Citation: Applicant 108 (Re), 2026 BCRSE 185
Date: 2026-07-06
File No. 25-6125

BC FINANCIAL SERVICES AUTHORITY

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

AND IN THE MATTER OF

[APPLICANT 108]
([Licence Number])

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 May 15, 2026, the BC Financial Services Authority ("**BCFSA**") issued a Notice of Administrative Penalty (the "**NOAP**") in the amount of $2,500 to [Applicant 108] 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 [Applicant 108] had contravened section 28(1)(b) of the *Real Estate Services Rules*, BC Reg 209/2021 (the "**Rules**") as follows:

   > "On seven occasions between 2020 and 2025, you failed as managing broker to ensure the business of the brokerage was carried out competently and in accordance with the Act, the Regulations and the Rules, contrary to section 28(1)(c) of the Rules. Specifically, you authorized and signed off on a blanket basis on your licensee conducting dual agency transaction on Lasqueti Island without ensuring that reasonable steps had been taken to avoid conflicts of interest or that the requirements for the dual agency exemption were met. In doing so, you relied on a general assumption regarding services-area logistics rather than undertaking or requiring a case-specific assessment consistent with BCFSA guidance, notwithstanding the availability of alternative representation arrangement in comparable circumstances."

3. The material before me indicates that the licensee referenced in [Applicant 108]'s NOAP is Anne Elizabeth Sperling.

4. [Applicant 108] applied for a reconsideration of the NOAP under section 57(4) of RESA. The application proceeded by written submissions.

Issues

5. The issue is whether the 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

10. The evidence and information before me consists of an investigation report completed by BCFSA, the tabs thereto, and the information provided by [Applicant 108] in the 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.

Licensing Histories

11. [Applicant 108] was first licensed as a representative in the trading services category on June 5, 2018. He became licensed as a managing broker in the trading services and rental property management services categories on December 24, 2020. He has been licensed at that level and in that category since. He has been licensed as the managing broker of the following branches of [Brokerage 1] commencing on the dates noted and remains licensed at those branches:
    a. Parksville (the “**Brokerage**”), commencing December 24, 2020;
    b. Bowser, commencing May 20, 2021;
    c. Port Alberni, commencing January 26, 2024; and
    d. Courtenay, commencing June 28, 2024.

12. Ms. Sperling was first licensed as a representative in the trading services and rental property management services categories on August 8, 1994. Ms. Sperling was licensed in that fashion until December 28, 2016 when she ceased being licensed in the rental property management category, remaining licensed only in the trading services category, and transferred to the Brokerage. Except for two days in August 2022, during which she was unlicensed, Ms. Sperling remained licensed in that fashion since that date.

Ms. Sperling’s Dual Agency

13. The record before me discloses that Ms. Sperling acted as a dual agent on several transactions regarding properties on Lasqueti Island. Those include properties with the following addresses on Lasqueti Island:
    a. [Property 1] (“**Property 1**”), which closed on September 22, 2025;
    b. [Property 2] (“**Property 2**”), which closed on September 13, 2021;
    c. [Property 3], which closed on June 16, 2021;
    d. [Property 4], which closed on June 4, 2021;

e. Property 2, which closed on May 26, 2021;

f. [Property 5], which closed on September 29, 2020;

g. [Property 6], which closed on August 11, 2020.

14. Regarding the transaction concerning Property 1, [Applicant 108] signed the "Understand the Risks of Dual Agency" disclosure form as managing broker with respect to the transaction on July 2, 2025. The form includes a portion requiring the managing broker to complete a detailed description of the reason dual agency is required. That portion of the form cites the remote location, the lack of telecommunications, the fact that Lasqueti Island is only accessible by foot passenger ferry and only residents have vehicles, the lack of an electrical grid, the fact that there have historically "not been more than an average of two agents working in this niche market", that outside agents lack knowledge of the area, and Ms. Sperling's experience on the island.

15. [Applicant 108] also signed the limited dual agency agreement between the parties to the sale of Property 1, Ms. Sperling, and the Brokerage dated August 7, 2025.

16. I have not been provided records with regard to the other six transactions listed above. Based on [Applicant 108]'s submissions, described below, in which he states that he took over as managing broker in the spring of 2021, I find that [Applicant 108] also personally approved the use of dual agency regarding the September 2021 transaction concerning Property 2.

