

**BC FINANCIAL SERVICES AUTHORITY**

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

**AND IN THE MATTER OF  
BORDER COUNTRY REALTY (1980) LTD.  
DBA DISCOVER BORDER COUNTRY REALTY  
(X000826)**

**REASONS FOR DECISION REGARDING  
ADMINISTRATIVE PENALTY RECONSIDERATION REQUEST**

**[These Reasons have been redacted before publication.]**

DATE AND PLACE OF HEARING: Via Written Submissions

HEARING OFFICER: Gareth Reeves

### **Introduction**

1. On March 31, 2026, the BC Financial Services Authority (“**BCFSA**”) issued a Notice of Administrative Penalty (the “**NOAP**”) in the amount of \$11,750 to Border Country Realty (1980) Ltd dba “Discover Border Country Realty” (the “**Brokerage**”) pursuant to section 57(1) and 57(3) of the *Real Estate Services Act*, SBC 2004, c 42 (“**RESA**”).
2. In the NOAP, BCFSA determined that the Brokerage had contravened section 75 of the *Real Estate Services Rules*, BC Reg 209/2021 (the “**Rules**”) by failing to file its accountant’s report, brokerage activity report, and financial statement<sup>1</sup> for the year ended June 30, 2025 (the “**Filing**”) by October 28, 2025. The completed Filing was received by BCFSA on January 28, 2026. The NOAP issued a \$2,000 base penalty amount for the contravention and \$9,750 for the 39 days between December 20, 2025, being the deadline for filing set in a Non-Compliance Warning Letter dated November 20, 2025 (the “**NCWL**”), and the date of filing.
3. The Brokerage applied for a reconsideration of the NOAP under section 57(4) of RESA. The application proceeded by written submissions.

### **Issues**

4. The issue is whether the NOAP should be cancelled or confirmed.

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<sup>1</sup> These filings are collectively referred to as a “**Section 75 Filing**” throughout this decision.

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## Jurisdiction and Standard of Proof

5. 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.
6. 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.
7. The superintendent has delegated the statutory powers and duties set out in section 57 to Hearing Officers.
8. The standard of proof is the balance of probabilities.

## Background

9. The evidence and information before me consists of a March 26, 2026 Memorandum of Direction completed by BCFSA in relation to the NOAP, the exhibits thereto, and the information provided by the Brokerage in its application for reconsideration. 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.

### *Regulatory Background*

10. The Brokerage was first licensed as a brokerage in the trading services and rental property management services categories on June 30, 1981 and, except for a brief period in July 1983, has been so licensed since that date.
11. On June 27, 2024, the Brokerage received an administrative penalty for failing to file its accountant’s report, brokerage activity report, and financial statements for the year ended June 30, 2023 by the due date of October 31, 2023. That filing was not made until April 24, 2024. The Brokerage received a \$2,000 administrative penalty. The NOAP discloses that this was not the Brokerage’s first contravention.
12. The Memorandum of Direction before me indicates that the Brokerage had also been issued an administrative penalty for late filing of its Section 75 Filing for its fiscal year ending in 2020, which was 139 days late, and was issued a letter of advisement for filing its Section 75 Filing for its fiscal year ending in 2024, which was 9 days late. I have not been provided with the notice of administrative penalty for the 2020 year or the letter of advisement for the 2024 year. I note that a letter of advisement is not proof of a contravention, but indicates that a person has been reminded of their obligations by the regulator.

### *The 2025 Section 75 Filing*

13. On July 1, 2025, BCFSA issued an email to the Brokerage’s managing broker from its Integrated Regulatory Information System (“**IRIS**”) noting that the Filing was due October 28, 2025.

