provide certain additional information and documents by May 20, 2025. Mr. Vallee provided the additional information and documents by way of five emails on May 20, 2025.

4. These are my reasons regarding Mr. Vallee's application for reconsideration.

Issues

5. The issue is whether the January 7, 2025 NOAP should be cancelled or confirmed.

Jurisdiction and Standard of Proof

6. This application for reconsideration is brought pursuant to section 57(4) of RESA, which requires the Superintendent of Real Estate (the "**superintendent**") to provide a person who receives an administrative penalty with an opportunity to be heard upon request.

7. Section 57(4) of RESA permits the superintendent to cancel the administrative penalty, confirm the administrative penalty, or, if the superintendent is satisfied that a discipline hearing under section 40 of RESA would be more appropriate, cancel the administrative penalty and issue a notice of discipline hearing.

8. The superintendent has delegated the statutory powers and duties set out in section 57 to Hearing Officers.

9. The standard of proof is the balance of probabilities.

Background and Findings of Fact

10. The evidence and information before me consists of an investigation report completed by BCFSA, the tabs thereto, the information provided by Mr. Vallee in his application for reconsideration and his application for an oral hearing, Mr. Vallee's oral evidence in this matter, and the material he provided on May 20, 2025 in response to my directions at the oral hearing of this matter. The following is intended to provide some background to the circumstances and to provide context for my reasons. It is not intended to be a recitation of all of the information before me.

Licensing and Discipline Background

11. Mr. Vallee was first licensed as a trading services representative on July 4, 2002 and has remained licensed at that level and in that category since then. On February 8, 2013, Eric Vallee Personal Real Estate Corporation was first licensed and has been licensed in the same fashion as Mr. Vallee since that date.

12. Mr. Vallee has no prior discipline history with BCFSA or its predecessor, the Real Estate Council of British Columbia. He has received letters of advisement for alleged misconduct on May 9, 2012 and September 5, 2012. Those are not formal findings of misconduct and therefore I do not consider that they prove Mr. Vallee misconducted himself as alleged in those letters, but I do take them as indicating that Mr. Vallee was reminded at that time of his obligations under sections 4-6 and 4-7 of the Rules as they were then (now sections 40 and 41, respectively).

The Alleged Misrepresentation

13. In 2023, Mr. Vallee was acting as the listing agent for the sellers (the "**Sellers**") of the Property, who were a married couple that were separated at the time. On October 16, 2023, the Property was listed for sale on the multiple listing service ("**MLS**") at a price of $959,900.

14. In late December 2023, a potential buyer (the "**Buyer**") viewed and became interested in the Property, but had certain concerns about it. The Buyer did not make a formal offer on the Property at this time, but the Buyer's agent, [Licensee 1], did indicate to Mr. Vallee via text message that the Buyer would not pay more than $930,000 for the Property.

15. As backdrop to the foregoing, I note that in early January, up to approximately January 13, 2024, Mr. Vallee was in Vietnam for his wedding and in mid-January one of the Sellers was in Hawaii. The exact date the Seller left for Hawaii is not clear to me, but the documents indicate she returned to Canada on January 19, 2024.

16. On January 4, 2024, one of the Sellers sent Mr. Vallee a copy of the 2024 Property Assessment Notice for the Property showing an assessed value of $979,000. Later that day, one of them asked that the Property be relisted at $979,000.

17. On January 11, 2024, [Licensee 1] texted Mr. Vallee to ask if the Property was still available. Mr. Vallee confirmed that it was.

18. On January 12, 2024, [Licensee 1] and Mr. Vallee exchanged text messages regarding the Buyer's interest in the Property and the Buyer's desire to conduct an inspection of it the following day. Mr. Vallee indicated that he was travelling and would be back in the afternoon of January 13, 2024, but one of his clients could let the Buyer into the Property. [Licensee 1] indicated that she expected the Buyer to make an offer that would remain open until 8:00 pm on January 13, 2024, assuming the inspection went well. Mr. Vallee requested that any offer remain open until 1:00pm on January 14, 2024.

19. On January 13, 2024, the Buyer delivered an offer to purchase the Property for $940,000 with a deadline to accept the offer by 4:00 pm. This same offer was sent again later the same day with a deadline to accept the offer by 8:00 pm.

20. In their messages to Mr. Vallee rejecting the above offers, the Sellers noted to him that they were not willing to accept less than the listing price and that they wanted to increase the listing price to $979,000 to match the Notice of Assessment they had provided earlier.

21. On January 14, 2024 approximately 1:30 pm, the Buyer made an offer to purchase the Property for $959,000 with a deadline to accept at 4:00 pm and the Sellers countered at $979,000 at 4:41 pm. The Buyer decided not to accept the offer. In responding to the Seller's counteroffer, [Licensee 1] texted Mr. Vallee the following:

> "My client has decided not to agree to the above asking list price. We did present you with a clean Full price offer but she is not prepared to go above what is listed for on MLS.
> As well, I forgot to mention yesterday that the Inspector who was hired found moisture in the bottom of the wall in the shower as well as outside the shower in the baseboard of the primary bathroom. I thought you should know so you can address it in the PDS."
>
> [*sic*]

22. On January 15, 2024, Mr. Vallee and [Licensee 1] exchanged text messages regarding the possibility of a purchase and sale price at $965,000. In that exchange, [Licensee 1] sent the following message to Mr. Vallee:

> "Unfortunately my client was under the belief that she came up in good faith and gave them a clean full price offer with their dates.
> As I mentioned yesterday there are repairs that need to be done to the bathroom immediately.
> We are willing to go to $959,000 with an answer this evening.
> This is a very emotional situation and we already have showings booked for tomorrow which she is excited about."

23. On January 16, 2024, Mr. Vallee texted [Licensee 1] to advise that he planned to cancel the listing for the Property and relist at $979,000.

24. On January 18, 2024, Mr. Vallee drafted a multiple listing contract in which his brokerage agreed to list the Property at $979,000 from January 22, 2024 to April 30, 2024 (the "**Relisting Contract**"). On that same day, he also prepared a Cancellation of Multiple Listing Form (the "**Cancellation**

Form") to cancel the then extant listing. One of the Sellers signed the Cancellation of Multiple Listing Form that day, but the other never signed it.

25. On January 19, 2024, the following text message exchange occurred between [Licensee 1] and Mr. Vallee at approximately 3:10 pm:

    [Licensee 1]:

    > Are you canceling and relisting

    Mr. Vallee:

    > Yes did did send the paperwork and it will show up on the mls on Monday

    [*sic*]

26. On January 20, 2024, Mr. Vallee signed the Relisting Contract on behalf of his brokerage.

27. On January 21, 2024, one of the Sellers signed the Relisting Contract. The other Seller did not sign the Relisting Contract at any point.

