



AGENTS LICENSING BOARD OF THE NORTHERN TERRITORY

**REASONS FOR DECISIONS FOLLOWING INQUIRY CONCERNING
DISCIPLINARY ACTION AGAINST RYANLEE PROPERTIES PTY
LTD AND KERRY LEE RYAN**

Respondents:	Ryanlee Properties Pty Ltd Kerry Lee Ryan
Date and time of hearing:	29 April 2025, 9am
Venue:	Arafura Meeting Room Development House Level 1 / 76 The Esplanade, 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 Ryanlee Properties Pty Ltd and Ms Kerry Lee Ryan (branch/business manager).
Agents Licensing Board:	Mr Robert Bradshaw, Chair Ms Lea Aitken, Board Member Ms Carol Need, Board Member
Representation:	Nil
In attendance:	Ms Kerry Lee Ryan, respondent Ms Amanda Nobbs-Carcuro, Registrar, Land, Business and Conveyancing Agents Mr Kevin Kadirgamar, Department of Trade, Business and Asian Relations, Counsel Assisting Ms Laine Cornish, Senior Board Support Officer, Department of Trade, Business and Asian Relations

Introduction

- On 19 December 2024, the Agents Licensing Board (the Board) considered a report from the Registrar of Land, Business and Conveyancing Agents which noted that audit reports relating to Ryanlee Properties Pty Ltd's trust accounting records had not been provided to the department for the following periods:
 - 1 July 2022 – 30 June 2023
 - 1 July 2023 – 30 June 2024

2. 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 Ryanlee Properties Pty Ltd.

Notification of inquiry into company

3. On 24 January 2025, the business manager, Ms Kerry Lee Ryan, was notified of the Board's decision to hold an inquiry.

Decision to hold inquiry into business manager

4. On 12 March 2025, the Board considered (out-of-session) a further report from the Registrar recommending that the inquiry be expanded to consider whether there are grounds for taking disciplinary action against Ms Ryan in her capacity as the business manager for Ryanlee Properties Pty Ltd.
5. The basis of the report was that the conduct of a company is inherently tied to the conduct of its business manager, as the business manager (as an officer of the company) is responsible for discharging the company's statutory obligations.
6. On 13 March 2025, the Board resolved to hold an inquiry under section 68(4)(b) of the AL Act, to determine whether there are grounds under section 67 of the AL Act for disciplinary action to be taken against Ms Kerry Lee Ryan.

Notification of inquiry into business manager

7. On 14 March 2025, Ms Ryan was notified of the Board's decision to hold an inquiry into her conduct.

Provision of draft inquiry book and information from respondent

8. On 14 March 2025, Ms Ryan was provided with a copy of the draft inquiry book (including the matters to be inquired into) and was asked to provide comment by close of business 31 March 2025.
9. On 26 March 2025, Ms Ryan contacted the department and advised she would be presenting a submission by the relevant date.
10. On 9 April 2025, Ms Ryan was contacted by the department, noting that a submission had not been received from her, and advised that in order for any submission to be incorporated into the inquiry book, it should be received by no later than close of business 10 April 2025.
11. On 10 April 2025, Ms Ryan provided a submission to the Board in relation to the inquiry book. In summary, in her submission, Ms Ryan:

- a) Apologised for her delayed responses, and stated that she had been overwhelmed by the situation, suffering from anxiety around potential outcomes.
- b) Stated that she did not dispute the matters brought forward, and affirmed that she is of sound mind and capable of operating her business in line with required standards.
- c) Explained that she had recently experienced personal trauma stemming from a personal situation which caused instability, distraction and upheaval and led to her being unable to meet critical deadlines.
- d) Stated that she has recognised the need for change and is making positive progress after having sought professional help from a therapist for the past six months.
- e) Outlined the steps she has now taken to better manage her business, particularly the employment of a full-time staff member responsible for day-to-day operations and the engagement of Rec & Roll to manage finance and banking functions including reviewing financials for the relevant audit periods (2023 and 2024).
- f) She demonstrated her dedication to resolve the issues and work with the board to reach a workable resolution.

