Citation: Bood (Re), 2026 BCSRE 30
Date:2026-01-20
File No. 18-689

BC FINANCIAL SERVICES AUTHORITY

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

AND

IN THE MATTER OF

JUDITH LINDA BOOD
(FORMER LICENCE NO. 172453)

AND

JUDY BOOD PERSONAL REAL ESTATE CORPORATION
(FORMER LICENCE NO. 172453PC)

DECISION ON LIABILITY AND SANCTION

[This Decision has been redacted before publication.]

DATE OF HEARING:	March 3, 2025 and August 19, 2025
COUNSEL FOR BCFSA:	Simon Adams
COUNSEL FOR RESPONDENT:	Stefanie Gladders
HEARING OFFICER:	Andrew Pendray

Introduction

1. On November 12, 2024, the BC Financial Services Authority ("BCFSA") issued a Notice of Discipline Hearing to Judith Linda Bood and Judy Bood Personal Real Estate Corporation (collectively "Ms. Bood").

2. The allegations against Ms. Bood were that, in October of 2018, she had committed professional misconduct with the meaning of section 35(1)(a) of the *Real Estate Services Act* ("RESA"[1]) as follows:

    - While acting as a seller's agent on a property at [Property 1] (the "Property"), she failed to disclose to a buyer and the buyer's agent the fact that the property for sale was of

[1] RESA has been amended since the alleged misconduct. It is the version of RESA that existed in October 2019 that applies to this hearing.

archaeological significance, when she knew or ought to have known that fact, contrary to section 5-13(2) of the *Real Estate Services Act Rules* (the "Rules")[2];

- She failed to refuse to provide further trading services to her seller client when the seller client instructed her to withhold the information regarding the archaeological significance of the property, contrary to section 5-13(3) of the Rules;
- She failed to act honestly when she withheld from the buyer and the buyer's agent her knowledge that the property was of archaeological significance during the transaction process, contrary to section 3-4 of the Rules.

3. Ms. Bood entered into an Agreed Statement of Facts and Proposed Findings of Misconduct (the "ASF") prior to the liability hearing in this matter. On the scheduled date of the liability hearing, March 3, 2025, I accepted the ASF and admissions made by Ms. Bood, and the proposed findings of misconduct, which mirrored those set out in the notice of hearing. I found that Ms. Bood was liable in respect of the allegations set out against her in the notice of discipline hearing.

4. This decision relates to the appropriate orders to be issued against Ms. Bood in respect of her admitted misconduct. An oral hearing was held on the issue of sanctions, with Ms. Bood providing evidence on her own behalf.

5. In its submissions, BCFSA seeks an order that Ms. Bood and Judy Bood PREC should be ordered to pay a discipline penalty of $100,000, and that Ms. Bood and Judy Bood PREC pay investigative and hearing expenses incurred in the amount of $7,798.55.

6. Ms. Bood takes the position that a discipline penalty in the range of $10,000 to $20,000, along with a direction that she not seek to reobtain a licence, would be an appropriate sanction in the circumstances.

Issues

7. The issues before me are what orders I should make under section 43 of RESA including the following:
    a. The sanction or sanctions I should order under section 43(2) of RESA; and
    b. Whether Ms. Bood should be ordered to pay any expenses pursuant to section 43(2)(h) of RESA, and if so, in what amount.

Jurisdiction and Standard of Proof

8. Pursuant to section 2.1(3) of RESA, the Superintendent of Real Estate (the "superintendent") may delegate any of its powers in writing. The Senior Hearing Officer and Hearing Officers of BCFSA's Hearings Division have been delegated the statutory powers and duties of the superintendent under sections 42 through 53 of RESA.

9. The superintendent must also afford procedural fairness to a respondent where a decision may affect his or her rights, privileges or interests. This includes a right to be heard. The superintendent affords every respondent an opportunity to respond to the case against him or her by providing advance notice of the issues and the evidence, and an opportunity to present evidence and argument. The superintendent must determine facts and decide issues based on evidence. The

[2] The Rules have been amended since the time of the alleged misconduct. It is the Rules as they existed in October of 2018 that apply to this decision.

superintendent may, however, apply its individual expertise and judgment to how it evaluates or assesses evidence.

Factual Background

10. The evidence and information before me includes the ASF, Ms. Bood's testimony, and documentary evidence entered by Ms. Bood at the hearing regarding her financial situation and reviews she had received for her work as a licensee.

11. The factual background is largely set out in the ASF.

12. Ms. Bood and Judy Bood PREC were first licensed on December 2, 2015 as representatives in the trading services and strata management services categories. On March 31, 2017 they became licensed only as representatives for trading services. The licenses for Ms. Bood and Judy Bood PREC were transferred to Team 3000 Realty Ltd. (Vancouver 2), and remained there until they terminated their licenses for retirement on December 6, 2022. Neither Ms. Bood nor Judy Bood PREC have a prior discipline history.

13. In 2018, Ms. Bood was the agent for the seller of the Property, [Seller 1]. The property is situated on the coast of Vancouver Island.

14. On behalf of [Seller 1], Ms. Bood twice listed the Property for sale.

15. Prior to the Property being listed the second time, it was brought to Ms. Bood's attention that the Property sat on an archaeological site, which was protected by the *Heritage Conservation Act*. A property protected by the *Heritage Conservation Act* preserves the property and consequently alterations to the property site cannot be made without proper permits issued by the appropriate minister or delegate of the Archaeological Branch.

16. In May 2018, Ms. Bood contacted an archaeological consulting company, [Company 1] ("[Company 1]") regarding both lots 1 and 2 on [Property 1's] Road, on the basis that she understood the lots may be in a "sensitive area".

17. [Company 1] confirmed to Ms. Bood that the lots were on an archaeological site.

18. In early June 2018, Ms. Bood obtained survey measurements for Lots 1 and 2 from [Company 2] ("[Company 2]"). She provided those results to [Seller 1].

19. Ms. Bood then relisted the Property in early July 2018. The listing did not mention that the Property was on an archaeological site. Ms. Bood would, however, verbally disclose that fact to prospective buyers.