28. At 10:34 am on Monday, January 22, 2024, [Licensee 1] delivered a subject free offer (the "**Offer**") to purchase the Property to Mr. Vallee. [Licensee 1] confirmed that she had delivered the Offer at 10:35 am via text message.

29. In the Offer, the Buyers offered to purchase the Property for $975,000 with completion to occur on February 29, 2024 and with the possession and adjustments dates of March 1, 2024. The Offer also included a right for the Buyer to rescind the contract within three business days of acceptance. Exercising that recission right would require the Buyer to pay $2,437.50 to the Sellers (the "**Recission Payment**"). The Offer was open for acceptance until 8:00 pm on January 22, 2024.

30. Mr. Vallee forwarded the Offer on to the Sellers, one of whom advised that she would be unable to respond by the time indicated for acceptance because she would be at work without access to her phone.

31. Around 1:30 pm on January 22, 2024 and following an exchange of text messages between Mr. Vallee and [Licensee 1], [Licensee 1] provided a revised version of the Offer changing the deadline for acceptance of the offer to 10:00 pm that day.

32. Just before 10:00 pm on January 22, 2024, the Sellers accepted that offer and Mr. Vallee's assistant returned the fully accepted offer to [Licensee 1] at 10:05 pm that day and thereby entered into a contract of purchase and sale (the "**Contract**") on the terms described above, among others.

33. On January 23, 2024, Mr. Vallee emailed an addendum amending the possession time in the Contract from 10:00 am on March 1, 2024 to 1:00 pm on March 1, 2024.

34. On January 23, 2024, the following text message exchange occurred between [Licensee 1] and Mr. Vallee:

    9:48 am

    [Licensee 1]:

    > Eric my client is expecting to see the new listing price reflected on a new listing on MLS as you informed me on Friday afternoon. I also confirmed this contract is correct and stands and we do not need to write a new contract. My client brought you a full price offer at the listed price and was never in competition and you informed me you changed the price to $979,000 on MLS …. my client and I believed you.
    > Please provide new MLS number as soon as possible.

Mr. Vallee:

> My managing broker said . I need to report the sale for [the Property] .
>
> When the sale is reported how can you relist the property. He said mls will reject the new listing

[Licensee 1]:

> You told my client and I it was re listed and it would show on Monday.

Mr. Vallee:

> Correct and then You wrote the offer and I hold on to it

[Licensee 1]:

> You submitted it …. I have your text

10:54 am

[Licensee 1]:

> So you are aware unless the new listing shows up today on MIS at the new price, my client has advised she will not be paying the deposit.

Mr. Vallee:

> I have a problem now with the seller . This is what she is saying : I am in the phone now and she is crying . She feel disrespectful . I don't know what to do I am here to help.

Mr. Vallee [forwarding a message from the Seller]:

> I do NOT understand.
>
> If we list $979k then we sell $979k to this buyer. That what we really want anyway and aaked you firmly to counter back not $975k
>
> Both party of realtors can seal that gap of 5k to us if that want to you and buyer's realtor want for looking good for buyers realtor resume look good or whatever the reason. Something very fishy about this buyer since kept giving us unreasonable time line and unnecessary steps or stress.
>
> Should be simple happy sale.
>
> If we are listing $979k, then please pay us $979 or fair value since central Lonsdale current market value is higher than that.
>
> I am good at reading ppl energy obeously can go $979k if not others will defineatly pay for closer to 1M in feb, no dout about that. Why do we want to that? What benefit do we get?

Mr. Vallee [forwarding a message from the Seller]:

> We did requested to list $979K more than month ago and while you are away, all showings without brochure I corrected them that price will go up… we did had a chance to list $979K and perhaps we might get better result from different potential buyers.
>
> I wasted and lost most valuable time I wanted to have with my mom and nephew in Hawaii since had to deal with non sense since didnt listed right price so defineatly not going to do it now unless we can get our original asking price or compensated for that value.
>
> Thank you Eric for everything you do for us. We do appreciate you but his buyer's realtor request seems not fair to us at all.

Mr. Vallee:

> I am in the middle between your client and my client and it's not a good deal and feeling right now .

Mr. Vallee:

> Seller is very upset

2:06 pm

[Licensee 1]:

> What is the buyer's realtor request?

Mr. Vallee:

> Hi [Buyer's agent], what do you mean ? I am the listing realtor

[Licensee 1]:

> In the message above your client says
> Thank you Eric …..
> This buyer's realtor request seems not fair to us at all?????

Mr. Vallee:

> To be able to relist the property when in the seller opinion their home is sold .

[Licensee 1]:

> You told us that you submitted the paperwork and relisted at a higher price on Friday afternoon.
> My client already brough you a full price offer when it was listed at $959,000 and then you told us the paperwork was in at MLS for $979,000
> My buyer was not in competition. She only wrote higher because you told us that was the new MLS price.
> If your client signed the paperwork on Friday why would she be upset?

[*sic*]

35. Mr. Vallee and [Licensee 1] then exchanged text messages indicating that their managing brokers were in discussion regarding the matter.

36. On January 24, 2024, Mr. Vallee wrote an email addressed to [Licensee 1]'s managing broker, [Licensee 2], explaining his view of the dispute between himself and [Licensee 1], which was forwarded on to [Licensee 2] the next day. That email states the following, in part:

> "On Friday, January 19 at 3:11 PM, [Licensee 1] was notified that I had forwarded the necessary paperwork (to my seller). While my assistant steered to get the seller's signatures, our plans sometimes fell afoul, a consequence that [Licensee 1] should have been well aware of when she submitted a new offer On Monday January 22, 2024.
>
> We experienced another hiccup when [Licensee 1], at 10:35 Am on Monday, expressed that she had submitted an other offer, urging me to corroborate its receipt. The need for their immediate signatures put my seller in a bind, given the constricted time frame of just three hours. For this reason, at 1:35 PM, I urged [Licensee 1] to formulate a new offer, allowing it to remain open until 10 PM, due to my seller's professional commitments."

[*sic*]

37. Mr. Vallee's January 24, 2024 email also suggested that [Licensee 2] had some personal animosity between them as a result of that managing broker's previous employment by Mr. Vallee. Mr. Vallee stated that [Licensee 1] and [Licensee 2] had acted unprofessionally, had made "impractical demands", and caused "unnecessary chaos". Mr. Vallee also requested an apology.

