



AGENTS LICENSING BOARD OF THE NORTHERN TERRITORY

**REASONS FOR DECISIONS FOLLOWING INQUIRY CONCERNING
DISCIPLINARY ACTION AGAINST LAND & LEASE REALTY DARWIN
PTY LTD AND BHAWANI PAUDYAL**

Respondents: Land & Lease Realty Darwin Pty Ltd
Bhawani Paudyal

Date and time of hearing: Monday 21 July 2025 at 10:00am

Venue: Gurrumbuy Room
Level 6, NT House
22 Mitchell Street, Darwin

Reason for Inquiry: To hold an inquiry pursuant to section 68(4) of the *Agents Licensing Act 1979* to determine if there are grounds for disciplinary action to be taken against Land & Lease Realty Darwin Pty Ltd and Bhawani Paudyal (business manager).

Agents Licensing Board: Robert Bradshaw, Chairperson
Lea Aitken, Consumer Board Member
Carol Need, Real Estate Board Member
Jake Quinlivan, Departmental Board Member

Representation: Bernadette Raumteen, Counsel for the respondents
Kevin Kadirgamar, Department of Trade, Business and Asian Relations, Counsel Assisting the Board.

In attendance: Bhawani Paudyal, respondent
Laine Cornish, Senior Board Support Officer, Department of Trade, Business and Asian Relations

Introduction

1. On 9 May 2025, the Agents Licensing Board (the Board) considered a report from the Registrar of Land, Business and Conveyancing Agents which noted that compliant audit reports relating to the trust accounting records of Land & Lease Realty Darwin Pty Ltd (the agent) had not been provided to the department for the following periods:
 - 1 July 2022 – 30 June 2023
 - 1 July 2023 – 30 June 2024.
2. The report provided details of correspondence with Bhawani Paudyal (business manager) providing information and reminders about the relevant obligations to have the trust account audited.

3. The Board was advised of representations made by the business manager in relation to the department's enquiries regarding the outstanding audit reports, including provision of audit reports for the periods (that were not completed by a registered company auditor as required under the Agents Licensing Act 1979 (the AL Act)), and advice about his actions to engage a suitably qualified auditor to rectify the audit issues.
4. The report further noted that no compliant audit report had been received for the duration of the agent's licence, and that the lack of compliant audit reports indicated breach of section 59(1) of the AL Act
5. The report also noted that the audit reports that had been provided by the business manager indicated a breach of section 60(1)(a) of the AL Act (engagement by the agent of a person who is not a registered company auditor).
6. Based on the information provided, the Board resolved to hold an inquiry under section 68(4)(b) of the AL Act, to determine whether there are grounds under section 67 of the AL Act for disciplinary action to be taken against the agent and the business manager.

Notification of inquiry into company

7. On 4 June 2025, the business manager was notified of the Board's decision to hold an inquiry into the agent and into his conduct as business manager.

Provision of draft inquiry book and information from respondent

8. On 17 June 2025 the business manager was provided with a copy of the draft inquiry book (including the matters to be inquired into) and was asked to provide comment by close of business 1 July 2025.
9. On 27 June 2025, Anjan Paudel (Law Clerk with HWL Ebsworth) wrote to the department:
 - confirming HWL Ebsworth was acting for the business manager and the agent in relation to the disciplinary inquiry
 - seeking an extension of time to respond (to 15 July 2025) and that the inquiry be adjourned to 4 August 2025, or
 - alternatively, seeking an extension of time to 15 July 2025 (with the inquiry to proceed on 21 July 2025).
10. On 30 June 2025, the department responded to HWL Ebsworth:
 - advising that adjournment of the matter was subject to Board availability and unlikely at the time proposed

- proposing to extend the deadline for submission to 10 July 2025 (rather than 15 July), noting that the inquiry book would be finalised and disseminated 7 days before the inquiry.