17. [Applicant 108] stated, in his responses to the investigation of this matter, that Ms. Sperling was given authority to act as a dual agent by the managing broker who preceded him and that he "had no objection to allowing [Ms. Sperling] to continue with dual agency" on Lasqueti Island. He stated that, when he took over as managing broker, he reviewed the considerations that the previous managing broker had considered, and agreed with that assessment, allowing Ms. Sperling to continue acting as a dual agent on Lasqueti Island.

18. [Applicant 108] also stated that he had authorized this practice based on the unique circumstances of Lasqueti Island, which include the following features:

    a. it is accessible only by foot passenger ferry;

    b. Ms. Sperling is the only licensee with a vehicle on the island;

    c. it has limited and inconsistent communication and cellular service;

    d. it has no electrical grid, limited and unusual water sources that may require testing, grey and wastewater management systems that require specific due diligence, and a population of fewer than 500 people;

    e. the zoning, building, permitting requirements and allowances, easements, access routes, water rights, and riparian rights are unique;

    f. easements, water, and littoral rights require special treatment;

    g. emergency services are not on island, except for volunteer first responders; and

    h. Ms. Sperling has personal relationships with the community and knowledge of the island's peculiarities.

19. [Applicant 108] also stated that the above concerns impact transaction timelines including conducting due diligence of various kinds, inspections, and appraisals as well as impacting insurance rates and availability.

20. Ms. Sperling has provided reference letters from her clients in the transactions in which she acted as a dual agent speaking glowingly as to her professionalism and the level and quality of service she provided.

21. The publicly available ferry schedule for Lasqueti Island shows that there is a ferry that runs from French Creek Ferry Terminal. The schedule indicates that there are three daily sailings both two and from Lasqueti Island on Monday, Wednesday, Thursday, Friday and Saturday, two daily sailings on Sunday, and no sailings on Tuesday during peak schedule times from the last Wednesday in June to Labour Day. As a result, there are 17 round trips per week during the peak schedule. For the remainder of the year, the available sailings remain the same, except that there are no sailings on Wednesday and there are select additional sailings around long weekends between Easter and Thanksgiving. The schedule notes that if the final sailing is cancelled on any day, a make-up sailing is scheduled for the following morning. The estimated travel time is 1 hour, traversing 10 nautical miles across the Straight of Georgia. The schedule confirms that only foot passenger service is available.

22. BCFSA has provided a printout from www.rew.ca showing listings for Lasqueti Island dated October 2, 2025. The document shows 13 properties on the island listed by six brokerages other than the Brokerage, seven of which are listed by a single brokerage.

Submissions

23. [Applicant 108] submits that he purchased the Brokerage in January 2021 and took over as managing broker in the spring of 2021. He submits that he was supervising managing broker for only two of the subject transactions and his predecessor was the supervising managing broker for five of them.

24. [Applicant 108] also reiterates much of his position, described above, regarding Lasqueti Island being remote and underserved.

Reasons and Findings

Applicable Legislation

25. 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.

26. 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.

27. Prior to July 1, 2024, section 26 of the Rules did not designate a contravention of section 28(1) of the Rules as being subject to administrative penalty.

28. Effective July 1, 2024, 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 28(1) of the Rules are placed in Category B. Section 27(2) of the Rules provides that contravention of section designated in Category B may attract a monetary penalty of $2,500 for a first contravention or $5,000 for a subsequent contravention.

29. 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.

30. The relevant portions of the rules provide follows:

Definitions

1 In these rules:

…

"dual agency" means the representation, in respect of a trade in real estate, by a brokerage of any of the following:

(a) both the seller and the buyer as clients;

(b) both the lessor and the lessee as clients;

(c) both the assignor and the assignee as clients;

(d) 2 or more buyers, lessees or assignees, as the case may be, as clients who have conflicting interests in respect of the trade in real estate;

…

Managing broker responsibilities

28 (1) A managing broker must

(a) be actively engaged in the management of the managing broker's related brokerage,

(b) ensure that the business of the brokerage is carried out competently and in accordance with the Act, the regulations and these rules, and

(c) ensure that there is an adequate level of supervision for related associate brokers and representatives and for employees and others who perform duties on behalf of the brokerage.

…

Duties to clients

30 Subject to sections 31 [modification of duties] and 32 [designated agency], if a client engages a brokerage to provide real estate services to or on behalf of the client, the brokerage and its related licensees must do all of the following:

…

(i) take reasonable steps to avoid any conflict of interest;

…

Restriction on dual agency in trading services

63 (1) A brokerage must not engage in dual agency.