38. On January 25, 2024, the Buyer executed a Buyer Recission Notice in regard to the Contract and [Licensee 1] emailed it to Mr. Vallee. On that same day, the Sellers and Mr. Vallee began discussions about relisting the Property at $985,000.

39. On January 26, 2024, the Sellers signed a new listing contract with Mr. Vallee's brokerage to list the Property from January 25, 2024 to April 30, 2024 at $985,000.

40. On January 31, 2024 the Buyer mailed the Recission Payment directly to the Sellers. The Sellers received the Recission Payment on February 6, 2024.

Mr. Vallee's Oral Evidence

41. On May 8, 2024, Mr. Vallee was given the opportunity to present oral evidence and arguments through a virtual hearing. In his evidence, Mr. Vallee indicated that he was routinely receiving instructions from his clients and would communicate these instructions to [Licensee 1]. He indicated that he would usually have conversations with [Licensee 1] before or after exchanges of text messages with her. He testified that he preferred to communicate orally because English was not his first language and things could be misinterpreted over text messages.

42. Regarding January 19, 2024, Mr. Vallee's evidence was that he had a conversation with [Licensee 1] on that date in which he explained what was occurring between his clients. He explained to [Licensee 1] that his clients were going through a divorce and were not always on the same page and as a result it was difficult to get consistent and timely instructions from them.

43. Mr. Vallee testified that what he meant in his January 19, 2024 text, was that he had sent the documents to his clients, the Sellers, as opposed to having submitted them to MLS for posting on Monday January 22, 2024.

44. Mr. Vallee also said that he had a phone call with [Licensee 1] on January 22, 2024, before she submitted the Offer, in which he told her that he only had the relisting documents signed by one of the Sellers.

45. He stated that he now recalls the various telephone calls, despite not indicating them in initial responses to BCFSA Investigations, because he had the opportunity to review his records and messages.

46. Regarding the text message exchange between Mr. Vallee and [Licensee 1] on January 23, 2024, Mr. Vallee testified that he had had six telephone calls with [Licensee 1] that morning between 9:12am and 10:23 am in which he reiterated that only one of his clients had signed the Relisting Contract and the Cancellation Form. He testified that he had a call with his client at 10:55 am, which lasted 14 minutes. Mr. Vallee testified that the last call between himself and [Licensee 1] that day happened at 11:10 am.

47. When asked why he did not mention in his text messages on January 23, 2024 that he had verbally told [Licensee 1] that only one of his clients had signed the Relisting Contract and the Cancellation Form and that she knew this before she submitted the offer, he first made reference to the telephone calls on the morning of January 23, 2024. When I noted to him that the 2:06 pm text message from [Licensee 1] quoted above occurred after those calls, he testified that he did not want to argue over text message because [Licensee 1] had an aggressive style of communication and he did not feel it would go well. He noted, in particular, the short acceptance periods provided in the offers

[Licensee 1] delivered and, in particular, the offer made on January 13, 2024, which was left open until 8:00 pm when he had asked that it stay open until 1:00 pm the next day.

48. I also asked Mr. Vallee why his January 24, 2024 email did not mention that Mr. Vallee had verbally told [Licensee 1] that only one of his clients had signed the Relisting Contract and the Cancellation Form. Mr. Vallee stated that this email was aimed mostly at addressing the personal situation between himself and [Licensee 2] and to reply to the accusation made by [Licensee 2] about his personal integrity. He testified that the email was a "general" email meant to address both the situation with [Licensee 1] and the personal situation between himself and [Licensee 2]. He testified that his main purpose was to address the personal issue between himself and [Licensee 2] and that because he had already discussed the issue with [Licensee 1], who was well aware that only one of the Sellers had signed the Relisting Contract and the Cancellation Form. He reiterated these points when I noted to him that the email included time stamps for text messages which indicated a degree of specificity with regard to what happened with [Licensee 1].

49. Finally, I questioned Mr. Vallee with regard to his responses to BCFSA's investigation. In particular, I noted to him that his responses left out many of the text messages between himself and [Licensee 1], including those from January 19 and January 23, 2024, despite being explicitly asked for them and did not mention the phone calls with [Licensee 1] where he told her that only one of the Sellers had signed the Relisting Contract and the Cancellation Form. Mr. Vallee responded that he did not have legal counsel during the investigation, did not fully understand the importance of his responses, he believed at the time that his responses were sufficient, and he did not deem the telephone calls to be important. Regarding the text messages, he testified that he was not tech savvy and that he had taken screenshots of all the text messages between himself and [Licensee 1].

Mr. Vallee's Further Submissions

50. At the conclusion of the oral hearing, I directed Mr. Vallee to provide, by May 20, 2025, certain further information including full copies of the call logs he referred to in the hearing and confirmation of whether he had provided any documents to BCFSA Investigations which did not appear in the investigation report, and copies of any such documents.

51. On May 20, 2025, Mr. Vallee provided five emails in response to those directions. Two of those emails appear to be substantially the same and to contain submissions regarding the substance of the matter. Two of those emails include screenshots of text messages between Mr. Vallee and [Licensee 1]. The final email attached call log records from January 4, 2025 to January 23, 2025.

52. Although Mr. Vallee was not asked for further submissions and I explicitly advised him at the May 8, 2025 hearing that he should only respond to the directions given to him. I have integrated Mr. Vallee's further submissions into my discussion of his submissions below.

53. I note that my directions were that Mr. Vallee was to provide copies of the actual documents he provided to BCFSA Investigations, if any, and not to provide copies of any documents he had not previously provided to them. The emails containing screenshots appear to be new screenshots taken on May 20, 2025 and not copies of ones previously sent to BCFSA Investigations. I conclude this because the first of Mr. Vallee's May 20, 2025 emails attaching screenshots was received at 10:33 pm, the time shown on the screenshots is 10:31,[1] and the battery charge shown in the screenshots is at 14 to 13 percent; whereas, the screenshots provided in BCFSA's investigation report to which these messages correlate were received by email at 9:41 pm on December 16, 2024, the time shown in the screenshots is 9:37, and the battery charge shown is 24 to 23 percent. The second of Mr. Vallee's May 20, 2025 emails attaching screenshots was received at 10:45 pm, the time stamp on the screenshots is 10:40 to 10:41, and the battery charge shown in the

[1] I note that the screenshots do no indicate am or pm for the time shown.

screenshots is at 12 percent; whereas, the screenshots provided in BCFSA's investigation report to which these messages correlate were received by email at 10:56 am and 10:57 am on November 6, 2024, the time shown in the screenshots is 10:02 to 10:05, and the battery charge shown is 66 to 65 percent. In my view, the various time stamps and battery charge information indicates that the screenshots contained in each set of emails, those on November 6, 2024, December 16, 2024, and May 20, 2024, indicates each set of emails contains screenshots taken on the day the emails were sent and shortly before sending the email. In my view, Mr. Vallee has not established that he provided more to BCFSA Investigations than what was provided on November 6, 2024 and December 16, 2024 and the documents supplied on May 20, 2025 are in fact additional. That said, they do not contain any information that is not contained in the text messages contained in the investigation report.