11. On 7 July 2025, Inder Palla (Solicitor with HWL Ebsworth) wrote to the department advising:

- That HWL Ebsworth had only recently been engaged by the business manager to represent him in this matter
- It had become clear, as a result of preliminary discussions and instructions, that HWL Ebsworth needed to engage with third parties whose input was advised to be highly relevant to these proceedings.
- It was not possible for HWL Ebsworth to meet the proposed deadline and requested an extension of time to provide relevant materials until 18 July 2025.

12. On 8 July 2025, the department responded to HWL Ebsworth:

- advising that, to meet its requirement to disseminate the matters to be inquired into at least 7 days before the inquiry, the inquiry book would be sent out before 14 July 2025
- encouraging HWL Ebsworth to respond by close of business on Thursday 10 July 2025 with an indication of any factual contentions their client wished to make in relation to the draft inquiry book and foreshadow any further evidence their client may wish to rely on
- noting that any such additional evidence foreshadowed could then be provided outside of the inquiry book for the Board's consideration at inquiry.

13. On 10 July 2025, Anjan Palla responded to the department advising:

“Please see attached documentary evidence that we wish to submit to the Board.

The purpose of these documents is to satisfy a few points raised within the inquiry book. This email does not contain any substantial submissions, but rather explanatory comments to contextualise the documents we are providing in the first instance.

...

We anticipate that further documents will present themselves within our investigations into the matter, and as we take instructions. As stated below, we continue to reserve our right to lodge these further documents as evidence leading up the inquiry and provide written submissions (and verbal submissions on the date of the Inquiry).”

Licensing history

14. The agent currently holds a real estate and business agent licence (RBL1236), valid from 7 September 2022 to 6 September 2025. The following individuals are listed as directors of the agent:

- Bhawani Paudyal
- Shambhu Kadel
- Ashok Raj Sharma Thapaliya

15. The business manager holds an individual real estate and business agent licence (RBL1271) valid from 19 September 2023 to 18 September 2025.

Role of Agents Licensing Board

16. The AL Act regulates the licensing and conduct of real estate agents, business agents, and conveyancers. The Act outlines the requirements and obligations for agents operating in these sectors, including provisions for licensing, conduct, trust accounts, and dispute resolution.
17. The Board may take disciplinary action against a licensed agent on one or more of the grounds outlined in section 67 of the AL Act. In particular, the Board may take disciplinary action if a licensed agent has been guilty of a breach of the rules of conduct for agents' (section 67(1)(c) of the AL Act. The Board may also take disciplinary action on "any other reasonable ground which in the opinion of the Board, is sufficient to warrant revocation of the licence of the agents" (section 67(1)(m) of the AL Act).
18. Section 68(4) of the AL Act provides that the Board shall hold an inquiry where the Board considers that there may be grounds under section 67 for disciplinary action to be taken against a licensed agent'.
19. The inquiry hearing and process is governed by section 77 of the AL Act. The procedure is at the discretion of the Board, parties may be legally represented, and the Board is not bound by the rules of evidence but may inform itself in such manner as it thinks fit.

Details of alleged conduct

Failure to ensure accounts audited within prescribed period and by registered company auditor

20. The agent has been licensed under the AL Act from 7 September 2022 to present.
21. The agent was required to have opened and maintained a trust account for the duration of its licence (under sections 50(1) and (2) of the AL Act).
- The department has the following details recorded in its electronic licensing system as the notified trust account details for the agent at the Commonwealth Bank of Australia (CBA)).
22. Monthly reporting provided by the CBA to the department show that transactions occurred in both trust accounts, in each of the auditing periods:

- October 2022 – 30 June 2023
 - 1 July 2023 – 30 June 2024.
23. In accordance with sections 59 and 60 of the AL Act, the agent was required to have its accounts audited by a registered company auditor by 30 September 2023 and 2024, and the auditor was required to make a report to the department under section 62. The department did not receive any compliant report for the periods by the set deadlines.
24. On 13 March 2025, the department wrote to the business manager identifying the outstanding reports and seeking an explanation.
25. On 27 March 2025, the business manager advised that the 2022/23 report was previously provided to the department by Mohammed Ashraf on behalf of Tax Solutions.
26. To support his advice, the business manager attached PDF of an email dated 17 October 2023 apparently sent by him to Mr Ashraf. The email contains a trail that ostensibly shows submission of the 2022/23 report by Tax Solutions to the department on 5 October 2023. A search of departmental records has been unable to locate any correspondence from Mr Ashraf of Tax Solutions in relation to the agent. Further, the document provided by the business manager is a PDF version of a forwarded message, and is not the original email or its metadata.
27. As part of his 27 March 2025 correspondence, the business manager also provided a copy of the audit report for 2022/23 (that he advises was submitted to the department on 5 October 2023) signed by Mr Ashraf and a subsequent audit report for 2023/24 (dated 30 September 2024) also signed by Mr Ashraf.
28. Upon review of the submitted reports, the department identified that:
- the auditor, Mr Ashraf was not a registered company auditor (and so not qualified under section 60 of the Act to undertake the relevant audits)
 - the reports did not provide any detail about the accounts audited (title, account numbers etc), and
 - the reports lacked required detail under section 62(2) of the Act, including mandatory compliance and assurance statements.
29. On 8 April 2025, the business manager was advised of the identified issues and asked to:
- confirm engagement of a registered company auditor to complete both audits in compliance with the Act, and

- provide documentation showing earlier efforts to comply, including evidence of initial instructions to Tax Solutions and dates of correspondence.
30. On 16 April 2025, the business manager provided copies of correspondence showing contemporary attempts to engage an auditor.
31. On 23 April 2025, the business manager further advised that the agent had engaged BDO to conduct the audits (and provided a copy of correspondence from BDO dated 16 April 2025 confirming scope of engagement).
32. Further information was provided by Mr Palla on 10 July 2025 in relation to the prior engagement of Mr Ashraf:

“1. Paragraph 28 of the draft inquiry book states that Tax Solutions, on 5 October 2023, Tax Solutions submitted the 2022/23 audit report to the department. The department is unable to locate the correspondence. We have been instructed that an initial email from our Client in which he filed the 2022/23 audit was blocked from the email BoardServices.DITT@nt.gov.au. Upon it being blocked, our client followed up with Tax Solutions who issued it to propertyagents.licensing@nt.gov.au. The attachment audit report is also viewable]. Though this is a PDF copy (we are in the process of obtaining the original), it outlines that there was an attempt to submit the reports in a timely manner.

2. Paragraph 34 states that the business manager did not provide any documentation in relation to his previous audit engagement with Tax Solutions. Please see attached

- a. Tax Solution Invoice 4275*
- b. Tax Solution Invoice 5372*
- c. Tax Solution Invoice 5341*
- d. Email from our Client to Tax Solutions dated 20 September 2023;*
- e. Email from our Client to Tax Solutions dated 17 October 2023; and*
- f. Trust Account CSV files which we are instructed were provided to Tax Solutions throughout their engagement.*

The purpose of these documents is to outline that there was a professional relationship between Tax Solutions and our Client for the preparation of trust account audits.”

Reminders about obligations

33. The department wrote to the business manager on 17 October 2023, to advise that the audit report for 2022/23 was outstanding and requested advice as to when it would be provided. The department has no record of a response to its correspondence.

Declarations as part of licensing and renewal

34. On 27 August 2024, the business manager submitted an application to renew the licence of the agent.
35. In the application, the business manager answered “no” to the question “has the company failed to provide the Board with an auditor’s report required under the *Agents Licensing Act 1979*”, despite the audit report for 2022/23 being outstanding at the time of the correspondence.