14. On September 29, 2025, the Brokerage filed an accountant's report, its Brokerage Financial Information Filing,<sup>2</sup> and its financial statements. BCFSA issued an email to the Brokerage through IRIS confirming receipt of those documents.
  15. On October 1, 2025, BCFSA issued an email to the Brokerage's managing broker through IRIS to reject the Filing because the accountant's report had not been signed by the Brokerage's external accountant. This email requested a signed accountant's report by October 28, 2025.
  16. On October 21, 2025, BCFSA issued an email to the Brokerage's managing broker through IRIS regarding the deficient accountant's report.
  17. On October 29, 2025, BCFSA issued an email to the Brokerage's managing broker through IRIS regarding the deficient accountant's report.
  18. On November 7, 2025, BCFSA issued an email to the Brokerage's managing broker through IRIS regarding the deficient accountant's report.
  19. On November 19, 2025, BCFSA spoke with a director or owner of the Brokerage who advised that the corrected report would be uploaded that day or the next day.
  20. On November 20, 2025, BCFSA emailed the Brokerage's managing broker the NCWL. The NCWL stated that BCFSA considered the Brokerage to be in contravention of section 75 of the Rules for failing to file the Filing on time. It set a deadline of December 20, 2025 for the Brokerage to submit its completed accountant's report and thereby to perfect the Filing. It defined the "Compliance Warning Period" as the period between November 20, 2025 and December 20, 2025. It stated the following regarding the Brokerage's possible liability for administrative penalties:
    - "If you cease the Contravention and comply with the Rules within the Compliance Warning Period,** BCFSA may impose an administrative penalty for the base amount associated with the Contravention.
    - If you cease the Contravention and comply with the Rules only after the Compliance Warning Period,** BCFSA may impose an administrative penalty, including a daily penalty for the Contravention based on the number of days or partial days the Contravention continued after the Compliance Warning Period.
    - If you do not cease the Contravention after the Compliance Warning Period,** BCFSA may choose to declare a penalty assessment period despite non-compliance, and assess administrative penalties based on the penalty assessment period."
- [emphasis original]
21. On November 25, 2025, the Brokerage uploaded the unsigned accountant's report again. BCFSA emailed the Brokerage that evening to advise that this was not acceptable and to request that the Brokerage upload the completed accountant's report.
  22. On November 26, 2025, the Brokerage's managing broker sent two emails to BCFSA attaching a signed accountant's report and noting that he was unable to upload the document to IRIS. The signed report was dated February 13, 2024 and included exceptions to the report for the June 20, 2023 fiscal year end. BCFSA replied to note those deficiencies on November 26, 2025 and offered to upload the corrected accountant's report if provided by email.

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<sup>2</sup> The "Brokerage Financial Information Filing" is the name given to the brokerage activity report required by section 75 of the Rules under the "Brokerage Reporting Requirements", Regulatory Statement, Superintendent of Real Estate, RESA 25-003, February 14, 2025.

23. On December 1, 2026, BCFSA issued an email to the Brokerage's managing broker through IRIS noting that the filing was deficient because it referred to the 2023 fiscal year-end and not the 2025 fiscal year end. BCFSA requested that the Brokerage file a corrected accountant's report without delay.
24. On January 23, 2026, BCFSA emailed the Brokerage's managing broker to follow up on a telephone conversation between BCFSA and the managing broker. In this email, BCFSA reminded the Brokerage that the Filing remained uncompleted and that daily penalty amounts of \$250 a day had been accumulating since December 20, 2025.
25. On January 28, 2026, the Brokerage filed a completed and signed accountant's report for the fiscal year ending June 30, 2025. BCFSA issued an email to the Brokerage's managing broker through IRIS to confirm receipt.

## Submissions

26. The Brokerage submits that the required report was submitted on time and contained the required information and the signature was omitted inadvertently.
27. The Brokerage submits that once it was aware of the issue "steps were taken to correct the issue and refile the document with proper authorization".
28. The Brokerage submits that the \$9,750 in daily penalties is disproportionate because the report itself was submitted in a timely fashion and was substantively complete. It submits that there was no intent to "delay, misrepresent, or avoid compliance" and that the contravention was technical and not a failure to provide required information. It submits that it has implemented procedures to ensure the contravention does not occur again.
29. The Brokerage requests that the daily penalty amounts be "adjusted" and reduced.

## Reasons and Findings

### *Applicable Legislation*

30. Section 56 of RESA provides that BCFSA may designate specific provisions of RESA, the *Real Estate Regulation*, BC Reg 506/2004 (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.
31. 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.
32. 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 75 of the Rules is placed in Category D. Section 27(4) of the Rules provides that a contravention of a section designated in Category D may attract a monetary penalty that includes a \$1,000 base penalty in the case of a first contravention or a \$2,000 base penalty in the case of a subsequent contravention plus \$250 per day or part of a day that the contravention continues.
33. 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.

34. Section 75 of the Rules provide as follows:

**Annual financial statements, accountant's report and brokerage activity report**

75 (1) A brokerage must, within 120 days after the end of each fiscal year of the brokerage, file with the superintendent

- (a) financial statements for that fiscal year,
- (b) an accountant's report respecting that fiscal year, completed in accordance with any requirements specified by the superintendent, and
- (c) a brokerage activity report respecting that fiscal year, completed in accordance with any requirements specified by the superintendent.

***Analysis***

35. 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. 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**

36. I find that the Brokerage contravened section 75 of the Rules by completing the Filing on January 28, 2026 when it was due to be filed on October 28, 2025. The Brokerage does not deny that the filing was late.

37. The question then becomes whether the Brokerage exercised due diligence in attempting to comply with section 75 of the Rules.

**Due Diligence**

38. With regard to due diligence, the facts before me do not demonstrate an exercise of due diligence by the Brokerage. What the facts show is that the Brokerage uploaded an incomplete accountant's report twice, was repeatedly reminded to upload the correct document and what was required in a correct document, received the NCWL noting it was offside, attempted to upload an accountant's report that was incorrect in other ways, was immediately and repeatedly advised of the deficiencies in those further documents well before the expiry of the deadline in the NCWL, and still took 39 days after the expiry of the deadline in the NCWL to file the signed accountant's report.