Licensing history

12. Ryanlee Properties Pty Ltd (operating under business name One on One Property Management) currently holds a company real estate agent licence (REL1550), valid from 30 April 2024 to 29 April 2026.
13. Ryanlee Properties Pty Ltd has previously held the following company real estate agent licences in the Northern Territory:
 - REL1099 from 20 September 2017 to 19 September 2019
 - REL1253 from 30 April 2020 to 29 April 2023.
14. Ryanlee Properties Pty Ltd was unlicensed for the period 30 April 2023 – 29 April 2024; however, continued to operate during this period.
15. Ms Kerry Lee Ryan is the sole Director of Ryanlee Properties Pty Ltd and the business manager for the licence.
16. Ms Ryan holds an individual real estate agent licence (REL1252) valid from 9 April 2020 to 8 April 2026.
17. Ms Ryan has previously held the following individual real estate licence in the Northern Territory:
 - REL1100 from 21 September 2017 to 20 September 2019.

Role of Agents Licensing Board

18. 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.
19. Section 68(4) of the AL Act provides that the Board shall 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 inquiry hearing and process is governed by section 77 of the AL Act. The procedure is at the discretion of the Board, parties may be legally represented, and the Board is not bound by the rules of evidence but may inform itself in such manner as it thinks fit.

Details of alleged conduct

Failure to ensure that accounts were audited for 2022/23 and 2023/24

21. Ryanlee Properties Pty Ltd has been licensed under the AL Act (except for the periods between licences – including 30 April 2023 to 29 April 2024 – resulting from not renewing before licence expiry) from 20 September 2017 to present.
22. Between 30 April 2024 and 29 April 2024, Ryanlee Properties Pty Ltd continued to operate despite having failed to renew its licence (REL1253).
23. On 9 April 2024, Ms Ryan made an application on behalf of Ryanlee Properties Pty Ltd for a new company real estate agent licence. The licence (REL1550) was granted on 30 April 2024.
24. Ryanlee Properties Pty Ltd was required to have opened and maintained a trust account for the duration of its licence (under sections 50(1) and (2) of the AL Act).
25. The department has the following details recorded in its electronic licensing system as the notified trust account details for accounts opened by Ryanlee Properties Pty Ltd:
 - 065903 10916324
 - 065903 10916308
26. Ryanlee Properties Pty Ltd was required (under section 59(1) of the AL Act) to have ensured that any trust accounts it held were audited annually by a qualified auditor, and the related audit report provided to the Board for each audit.

27. The department has records of receiving audit reports relating to the trust accounts of Ryanlee Properties Pty Ltd for the following periods:
- 1 July 2017 – 30 June 2018
 - 1 July 2018 – 30 June 2019
 - 1 July 2019 – 30 June 2020
 - 1 July 2020 – 30 June 2021
 - 1 July 2021 – 30 June 2022 (only in relation to account 10916308)
28. Audit reports have not been provided for the periods 2022/23 and 2023/24.
29. Notwithstanding that Ryanlee Properties Pty Ltd was not licensed for portions of each financial year, it continued to operate during the period it was unlicensed and was ultimately licensed again.
30. The department receives monthly reports relating to trust accounts from authorised deposit taking institutions, approved under section 50(7) by the Board.
31. Reports for each month in the 2022/23 and 2023/24 periods show that the accounts were in operation during this time. The reports show the average balance of the trust accounts each month, and detail the date of the most recent transaction as at the report date.

Reminders about obligations

32. Between 15 September 2023 and 26 November 2024, the department reminded Ms Ryan (in her capacity as business manager for Ryanlee Properties Pty Ltd) on three occasions of the need for Ryanlee Properties Pty Ltd to have its accounts audited.
33. In response to the reminder provided on 26 November 2024, Ms Ryan on 9 December 2024, advised that she was following up with the auditors and would be in contact in the following week.
34. The department does not have a record of any further contact from Ms Ryan in response.

Provision of incorrect information regarding 2021/22 audit

35. In relation to the period 2021/22, the Ryanlee Properties Pty Ltd audit provided to the department related only to trust account 065903 10916308.
36. On 21 October 2022, Ms Ryan was asked by the department to provide an audit relating to the other notified trust account (10916324).
37. The same day, Ms Ryan advised the department that she did not operate account 10916324 but had not closed the account (advising she may use it again in future).

