AGENTS LICENSING BOARD OF THE NORTHERN TERRITORY

REASONS FOR DECISIONS FOLLOWING INQUIRY CONCERNING DISCIPLINARY ACTION INTO WRIGHTSPACE COMMERCIAL PTY LTD AND NICOLE HANDLEY

Respondents:	Wrightspace Commercial Pty Ltd Nicole Handley (as business manager)
Date and time:	12 March 2026 at 10:30am
Venue:	Damoera Room NT House Level 6 / 22 Mitchell Street, Darwin
Reason for Inquiry:	To hold an inquiry pursuant to section 68(4)(b) of the *Agents Licensing Act 1979* to determine if there are grounds for disciplinary action to be taken against Wrightspace Commercial Pty Ltd and / or Nicole Handley.
Agents Licensing Board:	Robert Bradshaw, Chair Lea Aitken, Consumer Member Carol Need, Real Estate Member Andrew Gray, Alternate Real Estate Member Wendy Pritchard, Alternate Departmental Member
Representation:	Kevin Kadirgamar, Department of Trade, Business and Asian Relations, Counsel Assisting Ralph Bönig, Finlaysons, representing Wrightspace Commercial Pty Ltd and Nicole Handley
In attendance:	Nicole Handley, business manager and respondent Laine Cornish, Senior Board Support Officer, Department of Trade, Business and Asian Relations

Introduction

Registrar's report and initial decision to hold an inquiry

1. On 10 December 2025, the Agents Licensing Board (the Board) considered a report from the Registrar of Land, Business and Conveyancing Agents (the Registrar) of the Department of Trade, Business and Asian Relations (the department) dealing with matters identified by the department in its investigation of a failure by Wrightspace Commercial Pty Ltd (the agent) to lodge an annual audit. .

2. The Registrar's report highlighted a number of matters including the following:

   (1) Non-compliance with audit obligations:
   (2) Submission of an unauthorised audit report and document with false signature
   (3) Initial misrepresentations to departmental inspectors

3. Based on this report, the Board resolved to hold an inquiry under section 68(4)(b) of the AL Act.

Legislative information

Role of Agents Licensing Board

4. 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.

5. 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:

   67(c) the licensed agent has been guilty of a breach of the rules of conduct for agents'67
   67(m) any other reasonable ground which, in the opinion of the Board, is sufficient to warrant revocation of the licence of the agent.

6. Section 64A of the AL Act provides that '[r]egulations may prescribe rules of conduct for real estate agents'.

7. Section 65 of the AL Act provides that a 'licenced agent must not breach the rules of conduct.

8. The rules of conduct for agents are set out in Schedule 4, Part 1 (general rules) of the *Agents Licensing Regulations 1979* (AL Regulations). Rule 8 of Part 1 provides "an agent must not breach any provision of the Act or the regulations".

Relevant rules of conduct

9. The following rules of conduct, set out in Schedule 4 of the Agents Licensing Regulations 1979, are relevant to this matter:

   4. An agent must, in the investigation of a matter that may be grounds for revocation of a licence under section 68 of the Act or that may be the subject of an inquiry to be held by the Board, co-operate with the Board, the Registrar, an inspector and the Commissioner of Police

   7. An agent must ensure that the agent has a thorough knowledge of the practices and procedures of government offices relevant to transactions in which the agent may be involved with a client, in

addition to a knowledge of the Act, the regulations, these rules and other relevant legislation as in force from time to time.

Relevant legislative provisions regarding audits, investigations and business manager's responsibilities

Audits

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

11. Section 59(1) of the AL Act provides that 'a licensed agent shall ensure that the agent's accounting records relating to trust money 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.

12. 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'.

13. "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.

14. Section 62 requires the auditor to, as soon 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.

15. Section 110A(5) of the AL Act provides:

    "*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 under subsection (1).*

    Maximum penalty: If the offender is a natural person – 500 penalty units.

    If the offender is a body corporate – 2 500 penalty units."

16. Regulation 16 of the AL Regulations provides for an exemption from audit requirements where trust monies were not received or held during the period. In such circumstances, an agent is required to make a statutory declaration to the Board within 2 months of the end of the prescribed period.

17. Regulation 18 of the AL Regulations provides that obligations imposed by Part V or Part XII 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 branch manager, employee or director of the company.

Disciplinary action

18. Section 65(4) of the AL Act 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."

19. Section 68 of the AL Act provides that the Board shall, as a general rule, hold an inquiry where '(a) an application for disciplinary action to be taken against a licensed agent is lodged in accordance with this section or (b) the Board considers that there may be grounds under section 67 for disciplinary action to be taken against a licensed agent'.