Chronology

36. The following is a chronology of events relating to the department’s engagement with the business manager relating to the agent’s trust accounting obligations for the outstanding periods:

Date	Event
17 October 2023	The department emailed the business manager advising that the audit report for the 2022/2023 year was outstanding.
27 August 2024	Mr Paudyal submitted an application for renewal of the agent’s licence. As part of the application (which is signed by the business manager on 9 September 2024), the business manager answered “no” to the question “has the company failed to provide the Board with an auditor’s report required under the <i>Agents Licensing Act 1979</i> ”.
13 October 2024	The renewal was approved, valid to 18 September 2025.
13 March 2025	The department wrote to the business manager identifying the outstanding reports and seeking an explanation.
27 March 2025	the business manager advised that the 2022/23 report was previously provided to the department by Mr Mohammed Ashraf on behalf of Tax Solutions. the business manager provided the following supporting materials: <ul style="list-style-type: none">● a PDF of emails apparently sent between 5 and 17 October 2023 between Mr Ashraf, the department and the business manager● an audit report for Land & Lease dated 30 September 2023 from Tax Solutions (signed by Mr Ashraf)● an audit report for Land & Lease dated 30 September 2024 from Tax Solutions (signed by Mr Ashraf)

8 April 2025	<p>The department contacted the business manager to advise of issues with the reports provided (including that they were not completed by a registered company auditor) and asked the business manager to:</p> <ul style="list-style-type: none"> • confirm engagement of a registered company auditor to complete both audits in compliance with the Act, and • provide documentation showing earlier efforts to comply, including evidence of initial instructions to Tax Solutions and dates of correspondence.
16 April 2025	<p>the business manager wrote to the department advising that he was engaging with audit firms to progress the outstanding audits (and provided copies of correspondence showing contemporary attempts to engage an auditor)</p>
23 April 2025	<p>the business manager wrote to the department to advise that the agent had engaged firm BDO to conduct the audits (and provided a copy of correspondence from BDO dated 16 April 2025 confirming scope of engagement).</p>

Relevant legislative provisions

Trust monies

37. Part V, Division 1 of the AL Act sets out the requirements relating to trust moneys and the maintenance and operation of trust accounts, including an agent's requirement to:
- a. hold all money received by a licensed agent in their capacity as an agent and in the course of their licensed business, as well as any money received by the agent as a stakeholder, in trust.
 - b. open a trust account (that accords with the requirements of section 50) within 7 days of a licence being granted (s50(1)), maintain a trust account (that accords with the requirements of section 50) while licensed (s50(2))
38. Part V, Division 3 of the AL Act sets out requirements relating to audit and inspection of trust accounts.
39. Section 59(1) of the AL Act provides that 'a licensed agent shall ensure that the agent's accounting records relating to trust moneys received and paid by the agent during the prescribed period are audited within 3 months after the expiration of each prescribed period.' There is a maximum penalty of 20 penalty units or imprisonment for 3 months for contravention of this section.
40. Section 59(1A) of the AL Act then provides that 'it is a defence to a prosecution for an offence against subsection (1) if the licensed agent charged with the offence proves that:

(a) the licensed agent engaged an auditor to carry out the audit at a time when the auditor would reasonably be expected to complete the audit within the period specified in that subsection, but the auditor had failed to do so; and (b) a written statement was forwarded to the Registrar by the auditor or the licensed agent before the expiration of the period specified in that subsection setting out the reasons for the auditor's failure to complete the audit and specifying the period within which the audit will be completed'.

