



AGENTS LICENSING BOARD OF THE NORTHERN TERRITORY

**REASONS FOR DECISIONS FOLLOWING INQUIRY CONCERNING
DISCIPLINARY ACTION AGAINST COTSWOLD PROPERTY
INVESTMENTS PTY LTD TRADING AS MARSH CONVEYANCING
AND LORRAINE MARSH**

Respondents:	Cotswold Property Investments Pty Ltd trading as Marsh Conveyancing Lorraine Marsh
Date and time of hearing:	11 February 2026, 10am
Venue:	Gurrumbuy Room Level 6 / 22 Mitchell Street, Darwin
Reason for Inquiry:	To hold an inquiry pursuant to section 68(4)(b) of the <i>Agents Licensing Act 1979</i> to determine if there are grounds for disciplinary action to be taken against Cotswold Property Investments Pty Ltd (trading as Marsh Conveyancing) and Lorraine Marsh (branch/business manager).
Agents Licensing Board:	Robert Bradshaw, Chair Lea Aitken, Board Member (Consumer) Trevor Tschirpig, Board Member (Conveyancer) Jake Quinlivan, Board Member (Departmental)
Representation:	Kevin Kadirgamar, Department of Trade, Business and Asian Relations, Counsel Assisting the Board
In attendance:	Lorraine Marsh, respondent business manager by video. Robin Li (auditor), witness, by video

Introduction

1. On 10 December 2025, the Agents Licensing Board (the Board) considered a report from the Registrar of Land, Business and Conveyancing Agents (Registrar) into Cotswold Property Investments Pty Ltd (the agent) and Lorraine Marsh (the business manager) also referred to as the respondents).
2. This report noted several matters including the following:

- (1) that outstanding audit reports relating to the agent's trust accounting records (for 1 July 2021 - 30 June 2024) (as considered by the Board in its decision dated 19 September 2025 (Board's previous decision) as well as the audit report for 1 July 2024 - 30 June 2025 had not been provided to the department;
 - (2) the fines imposed in the Board's previous decision were paid on 19 November 2025;
 - (3) information indicating that the business manager had not used her best endeavours to complete the four audits for the period 1 July 2021-30 June 2025;
 - (4) information about whether the agent had complied with a direction concerning the taking on of new clients;
 - (5) the provision of inconsistent or potentially misleading information to the department
3. Based on the information provided, the Board resolved to hold an inquiry under section 68(4)(b) of the *Agents Licensing Act 1979* (AL Act), to determine whether there are grounds under section 67 of the AL Act for disciplinary action to be taken against Cotswold and the business manager .
 4. The grounds of the inquiry were determined as being:
 - (1) Failure to comply with directions in the Board's previous decision regarding the completion of the outstanding audits
 - (2) Provision of inconsistent or potentially misleading information to the department
 - (3) Failure to complete trust account audit for 2024/25
 5. The Board decided that the inquiry would not deal with any allegation that the agent had breached the direction about taking on new clients.

Notification of inquiry

6. On 17 December 2025, the business manager was notified of the Board's decision to hold an inquiry into Cotswold and into her conduct as business manager.
7. On 20 January 2025, the inquiry book containing details of the matters to be inquired into and relevant evidentiary materials was provided to the business manager.

Background

8. The background licensing history for agent and the business manager as well as the relevant legislative provisions regarding the role of the Board are set out in the Board's previous decision.

Chronology

9. The following table contains a chronology of events relating to the department's engagement with the business manager and the agent since the Board's previous decision.

Date	Time	Action	Summary	Document no.
3 October 2025	11.53am	Email from the department to the business manager	The department wrote to the business manager noting that both deadlines under the Board's directions had passed. The department sought an update and any supporting evidence of compliance.	Document 10
10 October 2025	4.01pm	Response from the business manager to department	the business manager requested: <ul style="list-style-type: none"> • An extension until the end of next week (so to 17 October 2025) to provide the relevant "letter and information from [the] accountant"; and • An extension until the end of the month for completion of the relevant audits. 	Document 10
17 October 2025	6.17pm	Department called the business manager	the business manager advised she was following up with her auditor and expected submission of the accountant's letter that day or by the next business day (20 October). Department followed up with an email.	Document 10
20 October 2025	10.43am	the business manager emailed the department	the business manager provided a letter (dated 20 October 2025) from the accountant. The accountant confirmed that the reconciliation of the agent's trust account has been completed, and the account is fully corrected and balanced. They advise the trust account records were "finalised last week and have been forwarded to the auditor". They advised the delay was due to a data entry error where client codes were omitted by the business manager, preventing proper transaction matching. To resolve the issue, they advise they: <ol style="list-style-type: none"> 1. Reviewed unmatched transactions, 2. Audited client ledgers, 3. Corrected the missing data and completed reconciliation. They further noted that the business manager faced technical issues with BankLink and has since been supported through the transition to MYOB. Additionally, there were personal reasons that were contributing to the delay.	Document 11
20 October 2025	3.28pm	Email from department to John De Castro (De	The department requested copies of the records that had been provided by the accountant to the auditors.	Document 12