54. The additional call log information includes marginal notes from Mr. Vallee indicating which incoming calls were from [Licensee 1] and which outgoing calls were as well. Some of the notes include indications of what was discussed. The call log for January 19, 2024 shows three incoming calls between 4:13 pm and 4:20 pm lasting one to three minutes with marginal notes indicating that the calls were from [Licensee 1] and that Mr. Vallee told her that he was waiting on his clients' signatures on the Relisting Contract and the Cancellation Form. The call log for January 22, 2024 shows an incoming call at 10:34 am lasting one minute that Mr. Vallee identifies as coming from [Licensee 1] with notes indicating that Mr. Vallee told [Licensee 1] that only one of his clients had signed the Relisting Contract and the Cancellation Form. The call log for January 23, 2024 shows six incoming calls between 9:12 am and 10:23 am lasting between one and five minutes, identifies them as being from [Licensee 1], and states that Mr. Vallee explained "everything over the phone". Later that day, it shows a telephone call to Mr. Vallee's client lasting 14 minutes at 10:55 am followed by an incoming call Mr. Vallee identifies as coming from [Licensee 1] at 11:10 am and lasting four minutes. There is no indication in the note as to what Mr. Vallee told [Licensee 1] during that final call.

55. In my view, the timing of those calls Mr. Vallee has identified as coming from [Licensee 1] largely comports with the timing of requests for calls or other indications that calls likely happened in the text message exchanges between Mr. Vallee and [Licensee 1]. I therefore accept that the calls Mr. Vallee indicates as being from [Licensee 1] were calls from [Licensee 1]. At issue in this proceeding is whether, during any of the calls with [Licensee 1] on or prior to January 22, 2024, Mr. Vallee told [Licensee 1] that only one of his clients had signed the Relisting Contract and the Cancellation Form and that the Property would not be relisted at $979,000 on January 22, 2024. Determining that requires an assessment of the credibility and reliability of Mr. Vallee's evidence on this point, which I address below.

Reliability of Mr. Vallee's Account

56. The assessment of a witness's credibility and reliability involves assessment of the trustworthiness of their testimony based on factors such as their veracity, sincerity, and accuracy. This includes assessment of the witness's ability to observe the events they speak to, the firmness of their memory, their ability to resist modifying their recollections to better serve their interests, whether their evidence comports with other independent evidence, whether the evidence "seems unreasonable, impossible, or unlikely", whether they have a motive to lie, whether the witness changes their evidence while giving it, and the witness's demeanour: *Brandshaw v Stenner*, 2010 BCSC 1398 at para 186. None of these factors is necessarily determinative and the evidence should be weighed to determine "whether the evidence is consistent with the probabilities affecting the case as a whole and shown to be in existence at the time": *Faryna v Chorny*, 1951 CanLII 252 (BC CA), [1952] 2 DLR 354 at 356-357.

57. I have found a useful summary of the appropriate approach to credibility assessments in Arnold-Bailey J's decision in *R v Langlet*, 2013 BCSC 2274 at paras 24-50. In that decision Arnold-Bailey J reviews the law and highlights that the assessment of a witness's evidence should be done with

a view to the whole of evidence, that the trier of fact should not assume a person will lie or otherwise be inclined to modify their memories just because they stand accused in the proceeding, and that the adjudicator can accept some, all, or none of the evidence provided by a witness.

58. I also note that credibility and reliability are different. Credibility speaks to a witness's truthfulness and sincerity: whether they are willing to tell the truth as they believe it to be. Reliability speaks to the witness's ability to correctly identify the truth: whether they could clearly observe the events, whether they can recall and recount them accurately: see *R v Paterson*, 2017 BCSC 536 at paras 115-116.

59. In giving his oral evidence, Mr. Vallee appeared generally sincere. Much of his evidence comported with the documentary evidence. In particular, I accept that most, if not all the telephone calls he identified in his phone logs were between himself and [Licensee 1]. Those calls generally align with the text message and offer exchanges between Mr. Vallee and [Licensee 1] and it makes sense that the two would be in communication at the relevant time. I accept that Mr. Vallee told [Licensee1] that his clients were separated. This is reflected in the text messages between Mr. Vallee and [Licensee 1] on January 15, 2024 in which she asks Mr. Vallee whether his "clients BOTH agree" to what the Buyer offered. I also accept that Mr. Vallee told [Licensee 1] that his clients intended to relist the Property at $979,000. This is also reflected in the text messages between Mr. Vallee and [Licensee 1].

60. I also accept that Mr. Vallee did not appreciate the importance of BCFSA's investigation and his obligation to fully and completely respond to BCFSA Investigations' inquiries. Although I find that that he failed to deliver some of the correspondence during the investigation, I find that this failure is more likely because of his lack of familiarity with the process and his technical issues in attaching documents than a desire to obscure any information.

61. All of that said, however, I am not convinced that Mr. Vallee told [Licensee 1] over the telephone that only one of his clients had signed the Relisting Contract and Cancellation Form and that they had not been submitted to MLS before the Contract was finalized on January 22, 2024. In my view, Mr. Vallee's testimony in that regard is inconsistent with the probabilities affecting this case as informed by the documentary evidence. In particular, I find that Mr. Vallee would have explicitly mentioned such a telephone call, had it occurred, in the text messages he and [Licensee 1] exchanged on January 23, 2024 and the email Mr. Vallee sent on January 24, 2024.

62. The text messages between Mr. Vallee and [Licensee 1] on January 23, 2024 commence with [Licensee 1] expressing her client's expectation that the Property would appear as relisted at the price of $979,000 that day. Instead of replying that he told [Licensee 1] that only one of his clients had signed the listing documents before the Buyer sent the offer, Mr. Vallee instead responds that he cannot relist because the sale will be reported to the multiple listing service. Then the following exchange occurs:

> [Licensee 1]:
>
> > You told my client and I it was re listed and it would show on Monday
>
> Mr. Vallee:
>
> > Correct and then You wrote the offer and I hold on to it
>
> [Licensee 1]:
>
> > You submitted it … I have your text
> >
> > 10:54 am
>
> [Licensee 1]:
>
> > So you are aware unless the new listing shows up today on MIS at the new price, my client has advised me she will not be paying the deposit.