39. The above conduct does not speak to an exercise of due diligence, but instead a failure to exercise a basic degree of diligence in providing the required accountant's report.

40. The Brokerage submits that the failure to file a signed report was an oversight and the lack of signature was missed by it when filing. This argument is unpersuasive in light of the fact that BCFSA quickly advised the Brokerage of the issue and the Brokerage appears to have taken no substantive steps to correct the issue until several weeks later and after reminders from BCFSA. The Brokerage then delivered the wrong document. Although the original deficiency might have only been a

signature, the manner in which the Brokerage failed to address the issue properly demonstrated that it was not dealing with the issue diligently.

41. The Brokerage also submits that the original accountant's report was substantively complete and only lacked a signature. I disagree that this is a minor deficiency. The signature on the accountant's report is a crucial part of the report because it is the portion of that report that indicates a qualified accountant has reviewed and approved the report. Without that signature, BCFSA cannot reasonably know whether to rely on the document at all. The simplicity of that requirement belies its significance.
42. I find that the Brokerage has not demonstrated that it exercised due diligence in complying with section 75 of the Rules in this matter.
43. I find that the Brokerage contravened section 75 of the Rules by completing the Filing on January 28, 2026 when it was due to be completed on October 28, 2026.

### Penalty Amount

44. The penalty imposed in the NOAP is the base penalty amount for a subsequent contravention of section 75 of the Rules, which is designated in Category D, plus daily penalties for 39 days.
45. Although the Brokerage requests a reduction in the penalty amount, I cannot change or revise the penalty imposed by the NOAP. Section 57(4) of RESA only empowers me, as delegate of the superintendent, to cancel the penalty, confirm the penalty, or cancel the penalty and order that a notice of discipline hearing be issued if I find that issuing the notice is more appropriate. The assessment before me is not whether the penalty issued is correct, "but whether it falls within the scope of appropriate penalties to issue in response to the misconduct that occurred": *Meng (Re)*, 2025 BCSRE 40, at para 55.
46. This is the third administrative penalty issued against the Brokerage for a failure to file its Section 75 Filings on time in the last five years. The Brokerage has also received a letter of advisement regarding the fiscal year preceding the Filing.
47. The Brokerage submits that it did not intend "to delay, misrepresent, or avoid compliance" and that the failure was an "administrative oversight". In my view, the facts before me do not squarely support these submissions. I accept that there was no intent to misrepresent the content of the Brokerage's financial reporting or to completely avoid compliance, but the facts do not support an inference that the contravention was merely inadvertent. The combination of the very significant lack of diligence demonstrated by the facts before me along with the prior administrative penalties and letter of advisement issued to the Brokerage, demonstrate that the Brokerage was aware of its obligations and failed to give them due attention. That is not mere inadvertence.
48. The Brokerage also submits that it has implemented processes to ensure that all future filings include the required elements. In the circumstances of the Brokerage's regulatory history, that fact is not particularly mitigating. Given the Brokerage's regulatory history, these processes should have already been in place and should have addressed the issue that arose here promptly. In my view, the Brokerage requires specific deterrence to ensure that the systems it implements prevent any future non-compliance with section 75 of the Rules.
49. The Brokerage submits that the daily penalty amounts of \$9,750 are disproportionate to its conduct. I disagree. On the facts of the matter before me, the imposition of a \$2,000 base penalty amount and \$9,750 in daily penalty amounts reflects the Brokerage's failure to address its reporting requirements despite previous sanctions, previous warning, reminders, a NCWL that explicitly advised it of its obligations and the consequences of its failure to come into compliance, and further reminders.

50. I find that the \$11,750 administrative penalty issued in the NOAP is appropriate. The Brokerage is fortunate BCFSa did not issue a non-compliance warning letter earlier in this matter and that BCFSa provided the Brokerage with a month between issuing the NCWL on November 20, 2025 and the deadline for its compliance on December 20, 2025.

### **Conclusion**

51. I find that the Brokerage contravened section 75 of the Rules by completing the Filing on January 28, 2026 when it was due to be completed on October 28, 2026.

52. I find that the Brokerage failed to exercise due diligence in attempting to comply with section 75 of the Rules.

53. I find that the \$11,750 administrative penalty issued in the NOAP is appropriate.

54. I confirm the NOAP.

55. The \$11,750 administrative penalty is now due and payable to BCFSa.

DATED at North Vancouver, BRITISH COLUMBIA, this 26<sup>th</sup> day of May, 2026.

“Original signed by Gareth Reeves”

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Gareth Reeves  
Hearing Officer