20. The property disclosure statement for the Property, dated July 5, 2018, indicated "no" to the question "Are you aware if the property, or any portion of the property, is designated or proposed for designation as a 'heritage site' or of 'heritage value' under the *Heritage Conservation Act* or under municipal legislation?"

21. On October 14, 2018, the buyer, through their agent, Rick Gildart, submitted an offer of $300,000 for the Property. This was the first offer that had been received on the Property.

22. [Seller 1] instructed Ms. Bood to not disclose that the Property was on an archaeological site to the buyer or to Mr. Gildart, and Ms. Bood did not disclose the same.

23. On October 15, 2018, [Seller 1] accepted the offer for the Property. The Buyer completed and took possession of the Property on October 31, 2018, without knowing that the Property was on an archaeological site.

24. The Buyer commenced some clearing of trees and brush on the Property on November 2, 2018. On November 6, 2018 the Buyer received a phone call from the Archaeological Branch advising that the Property was an archaeological site and that the Buyer must therefore desist from any further work on the Property until necessary permits had been obtained.

25. The Buyer then received a report from [Company 1] on December 6, 2018, which informed it that the archaeological site on the Property was protected by the *Heritage Conservation Act*, which meant that it could not be altered without ministerial permissions.

26. The Buyer ultimately sold the Property for $200,000 as they could not develop on the land as they had initially planned due to the archaeological site being located on the Property, sustaining a loss of approximately $110,000 including costs.

Liability

Applicable Law

27. Section 35(1)(a) set out that a licensee commits professional misconduct where the licensee contravenes RESA, the Real Estate Services Regulations, or the Rules.

28. In 2018, section 5-13 of the Rules provided that:

> (1) For the purposes of this section:
> ***material latent defect*** means a material defect that cannot be discerned through a reasonable inspection of the property, including any of the following:
>
> (a) a defect that renders the real estate
>
> (i) dangerous or potentially dangerous to the occupants,
>
> (ii) unfit for habitation, or
>
> (iii) unfit for the purpose for which a party is acquiring it, if
>
> (A) the party has made this purpose known to the licensee, or
>
> (B) the licensee has otherwise become aware of this purpose;
>
> (b) a defect that would involve great expense to remedy;
>
> (c) a circumstance that affects the real estate in respect of which a local government or other local authority has given a notice to the client or the licensee, indicating that the circumstance must or should be remedied;
>
> (d) a lack of appropriate municipal building and other permits respecting the real estate

29. Section 5-13(2) provided that:

> A licensee who is providing trading services to a client who is disposing of real estate must disclose to all other parties to the trade, promptly but in any case before any agreement for the acquisition or disposition of the real estate is entered into, any material latent defect in the real estate that is known to the licensee.

30. Section 5-13(3) of the Rules provided that:

> If a client instructs a licensee to withhold a disclosure required by subsection (2), the licensee must refuse to provide further trading services to or on behalf of that client in respect of the trade in real estate.

31. Section 3-4 of the Rules provided that:

> When providing real estate services, a licensee must act honestly and with reasonable care and skill.

Discussion

32. As indicated above, based on the ASF, I determined at the March 2025 liability hearing that the allegations in the Amended Notice of Discipline Hearing had been made out on a balance of probabilities.

33. The facts in this case are clear. Ms. Bood was aware that there was a material latent defect on the Property, that being the archaeological site located on the Property which meant that alterations to the property could not be made without proper permits issued by the Archaeological Branch.

34. As a result of that knowledge, Ms. Bood was required, by section 5-13(2) of the Rules to disclose to the other parties to the trade, in this case the Buyer and Mr. Gildart, the Buyer's agent, the fact of the archaeological site on the Property. She was required to do this promptly, and in any event before any agreement for the acquisition of the Property was entered into. Ms. Bood clearly did not do so, in that she did not disclose the fact of the archaeological site to the Buyer or the Buyer's agent at any point in time. This breach of the Rules constitutes professional misconduct as contemplated by section 35(1)(a) of RESA.

35. Ms. Bood also admits that her client specifically instructed her to withhold the disclosure of the fact of the archaeological site on the Property from the Buyer. Once having received that instruction, section 5-13(3) of the Rules required that Ms. Bood refuse to provide any further trading services on or behalf of her client. She did not do so, but rather participated in the completion of the transaction. This breach of the Rules constitutes professional misconduct as contemplated by section 35(1)(a) of RESA.

36. Finally, I find it to be clear that in breaching the above noted Rules, there can be no doubt that Ms. Bood failed to act honestly and with reasonable care and skill in her provision of real estate services in association with the listing and sale of the Property. Ms. Bood knew that she was required to disclose the fact of the archaeological site, and in fact had done so to previous prospective buyers. In determining not to do so, and in following the instructions of her client in that regard, Ms. Bood did not act honestly and with reasonable care and skill in proceeding with the sale of the Property. This breach of section 3-4 of the Rules constitutes professional misconduct as contemplated by section 35(1)(a) of RESA.

37. Having taken the above into account, and as I indicated at the liability hearing, I make the following findings in respect of Ms. Bood and Judy Bood PREC's liability in this matter:

- Judy Bood and Bood PREC committed professional misconduct within the meaning of section 35(1)(a) of the RESA when while acting as seller's agent, they:
    - failed to disclose to the buyer and buyer's agent that the property located at [Property 1] was of archaeological significance on or before October 14, 2018, when the contract of purchase and sale

was created and signed, when they knew or ought to have known that the Property was of archaeological significance, contrary to section s 5-13(2) of the Rules;

- failed to refuse to provide further trading services to their seller client when their seller instructed them to withhold from the buyer and the buyer's agent the fact that the Property was of archaeological significance, contrary to section 5-13(3) of the Rules; and

- failed to act honestly when they withheld from the buyer and the buyer's agent their knowledge that the Property was of archaeological significance during the transaction process, contrary to section 3-4 of the Rules.

Sanctions

Additional Evidence

38. Ms. Bood testified on her own behalf at the sanctions hearing of this matter.

39. She explained that July 2018 was the second occasion on which she had listed the Property for the seller. She indicated that she and the seller had had multiple conversations about the fact of the archaeological site, and that the seller would always tell her that he did not feel that the archaeological site on the Property needed to be disclosed. Ms. Bood described the seller as having been very argumentative and difficult.