[*sic*]

63. In response to the above exchange, Mr. Vallee then goes on to forward his messages with his client. At no point during the message exchange on January 23, 2024 did he note that he had told [Licensee 1] before her client submitted the offer that the Relisting Contract and the Cancellation Form were not fully signed. In my view, it is unlikely that Mr. Vallee would not have brought that point up in direct response to [Licensee 1]'s text messages because raising that point would have entirely undermined her argument that he had represented that the materials had been submitted to MLS. Further, instead of responding with such a direct rebuttal, Mr. Vallee responded to inaccurately state that he had held on to the documents. In fact, Mr. Vallee had not held on to the documents, but instead did not have them fully signed by his clients.

64. It is further unlikely that he would not have brought that point up when [Licensee 1] indicated that her client was considering not paying the deposit on the Contract, which would put the transaction at risk. In my view, Mr. Vallee would have been motivated at that time to ensure the Contract proceeded and therefore would have pointed out to [Licensee 1] that he had explained the situation to her before she submitted the Offer, had he actually done so.

65. It is also unlikely that Mr. Vallee would have failed to raise this point in response to [Licensee 1]'s message sent at approximately 2:06 pm on January 23, 2024 stating the following:

> You told us that you submitted the paperwork and relisted at a higher price on Friday afternoon.
> My client already brough you a full price offer when it was listed at $959,900 and then you told us the paperwork was in at MLS for $979,000
> My buyer was not in competition. She only wrote higher because you told us that was the new MLS price.
> If your client signed the paperwork on Friday why would she be upset?
>
> [*sic*]

66. This message was sent after Mr. Vallee and [Licensee 1] had a series of calls on the morning of January 23, 2024. The last of those calls occurred at 11:10 am, after Mr. Vallee had spoken to his client about the relisting issue. Notably, the message both reiterates [Licensee 1]'s account that Mr. Vallee had represented the paperwork to relist the Property had been submitted to MLS and raises the point that his clients should not be upset if she had signed the Relisting Contract on January 29, 2024. I find it very difficult to accept that Mr. Vallee would not have responded to this message to note that he had told [Licensee 1] that only one of his clients had signed the Relisting Contract and the Cancellation Form, if he had in fact done so. In my view, a person in Mr. Vallee's position would have directly responded to the issue of whether his client had signed the paperwork had he already told [Licensee 1] that his client had not.

67. I note, in regard to the above, that Mr. Vallee's response to the above noted message indicates that the matter had been referred to his managing broker. That may have gone some way to explaining why Mr. Vallee did not directly respond to [Licensee 1] at that time, but it does not explain why, when responding to [Licensee 2], Mr. Vallee again failed to refer to any telephone calls between [Licensee 1] and himself. The closest he came to referring to any conversations on this point was noting that [Licensee 1] "should have been well aware of" the possibility that the Relisting Contract had not been signed.

68. I note that Mr. Vallee says he did not think it would be useful to raise the point that he had told [Licensee 1] he did not have the fully signed Relisting Contract and Cancellation Form because [Licensee 1]'s communication style was aggressive. In my view, that explanation makes little sense given the fact that he did provide responses to [Licensee 1]'s messages, but none that directly addressed the issue she had raised in the way pointing out prior disclosure would. It also makes little sense in the context of the January 24, 2024 email, which not only provides a reasonably

detailed response to the allegation at issue, but also takes an aggressive tone in addressing [Licensee 1]'s approach to making offers, accuses [Licensee 2] of having ulterior motives arising from Mr. Vallee's and [Licensee 2]'s previous history, and accuses both [Licensee 1] and [Licensee 2] of acting in an unprofessional manner, making "impractical demands", and causing "unnecessary chaos". In my view, the tone of that email belies any account that Mr. Vallee was concerned about [Licensee 1]'s communication style.

69. I also note that Mr. Vallee testified that the January 24, 2024 email was a "general" email and aimed more at addressing the personal dispute between [Licensee 2] and himself. In my view, that does not comport with either the context or the content of that email. The email is sent the day after the dispute arose and at a time when what occurred would have been relatively fresh in everyone's mind. The email provides a reasonably detailed account of what occurred between [Licensee 1] and himself. It does not go day by day or hour by hour, but it does note specific dates and times. It also specifically notes that he had instructions to relist the Property at $979,000 and had told [Licensee 1] that. Despite the specificity Mr. Vallee included in responding to the relisting issue, he does not mention telling [Licensee 1] over the phone that one of his clients had not signed the Relisting Contract and the Cancellation Form. Although Mr. Vallee may have suspected [Licensee 2] was motivated by personal animosity in pursuing the issue and although Mr. Vallee was clearly concerned about that point and addressed it in the email, I do not believe Mr. Vallee would have left out that key piece of information while responding to the allegations regarding his honesty. In particular, he would not have said that [Licensee 1] "should have been well aware of [the fact that both his clients had not signed the Relisting Contract] when she submitted a new offer On Monday January 22, 2024" [*sic*]. He would have said that [Licensee 1] in fact knew that.

70. I finally note that Mr. Vallee indicated that English was not his first language and, as a result, he preferred to address issues over the phone. I accept that Mr. Vallee's first language is not English. This is reflected in some of his text messages and in his submissions. I do not find that there is any particular lack of clarity in his text messages or his emails, but some of his phrasing is not standard. In fact, I find that the text messages and his emails, on the whole, demonstrate a significant proficiency with written English. I accept that Mr. Vallee may be more comfortable speaking and having the ability to correct or clarify in real time, that seems to me to be a natural inclination; however, none of that explains why, despite being presented with multiple opportunities to respond to direct accusations from [Licensee 1] and [Licensee 2] that he had misrepresented what had occurred, he did not raise the exact point which would have responded to that accusation.