(2) The designation of one or more licensees as a designated agent does not constitute dual agency under this section unless the licensee designated as the designated agent represents the parties referred to in paragraph (a), (b), (c) or (d) of the definition of "dual agency" as clients in respect of a trade in real estate.

Dual agency in under-served remote location

64 (1) Despite section 63, a brokerage may engage in dual agency in respect of a trade in real estate if the real estate is in a remote location that is under-served by licensees and where it is impracticable for the parties to be provided trading services by different licensees.

(2) Before providing any trading services that constitute dual agency, a licensee must

(a) make a disclosure to each party, in a form approved by the superintendent, that includes

(i) a statement of the brokerage, signed by the managing broker, clearly setting out the reasons why subsection (1) applies, and

(ii) the following terms and information:

(A) the duties and responsibilities of the licensee to the clients of the licensee in a dual agency relationship;

(B) the risks associated with a dual agency relationship, and

(b) enter into a written agreement of dual agency with each party under section 31 *[modification of duties]* after making a disclosure under paragraph (a) of this subsection.

(3) A brokerage must provide the superintendent with the disclosure made under subsection (2) (a) promptly after entering into a written agreement of dual agency under subsection (2) (b).

Addressing conflicts of interest when acting for multiple clients

65 (1) If the provision of trading services by a licensee to or on behalf of multiple clients in respect of a trade in real estate would constitute dual agency, other than under section 64, the licensee must either

(a) not provide trading services to any client in respect of that trade in real estate, or

(b) represent only one of the clients, as a client, in respect of that trade in real estate.

(2) A licensee must not represent a client under subsection (1) (b) unless the licensee has obtained written agreement from all clients in respect of the trade in real estate that meets the requirements of subsection (3).

(3) The written agreement referred to in subsection (2) must be in a form approved by the superintendent and must include the following information:

(a) a description of the conflict of interest;

(b) a description of the duties and responsibilities that the licensee will no longer have to the client with whom the licensee is terminating client representation;

(c) a statement that the licensee may have confidential information about the client with whom the licensee is terminating client representation, and that the licensee is prohibited from disclosing any of that information;

(d) a statement that the advice and information that the licensee may provide to the client whom the licensee will continue to represent may be limited due to the licensee's ongoing duty to maintain the confidentiality of the information of the client with whom the licensee is terminating client representation;

(e) a recommendation that the clients seek independent professional advice in respect of the trade in real estate.

Analysis

31. 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

32. Section 28(1)(b) requires managing brokers to ensure that the business of their related brokerage is carried out competently and in accordance with RESA, the Regulations, and the Rules. In order to establish a contravention of that section, it is necessary to establish either a failure on the part of the managing broker to ensure competence in regard to the carrying out of the brokerage's business or a failure on the part of the managing broker to ensure the business is carried out in compliance with RESA, the Regulations, or the Rules.

33. In this case, BCFSA alleges that [Applicant 108] contravened section 28(1)(b) to ensure that reasonable steps were taken to avoid conflicts of interest or that the requirements of the dual agency exemption were met. The failure to take reasonable steps to avoid a conflict of interest constitutes a contravention of section 30(i) of the Rules. Where an individual licensee acts in a dual agency without taking reasonable steps to avoid that dual agency, they may contravene section 30(i) of the Rules: see *Mason (Re)*, 2025 BCSRE 3. Further, the wording of section 65 of the Rules indicates that an individual licensee will also contravene section 65(1) of the Rules by providing real estate services under a dual agency, unless the exemption contained in section 64 of the Rules applies.

34. In addition, all licensees provide real estate services only through their related brokerage: section 7(3)(a) of RESA. Therefore, in any circumstance in which an individual licensee provides real estate services in a dual agency where the exemption is section 64 of the Rules does not apply, the brokerage contravenes section 63(1) of the Rules.

35. In this case, the evidence clearly establishes that Ms. Sperling provided real estate services as a dual agent in regard to the seven properties described above, that [Applicant 108] reviewed and agreed with the approach taken by his predecessor managing broker permitting Ms. Sperling to act as a dual agent in respect of transactions on Lasqueti Island, and that [Applicant 108] personally approved her acting as a dual agency in respect of the transaction concerning Property 1 and the September 2021 transaction concerning Property 2. [Applicant 108] admits all these facts in his responses to the investigation and in his own submissions.