41. "Prescribed period" for the purposes of Division 3 (audit and inspection of trust accounts) is defined at section 58 of the AL Act and means:
- (a) the period of 12 months ending on 30 June in each year; or
 - (b) the period of 12 months ending on such other dates as the licensed agent specifies, by notice in writing lodged with the Registrar, to be the date in each year for the purpose of this Part.
42. Section 61 requires an agent, for the purposes of an audit, to (a) produce to the auditor records relating in any way to trust monies received during the relevant period and (b) to provide information and answers to the auditor in relation to the auditor's questions about the records. There is a maximum penalty of 50 penalty units or imprisonment for 6 months (for a natural person) or 500 penalty units (for a body corporate) for contravention of this section.
43. Section 62 requires the auditor to, as soon as is as reasonably practicable, after the completion of an audit pursuant to section 59, prepare a report of the result of the audit, and deliver the report to the licensed agent and the Board. There is a maximum penalty of 20 penalty units for contravention of this section.
44. Regulation 16 provides for an exemption from audit requirements where trust monies were not received or held during the period. In such a circumstance, an agent is required to make a statutory declaration to the Board within 2 months of the end of the prescribed period.
45. Board policy 00/23 (19 November 2007) provides that a licensed real estate and/or business agent who is the employee of another agent, is for as long as that employment continues, exempt from the requirements relating to trust moneys and account and agent's records under Part V of the AL Act.

Responsibilities of business managers

46. Section 110A(1) of the AL Act provides that 'a licensed agent must ensure that there is at all times in the agent's service a business manager, who is a licensed agent appointed by the agent, in respect of each office of the business carried on under the licence.' Section 110A(5) of the AL Act then provides that a 'business manager must ensure that he or she exercises substantive and effective control of the day-to-day operations of an office in relation to which he or she was appointed'.

47. Section 110A(5) of the AL Act obliges business managers to have effective and substantial control over the business carried on under the licence.

48. Regulation 18 of the Agents Licensing Regulations 1979 provides that:

“A provision of Part V or XII of the Act or these Regulations that requires a licensed agent to do, or to refrain from doing, an act or to carry out an obligation shall, in the case of a licensed agent which is a company or firm, be read as imposing jointly and severally on:

(a) in the case of a company which is a licensed agent – a licensed agent who is a branch manager, employee or director of the company; ...

a like requirement to do, or to refrain from doing, the act or to carry out the obligation, as the case may be, in relation to the business of the licensed agent.”

Conduct

49. Section 64A of the AL Act provides that regulations may prescribe rules of conduct for real estate agents. The rules of conduct are set out in Schedule 4 of the Agents Licensing Regulations 1979 (AL Regulations). The Real Estate Institute of Northern Territory (REINT) has also published a voluntary code of conduct titled ‘Real Estate Practitioners Code of Conduct’ (Code of Conduct). This code was designed to ‘set boundaries of acceptable conduct in real estate practice and define minimum standards of behaviour expected’ of its members.

50. Section 65 of the AL Act provides that a ‘licensed agent must not breach the rules of conduct’. Section 65(4) provides that a company or firm is guilty of a breach of the rules of conduct for agents if:

(a) the company or firm is a licensed agent acting on behalf of a client; and

(b) a director or employee of the company or firm does an act, or fails to do an act, or attempts to do an act, the doing of, or the failure to do, which would, if the director or employee were a licensed agent, make the director or employee guilty of a breach of the rules of conduct for agents. Breaches of the REINT code are also breaches of the rules of conduct.

51. Section 110A(1) of the AL Act provides that ‘a licensed agent must ensure that there is at all times in the agent’s service a business manager, who is a licensed agent appointed by the agent, in respect of each office of the business carried on under the licence.’ Section 110A(5) of the AL Act then provides that a ‘business manager must ensure that he or she exercises substantive and effective control of the day-to-day operations of an office in relation to which he or she was appointed’.