40. Ms. Bood indicated that despite the seller's assertion that disclosure was not needed, during the first listing of the Property she had disclosed the archaeological site to all interested.

41. When asked why she had not disclosed to the Buyer, Ms. Bood indicated that the seller had informed her that the Buyer was a sophisticated party and developer, that the seller worked in the area, and that the seller knew all about the rules. Ms. Bood indicated that she felt that she had latched onto that argument as being reasonable not to disclose to the Buyer.

42. Ms. Bood went on to describe her personal circumstances. She indicated that she was now retired, and that the decision to retire had been related to a significant health problem. Ms. Bood explained that she had been feeling exhausted and overwhelmed, and had not wanted her health difficulties to affect her clients.

43. Ms. Bood explained that prior to the listing of the Property, she had been experiencing [symptoms of a possible medical issue]. After seeing her own doctor, and then a specialist, it was determined that she had [Diagnosis 1], which was diagnosed in March 2018. Ms. Bood explained [the details of the diagnosis]. She indicated that her [specialist] explained to her that she would need to be on [medication] for the rest of her life, and have [redacted] tested on an ongoing basis. Ms. Bood explained that she had wanted to avoid having surgery for [Diagnosis 1] for as long as possible, and that she had "muddled through" until ultimately having surgery [redacted] in 2020. She indicated that at that time she was starting [to experience further symptoms], and the surgery had been performed in order to ease [redacted].

44. Ms. Bood described the surgery as having been successful, and stated that she underwent some [further treatment].

45. Ms. Bood explained [the details for the medical issue], and that she had likely had it for approximately 10 years. She indicated that she felt that it was just a "slow thing affecting my health". Ms. Bood

indicated that she was having a little bit of trouble with her vision at the time of the hearing, but that she was pretty happy with her prognosis to date.

46. With respect to her interactions with BCFSA investigators, Ms. Bood indicated that she had immediately admitted her wrongdoing, and that she had attempted to be as helpful as possible to the investigation.

47. Ms. Bood provided evidence regarding her financial situation. She indicated that she had approximately $[redacted] in savings, and a TFSA with a balance of $[redacted]. She indicated that subsequent to retirement she had found herself constantly dipping into her savings, and that as a result she had sold her condo and moved to a less expensive condo, valued at approximately $[redacted], with a monthly strata fee of $300. She had used the money from the sale of her condo to purchase the TFSA account, from which she currently received $620 per month, which was intended to last her for the next 15 years.

48. Ms. Bood testified that she also received $1,600 per month from CPP and OAS, and that combined with the money she received from her TFSA, she was able to live off those funds.

49. Ms. Bood noted that she had a limited ability to withdraw funds from her TFSA, she described those funds as “locked in”, and noted that on both her RIF and LIF she would have to pay tax to withdraw those funds.

50. Ms. Bood explained that if she was required to pay a discipline penalty in the amount sought by BCFSA, she would likely have to move into a recreational vehicle. She indicated that her RIF and LIF would not be sufficient to pay the penalty, as she would have to pay a fee on withdrawal of approximately $10,000, and would then also have a significant income tax bill for the amounts withdrawn. In Ms. Bood’s estimation, she would no longer be able to pay her rent, and indicated that if she sold her current condo and paid the fine sought by BCFSA, and then attempted to pay rent out of her money as well, she felt that she would be in “deep financial trouble” in approximately 10 years.

Submissions

BCFSA’s Submissions

51. In BCFSA’s submission, the denunciation of Ms. Bood’s misconduct is particularly relevant. BCFSA indicated that although Ms. Bood was no longer practicing, some specific deterrence was required, and that general deterrence was also of importance on the facts of this case. BCFSA submitted that it was important that a sanction which served to educate other respondents and professionals, as well as maintained public confidence, was issued.

52. BCFSA submitted that Ms. Bood’s case involved very serious misconduct, in that she knew of the archaeological site, and in failing to disclose that fact knowingly engaged in deception. BCFSA submitted that Ms. Bood received a financial benefit from the sale, and that her actions caused significant financial harm to the buyer.

53. In BCFSA’s submission, there were a number of aggravating factors in this case, including that Ms. Bood was aware of the material defect in the Property, that she chose not to disclose that material defect to the Buyer, that the choice not to disclose caused significant financial hardship to the Buyer, and that Ms. Bood stood to receive a profit (in the form of a commission payment) on the sale of the Property. BCFSA noted that the Buyer’s offer had been the first offer placed on the Property.

54. BCFSA acknowledged that there were no specific cases with facts which mirrored those of Ms. Bood’s case, but referenced the following previous consent orders and decisions: *O’Reilly (Re*), 2024 BCSRE 76; *Parsons v. Real Estate Council of British Columbia*, 2015 BCFST 9; *Svrta (Re)*,

2025 BCSRE 129; and *Suvorov (Re)*, 2025 BCSRE 15. In BCFSA's submission, the circumstances of *O'Reilly*, which also involved failure to disclose information that the licensee had knowledge of, and resulted in a $100,000 discipline penalty, was most similar to that of Ms. Bood. BCFSA submitted that the consent orders in *Svarta* and *Suvorov* suggested that in cases where there existed mere negligence on the part of the licensee, the floor for a discipline penalty was $20,000.

55. BCFSA noted that in seeking that Ms. Bood pay $7,798.55 in enforcement expenses, it had not sought that she pay for any legal costs in light of Ms. Bood's cooperation with the investigation, and in recognition of the fact that she had entered into the ASF and reduced the hearing time as much as possible.

56. BCFSA submitted that in seeking a discipline penalty in the amount of $100,000 it was not intending to be punitive, rather it was seeking a discipline penalty imposed that was in line with other cases. BCFSA submitted that cases involving serious misconduct required a serious penalty, not only for the purposes of specific but also general deterrence. BCFSA referred to *Thow v BC (Securities Commission)*, 2009 BCCA 46, at paragraph 38, for the proposition that sanctions may result in significant burdens being placed on offenders.