36. Regarding the other five transactions, I am not satisfied that [Applicant 108] was sufficiently involved in those transactions such that he contravened section 28(1)(b) of the Rules in relation to them. The first two transactions, taken chronologically, occurred before [Applicant 108] was managing broker for the Brokerage or a managing broker at all; therefore, he could not possibly have contravened section 28(1)(b) of the Rules in regard to those transactions. For the other three transactions preceding the September 2021 transaction concerning Property 2, BCFSA has not established that [Applicant 108] supervised those transactions or was responsible to do so, as opposed to that responsibility falling on his predecessor managing broker. I note that [Applicant 108] stated in his responses to the investigation that the approach to Ms. Sperling's use of dual agency on Lasqueti Island was initially adopted by his predecessor; therefore, the issue of the transition between [Applicant 108]'s predecessor and [Applicant 108], and their respective responsibilities for the dual agency approvals, was clearly raised and ought to have been addressed on the record before me if BCFSA was pursuing allegations against Mr. Sperling with regard to those transactions. I accept [Applicant 108]'s evidence that he only directly approved and supervised the use of dual agency in respect of the Property 1 transaction and September 2021 Property 2 transaction.

37. Given [Applicant 108]'s personal involvement in approving Ms. Sperling acting as a dual agent in respect of the transaction concerning Property 1 and the September 2021 transaction concerning

Property 2, the question before me in respect of those transactions is whether the exemption in section 64 applies in those circumstances.

38. To establish that the exemption permitted by section 64 of the Rules applies, the following elements must be met:

    a. The real estate is in a remote location;

    b. That remote location is under-served by licensees; and

    c. It is impracticable for a different licensee to act on the transaction:

    Mason (Re), at para 65.

39. These factors are informed by each other, but do not completely overlap: *Mason (Re)*, at paras 66-67.

40. Remoteness of the real estate focusses on geographical location and considers the property's distance and accessibility from other places, the sparsity of the population, and the licensees operating in the area: *Mason (Re)*, at para 68.

41. The requirement that the property be in an under-served location refers to the availability of other licensees to act in relation to the transaction, generally. It considers the remoteness of the property, the peculiar aspects of the property that require specialized knowledge or skill to address within the transaction, or the number of licensees operating in the area: *Mason (Re)*, at para 69.

42. The impracticality of having another licensee act on the transaction refers to the availability of other licensees to act in relation to the sale, specifically. It considers the remoteness of the property, the availability of other licensees, the specialized knowledge or skill required to provide services in relation to the transaction, the urgency of the transaction, the location of the parties, the means of communicating with the parties, or the difficulty in accessing the property.

43. [Applicant 108] raises several arguments regarding how the properties on Lasqueti Island qualify under the exemption in section 64 of the Rules. To reiterate, [Applicant 108] references the following features of Lasqueti Island:

    a. it is accessible only by foot passenger ferry;

    b. Ms. Sperling is the only licensee with a vehicle on the island;

    c. it has limited and inconsistent communication and cellular service;

    d. it has no electrical grid, limited and unusual water sources that may require testing, grey and wastewater management systems that require specific due diligence, and a population of fewer than 500 people;

    e. the zoning, building, permitting requirements and allowances, easements, access routes, water rights, and riparian rights are unique;

    f. easements, water, and littoral rights require special treatment;

    g. emergency services are not on island, except for volunteer first responders; and

    h. Ms. Sperling has personal relationships with the community and knowledge of the island's peculiarities.

44. Regarding the remoteness of the properties on Lasqueti Island, I accept that the properties on the island are not directly accessible by vehicle from Vancouver Island. The most direct way to access the island is by walk-on ferry, which does not allow a vehicle to make the transit. I accept that this would present a logistical consideration. That said, the public can access the island and there is no evidence before me that the owners of the subject properties would be unable to facilitate access

to their properties, provided sufficient notice. Although Ms. Sperling having a vehicle on the island clearly provides value to prospective purchasers, [Applicant 108] has given no clear reason why Ms. Sperling's vehicle is not available to transport buyers represented by another licensee and said other licensee.

45. In my view, the fact that Lasqueti Island is accessible by public ferry, as opposed to only being accessible by private charter boat, plane, or helicopter, suggests that the island is not sufficiently remote to qualify for the required exemption. In addition, the fact that the ferry departs directly from French Creek Ferry Terminal near Parksville militates against a finding that the properties on the island are sufficiently remote to trigger the exemption.

46. Regarding the availability of telecommunications on Lasqueti Island, although they may provide inconsistent coverage, there is some coverage. I am not satisfied that the quality or coverage of telecommunications services is substantially unlike large portions of British Columbia's mountainous interior where cellular or internet signals are spotty or inconsistent.