71. In my view, it is more likely that Mr. Vallee has misremembered what transpired between himself and [Licensee 1] and what was discussed in their telephone calls, than what he now says occurred, but which he failed to raise in his correspondence. I note in this regard that the correspondence I have referred to above occurred roughly contemporaneously with the alleged misrepresentation and it is therefore unlikely that Mr. Vallee would have, at that time, forgotten about any telephone discussions he had had with [Licensee 1] on the issue. Conversely, Mr. Vallee's account that he told [Licensee 1] he only had the Relisting Contract signed by one client arose only many months later after the investigation and after the NOAP had been issued. I do not find that Mr. Vallee has intentionally invented a false narrative, but given the malleability of memory, the passage of time, the generally candid nature of his correspondence with [Licensee 1], and the desire to respond to the NOAP, I find that it is more likely that Mr. Vallee's recollection is inaccurate than that he had a telephone call with [Licensee 1] in the morning of January 22, 2024 in which he told her one of his clients had not signed the Relisting Contract and the Cancellation Form. I note in this regard Arnold-Bailey J's instruction in *R v Langlet*, 2013 BCSC 2274 that I should take caution in concluding that a respondent's memory will be more faulty because they stand accused in a proceeding. The primary reason I find Mr. Vallee's account is not reliable is because it does not comport with the probabilities of the matter as a whole and in particular the contemporaneous correspondence provided by the parties.

72. I therefore find that Mr. Vallee did not advise [Licensee 1] that only one of his clients had signed the Relisting Contract before she submitted the Buyer's offer on January 22, 2024.

Submissions

73. Mr. Vallee submits that he has a lengthy record as a realtor without any regulatory issues and that he has "maintained an impeccable reputation." He submitted that if he had conducted himself dishonestly that he would not have had such a good track record because issues would have arisen before. He submitted that he has trained "hundreds of licensed realtors" and having an administrative penalty might impact his ability to be a leader in the industry in the future. He further submitted that a notice of administrative penalty might damage his reputation and limit his ability to recruit other licensees to his brokerage.

74. Mr. Vallee submitted that he kept [Licensee 1] advised through the course of their interactions regarding the state of his discussions with the Sellers. He submitted that he did not intend to mislead the Buyer or [Licensee 1] and that he did in fact have instructions to relist the Property at $979,000, which had been communicated to [Licensee 1].

75. Mr. Vallee submitted that the one text message he sent on January 19, 2024 does not reflect the whole course of discussions he had with [Licensee 1]. He also submitted that the text message at issue does not indicate which Monday the post would go up on, either January 22, 2024 or the following Monday, January 29, 2024;[2] however, he did accept that it would be natural for a reader to conclude that he meant the following Monday, January 22, 2024. Mr. Vallee further submitted that his January 19, 2024 message "clearly stated the paperwork had not yet been submitted" and indicated that he intended to submit the documents.

76. Mr. Vallee submitted that it was not necessary for him to cancel the listing and relist the Property because he had instructions to increase the listing price and the negotiations were based on his discussions with [Licensee 1]. He submitted it was therefore not necessary for the relisting to proceed.

77. Mr. Vallee submitted that he wished we could have [Licensee 1] give evidence in this proceeding. I noted to him, as indicated in my prior decision to conduct an oral hearing in this matter, that I was not able to compel witnesses in this proceeding: *Vallee (Re)*, 2025 BCSRE 58, paras 31 and 39.

78. Mr. Vallee also provided a letter from the Sellers summarizing what occurred from their perspective. This letter summarizes the interactions between the Sellers and Mr. Vallee in January 2024. The relevant portions of that interaction are summarized above. The letter also speaks to Mr. Vallee's "expertise, integrity, honesty and professionalism" and the Seller's satisfaction with Mr. Vallee's conduct.

Reasons and Findings

Applicable Legislation

79. Section 56 of RESA provides that BCFSA may designate specific provisions of RESA, the *Real Estate Services Regulation* (the "**Regulations**"), or the Rules as being subject to administrative penalties, and may establish the amounts or range of amounts of administrative penalty that may be imposed in respect of each contravention of a specified provision. Pursuant to section 56(2), the maximum amount of an administrative penalty is $100,000.

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[2] I note that Mr. Vallee's oral submissions referenced Monday January 31, 2024. That date is in fact a Wednesday. In my view, Mr. Vallee simply misspoke in that regard.

80. Section 26(1) of the Rules indicates that for the purposes of section 56(1) of RESA, contraventions of the Rules listed in section 26(2) of the Rules are designated contraventions to which Division 5 (Administrative Penalties) of Part 4 of RESA applies.

81. Section 26(2) of the Rules identifies six categories, Category A, B, C, D, E, and F, for designated contraventions for the purpose of determining the amount of an administrative penalty. Section 34 of the Rules is placed in Category C. Section 27(3) of the Rules sets out that contraventions of sections placed in Category C may attract a $5,000 administrative penalty for a first contravention and a $10,000 administrative penalty for a subsequent contravention.

82. Section 57(1) of RESA sets out that if the superintendent is satisfied that a person has contravened a provision of RESA, the Regulations, or the Rules designated under section 56(1)(a) of RESA, the superintendent may issue a notice imposing an administrative penalty on the person. Section 57(2) requires that a notice of administrative penalty indicate the rule that has been contravened, indicate the administrative penalty that is imposed, and advise the person of the person's right to be heard respecting the matter.

83. Section 34 of the Rules provides:

> **Duty to act with reasonable care and skill**
>
> **34** When providing real estate services, a licensee must act with reasonable care and skill.

Analysis

84. The imposition of an administrative penalty under section 57 of RESA is a discretionary decision. A request to reconsider the imposition of an administrative penalty requires a Hearing Officer to consider not only whether a contravention of RESA, the Regulations, or the Rules has occurred, but also whether a licensee exercised due diligence, that is: took reasonable steps or precautions, to prevent the contravention of the designated sections identified in the notice of administrative penalty. Some types of contraventions require proof of a failure to exercise due diligence. Proving a section 34 contravention includes a determination of whether the licensee exercised reasonable care and therefore establishing the contravention itself involves assessing whether the licensee exercised due diligence. A Hearing Officer may also consider information on any extenuating circumstances that prevented compliance, or any other information the licensee believes a Hearing Officer should consider.

Contravention

85. The question before me is whether Mr. Vallee failed to act with reasonable care and skill when he sent the January 19, 2024 text message to [Licensee 1] stating, "Yes did did send the paperwork and it will show up on the mls on Monday".

86. To answer that question, I must first determine what that text message meant and whether it could reasonably be read to mean that the necessary documents had been submitted to MLS such that relisting of the Property would occur on Monday January 22, 2024. I will first address Mr. Vallee's two submissions regarding the meaning of the January 19, 2024 text message.

87. First, I reject Mr. Vallee's submission that the message does not indicate which Monday the posting would happen on. That is not a reasonable reading of the message because it would be highly unusual for someone to send a message on a Friday referring to a Monday and only mean "some Monday in the future" as opposed to the directly following Monday. In my view, any reasonable person reading that message would conclude that Mr. Vallee was referring to Monday January 22, 2024. Mr. Vallee accepted during the oral hearing that his would be the natural inference from the content of the message.