57. BCFSA acknowledged Ms. Bood's arguments regarding her ability to pay, and noted that while sanctions are not imposed for the purpose of being punitive, significant penalties are often necessary to deter general and specific non-compliance within the administrative or regulatory regime. BCFSA cites *Re Nickford*, 2018 BCSECCOM 57, at paras. 40-42 for the proposition that Ms. Bood's ability to pay is only relevant as a factor to be considered having regard to the principles of specific deterrence, and that general deterrence in the form of a significant discipline penalty was required in this case. BCFSA submitted that even if general deterrence was of primary importance, specific deterrence was also relevant as there ought to be some consequences to Ms. Bood for her actions; and that Ms. Bood's decision to surrender her licence cannot be the sole consequence in this case.

Ms. Bood's Submissions

58. In Ms. Bood's submission, her case was different than those relied upon by BCFSA due to the fact that she had retired, she had health problems that likely had an impact on the misconduct in question, and that those items, along with her financial situation, all suggested that a lower penalty was warranted.

59. Ms. Bood indicated that she was not attempting to trivialize her error in this case, but that it was a mistake that she had made during a difficult time in her life, and one that there was no risk of her ever making again.

60. Ms. Bood suggested that there were significant mitigating factors present in her case. While she acknowledged that her actions were intentional, she submitted that her actions were not "significantly deceptive or fraudulent". In Ms. Bood's submission, her health condition had left her "without any fight" with respect to the directions given by her seller client, and she had simply latched onto the fact that the Buyer was a sophisticated developer. Ms. Bood noted that this was not a case in which there was any type of ongoing fraud, and that no litigation was commenced as a result. In Ms. Bood's submission, while her actions of not disclosing the material defect were not trivial, they were not substantially malicious or ongoing actions taken for personal gain. Rather, she received a small commission for the sale of the Property.

61. Ms. Bood noted that while she had only been licensed for a few years at the time of her misconduct, she had no prior history with BCFSA and had an excellent reputation in the community. Ms. Bood noted further that she had immediately cooperated with BCFSA's investigation, and that she had since retired, ensuring there was no ongoing risk to the public and no real need for specific deterrence. Ms. Bood submitted that public confidence and general deterrence, given the mitigating factors present, could be ensured through a smaller discipline penalty than that sought by BCFSA. She noted that she was willing to agree to a permanent suspension or termination of her licence. In

Ms. Bood's submission, other licensees would not read this decision and think that they could engage in similar non-disclosure and face a small discipline penalty.

62. Finally, Ms. Bood returned to her financial situation. In Ms. Bood's submission an order for a discipline penalty of $100,000 would devastate her financially, and would be punitive. Ms. Bood submitted a sanction of that size was simply not necessary to accomplish the goal of protecting the public, and that a discipline penalty in the range of $10,000-20,000 would be reasonable, along with an agreement never to reobtain her licence.

Reasons and Findings

Applicable Legislation

63. Section 43(2) of RESA provides that if the superintendent finds that a licensee has committed professional misconduct or conduct unbecoming then the superintendent must make an order doing one or more of the following:

> (2) If subsection (1) (a) applies, the discipline committee must, by order, do one or more of the following:
>
> (a) reprimand the licensee;
>
> (b) suspend the licensee's licence for the period of time the committee considers appropriate or until specified conditions are fulfilled;
>
> (c) cancel the licensee's licence;
>
> (d) impose restrictions or conditions on the licensee's licence or vary any restrictions or conditions applicable to the licence;
>
> (e) require the licensee to cease or to carry out any specified activity related to the licensee's real estate business;
>
> (f) require the licensee to enrol in and complete a course of studies or training specified in the order;
>
> (g) prohibit the licensee from applying for a licence for a specified period of time or until specified conditions are fulfilled;
>
> (h) require the licensee to pay amounts in accordance with section 44 (1) and (2) *[recovery of enforcement expenses]*;
>
> (i) require the licensee to pay a discipline penalty in an amount of
>
> (i) not more than $500 000, in the case of a brokerage or former brokerage, or
> (ii) not more than $250 000, in any other case;
>
> (j) require the licensee to pay an additional penalty up to the amount of the remuneration accepted by the licensee for the real estate services in respect of which the contravention occurred.

Discussion: Sanction

64. In general terms, where the intention of the regulatory scheme is consumer or public protection, such as is the case with RESA, sanctions serve multiple purposes, including:

- denouncing non-compliance or misconduct, and the harms caused by those;
- preventing future non-compliance or misconduct by rehabilitating specific respondents through corrective measures;
- preventing and discouraging future non-compliance or misconduct by specific respondents through punitive measures (specific deterrence);
- preventing and discouraging future non-compliance or misconduct by other respondents (general deterrence);
- educating industry participants and the public about rules and standards; and
- maintaining public confidence in the industry.

65. BCFSA has referred in its submissions to the framework set out in *Law Society of British Columbia v Dent*, 2016 LSBC 5 ("**Dent**"), at paras 20-23, which sets out a list of factors to consider when determining an appropriate regulatory sanction as follows:

> **Nature, gravity and consequences of conduct**
>
> [20] This would cover the nature of the professional misconduct. Was it severe? Here are some of the aspects of severity: For how long and how many times did the misconduct occur? How did the conduct affect the victim? Did the lawyer obtain any financial gain from the misconduct? What were the consequences for the lawyer? Were there civil or criminal proceedings resulting from the conduct?
>
> **Character and professional conduct record of the respondent**
>
> [21] What is the age and experience of the respondent? What is the reputation of the respondent in the community in general and among his fellow lawyers? What is contained in the professional conduct record?
>
> **Acknowledgement of the misconduct and remedial action**
>
> [22] Does the respondent admit his or her misconduct? What steps, if any, has the respondent taken to prevent a reoccurrence? Did the respondent take any remedial action to correct the specific misconduct? Generally, can the respondent be rehabilitated? Are there other mitigating circumstances, such as mental health or addiction, and are they being dealt with by the respondent?
>
> **Public confidence in the legal profession including public confidence in the disciplinary process**
>
> [23] Is there sufficient specific or general deterrent value in the proposed disciplinary action? Generally, will the public have confidence that the proposed disciplinary action is sufficient to maintain the integrity of the legal profession? Specifically, will the public have confidence in the proposed disciplinary action compared to similar cases?