38. The department requested Ms Ryan provide a statutory declaration in relation to the account stating no moneys had gone in or out of the account during the financial period.
39. On 28 October 2022, Ms Ryan provided a statutory declaration advising that she did not operate account 10916324.
40. The following monthly reports from the Commonwealth Bank of Australia provided to the department show that transactions occurred in Ryanlee Properties Pty Ltd's trust account 10916324 during the financial period 2021/22:
 - Reporting month July 2021
 - Reporting month November 2021
 - Reporting month January 2022

Declarations as part of the licensing process

41. On 4 April 2024, Ms Ryan submitted an application for a new company real estate agent licence on behalf of Ryanlee Properties Pty Ltd.
42. As part of the application, Ms Ryan answered “no” to the question “are you in breach of a provision of the *Agents Licensing Act 1979*”.

Chronology

43. The following is a chronology of events relating to the Ryanlee Properties Pty Ltd's licensing history and engagement with Ms Ryan relating to the relevant trust accounting matters:

Date	Event	Reference to the document in the inquiry book
20 September 2017	Ryanlee Properties Pty Ltd was first licensed as company real estate agent in the Northern Territory under licence REL1099, valid to 19 September 2018.	Document 2
27 September 2018	The renewal of company licence for Ryanlee Properties Pty Ltd was approved, valid to 19 September 2019.	Document 3
20 March 2020	Ms Ryan applied for a new company real estate licence for Ryanlee Properties Pty Ltd. The previous company licence had expired.	N/A

30 April 2020	Ryanlee Properties Pty Ltd's licence was granted valid to 29 April 2021 (REL1253)	Document 4
17 April 2021	The renewal of company licence for Ryanlee Properties Pty Ltd was approved, valid to 29 April 2022.	Document 5
27 April 2022	The department received an application for renewal of licence by Ryanlee Properties Pty Ltd.	N/A
19 May 2022	The renewal of company licence for Ryanlee Properties Pty Ltd was approved, valid to 29 April 2023.	Document 6
19 October 2022	Kylie Wee (auditor employed with A1 Audits) emailed the department, providing an audit report for Ryanlee Properties Pty Ltd for the 2021/22 financial year. The audit report noted that the trust accounts examined for the period were: <i>Ryanlee Properties Pty Ltd Trust Account maintained at the Commonwealth Bank of Australia, Casuarina NT Branch - BSB 065-903 Account Number 1091 6308</i>	Documents 21 and 22
21 October 2022	The department contacted Ms Ryan to follow up on the audit for the account 10916324. Ms Ryan responded the same day, advising: <i>I don't operate this trust Laine – I haven't closed it though as I'm entering into sales soon and wanted to hang onto the account for deposits etc.</i>	Document 23
21 October 2022	The department responded to Ms Ryan asking: <i>No worries. For auditing purposes, can you please provide a statutory declaration stating no monies went out of that account during the financial period.</i> Ms Ryan responded the same day, advising: <i>Yep – can do Laine</i>	Document 23

28 October 2022	<p>Ms Ryan emailed the department a copy of a statutory declaration, in which she declared:</p> <p style="text-align: center;"><i>I have two trust accounts with CBA Rent</i></p> <ul style="list-style-type: none"> o <i>Trust 10910 6308</i> o <i>Bond Trust 1091 6324.</i> <p style="text-align: center;"><i>I declare that I do not operate the bond trust but have kept it open for future sales endeavors.</i></p>	Documents 24 and 25
26 May 2023	<p>The department emailed Ms Ryan in relation to the expiration of Ryanlee Properties Pty Ltd's licence:</p> <p style="text-align: center;"><i>Property Agents Licensing have noted that your Real Estate Licence, REL1253, expired as of 29 April 2023 and as such, you are no longer permitted to conduct business as a Real Estate Agent in the Northern Territory.</i></p> <p style="text-align: center;"><i>If you wish to hold a licence in the Northern Territory as a Real Estate Agent, please submit a new application or a mutual recognition application (if eligible) at your earliest convenience.</i></p>	Document 26
15 September 2023	<p>Correspondence was sent by the department to individual agents and company agents, including Ms Ryan (on behalf of Ryanlee Properties Pty Ltd), to remind agents of their requirement to provide trust account audits by 30 September 2023.</p>	Document 27
27 March 2024	<p>The department contacted Ms Jessica Rafter (agent's representative employed by Ryanlee Properties Pty Ltd), as Ms Rafter had submitted her application for renewal of registration. The department noted that Ms Rafter's registration could not be extended as Ryanlee Properties Pty Ltd was unlicensed, and requested Ms Rafter have Ms Ryan contacted the department.</p>	Document 28