20. The powers of the Board after the inquiry are outlined in section 69 of the AL Act and provides:

(1) 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 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.

21. 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.

<u>Inquiry</u>

The agent

22. The agent currently holds a company real estate and business agents' licence (RBL1328), valid from 2 June 2025 to 1 June 2028 (Document 1).

23. The agent has previously held the following company real estate and business agents' licence in the Northern Territory:

(1) RBL1256 from 9 August 2023 to 7 August 2024 (Document 2).

24. The business manager holds an individual real estate and business agent licence (RBL1255) valid from 26 May 2023 to 25 June 2028 (Document 4).
25. The business manager is the sole director of the agent (Document 3).
26. The business manager has previously held the following real estate and business agent licences in the Northern Territory from 13 July 2023.
27. The agent's primary place of business is Adelaide. At the hearing the Board was advised that the agent has two staff in Adelaide managing approximately 10 commercial properties and one commercial property (20 tenancies) in Alice Springs that is currently undergoing major renovations. The business manager deals with issues in Alice Springs with the assistance of another NT licensed agent who is contracted to carry out agency functions.

Department's investigations concerning outstanding audits

28. In February 2025, the department identified that the agent had failed to submit audit reports for the 2023–24 period and that its licence had lapsed on 8 August 2024. The company was operating under the management of the business manager.
29. Upon contact by the department, the business manager confirmed that the business was still operating in the Northern Territory. The relevant audit report was provided on 15 April 2025, and the company was re-licensed on 2 June 2025 (RBL1328).
30. In October 2025 as part of its 2025 audit review activities, the department identified that the agent's audit report for the 2024–25 period was outstanding.
31. On 17 October 2025 the department contacted the business manager regarding the outstanding 2024-25 audit (Document 6).
32. On 20 October 2025, the business manager replied (on a different email thread to that relating to her licence renewal), querying what more was required from her since she was now licensed (Document 7). The business manager attached a copy of the audit reminder letter that had been sent by the department to all agents on 13 June 2025 (Document 9).
33. On 22 October 2025, the department clarified that the request related to the agent's statutory obligation under the AL Act (in line with the advice provided to her on 13 June 2025) to have the agent's accounts audited and a report provided to the department by 30 September (Document 10).
34. On 22 October 2025, the business manager replied attaching the 2023-24 audit report and asking if that was the document the department was referring to (Document 10).
35. The same day, the department responded, reiterating the requirement for an annual audit to be completed, and confirming that the audit for 2024-25 was due by 30 September 2025. The department sought that the business manager provides a response, including the status of the audit (Document 12).
36. On 23 October 2025 the business manager submitted an audit report for 2024-25 (Robin Li of A1 Audits was the auditor) with a covering form, stating she hoped the matter was now finalised and indicating that

she had not been provided with advice from the department in relation to the audit obligations (Documents 12 – 14).

37. On 24 October 2025, the department responded to the business manager (Document 17):

    (1) confirming that the audit report had been received;

    (2) noting that the report would be reviewed and the department would be in contact if anything further was required; and

    (3) noting that audit obligations were the responsibility of the relevant licensed agent, and to confirm that she had received advice about the annual audit obligation, including:

        i) in the all-agents email dated 13 June 2025

        ii) in personalised correspondence from Property Agents Licensing on 16 June 2025 (which was included in the chain the business manager had forwarded to the department during the October 2025 exchange).

Issues with the audit submission identified

38. Upon reviewing the submitted audit report and covering form (Document 14), the department noted several irregularities:

    (1) The audit form listed the email "nhandley01@hotmail.com" and the date of 23 October 2025, suggesting it was filled in by the business manager, not the auditor (Document 16);

    (2) The auditor's "signature" on the covering form appeared to be typed, not inserted or digitally signed, which was inconsistent with prior audit submissions from Mr Robin Li of A1 Audits;

    (3) The appended audit report was unsigned, again inconsistent with Mr Li's usual practice.

39. On 24 October 2025, the department sent the submitted documents to Mr Li for verification, noting that auditors are required to provide the audit directly to the department (and that this is Mr Li's usual practice).

40. The same day, Mr Li emailed the business manager, copying the department, stating (Document 18):

Hi Nicole

Did you download the attached report from our drive and insert a signature without authorisation?

Please provide an explanation immediately. If this was done intentionally, you must notify the Board before I escalate the matter to the police and seek legal advice.

41. In a phone call with the department (on 24 October 2025) Mr Li stated his intention to resign as auditor and confirmed that the business manager told him a member of her staff had completed the form and inserted the signature.