		Castro & Sullivan)		
20 October 2025	3.35pm	Email from department to the business manager	The department emailed the business manager to confirm that she had (in the conversation on 17 October 2025) confirmed that once the finalised accounts were provided to the auditor, she would contact the auditor to seek an approximate timeframe for the delivery of the 2024/25 audit report.	Document 13
20 October 2025	5.13pm	Response from the accountant to department	The accountants confirmed the same day that the business manager provided the records to the auditors.	Document 12
20 October 2025	N/A	Department called the business manager	The department requested from the business manager a copy of the correspondence providing the records to the auditors.	N/A
20 October 2025	5.33pm	Email from the business manager to the department	the business manager provided an email dated 16 October 2025 wherein she sent through a range of ledger reports, client summaries etc to the auditor. These documents all appear to relate to the historic audits (i.e. not the 2024/25 audit)	Document 13
28 October 2025		Department called the business manager	The department engaged with the business manager via phone to understand the status of the 2024/25 audit. the business manager advised: <ul style="list-style-type: none"> • She had recently provided more bank statements to an employee at the auditor's offices • She had followed up with an email that morning (28 October 2025) to ask what the anticipated timeframe for completion was • That employee was usually very responsive, and she anticipated an answer the same day or else the next day. 	N/A
30 October 2025	5.22pm	Email from the business manager to the department	the business manager advised she had not yet heard from the auditor, and she was now going on leave (no return date specified). She noted she was trying to ensure the information required was provided to the auditors to allow the audit for 2024/25 to be completed together with the other audits in a timely manner.	Document 14
31 October 2025	2.06pm	Email from the department to the Auditor's employee	The department (under s64(1) of the AL Act) requested information on the status of each outstanding audit, including whether further information was required, and (if known) what the anticipated completion date was for the audits.	Document 15

31 October 2025	4.29pm	Response from the auditor's employee	<p>The auditor's employee advised:</p> <ul style="list-style-type: none"> • the auditor is still awaiting the updated trial balances; • Whether anything further is required is dependent upon the update trial balances; • The date for completion depended on when they received the updated trial balances. 	Document 15
3 November 2025	3.08pm	Email from the department to the Auditor's employee	The department requested further information from auditor– specifically, confirmation that the business manager was aware of the need to provide the trial balance, and a copy of correspondence showing the auditor making requesting the information from her.	Document 15
3 November 2025	5.49pm	Response from the auditor employee to the department	<p>the auditor provided a copy of an email between herself and the business manager.</p> <p>On 23 October 2025, the auditor contacted the business manager to advise:</p> <p><i>As shown in the attached trial balances, please advise whether all the positive amounts represent overdrawn client monies. If so, what rectification actions will be taken? Alternatively, can some of the positive and negative amounts be netted off within the same client account? If yes, please provide an updated trial balance reflecting no overdrawn client monies¹.</i></p> <p>...</p> <p><i>Please also provide the bank statements for FY2024.</i></p> <p><i>If you have any questions, please do not hesitate to let me know.</i></p> <p>the business manager responded to A1 on 28 October 2025 advising:</p> <p><i>I have uploaded the bank statements as requested.</i></p> <p><i>I am working through the positive items and checking they have been coded correctly, with the help of my Accountant. As soon as this is completed, I will resend the balance sheets.</i></p>	Document 15

Relevant legislative provisions

¹ This email also contained details about fees

10. 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:

- (1) has been guilty of a breach of the rules of conduct for agents' (section 67(1)(c) of the AL Act);
- (2) has contravened or failed to comply with a direction of the Board given under section 69(3) of the AL Act² (section 67(1)(d) of the AL Act).

11. 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).