9 April 2024	Ms Ryan made an application for a new company real estate licence for Ryanlee Properties Pty Ltd. The previous company licence had expired. As part of the application (signed by Ms Ryan), Ms Ryan answered “no” to the question “are you in breach of a provision of the <i>Agents Licensing Act 1979</i> ”.	Documents 29 and 30
24 April 2024	Ms Ryan re-submitted the application with a completed referee statement required as part of the company application process	Document 31 and 32
30 April 2024	Ryanlee Properties Pty Ltd was granted a licence valid to 29 April 2025 (REL1550).	Document 1
29 October 2024	The department emailed Ms Ryan to advise that the audit reports for Ryanlee Properties Pty Ltd were outstanding for 2022/23 and 2023/24.	Document 33
11 November 2024	Ms Ryan responded to the department advising: <i>Looking into this for you this week Laine. Thank you for the follow up</i>	Document 33
26 November 2024	The department emailed Ms Ryan to follow up on the outstanding audit reports seeking advice as to when the audits would be provided.	Document 33
9 December 2024	Ms Ryan responded to the department advising: <i>I am following up with A1 Audits today – my usual contact, Kylie, has gone out on her own but a “Chris” is helping me out.</i> <i>I will call you this week for an update.</i>	Document 33

Relevant legislative provisions

Trust monies

44. Part V, Division 1 of the AL Act sets out the requirements relating to trust moneys and the maintenance and operation of trust accounts, including an agent’s requirement to:

- hold all money received by a licensed agent in their capacity as an agent and in the course of their licensed business, as well as any money received by the agent as a stakeholder, in trust.

- open a trust account (that accords with the requirements of section 50) within 7 days of a licence being granted (s50(1)), maintain a trust account (that accords with the requirements of section 50) while licensed (s50(2))
45. Part V, Division 3 of the AL Act sets out requirements relating to audit and inspection of trust accounts.
46. 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.
47. 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’.*
48. “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.
49. Section 61 requires an agent, for the purposes of an audit, to (a) produce to the auditor records relating in any way to trust monies received during the relevant period and (b) to provide information and answers to the auditor in relation to the auditor’s questions about the records. There is a maximum penalty of 50 penalty units or imprisonment for 6 months (for a natural person) or 500 penalty units (for a body corporate) for contravention of this section.
50. 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 co for contravention of this section.

51. Regulation 16 provides for an exemption from audit requirements where trust monies were not received or held during the period. In such a circumstance, an agent is required to make a statutory declaration to the Board within 2 months of the end of the prescribed period.
52. Board policy 00/23 (19 November 2007) provides that a licensed real estate and/or business agent who is the employee of another agent, is for as long as that employment continues, exempt from the requirements relating to trust moneys and account and agent's records under Part V of the AL Act.

Responsibilities of business/branch managers

53. 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'.
54. Section 110A(5) of the AL Act obliges business managers to have effective and substantial control over the business carried on under the licence.
55. Regulation 18 of the Agents Licensing Regulations 1979 provides that:

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

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

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

Conduct

56. 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.
57. Section 65 of the AL Act provides that a 'licensed agent must not breach the rules of conduct'. Section 65(4) provides that a company or firm is guilty of a breach of the rules of conduct for agents if: (a) the

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

58. 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'.