Further departmental investigations

42. On 24 October 2025, the department issued Mr Li a formal section 64 request for information (Document 20).

43. Mr Li responded on 25 October 2025 to confirm (Document 21):

(1) the business manager had engaged A1 Audits with respect to the 2024/25 audit on 22 October 2025;

(2) that neither he nor any member of his staff had signed the audit report;

(3) that the business manager had advised him that (in line with an email the business manager sent on 24 October 2025) that either she or a member of her staff had completed and submitted the report;

(4) the audit report was deferred pending the outcome of the Board's investigation into the business manager's conduct.

44. On 27 October 2025 the department responded to Mr Li to confirm (Document 21):

(1) Mr Li's previous advice (about resigning from the audit) and to note that his position was now seemingly to defer completion of the audit, and

(2) that the investigation by the department should not affect his obligations under the AL Act as an auditor, and he should not wait for an outcome from the department.

45. On 28 October 2025, Mr Li advised (Document 21):

I will resign as the auditor for this agent once this audit is finalised.
I am waiting for the Department's investigation results because they are related to the lodgment of this audit.

The business manager's response

46. On 24 October 2025, (after receiving the 24 October 2025 email from Mr Li) the business manager emailed the department, stating:

I would also like to come forward with clarification regarding an error that occurred in the version of the report submitted. Our team received a PDF copy of the audit which we believed to be final. In an attempt to complete the document for submission, a team member inserted the typed name and date of the auditor into the signature fields. This was done in good faith to finalise the document's presentation, without realising the report had not yet been authorised for signature.

After discussing the matter with the auditor (Robin), we now understand the document was not yet ready for that step. We immediately contacted him once the issue was identified and wish to make it clear that there was no intent to misrepresent or falsify any information (Document 19).

47. On 31 October 2025, the department wrote to the business manager noting the requirement for agents to cooperate with Inspectors under the Act and provide accurate information when requested (Document 22).

48. The department sought information from the business manager about the matter, including providing the full name and role of the team member who inserted the typed signature and date into the covering form. The department also sought confirmation of what instructions, if any, were provided to the relevant team member by the business manager or any other staff member of the agent regarding the handling or submission of the document (and copies of any internal emails or messages between the agent's staff regarding the 2024/25 audit report and covering form prior to its submission).

49. On 31 October 2025, the business manager responded to the department's queries (Document 22). In relation to the questions relating to the identity of the staff member, and any instruction correspondence, the business manager advised:

2. The team member who inserted the typed signature and date

The typed auditor's name and date were inserted by a member of Wrightspace's internal administration team. The action was taken in good faith and without intent to misrepresent or falsify any information. The staff member believed the file was the completed version and that the missing fields were formatting omissions.

3. Instructions given to that team member

No specific instruction was given to add a signature or alter any information. The understanding within the team was that the file received from A1 Audits was final and ready for lodgment. This assumption was influenced by our recent experience with the South Australian trust account audit, also conducted by A1 Audits. In that instance, the auditor initially provided an unsigned version, which was later replaced with a signed version without issue. This contributed to our mistaken belief that the NT file was similarly final but missing only the completed signature field.

50. On 3 November 2025, the department responded to the business manager to request her to provide the name and the role of the team member who inserted the typed signature and date into the covering form (Document 26).

51. The business manager responded the same day, advising:

Further to your request for clarification on Item 2:

Name: Nicole Handley

Role: Director, Wrightspace Commercial Pty Ltd

I confirm that I was the person who inserted the typed auditor's name and date in the covering form. This was an administrative error made in good faith under time pressure; there was no intention to misrepresent any information. As previously advised, we have implemented a verification step requiring written auditor confirmation prior to any submission (Document 26).

52. On 14 November 2025, Mr Li submitted a finalised audit report for the agent (Documents 27 and 28). No deficiencies were found in the agent's trust account holdings.

Provision of draft inquiry book

53. On 5 February 2026, the department provided the business manager and her legal representative, Mr Bönig of Finlaysons, with the draft inquiry book. The draft inquiry book identified the grounds of inquiry as follows:

Ground 1: Whether the business agent and the agent failed to ensure that they have a thorough knowledge of the requirements of the Act, particularly those relating to auditing of trust accounts (contrary to rule 7 of the rules of conduct).

Ground 2: Whether The business manager and the agent failed to cooperate with an investigation by an inspector by providing a falsely signed audit report and providing incorrect or misleading information as to who signed the report (contrary to rule 4 of the rules of conduct)

Ground 3: whether there is any other reasonable ground which is sufficient to warrant revocation of the licence of the business manager based on her conduct as business manager for the agent, particularly with respect of the apparently falsely signed and lodged audit report for 2024/25.

54. On 23 February 2026, Mr Ralph Bönig, on behalf of the business manager, provided the department with several documents and a written submission for inclusion in the inquiry book (Documents 29-32). The business manager also provided a document previously submitted by her. (Document 24).