47. Regarding the population of the Lasqueti Island, I accept that it is relatively sparsely populated, given it appears uncontested that it has a population of approximately 500 people. However, this must be considered in light of the fact that Lasqueti Island is an hour from Parksville.

48. Regarding the peculiarities of Lasqueti Island, I am not convinced that the fact that the properties are on the island are sufficiently unique that specialized knowledge of the island itself is necessary to ensure adequate representation of parties to transactions concerning the property. The aspects of the island that might require specialized knowledge appear to be factors that would apply to most, if not all, populated Gulf Islands. This would include most of the items listed in subparagraphs 42(c) to 42(g), except perhaps the population level and the degree of electrification. In my view, many of the properties on the Gulf Islands have peculiarities relating to the structures existing on them and constructing new structures, the constraints of working with the Islands Trust, the necessity of easements, the complexities of water management and littoral rights, and the limited availability of emergency services. If those factors were sufficient to qualify properties for the exemption in section 64 of the Rules, the exemption would apply to many properties on the Gulf Islands.

49. Regarding Ms. Sperling's specialized knowledge, I accept that Ms. Sperling has a high degree of knowledge of the population, layout, access, and conditions on Lasqueti Island. That said, the question is not whether Ms. Sperling's experience and knowledge is adequate or whether she is the best licensee operating on Lasqueti Island, the question, regarding whether the property is under-served and impracticable to have another licensee act on the transaction, is the availability of other reasonably qualified and knowledgeable licensees generally and in relation to the specific transactions at issue. In my view, the evidence falls short of establishing that there were not such qualified licensees in relation to the transaction concerning Property 1 and the September 2021 transaction concerning Property 2.

50. The reason for this is that there is no evidence that [Applicant 108] or Ms. Sperling took any steps to confirm whether other licensees were available or could practically represent a party to the transaction concerning Property 1 and the September 2021 transaction concerning Property 2. Instead, the evidence establishes that [Applicant 108] authorized Ms. Sperling to act as a dual agent for transactions on Lasqueti Island as a matter of policy and not after consideration of the specifics of the properties or transactions in question. The fact that he took this approach is demonstrated by the fact that around the time the Property 1 transaction closed, there were at least six other brokerages listing properties on Lasqueti Island. The fact that six other brokerages were operating on the island around the time of the Property 1 transaction directly contradicts any assertion that the island, regardless of its remoteness, was under-served or that it was impracticable to have another licensee represent one of the parties to the transaction. In my view, the balance of the evidence viewed in light of [Applicant 108]'s responses and the number of

brokerages listing properties on Lasqueti Island in late 2025 indicates that [Applicant 108] took a blanket approach to permitting Ms. Sperling to act as a dual agent instead of considering the peculiarities of each property, which in turn leads me to conclude, on a balance of probabilities, that there were likely other brokerages operating on the island that could have acted in respect of Property 2 in regard to the September 2021 transaction.

51. Even if the properties on Lasqueti Island were sufficiently remote to qualify for the exemption under section 64 of the Rules, qualifying for the exemption would require establishing both that the property is under-served and that it was impracticable for another licensee to act on the transaction. In other words, all three elements must be met. Therefore, if I am wrong that Lasqueti Island is not sufficiently remote, the evidence is sufficient to show that it is not under-served and it was not impracticable to have another licensee act in respect of the transaction concerning Property 1 and the September 2021 transaction concerning Property 2.

52. I therefore find that the real estate services in respect of Property 1 and the September 2021 transaction concerning Property 2 were provided by the Brokerage and Ms. Sperling through a dual agency relationship without qualifying for the exemption set out in section 64 of the Rules contrary to sections 63(1) and 65(1) of the Rules, respectively. I find that [Applicant 108]'s conduct in approving the dual agency relationship constituted a failure to ensure the business of the brokerage was carried out in compliance with the Rules contrary to section 28(1)(b) of the Rules.

Due Diligence

53. Regarding due diligence, [Applicant 108] has not squarely raised this defence. He has instead argued that the exemption in section 64 of the Rules applies. Even if he had raised the defence of due diligence, on the evidence before me, I would have found that it did not apply for essentially the reasons set out above. In short, [Applicant 108] failed to individually assess the necessity of having Ms. Sperling represent both parties on the transactions regarding Property 1 and Property 2 and therefore failed to exercise due diligence.