66. Although I am not bound by the framework set out in *Dent,* that framework has regularly been applied by the superintendent in discipline and enforcement decisions under RESA, and I am of the view

that it is useful to follow that framework in assessing this matter. I note that the factors set out in *Dent* are not exhaustive, and I must determine the appropriate sanction for Ms. Bood in light of the whole of the circumstances.

Nature, Gravity, and Consequences of Conduct

67. The nature and gravity of Ms. Bood's conduct is serious. Ms. Bood was aware that there was an archaeological site on the Property. Despite that awareness, and in fact despite having previously informed potential purchasers of the Property of that fact, when she listed the Property for the second time, Ms. Bood failed to disclose that the Property was affected in that way. She specifically indicated "no" in response to a question on the Property disclosure statement regarding whether any portion of the property was designated or proposed for designation as a heritage site or of heritage value under the *Heritage Conservation Act* or under municipal legislation. She provided no indication of that designation in the advertising of the property.

68. In addition to the intentional lack of disclosure noted above, Ms. Bood explicitly elected not to disclose the archaeological site issue to the Buyer when the offer was made on the Property on October 14, 2018. In doing so, Ms. Bood not only acted contrary to her previous actions, which was to disclose to potential purchasers the fact of the archaeological site, she also was accepting an explicit instruction from her seller client not to disclose that fact.

69. While Ms. Bood has indicated in her evidence that she latched onto the fact that, as she had been told by her client, the Buyer was a sophisticated purchaser, that fact did not take away from her duty to disclose the fact of the archaeological site to the Buyer. Given that Ms. Bood discussed with her client whether or not the archaeological site needed to be disclosed, it is clear that she was aware that she had a duty to disclose that information, and that she chose not to, with a view to ensuring that the transaction would proceed without any interference in the form of that material latent defect. In my view, regardless of Ms. Bood's explanation that she understood the Buyer to be sophisticated, her non-disclosure to the Buyer can properly be seen as an attempt to deceive the Buyer.

70. Simply put, if the Buyer was so sophisticated as to have been assumed to have knowledge of potential archaeological issues, what harm would the disclosure of the fact of the archaeological site have caused? The only reasonable conclusion, in my view, is that there was a concern on the part of both Ms. Bood and her client that the disclosure may cause a problem with respect to the offer on the Property, and that as a result a decision was made not to disclose. In reaching this conclusion, I find it to be telling that Ms. Bood acknowledges that she had, prior to dealing with the Buyer, in fact verbally informed other potential buyers of the fact of the archaeological site. Having consideration to all of the circumstances, I consider the decision not to disclose to have been intended to deceive the Buyer. This deception constitutes serious misconduct.

71. Ms. Bood's failure to cease providing trading services to her seller client was also significant misconduct. The Rules make clear that licensees are required to do so when a client directs them to withhold a material latent defect disclosure, such as occurred in this case. The reason for that rule is obvious; to ensure that licensees are not participating in deceptive practices. Ms. Bood's failure to follow Rule 5-13(3) played, in my view, a significant role in the transaction at issue in this proceeding, and in the Buyer ultimately sustaining the loss that they did.

72. In reaching the conclusions I have above regarding the nature of Ms. Bood's misconduct, I note that I have considered her evidence and submissions regarding the impact of her health condition around the time of the transaction. While I understand that Ms. Bood was dealing with a serious health condition that was affecting her, and, as she said, left her unwilling to fight with her client regarding the disclosure of the archaeological site, I find that her health condition should be seen as only minimally mitigating in comparison to the seriousness of her misconduct. Ms. Bood had, despite her health condition, been disclosing the existence of the archaeological site to other buyers. There is nothing in the evidence before me to suggest that Ms. Bood's health condition changed from July

to October 2018 which would have suddenly made it such that she was no longer able to provide that disclosure.

73. The consequences of Ms. Bood's misconduct were also serious. The Buyer was not able to proceed with construction on the property as a result of the archaeological site, and sustained a financial loss of approximately $100,000 in its subsequent sale of the property. This is not a minimal loss, and is an aggravating factor.

Respondent's Character and Conduct Record

74. Ms. Bood had been licensed for nearly three years at the time of the transaction. While she was a relatively new licensee, she was aware of her professional obligations. The evidence before me is that Ms. Bood had no previous disciplinary record. This is a neutral factor because compliance is expected of licensees: *Rohani (Re)*, 2024 BCSRE 31 at para 53.

75. Ms. Bood has provided reviews of her services from members of the public on internet sites. Those reviews generally rate Ms. Bood highly, and describe her as knowledgeable, professional, honest and forthcoming. While I accept that Ms. Bood's client reviews indicate that she generally provided a quality service to her clients, I find that fact to only be minimally mitigating. Again, the expectation is that licensees are providing their knowledge and professionalism to their clients.

Acknowledgment and Remedial Action

76. It is readily apparent that Ms. Bood has acknowledged her misconduct. The evidence before me indicates that Ms. Bood immediately admitted her wrongdoing when contacted by BCFSA investigators, and I accept that she was forthcoming throughout the investigation process. I accept that these are mitigating factors.

Specific and General Deterrence and Public Confidence

77. I turn to the question of deterrence and public confidence. This includes a consideration of the adequacy of the specific and general deterrent effect of the proposed orders, the rehabilitative effect of the orders, the impact of the proposed orders on public confidence in the integrity of the industry and licensees, and the relationship between the proposed orders and similar cases.

78. BCFSA's submissions are that although Ms. Bood is no longer practicing, some specific deterrence was still required in this case. Ms. Bood, on the other hand, takes the position that as she is retired, there is no ongoing risk to the public and no real need for specific deterrence.

79. I accept that Ms. Bood's indication at the hearing of this matter that she has no intention of returning to work as a licensee, and that she in fact would accept a penalty involving an order that she would never seek to re-obtain her licence. This does, to a degree, limit the need for specific deterrence in this case.

80. That said, I am of the view that it cannot be fairly said that the need for specific deterrence can be eliminated in its entirety by the licensee simply indicating that they will cease to seek to work in the real estate industry. Although the intention of specific deterrence is directed at ensuring future compliance, I note that while Ms. Bood is currently retired, and has indicated that she would agree to not seeking to return to the real estate industry, that indication does not necessarily mean that she would not seek to join some other sector or industry, or engage in activities in which her misconduct of the type at issue in this case could occur.