55. The business manager, through her lawyer provided the following submissions in response to the agent's and the business manager's licensing history:

(1) The business manager submits that the agent was established in South Australia in July 2020, and that she has been its sole director since incorporation. The business manager states that the business specialises in commercial property management and leasing.

(2) The business manager states that prior to establishing the agent, she worked in commercial real estate in SA for approximately 15 years, managing retail centers, office buildings and large-scale tenancy portfolios.

(3) The business manager advises that she has never been the subject of any disciplinary action during her career, either as an employee or as director of the agency.

(4) The business manager submits that in 2023 a longstanding client engaged her to manage a major Shopping Centre in Alice Springs. The business manager agreed to undertake this work, and she obtained a Northern Territory real estate license and established an NT trust account.

(5) The business manager submits that her NT licence, and that of the agent, were renewed effective by 2 June 2025 for a three-year period, in contrast to the annual renewals issued in the preceding two years.

56. The business manager's lawyer also raised some technical issues concerning the grounds of inquiry set out in the draft inquiry book. Most of them are dealt with later on in these reasons for decision but the following led to amendments to the grounds of inquiry.

Ground 1

(1) The business manager submits that the qualification in the first part of rule 7, requiring "a through" knowledge of the practices and procedures of Government Officers, does not appear in the second part of the Rule. The business manager contends, in relation to the complaint concerning the agent, that rule 7 therefore requires only a working knowledge of the legislation.

(2) Rule 7 provides: "An agent must ensure that the agent has a thorough knowledge of the practices and procedures of government offices relevant to transactions in which the agent may be involved with a client, in addition to a knowledge of the Act, the regulations, these rules and other relevant legislation as in force from time to time"

Grounds 2 and 3

(3) The business manager denies that she *"apparently falsely signed and lodged an audit report".* The business manager contends the audit reports were unsigned at the time of lodgment, and that the only document she signed was the "*Audit report covering form"* The business manager states this form is required under Board Policy 2025/01, which mandates that "*all audit reports submitted by the Board must be accompanied by this form completed by the auditor*". The business manager submits that the form itself does not constitute the audit report.

57. The Board accepted both these points. Consequently, on 5 March 2026, the Board amended the grounds of inquiry so as to remove from ground 1 the reference to 'thorough knowledge' and replace it with "knowledge" and so that grounds 2 and 4 refer to the auditor's covering document rather than the audit itself.

58. The business manager also raised other procedural issues which are dealt with in the reasons set out further on in these reasons.

<u>Grounds of inquiry</u>

59. The Board has identified the following grounds of inquiry:

Ground 1: Whether business agent and the agent failed to ensure that they have knowledge of the requirements of the Act, particularly those relating to auditing of trust accounts (contrary to rule 7 of the rules of conduct).

Ground 2: Whether the business manager and the agent failed to cooperate with an investigation by an inspector by providing a falsely signed auditor declaration in the audit cover form and providing incorrect or misleading information as to who signed the report (contrary to rule 4 of the rules of conduct)

Ground 3: whether there is any other reasonable ground which is sufficient to warrant revocation of the licence of the business manager based on her conduct as business manager for the agent, particularly with respect of the apparently falsely signed auditor declaration in the audit cover form accompanying the audit report for 2024/25 and providing incorrect or misleading information as to who signed the report.

Hearing

72. On 12 March 2026 the Board conducted a hearing.

73. The materials and evidence before the Board were comprised of:
(1) the Inquiry book prepared by the department;
(2) a statement of facts agreed by the department and the agent;
(3) limited evidence from the business manager at the end of the hearing.

General principles in disciplinary matters

74. 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.

75. 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. The Board has applied this principle in considering the various factual issues.

Discussion of the issues

Ground 1: Whether the business manager and the agent failed to ensure that they have a thorough knowledge of the requirements of the AL Act, particularly those relating to auditing of trust accounts (contrary to Rule 7 of the Rules of Conduct).'

60. The business manager submits that the licensing regime under which she has practiced in SA differs from the NT scheme. The business manager states that in SA, licence renewal occurs annually at the same time as the lodgment of the audit reports, and that renewal is dependent upon the receipt of the audit report.
61. The business manager acknowledges that, pursuant to rule 7 of the Rules of Conduct, it is the responsibility of an agent to ensure they have *"knowledge of the Act, the Regulations, the Rules, and other relevant legislation as in force from time to time".*
62. The agents, through their lawyer, acknowledged breach of ground 1.
63. The agent's lawyer acknowledges that it is the agent's responsibility to know the relevant law but pointed out that one difference between NT law and SA law is that in SA agents lodge their own audit reports whereas in the NT the auditor lodges the audit report.