88. Second, I reject Mr. Vallee's submission that the message clearly indicated that the necessary documents had not been submitted but that they were intended to be submitted. The text of the message itself states that Mr. Vallee "did send" the documents and that the listing would "show up on the mls on Monday" [*sic*]. That does not read as Mr. Vallee merely stating his intention, but instead as him saying he has actually done something such that the listing will occur on Monday January 22, 2024.

89. In my view, the only ambiguity in the subject text message is whether it indicates that Mr. Vallee had sent the documents to his clients or if he had submitted them to MLS to change the list price. The message itself does not say to whom Mr. Vallee had sent the documents and is therefore unclear on that point. It is clear that [Licensee 1] took the message to mean that Mr. Vallee had in fact submitted them, her text messages on January 23, 2024 indicate as such. I note that I have not had the opportunity to receive oral evidence from [Licensee 1] and therefore have not had the chance to test or evaluate her evidence on this point, but the course of events, the text messages she sent contemporaneously with the events at issue, the brief telephone interview conducted by BCFSA Investigations in which she did not mention any phone calls with Mr. Vallee, and the fact that [Licensee 1] had no obvious motive to misrepresent the facts all indicate to me that she believed Mr. Vallee had made a representation on January 19, 2024 that he had submitted the documents to MLS.

90. That said, the message could bear a reading that Mr. Vallee was saying he had sent the documents to his clients with the intention that they would sign them in time to have the listing updated on Monday January 22, 2025. That reading is slightly strained by the content of the message in that it does not explicitly speak to Mr. Vallee's intentions or plans but directly states that the relisting will show up on Monday.

91. Looking at the message in context, I note that it was sent in response to [Licensee 1] directly asking Mr. Vallee if he was "canceling and relisting" earlier on January 19, 2024 and after the Sellers had provided a counteroffer on January 14, 2024 at $979,000, [Licensee 1] had stated on January 14, 2024 that the Buyer was not willing to offer more than the current list price, [Licensee 1] had stated on January 15, 2024 that her client had made a full price offer at $959,000 and was not willing to go higher, and Mr. Vallee had informed [Licensee 1] on January 16, 2024 that he planned to cancel and relist at $979,000. That context indicates that the $979,000 price had been alive for just short of a week and that there had been a plan to relist at that price since at least January 16, 2024. In my view, that context indicates that the most reasonable reading of Mr. Vallee's January 19, 2024 text message was that he had in fact implemented the plan to relist by submitting the necessary document to MLS to have the listing updated on Monday January 22, 2024, rather than that he merely intended to implement the plan to have it show up on the Monday.

92. In short, I find that Mr. Vallee's January 19, 2024 message was ambiguous regarding whom he sent the documents to, but the most reasonable interpretation of that message in its context is that he had submitted the necessary documents to MLS to have the listing updated on January 22, 2024.

93. The next question is whether Mr. Vallee acted with reasonable care and skill in drafting the message at issue to avoid the impression that he had submitted the documents necessary to relist the Property at $979,000. In other words, would a reasonably prudent licensee in Mr. Vallee's situation have been more clear in his message or otherwise clarified what that message meant?

94. In my view, a reasonably prudent licensee in Mr. Vallee's circumstances would have been more clear in his communications with [Licensee 1] regarding the relisting. Importantly, Mr. Vallee knew by January 14, 2024 that [Licensee 1]'s client was of the view that she had made a full price offer based on the then current listing and that this was likely a sticking point in the negotiations. This became more clear when the Buyer refused to increase her price to $965,000. Although this clearly did not figure into the Sellers' instructions to increase the list price for the Property, given they had already given those instructions at that point, Mr. Vallee ought to have known that the list price was

a material issue in the negotiations when he started making representations to [Licensee 1] about relisting on January 16, 2024. I note in this regard that [Licensee 1] explicitly asked Mr. Vallee on January 19, 2024 if Mr. Vallee was "canceling and relisting", which prompted the text message at issue. In my view, that context indicates that the relisting was important to the negotiations and Mr. Vallee should have been clear about what exactly was happening with that relisting when making representations about it.

95. As noted above, I reject Mr. Vallee's account that he told [Licensee 1] over the phone that only one of the clients had signed the Relisting Contract and the Cancellation Form. To reiterate, that account does not comport with the documentary evidence in this proceeding. As a result, I find that the only representations Mr. Vallee made concerning the plan to relist the Property prior to his client accepting the Offer and thus forming the Contract are reflected in the text messages between Mr. Vallee and [Licensee 1].

96. I note that this case is peculiar in that [Licensee 1], as the Buyer's agent, had a positive duty under section 30(h) of the Rules to use reasonable efforts to discover any relevant facts concerning the real estate and a positive duty to act in her client's best interest under section 30(a) of the Rules. Although section 30(h) refers to the actual property and not the transaction as a whole, if the listing price of the Property was sufficiently important to the Buyer that she would not have made the Offer, [Licensee 1] should have ensured that the relisting was complete before the Buyer made the Offer. Therefore, although it was not reasonable for Mr. Vallee to have sent the text message at issue given its ambiguity and although that message appears in context to mean what [Licensee 1] appears to have thought it did, it was also not entirely reasonable for [Licensee 1] to have relied on that text message alone in coming to the conclusion that Mr. Vallee had submitted the relisting documents to MLS. In my view, if that issue were serious enough that the Buyer would not have made the Offer without the Property being relisted, [Licensee 1] or the Buyer should have sought a clear confirmation from Mr. Vallee or waited until the Property was actually relisted. I note that the issue of whether [Licensee 1] complied with her obligations under section 30 of the Rules is not before me and I therefore make no finding on that point; an actual finding on that point would likely require substantially more information on what occurred between [Licensee 1] and the Buyer. In my view, this is relevant to Mr. Vallee's case because the person who was best situated to prevent the issue here was [Licensee 1], who could have obtained a more clear confirmation from Mr. Vallee before submitting the Offer if it was that important to the Buyer. In my view, the foregoing does not absolve Mr. Vallee of responsibility to act reasonably in the representations that he makes, though it may reduce his culpability. Mr. Vallee's failure to clearly communicate laid the foundation for the issues that arose here and, regardless of [Licensee 1]'s conduct, fell short of the required degree of diligence.

97. In my view, a reasonably prudent licensee in Mr. Vallee's situation would have either not represented to [Licensee 1] that the Property would be relisted on Monday January 22, 2024 or would have been clear that he had supplied the documents to relist to his clients. Such a prudent licensee would not have sent a text message that was ambiguous on that point without some further explanation, which I find did not occur.