Hearing

Materials before the Board at the hearing

59. 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
 - Copies of licensing applications
 - Correspondence between the department and Ms Ryan
 - reports from the Commonwealth Bank of Australia provided to the department showing that transactions that were occurring in the various trust accounts.
 - Oral testimony by Ms Ryan
60. On 29 April 2025 the Board conducted a hearing.
61. Ms Ryan attended the hearing and was sworn in for the purposes of the presentation of her evidence.
62. By the time of the hearing the issues before the Board were identified as follows:
- a) Whether Ryanlee Properties Pty Ltd breached section 59(1) of the AL Act (and therefore contravened Rule 8 of the rules of conduct) by failing to ensure its accounts were audited by a qualified auditor within three months of the end of the prescribed period, for each of the following periods:
 - 1 July 2021 – 30 June 2022 (concerning one of the accounts)

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

- b) Whether Ryanlee Properties Pty Ltd breached section 17(1) of the AL Act (and therefore contravened Rule 8 of the rules of conduct), by operating while unlicensed between 30 April 2023 and 29 April 2024.
- c) Whether there is any other reasonable ground which is sufficient to warrant revocation of the licence of Ms Kerry Lee Ryan based on her conduct as business manager for Ryanlee Properties Pty Ltd, particularly with respect to her responsiveness, diligence, and truthfulness in dealing with the department, and her actions or omissions that may have led to any breach by Ryanlee Properties Pty Ltd.

63. The Board may take disciplinary action against a licensed agent on one or more of the grounds outlined in section 67 of the AL Act. In particular, the Board may take disciplinary action if a licensed agent has been guilty of a breach of the rules of conduct for agents' (section 67(1)(c) of the AL Act. The Board may also take disciplinary action on "any other reasonable ground which in the opinion of the Board, is sufficient to warrant revocation of the licence of the agents" (section 67(1)(m) of the AL Act).
64. Section 68(4) of the AL Act provides that the Board shall hold an inquiry where the Board considers that there may be grounds under section 67 for disciplinary action to be taken against a licensed agent'.

Has there been a breach of the rules of conduct?

65. The role of the Board is to consider whether there has been a contravention of any of the rules of conduct by Ryanlee Properties Pty Ltd. The rules of conduct possibly relevant to this matter are:

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

Board's findings

General principles

66. 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.
67. 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.

Ms Ryan's general explanations

68. At the hearing Ms Ryan explained that during the period when the audits were not completed she was experiencing severe personal problems and that issues with the audit and the renewal application got out of hand Ms Ryan also summarised the problem as a lack of organisation and time management.
69. Ms Ryan also provided evidence that she obtained better software for dealing with trust monies and that she has engaged specialists to do a lot of the basic book work for her. These actions are designed to ensure that trust account recording remains under control.

Issue - failure to provide annual audit report for 2021/2022 for account 10916324

70. Ms Ryan has provided evidence to the effect that account 10916324 was not used during 2021/2022. She provided a statutory declaration to that effect in October 2022. It was subsequently determined that there had been trust monies in the account during 2021/2022. At the hearing Ms Ryan was unable to explain why this was so other than it was a mistake. She undertook to look into the matter and report back to the department. This has occurred with both the department and the Board being satisfied that the monies were paid into the account by mistake.
71. The Board takes no further action in respect of the fact that account 109163 was not covered by the 2021/22 audit.

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

72. Kerry Lee Ryan and Ryanlee Properties Pty Ltd did not contest the allegation that the audit reports had not been provided. The Board was provided with information about attempts to conduct the audits. The Board considers that this information is mainly of relevance to any penalty that might be applied if it finds that the failure to lodge audits is a breach of the rules of conduct.
73. 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.
74. On the basis of these matters, the Board finds that Ryanlee Properties Pty Ltd has breached section 59 of the AL Act by not ensuring that its trust accounts were audited as required by that section. The Board considers that it is authorised under section 69 of the AL Act to take disciplinary action against Ryanlee Properties Pty Ltd in respect of that breach.

Failure to provide accurate information on renewal

75. In the last application concerning the licence Ms Ryan, on behalf of Ryanlee Real Estate Pty, answered “no” to the question concerning whether Ryan the agent had breached the AL Act.
76. Ms Ryan would have known or should have known that the audits had not been completed and that that was a breach of the AL Act.