Board's finding regarding ground 1

64. The Board finds that the agent and the business manager breached rule 7. Plainly, the agent was unaware of the requirements as revealed by the email correspondence between the business manager and the department. In turn the business manager, in terms of her obligations under section 110A(5) of the AL Act, also has a duty to be aware of what the corporate agent needed to do in order to comply with the statutory requirements.

Ground 2: Whether the business manager and the agent failed to cooperate with an investigation by an inspector by providing a falsely signed auditor declaration in the audit cover form and providing incorrect or misleading information as to who signed the report (contrary to rule 4 of the rules of conduct)

65. The business manager submits that paragraph 41 of the Notice sets out the grounds of inquiry identified by the Board. The business manager contends this is the first occasion on which the Board, or anyone acting on the Board's behalf, has articulated the subject matter of any investigation or inquiry concerning the agent's or the business manager's conduct.
66. The business manager notes that on 19 December 2025, her lawyers wrote to Mr Kadirgamar (from the department) requesting "*full particulars of the alleged charges*". The business manager contends that the response of 22 December 2025 provided what was described as a "*a summary of the grounds of inquiry which will be detailed in the draft inquiry book to be provided in due course*".
67. The business manager contends that neither she nor the agent were notified that they were the subject of an investigation, nor that any person requesting information was exercising powers under section 64 of the Act. The business manager states that it was not until receipt of the Notice of matters to be inquired

into that any suggestion was made that the conduct alleged on behalf of the agent and/or the business manager might lead to a *“revocation of licence”.*

68. The business manager submits that Rule 4 of the Rules of Conduct apply only where a party has been formally advised that an investigation is underway, and that the conduct under investigation may result in the revocation of a licence under section 68 of the Act.
69. The business manager contends that neither the allegations nor the agreed facts indicate any lack of cooperation, which she asserts is the central concern of Rule 4. The business manager states that the chronology she provided to the department demonstrates genuine attempts to address the issues raised (Document 31).
70. The Board’s view is that the relevant investigation was as to whether the 2024/25 audit had been appropriately completed.
71. In brief:
    (1) The department, through a person appointed as an Inspector, was looking into what appeared to be a breach of the AL Act regarding the agent’s apparent failure to lodge an audit report.
    (2) The non-finalised audit and the fake covering document were lodged directly as a result of the investigation.
72. The Board does not accept that rule 4 only applies after the Board has determined to have an inquiry. The Board considers that it applies to any regulatory activity. However, even if that is too broad a view, it is patently clear in this matter that the matters before the Board came to light following an investigation by an inspector duly appointed under the Act into an apparent breach of the AL Act.
73. The agent’s lawyer also argued that at no time in the interactions between the agent, the business manager and the department was the agent made aware what an inquiry might be held.
74. The Board’s view is that there is no requirement for the notice of such a possibility to be given. At that time the department’s employees, as inspectors, were investigating factual issues. The results of the investigation could have been an application to the court. They may also have ended up in a prosecution.
75. The lawyer argued that inspectors investigating are under the same kinds of obligations as police when exercising search and seizure powers. The Board does not agree that that is the case. Most of the restrictions on police obtaining and using evidence are found in the *Police Administration Act 1978.* None of these apply to the employees of the department.
76. The Board does however accept that there is a need for procedural fairness when evidence is being collected. In this case the department’s employee in the critical document (document 6, email of 17 October 2025) set out:
    (1) the requirement for audits to be provided;
    (2) the fact that an audit did not appear to have been provided;
    (3) the words: “*It is important to be aware that failure to submit a required audit is both an offence and a ground for disciplinary action under the Act and may have implications for both your licence and the licence of your company. The department reports to the Agents Licensing Board on the status of all audit submissions, including agents who have not met their obligations*”’

77. This email is crystal clear in spelling out what the department was doing and the possible outcomes of those actions. The agent has no ground for claiming any procedural unfairness in respect of this email or those that followed. These include the emails regarding the signing of the audit report.

Board's finding regarding ground 2

78. The Board's finding is that the agent and the business manager (in terms of her obligations under section 110A(5) of the AL Act) breached rule 4 in that the agent responded to the investigation of the outstanding audit by:
    (1) purporting to provide a draft audit as an actual audit;
    (2) including a fake auditor's covering document with the purported audit;
    (3) wrongly signing the fake auditor's covering document;
    (4) providing deliberately misleading information to the inspector concerning the identity of the employee who had signed the auditor's letter.

Ground 3: Whether there is any other reasonable ground which is sufficient to warrant revocation of the licence of the business manager based on her conduct as business manager for the agent, particularly with respect of the apparently falsely signed and lodged audit report for 2024/25.