52. The issues that the Board inquired into are:

- a. Whether the agent and its business manager breached section 59(1) of the AL Act (and therefore contravened Rule 8 of the rules of conduct) by failing to ensure that the company's accounts were audited by a qualified auditor within three months of the end of the prescribed period, for each of the following periods:
 - 1 July 2022 – 30 June 2023
 - 1 July 2023 – 30 June 2024
- b. Whether the agent and the business manager as its business manager breached section 60(1)(a) of the AL Act (and therefore contravened Rule 8 of the rules of conduct) by engaging a person who was not a registered company auditor, as the company's auditor for the purpose of section 59 of the AL Act.
- c. Whether there is any other reasonable ground which is sufficient to warrant revocation of the licence of the branch manager based on his conduct as business manager for the agent, particularly with respect to his responsiveness, diligence, and truthfulness in dealing with the department, and his actions or omissions that may have led to any breach by the agent.

Hearing

Materials before the Board at the hearing

53. The following materials were placed before the Board:

- a. Inquiry Book
- b. Appendix 1 to the Inquiry Book containing the following documentation referenced in the Inquiry Book:
 - i. Copies of licence certificates and related matters
 - ii. Copies of licensing applications
 - iii. Correspondence between the department and Bhawani Paudyal and his lawyers
 - iv. reports from CBA provided to the department showing transactions that were occurring in the various trust accounts
 - v. "audit reports" from Tax Solutions fir 2023/24 and 2022/23
 - vi. Terms of engagement of BDO as auditor.
- c. Oral testimony by Bhawani Paudyal
- d. Subsequent to the hearing the Board received:

- i. Audit reports for the outstanding years
- ii. A detailed submission from Counsel representing the respondents.

54. On 21 July 2025 the Board conducted a hearing.

55. The business manager attended the hearing and presented oral evidence.

56. By the time of the hearing the issues before the Board were identified as follows:

a) Whether the agent breached section 59(1) of the AL Act (and therefore contravened Rule 8 of the rules of conduct) by failing to ensure its accounts were audited by a qualified auditor within three months of the end of the prescribed period, for each of the following periods:

- 1 July 2022 – 30 June 2023
- 1 July 2023 – 30 June 2024

b) Whether there is any other reasonable ground which is sufficient to warrant revocation of the licence of Bhawani Paudyal based on his conduct as business manager for the agent, particularly with respect to his responsiveness, diligence, and truthfulness in dealing with the department, and his actions or omissions that may have led to any breach by the agent.

Has there been a breach of the rules of conduct?

57. The role of the Board is to consider whether there has been a contravention of any of the rules of conduct by the agent or the business manager. The rules of conduct possibly relevant to this matter are:

Rule 8: An agent must not breach any provision of the Act or the regulations.

Board's findings

General principles

58. The purpose of disciplinary proceedings is to maintain proper ethical and professional standards, primarily for the protection of the public, but also the protection of the profession.

59. In occupational disciplinary matters, an issue needs to be proven to the reasonable satisfaction of the decision maker, having regard to the seriousness of the allegation made, the inherent unlikelihood of the occurrence of a given description (or the inherent improbability of an explanation) or the gravity of the consequences flowing from a particular finding.

Issue – failure to provide annual audit reports for years 2022/23 and 2023/24

60. The agent did not contest the allegation that the audit reports had not been provided. The Board was provided with information about attempts to conduct the audits. The Board considers that this information is mainly of relevance to any penalty that might be applied if it finds that the failure to lodge audits is a breach of the rules of conduct.
61. Where there is a failure to lodge audits there are two main regulatory options. They are to prosecute through the criminal courts or take disciplinary action. The Board has previously decided that, for disciplinary proceedings, it can find that the Act has been breached (in respect of provisions where there is a criminal law penalty) regardless of whether there has been a formal prosecution under the legislation.
62. On the basis of these matters, the Board finds that the agent has breached section 59 of the AL Act by not ensuring that its trust accounts were audited as required by that section. The Board considers that it is authorised under section 69 of the AL Act to take disciplinary action against the agent in respect of that breach.

Failure to provide accurate information on renewal

63. In the last application concerning the licence the business manager on behalf of the agent, answered “no” to the question concerning whether the agent had breached the AL Act.
64. The business manager would have known or should have known that the audits had not been completed and that that was a breach of the AL Act.