54. I find that [Applicant 108] has not established that he acted with due diligence.

Penalty Amount

55. The amount of the administrative penalty issued against [Applicant 108] in this case is the base penalty amount specified by section 27(2) of the Rules for a contravention of a section designated in Category B, which includes section 28(1) of the Rules. I have no authority to vary the amount of the penalty and can only confirm it or cancel it. If I find that the matter is more appropriately dealt with by discipline hearing, I can cancel the penalty and refer it to a discipline hearing. The scope of my authority is therefore confined, and my assessment is limited to a determination of whether the penalty imposed is appropriate in that it falls within the scope of a reasonable regulatory response to the misconduct. In that context, I must consider the goals of regulatory intervention, including specific and general deterrence and the need to maintain public confidence in the industry. I must consider the whole of the circumstances and the aggravating and mitigating factors present.

56. In this case, I note that the only conduct that qualifies as subject to an administrative penalty is the conduct occurring after July 1, 2024. Prior to that date, section 28(1) of the Rules was not subject to administrative penalty and therefore administrative penalties are not available to address conduct that occurred before that date. Although I have found that [Applicant 108]'s conduct contravened section 28(1)(b) in respect of both the transactions concerning Property 1 and the September 2021 transaction concerning Property 2, the only conduct that is subject to administrative penalty is that which occurred in regard to Property 1. I am therefore concerned with a single contravention in this matter. That said, the surrounding circumstances include the fact that the September 2021 transaction concerning Property 2 contravened [Applicant 108]'s obligations under the Rules and arose from a blanket approach by [Applicant 108]. So, although the

contravention subject to an administrative penalty is singular, it is emblematic of [Applicant 108]'s ongoing approach to the issue and some repeated misconduct.

57. The conduct also concerns the relationship between a licensee and their clients, which is a fundamental relationship within the real estate industry, and the existence of conflicts of interest, which require careful management by licensees. The fact that these two issues are raised by the facts before me suggest that some regulatory response is required to generally deter other managing brokers from taking the approach [Applicant 108] did in this case and to maintain public confidence that their licensees will properly identify when they are able to act for a party, will protect their client's interest, and, if they cannot protect a party's interest, that they will advise the party that they cannot act and ensure the client is given all available options regarding how to proceed with representation in the transaction.

58. Regarding specific deterrence, I find that [Applicant 108] does require some specific deterrence. I find that his continued insistence that Ms. Sperling can provide dual agency services on Lasqueti Island indicates he needs to be specifically deterred from taking that position as a matter of a blanket approach without considering the specifics of the transaction and the property involved and attempting to determine if another licensee can act on the transaction.

59. The above being said, I accept that there was no clear public harm that occurred, that the clients involved in the subject transactions appear to be happy with their representation by Ms. Sperling, that [Applicant 108] did not take the approach he did intending to offend the Rules, to gain a substantial personal benefit, or other than in good faith.

60. Considering the above factors, I find that a $2,500 administrative penalty against [Applicant 108] personally is within the scope of reasonable regulatory responses.

Conclusion

61. I find that the real estate services in respect of the transaction concerning Property 1 and the September 2021 transaction concerning Property 2 were provided by the Brokerage and Ms. Sperling through a dual agency relationship without qualifying for the exemption set out in section 64 of the Rules contrary to sections 63(1) and 65(1) of the Rules, respectively. I find that [Applicant 108]'s conduct in approving the dual agency relationship constituted a failure to ensure the business of the brokerage was carried out in compliance with the Rules contrary to section 28(1)(b) of the Rules.

62. I find that BCFSA has not established that [Applicant 108] had sufficient involvement with the transactions at issue predating the September 2021 transaction concerning Property 2 to find that he contravened section 28(1)(b) of the Rules in respect of those transactions.

63. I find that only the transaction concerning Property 1 occurred after July 1, 2024 when section 28(1) of the Rules was first designated as a Category B contravention and is thereby subject to administrative penalty. I find that the September 2021 transaction concerning Property 2 occurred before July 1, 2024 and is therefore not subject to an administrative penalty.

64. I find that the $2,500 monetary administrative penalty is an appropriate regulatory response to [Applicant 108]'s contravention of section 28(1)(b) of the Rules in respect of the transaction concerning Property 1 in all of the circumstances established before me.

65. I confirm the NOAP.

66. The $2,500 administrative penalty is now due and payable to BCFSA.

DATED at Oliver, BRITISH COLUMBIA, this 6th day of July, 2026.

"Original signed by Gareth Reeves"

____
Gareth Reeves
Hearing Officer