79. The business manager accepts that she inserted Mr Li's signature into the audit report covering form. The business manager states that, as set out in her emails of 24 October 2025 (2:28pm) (Document 27), 31 October 2025 (2:14pm) (Document 26) and 3 November 2025 (3:30pm) (Document 26), this was done "*in good faith under time pressure*" and "*there was no intention to misrepresent any information*". The business manager contends she genuinely believed "*the file was the completed version and that the missing fields were formatting omissions*".
80. The business manager submits that although the conduct may be viewed as disappointing, it ultimately had no adverse consequence, as Mr Li subsequently signed the unedited versions of the documents.
81. The business manager, for the purposes of the Inquiry book, contended that in respect of the signing of the "*Audit report covering form*" that conduct should not lead to a revocation of either the agent's or the business manager's licence. The business manager submits that it does not give rise to grounds for disciplinary action under section 67 of the Act.
82. The Board does not accept this proposition. The provision of false information to the department is, at least potentially, a very serious matter.
83. The respondent's lawyer argued that criminal law principles relating to "duplicitous charges" "double jeopardy" applied so as to prevent the Board making findings (and imposing penalties) regarding both grounds 2 and 3. The essence of the argument was that the same facts underlie both grounds and that is accordingly wrong to impose two separate penalties for the same behaviour.
84. Counsel assisting submitted that the Board should treat the grounds as alternatives.
85. The Board doubts that these principles do actually apply.
86. Regardless of whether that doubt is appropriate, the Board agrees that an agent should not receive two penalties for the same behaviour. In determining the penalty, the Board first identifies a breach or

breaches and then determines a penalty having regard to the behaviour as a whole in relation to the breaches.

87. The Board also notes that the main focus of ground 3 is that of the business manager's failure regarding the appropriate management of the agent.

88. The agent's lawyer argued that for grounds 2 and 3 the Board has to choose between the agent and the business manager. His submission is that it is the agent rather than the business manager which should be dealt with in terms 2 and 3.

89. The current approach of the Board is to impose a single penalty for the behaviour rather than total penalty that is the sum of a nominal penalty for each breach.

Board's finding regarding ground 3

90. The Board finds that there has been no additional behaviour to that covered by grounds 1 and 2 that warrants any adverse finding regarding ground 3.

Business agents' evidence

91. The business manager did not give evidence other that at the end of the hearing after the Board hinted that it would like to hear from her. She stated that following the department's raising the audit issue she had panicked and made bad decisions. She expressed remorse and stated that the actions were out of character. She acknowledged that she was sincerely sorry given that property managers need to be able to be trusted with the details, payments and dealing with complaints.

Summary of the Board's findings

72. As noted above the Board has made the following disciplinary findings with respect to both the agent and the business manager:

(1) That the agent and the business manager breached rule 7. The agent plainly was unaware of the requirements as revealed by the email correspondence between the business manager and the department. In turn the business manager, in terms of her obligations under section 110A(5) of the AL Act, also has a duty to be aware of what the corporate agent

(2) that the agent and the business manager (in terms of her obligations under section 110A(5) of the AL Act) breached rule 4 in that the agent responded to the investigation of the outstanding audit by:

   (a) purporting to provide a draft audit as an actual audit;
   (b) providing a fake auditor's letter with the purported audit;
   (c) wrongly signing the fake auditor's letter;
   (d) providing deliberately misleading information to the inspector concerning the identity of the employee who had signed the auditor's letter.

73. The agents' lawyer argued that regulation 18 of the AL Regulations operated so it only deemed the business manager to be guilty of breaches by the agent of matters covered by Parts V and XII of the Act. The Board accepts that that is correct. However, the regulation is irrelevant in the sense that none of the breaches relate to Parts V and XII. Rather they were incidental to compliance issues. The Board has not actually taken any action regarding other possible breaches of the AL Act (such as the late audit or the apparent possible periods of unlicensed trading).

74. The Board has found the business agent has breached the rules for two main reasons – namely:

(1) The business agent is a licensed agent and, as such, is subject to rules of conduct; and

(2) the business manager is responsible under section 110A for having effective control of the agent and in that role, she caused the breaches by the agent of the rules.

Board's options regarding penalty

75. As outlined earlier in these reasons the Board, if satisfied that it is authorised to take disciplinary action against a licensed agent, may, under section 69 of the AL Act, take one of more of the following actions: reprimand or caution the agent, impose a fine not exceeding 50 penalty units on the agent, suspend the licence of the agent until the expiration of the period, or the fulfilment of a condition, specified in the notice or by written notice or revoke the licence of the agent.

76. 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.