Responsibility of the business manager

65. Regulation 18 (as set out above) means that Bhawani Paudyal as business manager and/or an employee of the agent is subject to the same obligations as the agent concerning section 59 of the AL Act noting that section 59 is a provision within Part V of that Act.
66. The Board also considers that business managers are responsible, as a general rule, for the compliance of a licensed agent with the requirements of the Act. Significant noncompliance can be the basis of disciplinary action as referred to in section 67(1)(m) of the AL Act.
67. The Board finds that Bhawani Paudyal has failed to comply with section 59 of the AL Act as referred to in regulation 18. This means that he has breached rule of conduct 8.
68. On the basis of these findings and the finding concerning the provision of misleading information in the licensing application the Board considers that it is authorised under section 69 of the AL Act to take disciplinary action against the business manager.

Penalties

69. At the end of the hearing the Board summarised its findings, stated that it intended to impose a fine and agreed to receive a written submission on penalty.
70. Counsel for the respondents provided a detailed submission on penalties. The gist of the submission is that:
- (a) The breaches regarding audits should be treated as separate matters for assessing the penalties
 - (b) The agent had thought that the audit for 2022/23 had been completed and forward to the departmental
 - (c) the offence for breach of section 59 is a strict liability offence and that the respondent had a defence of honest and reasonable mistake of fact
 - (d) the appropriate penalty for the year 2022/23 having regard to the range of matters spelt out in similar matters (such as in Ryanlee Properties) would be that of a caution;
 - (e) for 2023/24 the agent did not act in a reasonable or diligent way in following up any request from its auditor following an instruction to complete the audit.
 - (f) A fine of \$2000 for the agent would be an appropriate penalty.
71. The powers of the Board after the inquiry into a licensed agent are outlined in section 68 of the AL Act as follows:
- “68. If, at the conclusion of an inquiry conducted under section 68(4), the Board is satisfied that it is authorised to take disciplinary action against a licensed agent, the Board may do one or more the of the following:*
- (a) reprimand or caution the agent;*
 - (b) by written notice, impose a fine not exceeding 50¹ penalty units on the agent;*
 - (c) by written notice, suspend the licence of the agent until the expiration of the period, or the fulfilment of a condition, specified in the notice;*
 - (d) by written notice, revoke the licence of the agent.”*
72. All the possible penalties are serious for persons in professions and licensed occupations. They all adversely impact on reputation. The outcomes of this matter, including the penalties, will be published as required by section 84A(1) of the AL Act.

73. The practice of the Board is, after determining one or more breaches, that of imposing a global penalty rather than a penalty for individual breaches.

Penalty for the agent

74. The Board considered past penalty decisions for disciplinary matters relating failures to provide audit reports. The main ones of some relevance are as follows:

- (1) 2004 - \$500 after agent failed to have the 2003 audit completed with either the statutory time or that time as extended.
- (2) 2011 – reprimand after there was an 8-month delay in the audit along with various procedural problems revealed by the audit
- (3) 2020 – licence revoked after agent failed to have audit for 2018/2019. Improper dealings with the trust monies
- (4) 2023 – reprimand after late filing of audit report with unreconciled amounts over a four year period
- (5) 2023 – reprimand after prolonged delay in audit reports arising out of inaccurate trust accounting¹.
- (6) 2025 – fine of \$9000 for business manager and \$3700 for the Agent company for failing to file 4 successive audit reports and for providing misleading information in the course of dealing with the department in respect of the audits and only making belated efforts to fix the problem.
- (7) 2025 – fine of \$3700 for business manager and \$1850 for the Agent company for failing to file 2 successive audit reports and for providing misleading information in the course of dealing with the department in respect of the audits and only making belated efforts to fix the problem
- (8) 2025 – Fine of \$7400 for business manager and \$3700 for the Agent company for failing to file 3 successive audit reports and for providing misleading information in the course of dealing with the department in respect of the audits and only making belated efforts to fix the problem²