81. On the whole, while I accept that the need for specific deterrence e is not a major motivating factor behind any order I make in this case, the need for specific deterrence is not eliminated in whole by Ms. Bood's retirement from the real estate industry.

82. I consider that there is a significant need for general deterrence in this case. This is a case which, as described above, involved significant misconduct on the part of Ms. Bood. She explicitly elected not to disclose a material latent defect, and that failure to disclose ultimately led to a purchase, and a loss, for the buyer. The intentional non-disclosure in this case is precisely the type of action on the part of a licensee that cannot be tolerated given the potential effects, and the superintendent must make clear to all licensees that when this type of non-disclosure does occur, the matter will be taken seriously and will proceed accordingly.

83. Finally, with respect to public confidence, I also consider this to be a case in which there is a significant need to provide a sanction that ensures public confidence in the real estate industry. It is important to note that RESA has a primary goal of protecting the public interest in the real estate industry. Licensees are expected to follow and uphold the law, and the public needs to know that when they do not, the superintendent will ensure that they are held to account.

Previous Orders and Type of Order

84. When determining the appropriate sanction, I must also consider previous sanctions ordered by the superintendent and other regulators. These orders are not binding on me, but consistency with prior orders of the superintendent is desirable in ensuring public confidence in the industry and the disciplinary process and in ensuring appropriate general deterrence. I also note that most of the prior orders referred to are consent orders, which are sometimes the result of negotiations and motivations that are not reflected in the final order. I therefore treat consent orders with a degree of caution.

85. The parties have referred to the following decisions and orders:

- *O'Reilly (Re*), a consent order in which the licensees admitted that they had failed to disclose material information prior to the sale completing which led to a financial loss for the buyer. The property in question was a waterfront property that included an 800 square foot cabin and boat dock located on the foreshore, which were subject to the Crown's jurisdiction. The seller's had been informed by a government agency that their moorage would be subject to five-year specific permissions, and the government had informed the seller's that the cabin was non-conforming.

  The licensees were aware of these facts, and admitted that they had advertised the property with false/misleading representations in failing to disclose that the cabin was only a seasonal residence rather than permanent; that they knew that a permanent residence was an essential feature for the buyers and despite that knowledge failed to conduct independent verifications regarding the restrictions on the use of the cabin and regarding Crown approval of the foreshore tenure; and admitted to providing the buyers with false, misleading, and/or inaccurate information in indicating that the foreshore tenure would never expire and did not need renewing.

  The licensees each agreed to a discipline penalty of $100,000, take a remedial education course, and to pay costs of $2,500.

- *Parsons v. Real Estate Council of British Columbia*, a decision issued under the penalty regime that existed prior to September 30, 2016, in which Mr. Parsons was found to have committed professional misconduct by failing to make sufficient or any inquiries about his client's ability to conduct business in a prudent manner and with regard for her own interests, when Mr. Parsons knew the client was an inpatient at a psychiatric hospital. Mr. Parsons also was found to have engaged in deceptive dealing or demonstrated incompetence by withholding facts from the client when he knew those were of material importance. Mr. Parsons had prepared an offer on behalf of the client which did not have an inspection clause and did not advise the client of a material defect in the form of water ingress. The Financial Services Tribunal upheld a decision to cancel Mr. Parsons' licence, holding that a period of ineligibility of 30 months was required, along with a discipline penalty of $5,000 (50% of the then maximum discipline penalty). The FST

specifically found that rather than engaging in activities that were fraudulent, Mr. Parsons' actions, other than in not disclosing that the property the client was purchasing had been listed by his son, in failing to disclose the material defect may have been the result of carelessness or incompetence.

- *Svrta (Re)*, a consent order in which the licensee admitted to having committed professional misconduct in failing to take adequate or any steps to discover or disclose to her clients that the property they were purchasing was situated on an archaeological site. Ms. Svarta had noted to her clients that when seeking to develop waterfront properties, caution needed to be exercised as the land may be of archaeological significance, but ultimately did not take any steps to confirm whether the property the clients purchased was or was not on an archaeological site. Ms. Svarta's clients experienced increased costs to alter the property as a result of finding out about the archaeological site after the closing of the purchase. Ms. Svarta consented to pay a discipline penalty of $20,000, take remedial education, and pay enforcement expenses in the amount of $1,500.

- *Suvorov(Re)*, a consent order in which the licensee admitted to having committed professional misconduct when, while acting as a buyer's agent, she failed to use reasonable efforts to discover relevant facts about the property, specifically that the property did not have a final completed building inspection or occupancy permit, that the building on the property was not a brand new build, and failed to promptly provide her client with disclosure of remuneration. The buyer was required to complete modifications to the property in order to obtain an occupancy permit, causing the buyer cost and inconvenience. Ms. Suvorov agreed to pay a discipline penalty in the amount of $20,000.

- *Gildart (Re)*, a consent order relating to the same property transaction Ms. Bood was involved in in this case. There, Mr. Gildart admitted that he had committed professional misconduct within the meaning of section 35(1)(a) of RESA when he failed to use reasonable efforts to discover relevant facts regarding the property, in that he had only reviewed the Property's title and disclosure statement before the transaction completed, and had not taken steps to become aware of the archaeological site, causing his client to experience a significant loss. Mr. Gildart agreed to pay a discipline penalty in the amount of $5,000.

86. In BCFSA's submission, none of the cases above mirror the facts of this case, in that Ms. Bood had purposefully concealed that the Property was on an archaeological site. BCFSA noted that in both *Svarta (Re)* and *Suvorov (Re)*, the licensees were not alleged to have intentionally withheld relevant information, rather those licensees had failed to do their due diligence. In BCFSA's submission, Ms. Bood's intentional concealment was more similar to the actions of the licensees in *O'Reilly (Re)*.

87. Ms. Bood distinguishes *O'Reilly (Re)* on the basis that the licensees in that case were limited dual agents, and as a result owed duties to both parties involved in the transaction. Ms. Bood further submits that in her case, she had reason to believe, through conversations with her seller client, that the purchaser was a knowledgeable buyer and would have done due diligence on the issue of archaeological sites, whereas there was no evidence in *O'Reilly (Re)* that the buyers would have had knowledge regarding the limitations associated with that property. She also noted that there were significant mitigating factors present in her case, and that given that *O'Reilly (Re)* was a consent order the principles underlying sanctions were not necessarily considered in that case.