12. Part V, Division 3 of the AL Act sets out requirements relating to audit and inspection of trust accounts.

13. 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.

14. 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'.

15. "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

² Section 69(3) provides that the Board may, as part of a decision following a disciplinary inquiry, give directions to the agent

- (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.
16. Section 61 requires an agent, for the purposes of an audit, to (a) produce to the auditor records relating in any way to trust moneys 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.
17. 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.
18. Regulation 18 provides that obligations imposed by Part V of the Act or the Regulations on a licensed agent which is a company are to be imposed jointly and severally on a licensed agent who is a business manager, employee or director of the company.

Rules of Conduct

19. 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. Breaches of the REINT code are, under the AL Regulations, also breaches of the rules of conduct.
20. 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.
21. Under Rule 8, breach of any provision of the AL Act or the AL Regulations is a breach of the Rules of Conduct.

Responsibilities of business managers

22. 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’.

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

24. Regulation 18 of the AL Regulations 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 manager³, employee or director of the company; ...

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

Consideration

25. The issues that the Board inquired into are:

(1) whether the business manager failed to comply with the Board's directions regarding the completion of audits;

(2) whether the business manager provided inconsistent and potentially misleading to the department;

(3) whether the agent and the business manager failed to ensure that the company's accounts were audited by a qualified auditor within three months of the end of the prescribed period, for the period 1 July 2024 – 30 June 2025 (in breach of section 59(1) of the AL Act (and therefore contravened Rule 8 of the rules of conduct).

26. The directions in the Board's previous decision were:

(1) the fine be paid within 60 days of the date of this decision.

³ This is taken to be a reference to the business manager

- (2) the business manager use her best endeavours to ensure that her accountant provide to the Board by 24 September 2025, a written explanation as to how the trust records will be rectified to enable the completion of the audits, and what systems will be put in place to ensure that future audits will be completed in line with the requirements of the AL Act.
- (3) the business manager use her best efforts to ensure that all four audits for the period 2021/25 are completed with no qualifications, by 30 September 2025.
- (4) That Cotswold Property Investments does not accept any new clients until such time as the four audits for the period 2021/2025 are completed to the satisfaction of the Registrar of Land, Business and Conveyancing Agents

Hearing

Materials before the Board at the hearing

27. The following materials were placed before the Board:

- Inquiry Book
- Appendix 1 to the Inquiry Book containing the following documentation referenced in the Inquiry Book:
 - Copies of licence certificates and related matters
 - Correspondence between the department, the business manager, the agent's accountants and the agent's auditor.

28. Oral testimony by the business manager and Robin Li, in his capacity as the senior auditor (the senior auditor) of A1 Audits (the auditor) at the hearing.

29. On 14 February 2026 the Board conducted a hearing.

30. The business manager and the senior auditor attended the hearing by video and provided affirmations (under the *Oaths, Affidavits and Declarations Act 2010*) for the purposes of the presentation of their evidence.

Business manager's evidence

31. In summary, the business manager's evidence was that:

- (1) acceptance that the audits had not been completed;
- (2) after the previous inquiry she had been working through the retrieving of the information necessary for the audits. In doing so she had problems because the relevant provider/software (BankLink) no longer exists;
- (3) she has now managed to retrieve the information;

- (4) the information previously provided by her accountants did not truly reflect the accounts correctly
 - (5) Acceptance that individual ledgers for clients had not been maintained
 - (6) accepted that she should have liaised with “people” more efficiently advising of her current situation
 - (7) last corresponded with the auditor’s office in November 2025
32. In response to some of the issues raised by the auditor (see below) the business manager indicated that she relied on settlement statements as the basis for ensuring that the client arrangements balanced at the end of a matter. She also suggested she maintained some kind of schedule on an excel spreadsheet.
33. It also appears from the business manager’s evidence that the problems with audits began in 2020-21 when the agent’s trust account system changed to BankLink from a manual system. The agent also changed auditors at this time. Since changing from a manual system, the agent has not had a successful audit.

Senior auditor's evidence

34. At the hearing the auditor provided the following evidence:
- (1) The information provided by the business manager did not permit the auditor with the capacity to determine at any point in time the balance for any client. That is, the information permitted only the examination of the overall movement of funds in and out of the trust account
 - (2) That individual ledgers had not been maintained;
 - (3) This meant that the auditor could not tell if the accounts for some clients were overdrawn. This also meant that for any amount held on trust the information provided would not reveal the clients on behalf of whom any amount was held
 - (4) By way of explanation, he considered that the cause of the problem was a system limitation with the software being used by the agent given that transaction testing showed that the transactions were recorded
35. The auditor’s conclusion was that the records had been maintained such that it is impossible to properly audit the past records

General principles in disciplinary matters

36. 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.