77. The business manager, through her lawyer, provided the following submissions in response to an appropriate penalty:

(1) The appropriate penalty in circumstances such as these, particularly given that there have been no prior adverse findings against the agent or the business manager in either the NT or SA, is a reprimand and/or fine.

(2) There is no warrant for any suspension or revocation of either the agent's licence or the business manager's licence. The business manager states that the imposition of such a penalty would not only have an adverse personal impact on her but would also result in the agent ceasing operations in the NT, with consequential adverse effects on the owners of the Shopping Centre. The business manager provided the department with a reference from the owners of the Shopping Centre (Document 32).

(3) The agent manages a major Alice Springs Shopping Centre which comprises more than 20 retail tenants and a substantial multi-level office tenancy.

(4) The business manager submits that effective management of the center requires specialised skills in retail and government tenancy coordination, budgeting, trust account management, and stakeholder engagement.

(5) The business manager submits that the Shopping Centre is currently undergoing major redevelopment, during which the agent and the business manager play an integral role in coordinating tenants, managing operational impacts, overseeing financial matters and ensuring continuity of the Shopping Centre's operations.

(6) The business manager affirms that both the agent and the business manager are deeply concerned by what has occurred and apologise to all concerned. The business manager states that the agent and the business manager have taken the following remedial actions:

(i) immediate introduction of an audit verification and submission procedure (Document 24).

(ii) internal separation of the SA and NT registration folders.

(iii) diarising of relevant compliance dates with recurring reminders; and

(iv) review of the relevant Acts, Regulations and Rules.

(7) The business manager states that she has been unable to identify any applicable educational material; however, the business manager is prepared to undertake any relevant training, if identified, as a condition of any order the Board may make.

Explanation of the Board's approach in determining the penalty

78. In previous decisions the Board has outlined some principles or factors for determining the appropriate penalty.[1] These were based principles laid out by the Western Australian State Administrative Tribunal for determining actions to be taken for breaches of occupational codes of practice and laws.[2]

79. These 12 principles along with an assessment of the application of them to the Board's findings in this matter are:

1. *any need to protect the public against further misconduct by the agent.*

   Not applicable.

2. *the need to protect the public through general deterrence of other agents from similar conduct.*

   Not applicable.

3. *the need to protect the public and maintain public confidence in the profession by reinforcing a high professional standard and denouncing transgressions and thereby articulating the high standards expected of the profession such that, even where there may be no need to deter an agent from repeating the conduct, the conduct is of such a nature that the Tribunal should give an emphatic indication of its disapproval*.

   Despite the fact that the breaches relate to the regulatory side of the AL Act rather than client protection there is a need to ensure that clients and others have confidence that agents must properly comply with their regulatory obligations.

4. *in the case of conduct involving misleading conduct, including dishonesty, whether the public and fellow agents can place reliance on the word of the agent.*

   The conduct was dishonest.

[1] See decision dated 23 January 2024, paragraph 101

[2] *Commissioner for Consumer Protection v Murray [2017] WASAT 137*

5. *whether the agent has breached any legislation or industry codes of practice or guidelines and whether such a breach was intentional.*

   The Board has found breaches of rules of conduct and that the breaches were deliberate.

6. *whether the agent's conduct demonstrated incompetence, and if so, to what level*.

   The problematic conduct did show an inadequate understanding of the AL Act

7. *whether or not the incident was isolated, the Tribunal can be satisfied of the agent's worthiness or reliability for the future.*

   The conduct was probably isolated. There was no gain for the agent other than shortcutting compliance.

8. *The agent's disciplinary history*

   There have been no other disciplinary matters for the business manager and the agent.

9. *Whether or not the agent understands the error of his or her ways, including an assessment of any remorse and insight (or a lack thereof) shown by the agent, since an agent who fails to understand the significance and consequences of misconduct is a risk to the community.*

   The Board considers that the business manager has a real understanding of the general nature of the breaches found to have been committed.

10. *the desirability of making available to the public any special skills possessed by the agent.*

    Not applicable. The Board has noted that a suspension or cancellation of the licence would cause inconvenience for the owner of the Alice Springs shopping center, however this not relate to skills that could not be provided by another agent

11. *The agent's circumstances at the time of the conduct and at the time of imposing the sanction. However, the weight given to personal circumstances cannot override the fundamental obligation of the Tribunal to provide appropriate protection of the public interest in the honesty and integrity of real estate sales representatives and in the maintenance of proper standards of real estate sales representative practice.*

    Not applicable.

12. *Any other matters relevant to the agent's fitness to practice and other matters which may be regarded as aggravating the conduct or mitigating its seriousness. In general, mitigating factors such as no previous misconduct or service to the profession are of considerably less significance than in the criminal process because the jurisdiction is protective not punitive.*

    Not applicable.