98. I therefore find that Mr. Vallee failed to act with reasonable care and skill when he sent the text message on January 19, 2024 to [Licensee 1] indicating that he had sent the paperwork to relist the Property at $979,000 and that it would show up on MLS on Monday January 22, 2024 and thereby contravened section 34 of the Rules.

Penalty Amount

99. The penalty amount issued in the NOAP was $5,000, being the prescribed amount of a monetary administrative penalty available for a first contravention of a section 34 of the Rules, which is designated as a Category C contravention.

100. I do not have the power to vary the administrative penalty issued in this case. I can only cancel or confirm the penalty, and if I cancel it I may refer the matter to a discipline hearing. Having found that the contravention occurred in this case, the question before me is whether the administrative penalty is appropriate. The question to be addressed when determining whether an administrative penalty is appropriate is whether the penalty falls within a reasonable range of outcomes given the contravention demonstrated in this case. In assessing that question, I must consider all the circumstances including the licensing and enforcement history of the licensee, the seriousness of the misconduct, the licensee's culpability, the consequences of the conduct, and any mitigating or aggravating factors. I must also consider the goals of regulatory enforcement which are primarily aimed at protecting the public by achieving compliance and, in that context, I must consider the principles of specific deterrence, rehabilitation of respondent licensees, general deterrence, and public confidence in the industry.

101. I also note that administrative penalties, as opposed to discipline penalties, are generally reserved for less serious misconduct. This is reflected in the, generally, lower penalty amounts available under the administrative penalty regime and the generally restricted penalty types available under section 57 of RESA, being only monetary penalties, remedial education, and licensing conditions, as compared to section 43 of RESA, which includes license suspensions or cancellations and larger upper limits on monetary penalties. Therefore, administrative penalties may still be appropriate where there is no harm, the contravention is minor or technical, the contravention was unintentional, the contravention was not repeated or part of a broader course of non-compliance, or the licensee has accepted responsibility for the contravention.

102. Turning to the conduct at hand, I accept that Mr. Vallee did not intend to mislead [Licensee 1] or the Buyer. The evidence is not strong enough to establish that Mr. Vallee was anything more than careless with regard to the content of his January 19, 2024 text message. That said, Mr. Vallee's lack of clarity did stand to benefit him in this regard because it further enticed the Buyer to make an offer on the Property in circumstances where he would obtain a commission from the sale and he ought to have known that the Buyer was motivated by the listing price of the Property. That said Mr. Vallee did not actually realize any personal gain from the Contract and the Recission Payment went to his clients.

103. The contravention itself is relatively serious, which is indicated by the fact that failures to act with reasonable care and skill are designated as Category C contraventions along with the sections concerning breaches of duties that licensees owe to their clients: see *Elliasi (Re)*, 2025 BCSRE 37 at para 115. The seriousness of the conduct is somewhat diminished because Mr. Vallee's conduct was not the sole or most proximate cause of the problem that occurred here.

104. I note that the conduct at issue here did lead to some harm to the Buyer in the form of the Recission Payment. I reiterate, though, that Mr. Vallee's January 19, 2024 text message was not the sole or proximate cause of that loss in that [Licensee 1] and the Buyer had the opportunity to clarify whether the Property would be relisted on MLS before making the Offer. The fact that [Licensee 1] was the licensee who primarily owed duties to the Buyer and was best situated to prevent the issue here decreases the seriousness of Mr. Vallee's conduct as compared to a scenario in which Mr. Vallee's conduct had been the sole and proximate cause of the problem, but it does not absolve it.

105. I accept that Mr. Vallee has no relevant disciplinary or enforcement history. He has been licensed without any formal discipline history since 2002. I note that this factor is not mitigating, licensees are expected to comply with their regulatory obligations: *Rohani (Re)*, 2024 BCSRE 31 at para 53.

106. Regarding Mr. Vallee's acknowledgment of his misconduct, I find that Mr. Vallee has not really acknowledged his misconduct. In this proceeding, he only admitted that the text message at issue was referring to Monday, January 22, 2024 when I put that point to him in my questions. He maintained through the proceeding, including in his additional submissions made May 20, 2025, that the message meant that he had sent the documents to his clients and had not submitted them

to MLS. He also consistently focused on [Licensee 1]’s conduct including the short deadlines she provided in the offers she submitted. In my view, his evidence and submissions generally demonstrate a lack of appreciation for where he went wrong. I therefore find that there would be some rehabilitative and specific deterrent effect in having an NOAP issued against Mr. Vallee.

107. Regarding public confidence and general deterrence, I am of the view that a monetary administrative penalty would foster both by demonstrating that standards of reasonable care and skill are met within the industry and where they are not the regulator will take action. In my view, that need not necessarily have been a monetary administrative penalty but such a penalty would send the necessary message to the public in general and licensees as a group.

108. Considering the above, I am of the view that the penalty in this case is at the high end of the appropriate range, but is not inappropriate. Mr. Vallee engaged in unintentional conduct that contributed to an actual loss by a member of the public. Although that harm could have been avoided by [Licensee 1] or the Buyer seeking clarity, Mr. Vallee’s conduct laid the foundation for the misunderstanding that occurred here and the loss that the Buyer suffered. In my view, the goals of specific deterrence, general deterrence, and public confidence in the industry, and public protection more generally, could have been met by imposing conditions or requiring Mr. Vallee to take remedial education, but issuing an monetary penalty does not fall outside the scope of appropriate regulatory responses given the fact of actual harm being suffered, even considering the lack of intention and the fact that Mr. Vallee’s actions were not the most proximate cause of the harm that occurred.

109. Regarding the impact to Mr. Vallee’s reputation of having an administrative penalty imposed on him, that is the necessary consequence of a contravention of the Rules and an appropriate penalty. In that context, the degree of harm to a licensee’s reputation will generally follow the seriousness of the contravention and therefore be appropriate to the contravention: see *Elliasi (Re)*, 2025 BCSRE 37 at para 132.

Conclusion

110. I find that Mr. Vallee failed to act with reasonable care and skill when he sent the text message on January 19, 2024 to [Licensee 1] indicating that he had sent the paperwork to relist the Property at $979,000 and that it would show up on MLS on Monday January 22, 2024 and thereby contravened section 34 of the Rules.

111. I find that the administrative penalty issued in this matter was not inappropriate.

112. I confirm the NOAP.

113. The $5,000 administrative penalty is now due and owing.

DATED at North Vancouver, BRITISH COLUMBIA, this 29th day of May, 2025.

“Original signed by Gareth Reeves”

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Gareth Reeves
Hearing Officer