88. Ms. Bood submitted that *Tse (Re)* was factually very similar to her case, and that while it was a consent order as well, the penalty in that case was substantially less than the order sought by BCFSA in this case.

89. With respect to *Svarta (Re)* and *Gildart (Re)*, Ms. Bood submitted that it was of note that while the fact patterns were similar, Mr. Gildart's penalty was lower than that received by Ms. Svarta, likely, in

Ms. Bood's submission, due to the fact that he, like Ms. Bood, was retired and posed no further risk to the public.

90. I do not consider that the fact patterns in *Svarta (Re)* and *Gildart (Re)* are similar to those present in Ms. Bood's case. In each of those cases, the licensees failed to take steps to discover a potential material defect, whereas in Ms. Bood's case the facts are that she was clearly aware of the material latent defect in question, and that she made a choice not to disclose that defect to potential purchasers. It is clear, in my view, that Ms. Bood's actions require a sanction of more significance than that imposed to either *Svarta (Re)* and *Gildart (Re)* in order to provide general deterrence and promote public confidence. I view the consent order in *Suvorov (Re)* in the same way.

91. I consider the decision in *Parsons (Re)* to provide little insight into what an appropriate monetary sanction would be in this case, but it does make clear that activities involving the failure to disclose relevant information is taken seriously.

92. Turning to the consent order in *O'Reilly (Re)*, I am of the view that the actions taken by the licensees in that case, in the sense of obtaining relevant information that ought to have been disclosed, and then purposefully not disclosing that information, do have some similarity to Ms. Bood's misconduct. I also consider that the discipline penalty applied in that case does have some relevance in informing me as to a potential range for an appropriate penalty for Ms. Bood, although I agree with Ms. Bood's submission that as a consent order, I must treat the amount of that penalty with some degree of caution as there may be a variety of reasons for which that penalty was agreed to which are not known to me, and that all of the applicable considerations regarding the imposition of an appropriate sanction may not have been applied in that case.

Sanction Decision

93. In determining the appropriate sanction in this case, I reiterate that public protection and encouraging compliance are the primary goals of regulatory sanctions. Sanctions should not be purely retributive or denunciatory, and even if a sanction imposes a significant burden on an individual, that burden should be imposed to achieve specific deterrence and general deterrence, rehabilitate the respondent, protect the public, and enhance public confidence in the process, the industry, and the regulator: *Thow*, at para. 38.

94. As I have indicated above, I consider that general deterrence and public confidence are the primary drivers of the sanction that must be imposed in this case. Having considered all of the evidence before me, and acknowledging that Ms. Bood has retired, which eliminates the effectiveness of any sanction other than one of a monetary nature, I am satisfied that a monetary penalty is the appropriate sanction to be imposed in this case.

95. Regarding the amount of the monetary penalty, I note again that Ms. Bood's misconduct in intentionally failing to disclose a material latent defect was serious.

96. I consider it likely that Ms. Bood took that action with a view to ensuring that the property was easier to sell at the price point sought, thus ensuring that Ms. Bood would receive a commission. While I accept that the magnitude of the commission in this case was not overly substantial, I consider it to be more likely than not that Ms. Bood was aware of the effect that the latent material defect would have on the potential development of the Property, and therefore the price that the Property would be able to sell at. In sum, I consider that it is likely that Ms. Bood understood that disclosing the latent material defect would affect the likelihood of the sale of the Property, or the price of the Property, and that this would affect her potential commission. I acknowledge, in reaching that conclusion, Ms. Bood's evidence and submission that she had limited "fight" in her at the time, and that she had simply accepted her seller's explanation that the Buyer was sophisticated such that disclosure was not required, I place little weight on that explanation. This is an aggravating factor.

97. Further, it is clear that the failure to disclose the latent material defect ultimately led to the Buyer experiencing a substantial financial loss. This is a further aggravating factor.

98. The above aggravating factors, combined, suggests that the quantity of the penalty in this case should be enough to act as a clear signal to Ms. Bood, to other licensees in Ms. Bood's position in the future, and to the public that appropriate disclosure of material latent defects must be made.

99. In addition, there is Ms. Bood's misconduct in failing to cease providing trading services to her seller client when he directed her to withhold the material latent defect disclosure. Once again, it is necessary to signal to other registrants that in such situations the Rules require they take the appropriate action by refusing to continue to provide services to such a client.

100. Having considered the above, and the previous comparator cases before me, I am of the view that on its face, this is a case in which a monetary penalty close to the $100,000 penalty agreed to in *O'Reilly (Re)* would be warranted. Given the significant loss experienced by the Buyer in this case, a penalty of the same type of magnitude as that loss strikes me as being appropriate.

101. I accept, however, that there are mitigating factors which suggest that a reduced penalty amount is appropriate in this case. The need for specific deterrence is limited by the fact that Ms. Bood acknowledged her misconduct immediately when contacted by BCFSA, and there is little to no risk of her engaging in similar type misconduct in the future.

102. Further on the subject of specific deterrence, I accept Ms. Bood's evidence that her finances have created a limited ability to pay, which is a relevant factor to consider with respect to the amount the monetary penalty applicable to the specific deterrence factor to be applied. As Ms. Bood explained in her evidence, she is 70 years old, retired, and her current income is limited to approximately $2,200 per month. The bulk of those monthly funds come from government sources, with the remainder a monthly payment out of her TFSA account. While Ms. Bood does have some personal savings of approximately $[redacted] (including the TFSA from which she received a monthly draw), as well as owns her condominium valued at approximately $[redacted], I consider that a penalty of $100,000, which would be a substantial portion of the assets which she will require for the balance of her retirement, and likely would be in the range of being overly burdensome in the particular circumstances of this case.

103. After taking the factors limiting the need for specific deterrence into account, I am of the view that a monetary penalty in the amount of $60,000 is appropriate in all of the circumstances. A penalty of this magnitude will provide a clear indication to other licensees, and to the public, that misconduct of the nature engaged in by Ms. Bood will not be tolerated, but appropriately takes into account the limitations of the applicability of specific deterrence in this case as it relates to Ms. Bood's personal, health, and financial circumstances.