37. 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.

Board's findings

Background - status of audits

38. In August 2025, two of the audits were provided.

39. The auditor, for each of the years 2021/22 and 2022/23 stated:

“The agent has failed to maintain accurate trust records, constituting a breach of section 62(2) of the Agents Licensing Act 1979 (NT). The trial balance as at (previous) 30 June does not reconcile with the corresponding bank reconciliation, as shown in the attached documents. This discrepancy indicates a failure to properly record and account for trust monies as required under the Act”.

40. At the reopening of the previous inquiry on 17 September 2025 the business manager indicated that she regretted providing the audits to the Board prior to attempting to sort out the problems with the assistance of her accountant. She says that the audits were provided to show that a real effort was being made to have the audits completed. The Board accepted this as a valid point.

41. Currently the Board takes the view that satisfactory audits for 2021/22 and 2022/23 remain outstanding. The alternate approach is to assume that the auditor's conclusion is correct – that is, there was a failure to properly record and account for trust monies.

42. At the September 2025 hearing the business manager also:

- (1) undertook that the three outstanding audits for 2021-2024 would be completed by 30 September 2025 whilst also noting that the audit report for 2024/25 due for completion by 30 September 2025 could not be completed until the other 3 have been completed
- (2) agreed, at the suggestion of the Board, that she take on no new clients until the three outstanding audits and the 2024/25 audit were completed.'

43. The Board notes that its decision of 19 September 2025 also recorded that the business manager:

“Agreed that she would arrange for her accountant to provide the explanation of how the trust records will be reviewed to enable the completion of the audits and what systems will be put in place to ensure that future audits will be completed in line with the requirements of the AL Act”

Background – whether there has been any defalcation or missing funds or conveyancing problems arising from the way in which the trust accounts have been kept

44. The Board has no evidence that might suggest that there were any inappropriate dealings with the trust monies.

Issue (1): whether the business manager failed to comply with the Board's direction regarding the use of her best endeavours to complete the outstanding audits by 30 September 2025

45. The Board finds that the audits have not been completed.

46. The Board also finds that there was no evidence that the business manager had used her best endeavours to complete the outstanding audits as directed.

47. As far as the Board can tell, the business manager made no contact with the auditors until late October 2025 (this being after the business manager had sought from the department an extension to 17 October 2025 for the completion of the audits).

48. Instead, the business manager had focussed on the accountants. On 20 October 2025 the accountants (document 11) advised her that the trust account had been reconciled, and the account is "fully corrected and balanced". The accountants advised that they had reviewed unmatched transactions, audited client ledgers and corrected missing data and completed reconciliation.

49. The department investigated the records that had been provided to the auditors and ascertained that they related to the period 2021-24 – that is, did not cover 2024-25.

50. On 31 October 2025, the auditor wrote to the department advising that they had received bank statements on 27 October 2025 from the business manager but were still awaiting trial balances. They advised, in effect, they could do nothing more until the trial balance information was received.

51. This email of 28 October 2025 from the business manager is the last documentary evidence before the Board of the business manager's dealing with the auditor. At the inquiry the business manager gave evidence that she had further contact (emails) on or about 7 November 2025. Copies of such documents were not provided to the Board. At the hearing the auditor indicated that he could find no evidence of any such email.

52. The Board also finds that the business manager and the agent failed to use sufficient effort to resolve the underlying issues with the auditing of the trust accounts.

53. Despite the commitment at the September hearing to address the underlying issue it was not until the hearing on 11 February 2026 that the business manager became aware that the trust accounts had been maintained in such a way that they could not be audited.