75. From this brief summary it is fairly plain that the Board has taken a variety of approaches over the past 20 years.

76. The Board's current view is that a reprimand is not a sufficient penalty for major breaches of the legislation. This is said noting that the criminal sanction for a single breach of section 59(1) of the AL Act is a maximum of 20 penalty units and/or 3 months imprisonment. Such an offence is also a

¹ The maximum penalty unit value at the time of the breaches was \$8100 for 2022/23 and \$8800 for 2023/2024. The penalty unit is \$9450 for the period 1 July 2025 – 30 June 2026 (Penalty Units Regulations 2010) (one penalty unit currently equals \$189).

² This decision was made on 19 September 2025. It has not yet been published

“regulatory offence” for the purposes of the Criminal Code. This means, in effect, that the offence is an offence of strict liability³.

77. In determining the penalty, the Board took into account:
- (a) the 2-year period of the successive breaches,
 - (b) the misleading information provided during the licensing processes.
 - (c) the successful efforts of the agent to have the audits completed along with the apparent absence of any significant irregularities with the actual record
 - (d) the lack of attention to detail in appointing as an auditor a person not qualified in the Northern Territory to conduct an audit
 - (e) the branch manager’s ready acceptance of the errors and the appropriateness of a disciplinary penalty.
78. The Board considers that compliance with the audit requirements is a key provision in terms of client protection. The Board considers that the failure to have the audits over two years plus the misleading information provided in respect of the renewal of licences warrants a fine.
79. As mentioned above the Board accepts that there is no evidence of any missing funds. If there had been any such evidence the penalty would likely to have been suspension or cancellation).
80. The Board also notes that in most of the other matters quoted above concerning penalties that, as in this matter, the agent took action to fix the problem once identified.
81. The Board also considers that the provision of misleading information is a serious matter. Delegates of the Board make decisions about renewals based largely on the answers provided in the application forms. Provision of misleading information can potentially lead to licences being wrongly renewed.
82. Under section 69(1)(b) of the AL Act the penalty imposed on the agent is that of a penalty of \$1125.
83. Under section 69(3) of the AL Act, the Board directs the agent to make payment of the fine within 60 days of the date of this notice.

Penalty for Bhawani Paudyal

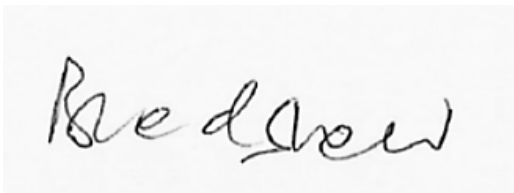
84. The Board has found that, as referred to in section 68(1) of the AL Act, Bhawani Paudyal, in his roles as business manager and director of the agent, has breached the rules of conduct and that it is authorised to take disciplinary action.

³ Section 125B, *Agents Licensing Act 1979*

85. Under section 69(1)(b) of the AL Act the penalty imposed is that of a fine of \$2250. The reasons are the same as those set out concerning the agent with the difference between the two taking into account the personal responsibility of Bhawani Paudyal for all of the breaches.
86. Under section 69(3) of the AL Act, the Board directs Bhawani Paudyal to make payment of the fine within 60 days of the date of this notice.

Right of review

87. Section 85(3) of the AL Act provides that an affected person can apply to the Northern Territory Civil and Administrative Tribunal for a review of decisions of the Board.
88. For the purposes of section 85(3), “affected persons” include the applicant, agents and agents representatives affected by the decisions.
89. An application for review must be made within 28 days of the day of notification to an affected person of the decision in this matter.

A handwritten signature in black ink on a light grey background. The signature is written in a cursive style and reads "Bradshaw".

Dated 30 September 2025

Robert Bradshaw

Chairperson (for Agents Licensing Board of the Northern Territory)