104. In determining that a monetary penalty of $60,000 is the appropriate penalty to be applied in this case, I acknowledge that Ms. Bood had suggested a smaller monetary discipline penalty in the range of $10,000 to $20,000, along with a prohibition from eligibility as a licensee in the future, as being a potentially appropriate sanction in this case. BCFSA did not seek an order requiring that Ms. Bood be subjected to a period of suspension or a period during which she would be prohibited from being relicensed. I consider that given the specific facts before me, including Ms. Bood's age, health, and her evidence that she is retired and would not be seeking to reapply for a licence, the imposition of a period suspension or prohibition from eligibility, would have little practical effect in respect of specific or general deterrence, or in the promotion of public confidence. That is not to say that a period of suspension or ineligibility, in addition to a monetary penalty, may not be warranted in circumstances of similar misconduct. Rather, I am simply of the view that in the circumstances of this case, the monetary penalty sufficiently serves the principles of specific and general deterrence, as well as the maintenance of public confidence.

Discussion: Enforcement Expenses

105. Sections 43(2)(h), 44(1), and 44(2) of RESA permit the superintendent to require a licensee to pay the expenses, or part of the expenses, incurred by BCFSA in relation to either or both of the investigation and the hearing to which the order relates. Section 44(2)(a) provides that the amounts ordered must not exceed the prescribed limits for the type of expenses claimed as set out in section 4.4 of the *Real Estate Services Regulation*, BC Reg 506/2004 ("Regulations").

106. BCFSA submitted an appendix of enforcement expenses totaling $7,798.55. In its submissions, BCFSA noted that it had not sought any legal expenses associated with the preparation for the initial liability hearing that was scheduled, or the sanction hearing, in recognition of the fact that Ms. Bood had cooperated with the process by entering into the ASF and admitting to liability. BCFSA took the position that the costs sought as set out above were reasonable in the circumstances.

107. Ms. Bood suggested she had done everything in her power to minimize the amount of resources would be required to proceed with this hearing. She noted that she had not engaged in any frivolous defence of the allegations against her, and submitted that the superintendent ought to engage its discretion to assess costs, if any were necessary, at a much lower rate than that proposed by BCFSA.

108. In *Siemens (Re)*, 2020 CanLII 63581, at paras 62-63, the panel stated as follows, regarding ordering enforcement expenses:

> 62. Enforcement expenses are a matter of discretion. A discipline committee will ordinarily order expenses against a licensee who has engaged in professional misconduct or conduct unbecoming a licensee. Orders for enforcement expenses serve to shift the expense of disciplinary proceedings from all licensees to wrongdoing licensees. They also serve to encourage consent agreements, deter frivolous defenses, and discourage steps that prolong investigations or hearings.
>
> 63. The practice of discipline committees has also been to assess reasonableness of enforcement expenses by examining the total amounts in the context of the duration, nature, and complexity of the hearing and its issues. While a discipline committee may reduce any award of enforcement expenses to account for special circumstances, such as where the Council fails to prove one or more allegations corresponding to a significant and distinct part of a liability hearing, no such special circumstances arise in this case.

109. BCFSA has proved its allegations in substance in this proceeding and was substantially successful regarding the sanction sought. I therefore find that an expenses order is appropriate.

110. In reviewing the enforcement expenses sought by BCFSA, I note that the expenses largely relate to 41 hours of investigative costs, for a total of $4,100, with the other expenses largely relating to the one-day cost of the hearing of this matter.

111. I find that the other expenses claimed by BCFSA are reasonable, and permitted by RESA and the Regulations.

112. In my view, BCFSA has appropriately reduced the amount of expenses that could have been claimed in this case, by waiving its claim for any of the reasonably necessary legal expenses related to the conduct of this discipline hearing, in acknowledgement of Ms. Bood's cooperation.

113. Given the discretionary nature of expenses awards, and in light of the fact that BCFSA has already reduced the amount of expenses claimed, I consider that a minimal further reduction is warranted in acknowledgment of Ms. Bood's financial circumstances as a retiree on a fixed income, her cooperation with the investigation, as well as the impact the monetary penalty is likely to have on her, and order that an amount of $6,500 is appropriate given the nature, duration, and complexity of the matter.

Orders

114. With respect to liability, I find that Ms. Bood and Judy Bood PREC committed professional misconduct within the meaning of section 35(1)(a) of RESA when, while acting as seller's agent, they:

    a. Failed to disclose to the buyer and buyer's agent that the property located at [Property 1] was of archaeological significance on or before October 14, 2018, when the contract of purchase and sale was created and signed, when they knew or ought to have known that the Property was of archaeological significance, contrary to section s 5-13(2) of the Rules;

    b. Failed to refuse to provide further trading services to their seller client when their seller instructed them to withhold from the buyer and the buyer's agent the fact that the Property was of archaeological significance, contrary to section 5-13(3) of the Rules;

    c. Failed to act honestly when they withheld from the buyer and the buyer's agent their knowledge that the Property was of archaeological significance during the transaction process, contrary to section 3-4 of the Rules.

115. Having made those findings, I make the following orders:

    a. Pursuant to section 43(2)(i) of RESA, that Ms. Judith Bood and Judy Bood Personal Real Estate Corporation jointly and severally pay a discipline penalty in the amount of $60,000, within 60 days of this order;

    b. Pursuant to section 43(2)(h) of RESA, Ms. Judith Bood and Judy Bood Personal Real Estate Corporation jointly and severally pay enforcement expenses in the amount of $6,500 within 60 days of this order.

116. Pursuant to section 54(1)(e) of RESA, Ms. Judith Bood and Judy Bood Personal Real Estate Corporation have the right to appeal the above orders to the Financial Services Tribunal. Ms. Judith Bood and Judy Bood Personal Real Estate Corporation have 30 days from the date of this decision to file any such appeal: *Financial Institutions Act*, RSBC 1996, c 141, s 242.1(7)(d) and *Administrative Tribunals Act*, SBC 2004, s 24(1).

DATED at Kelowna, BRITISH COLUMBIA, this 20th day of January, 2026

"Original signed by Andrew Pendray"

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Andrew Pendray
Senior Hearing Officer