54. The business manager, at the hearing, expressed a response to the effect “why was I not told this earlier”. The Board’s view is that it is the responsibility of the agent to have appropriate systems in place. The department and the Board have been investigating the problems with the auditing for over 15 months. The agent and the business manager have had plenty of time to work out what was the problem.
55. The Board notes that the accountants appear to have provided information to the auditors that they thought would be sufficient for the auditor to complete the audits. The agent did not arrange for the accountants to give evidence on this matter. The Board can only assume that they provided what they had been asked to provide by the business manager.
56. The Board finds that the failure of the agent and the business manager to engage with the auditor after early November 2025 means that there has been a failure to use best endeavours. The business manager should, at the very least, have followed up with the auditor the reason why the audits were not being completed.
57. This means that:
- (1) the agent has failed to comply (as required by section 67(1)(c) of the AL Act) with a direction given by the Board following a disciplinary inquiry;
 - (2) the Board is entitled to take disciplinary action.

Issue (2) - whether the business manager provided inconsistent and potentially misleading to the department

58. The table above shows that:
- (1) The business manager made no contact with the department until almost 2 weeks after the deadline for the resolution of issues concerning the outstanding audits;
 - (2) Provided incorrect information on the letter regarding systems for the completion of the audits and the timing of the completion of the audits;
 - (3) After 20 October 2025 the department corresponded with the accountants and the auditor for the purpose of ascertaining the status of the orders
 - (4) The first exception to (3) was that on 20 October 2025 the department sought from the business manager, in separate emails, information to the effect that she had contacted the auditors regarding a completion date for the 2024/25 for response concerning the 2021-2014 audit periods but not for 2024/25 period
 - (5) The second exception was that on 28 October 2025 the department engaged by phone with the business manager regarding the timing of the 2024/25 audit. The business manager responded on 30 October 2025 that she had not heard back from the auditor and that she was going on leave. The department then contacted the auditor who advised that the audits could not be provided as the required information had not been provided.

59. The Board's findings are:

- (1) the business manager was, albeit belatedly, attempting to do what is necessary to have the audits completed;
- (2) some of the information she provided, or which was provided by her accountants was incomplete and unhelpful for the department to understand what was going on,

60. The Board's view about these findings is that, standing alone, they do not amount to a failure to cooperate as set out in rule of conduct 4 (Part 1, schedule 4, *AL regulations*). In broad terms the Board also considers that the issues raised are subsumed into Issue (1).

Issue (3) - failure to provide annual audit report for 2024/25

61. The business manager did not contest the allegation that the audit report for 2024/25 had not been provided.

62. The Board finds that the audit for 1 July 2024- 30 June 2025 has not been completed.

63. However, the Board also notes that it is impossible for the agent to complete this audit until the earlier audits are completed.

64. The Board was provided with information about attempts to conduct the earlier audits.

65. As noted in earlier Board decisions, 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.

66. Based on these matters, the Board finds that the agent has breached section 59 of the AL Act by not ensuring that its trust accounts for 2024-25 were audited as required by that section.

67. The Board considers that it is authorised under section 69 of the AL Act to take disciplinary action against the agent and the branch manager in respect of that breach.

Responsibility of the business manager

68. Regulation 18 (as set out above) means business manager is subject to the same obligations as the concerning section 59 of the AL Act noting that section 59 is a provision within Part V of that Act. The Board also considers that branch/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.

69. The Board finds that the business manager has failed to comply with section 59 of the AL Act as referred to in regulation 18. This means that she has breached rule of conduct 8.

Penalties

70. The powers of the Board after the inquiry into a licensed agent are outlined in section 69 of the AL Act as follows:

“69. 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 50 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.”

71. 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.

72. This inquiry substantively dealt with trust accounts.

73. The agent and the business manager have previously been disciplined (by way of fines) for failings concerning past audits. The Board is not imposing additional penalties regarding the fact that the past audits have still not been satisfactorily completed.

74. Nonetheless, in determining the penalty for the failure to comply with the direction in the Board’s previous decision and the failure to complete an audit for 2024/25 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 accounting.
- (6) 2025 – fine of \$9000 for business manager and \$3,700 for the Agent company for failing to file 4 successive audit reports and for providing misleading information while 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 3 successive audit reports.
- (8) 2025 – fine of \$2200 for business manager and \$1125 for Agent company for failing to file 2 successive audit reports, for providing misleading information during the licensing process, for lack of attention to detail in appointing an auditor but with the (subsequent) successful completion of the outstanding audits
- (9) 2025 – cancellation of licences following 4 successive unsuccessful audits, failure to comply with the Board’s directions regarding audits.⁴

75. The Board considers that the maintenance of appropriate trust records is a key part of the legislative scheme relating to the regulation of real estate and conveyancing agents. A licensed agent must be able to maintain such records.