80. In determining the penalty, the Board considered past penalty decisions for disciplinary matters relating to breaches of the regulatory provisions of the AL Act. These included:

(1) January 2024 – lack of cooperation with the Board (also breaches of the *Residential Tenancies Act 1999 and* severe harassment of tenants) Penalty: fine of $5000 for the agent and $5000 for the business manager[3].

(2) 14 November 2023 – harassment and intimidation of a tenant, unprofessional; behaviour during the department's investigation. Penalty: reprimand and fine of $3140 for the agent and $2355 for the business manager[4].

81. The approach of the Board in imposing penalties over recent years has been as follows:

(1) cancellation:

This occurs in circumstances that include:

(i) where the agent has demonstrated a comprehensive inability or desire to comply with key regulatory obligations under the AL Act. For example, failure to complete numerous audits with no obvious excuse;

(ii) where the agent has demonstrated comprehensive incompetence in providing professional services or in dealing with clients or third parties

(2) suspension:

This occurs in circumstances that include elements of the factors for cancellation, but the Board considers that there is a strong possibility, particularly for regulatory matters, that the agent may be able remediate the issues

(3) maximum/large fine (40-50 penalty units):

This occurs in circumstances that include severe breaches concerning regulatory compliance or severe breaches when dealing with clients or third parties in circumstances that appear to be isolated or one off but are such that if repeated would be such that the licence would be cancelled or suspended. For example, dishonesty, gross failure to cooperate with investigations by the department or with inquiries by the Board

(4) moderate fine (20-39 penalty units)

This occurs in circumstances where the breaches in regulatory compliance or when dealing with clients or third parties are such as to suggest systemic problems in complying with the AL Act providing services. Often the client or third party will have suffered financial loss

(5) small fine (1-19 penalty units)

This occurs in circumstances where there have been breaches in regulatory compliance or when dealing with clients or third parties that are of a relatively minor nature – and where the department, clients or third parties have not been significantly disadvantaged by the breaches

(6) caution

[3] Maximum fine relevant to the decision was $8000

[4] Maximum fine relevant to the decision was $7900

A caution will be given, usually in conjunction with suspension or fine, if the Board considers that there is a specific action that the agent must manage in order not to be the subject of further disciplinary action

(7) reprimand

A reprimand will be given for minor breaches that the Board does not consider to be systemic and where the client and third parties have not been significantly disadvantaged. Generally, the agent in dealing with the department, the Board and clients/third parties will have been cooperative

(8) in all cases regard will also be had as to the extent to which the agent has cooperated with the department and the Board relating to both resolving issues, accepting fault and in learning from the regulatory response.

82. The Board considers that the dishonest behaviour in this case of the business agent (namely the fake signature and the misleading information provided to the department) is unacceptable and, within the context of disciplinary breaches that do not involve fraud in respect of clients or theft, is such as to require a large or maximum fine. The behaviour is unacceptable because honesty, as accepted by the business manager, is critical for property agents (as indeed for agents). The Board's view that the dishonest behaviour within the regulatory framework may indicate a similar propensity when dealing with clients or third parties.

83. The Board, in imposing fines and a caution, notes:

(1) that there is no evidence to suggest that the sequence of events is likely to occur again. The Board accepts the business agent's evidence that she panicked when the department contacted the agent about the outstanding audit;

(2) that there is no evidence that the agent had anything to hide in providing to the department the unfinalized audit report. That is, the business agent appears to have been motivated by an urge to comply with the department's requirements as soon as possible.

84. The Board imposes the following penalties:

(1) a fine of 45 penalty units[5] (**$8505**) to be paid by the business manager;

(2) a fine of **$4200** to be paid by the agent

(3) the following caution:

(i) the business manager is to ensure that she maintains the undertakings made during the inquiry concerning the immediate introduction of an audit verification and submission procedure, the internal separation of the SA and NT registration folders, diarising relevant compliance dates with recurring reminders; and reviews of the relevant Acts, Regulations and Rules;

[55] As at the time of the breaches (October 2025) the value of a penalty unit was $189

(ii) the business manager is to ensure she is responsive, candid and honest when dealing with the department regarding regulatory matters

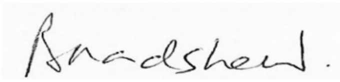
85. The Board directs that the fines be paid by the agent and the business manager within **60 days** of the date of these written reasons.

<u>Right of review</u>

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 applicants, 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 matter[6].



Dated 20 May 2026
Robert Bradshaw
Chairperson (for Agents Licensing Board of the Northern Territory)

[16] In this matter, notification will occur when the parties are provided with this document.