76. As set out in the Board’s previous decision, the qualified audit reports for 2021/22 and 2022/23 reveal that the basic problem is that the respondents have failed to maintain trust records as reported by the auditor under section 62(2) of the AL Act.

77. Section 62(2) provides:

“(2) An auditor shall state in his or her report:

- (a) whether, in the auditor’s opinion, the licensed agent had kept the accounting records relating to all trust moneys received and paid by the agent in accordance with this Act; and
- (b) whether those records were ready, within a reasonable time, for the auditor’s examination after the auditor had required their production; and
- (c) whether the agent had complied with the auditor’s other requirements and so complied within a reasonable time; and
- (d) anything in relation to those records of which the agent or the Board should, in the opinion of the auditor, be informed.

78. Section 62(2) imposes obligations on an auditor. Presumably the auditor, in respect of the agent is saying the agent has failed to kept records as referred to in section 62(2)(a).

⁴ Decision not yet published as the agent is attempting to seek a review by NTCAT of the decision

79. This suggests that the actual problem may be a breach of section 55 of the AL Act. That section requires that:

“55 Accounting records

- (1) A licensed agent shall keep such accounting records as disclose particulars of:
 - (a) all trust moneys received from day to day by the agent on behalf of each client for whom he or she acts; and
 - (b) all payments made by the agent from day to day out of the trust moneys so received.
- (2) A licensed agent shall:
 - (a) keep the accounting records referred to in subsection (1):
 - (i) in written or printed form in the English language; or
 - (ii) to enable them to be readily accessible and readily convertible into written or printed form in the English language; and
 - (b) cause those records to be kept in such a manner that they can be conveniently and properly audited; and
 - (c) retain those records for a period of not less than 6 years after the date on which the last entry in those records was made.

Maximum penalty:

If the offender is a natural person – 100 penalty units or imprisonment for 12 months.

If the offender is a body corporate – 500 penalty units.”

80. The critical failure may be a failure to comply with section 55(2)(b).

81. At this time, the Board is not satisfied that the agent and the business manager can maintain such records.

82. In determining the penalty, the Board considered:

- (1) delay in taking action regarding the Board’s previous decision;
- (2) absence of accurate information about when the audits will be completed;
- (3) the current efforts of the agent to have the audits completed along with the apparent absence of any irregularities in dealing with trust monies;
- (4) the apparent unwillingness (until very recently) to come to grips with the underlying problem;
- (5) the penalties imposed on other agents concerning repeated failures to provide audits;
- (6) that compliance with the audit requirements is a key provision in terms of client protection and the operation of the legislation.

83. At the end of the inquiry the Board decided that the following penalties would be imposed:

- (1) The licences of the agent and the business manager are suspended as from 1 March 2026;
- (2) This suspension operates until the business manager, and the agent comply with the following conditions:
 - (a) the business manager or the agent produces to the satisfaction of the Agents Licensing Board (the Board) a statement from an auditor confirming that the agent and the business manager have systems in place to enable future auditing of trust accounts;
 - (b) the business manager or the agent produces to the satisfaction of the Board an unqualified audit statement of the agents trust accounts for the period 1 July 2025-31 January 2026;
 - (c) the business manager or the agent produces to the satisfaction of the Board a statement from an auditor that in their opinion, there has been no defalcation of funds that were held in trust by the agent and the branch manager for the period for which audits had not been provided.

84. On 13 February 2025, the business manager was provided with a written version of this decision. Subsequently, the business manager was provided with another version of the written decision. This clarified that paragraph (c) applied to the period ending 30 June 2025.

85. In coming to this decision (especially paragraph (c)) the Board notes:

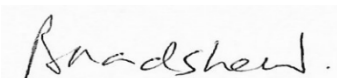
- (1) it is unaware of any complaints concerning missing funds;
- (2) it is aware of one complaint about an erroneous settlement statement issued by the branch manager. However, the agent was readily able to correct the error.⁵

Right of review

86. 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.

87. For the purposes of section 85(3), "affected persons" include the applicant, agents and agents representatives affected by the decisions.

88. An application for review must be made within 28 days of the day of notification to an affected person of the decision in this matter⁶.



Dated 3 March 2026

⁵ Complaint received on 2 November 2024 and dismissed on 11 December 2025

⁶ In this matter, notification was completed by email on 24 February 2026

Robert Bradshaw

Chairperson (for the Agents Licensing Board of the Northern Territory)