Responsibility of the business manager

77. Regulation 18 (as set out above) means that Ms Ryan as branch/business manager and/or an employee of Ryanlee Properties Pty Ltd is subject to the same obligations as Ryanlee Properties Pty Ltd concerning section 59 of the AL Act noting that section 59 is a provision within Part V of that Act.
78. 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.
79. The Board finds that Ms Ryan has failed to comply with section 59 of the AL Act as referred to in regulation 18. This means that Ms Ryan has breached rule of conduct 8.

Issue – unlicensed trading

80. As noted above Ryanlee Properties Pty Ltd practised for almost a year without having a licence. This is a serious matter noting that the maximum fine under section 17 of the AL Act for such practice is 500 penalty units (\$92,500) for an individual and 2500 penalty units (\$462,500) for a company. Persons dealing with unlicensed agents potentially lose all of the protections of the AL Act arising in respect of professional indemnity insurance and the right to claim against the Fidelity Fund.
81. Ryanlee Properties Pty Ltd and Ms Ryan accepted that the company had practised unlicensed.
82. The main regulatory option in dealing with unlicensed agents is prosecution through the criminal courts.
83. The other potential option is that of taking disciplinary action.
84. The difficulty with disciplinary action is that, in respect of Ryanlee Properties Pty Ltd and in terms of basic principles, it is arguable that it can only be taken in respect of actions that occurred whilst an agent is licensed. The Board has doubts as to whether past practice of illegal trading is a ground for disciplinary action.
85. This is not the case with Ms Ryan. She was licensed when the company was unlicensed. The Board finds that the failure of Ms Ryan to ensure that the company was licensed comes with section 67(1)(m) of the AL Act such as to be a ground that might warrant revocation of her licence.

86. On the basis of these findings and the finding concerning the provision of misleading information in the licensing application the Board considers that it is authorised under section 69 of the AL Act to take disciplinary action against Ms Ryan

Penalties

87. The powers of the Board after the inquiry into a licensed agent are outlined in section 68 of the AL Act as follows:

“68. If, at the conclusion of an inquiry conducted under section 68(4), the Board is satisfied that it is authorised to take disciplinary action against a licensed agent, the Board may do one or more the of the following:

- (a) reprimand or caution the agent;*
- (b) by written notice, impose a fine not exceeding 50¹ penalty units on the agent;*
- (c) by written notice, suspend the licence of the agent until the expiration of the period, or the fulfilment of a condition, specified in the notice;*
- (d) by written notice, revoke the licence of the agent.”*

88. 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.

Penalty for Ryanlee Properties Pty Ltd

89. 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.

¹ 50 penalty units is \$9250 for the period 1 July 2024 – 30 June 2025 (*Penalty Units Regulations 2010*)

- (6) 2025 – fine of \$9250 for business manager and \$3,700 for the Agent company for failing to file 4 successive audit reports and for providing misleading information in the course of dealing with the department in respect of the audits and only making belated efforts to fix the problem.
90. From this brief summary it is fairly plain that the Board has taken a variety of approaches over the past 20 years.
91. The Board’s current view is that a reprimand is not a sufficient penalty for major breaches of the legislation. This is said noting that the criminal sanction for a single breach of section 59(1) of the AL Act is a maximum of 20 penalty units and/or 3 months imprisonment. Such an offence is also a “regulatory offence” for the purposes of the Criminal Code. This means, in effect, that the offence is an offence of strict liability².
92. In determining the penalty, the Board took into account:
- a) the 2 year period of the successive breaches,
 - b) the ignoring of information provided by the department
 - c) the misleading information provided during the licensing processes.
 - d) The current efforts of the agent to have the audits completed along with the apparent absence of any irregularities with the actual records
 - e) the good compliance history in the period before 2022.
 - f) Ms Ryan’s ready acceptance of the errors and the appropriateness of a disciplinary penalty.
93. The Board considers that compliance with the audit requirements is a key provision in terms of client protection. The Board considers that the failure to have the audits over two years plus the misleading information provided in respect of the renewal of licences warrants a significant fine.
94. As mentioned above the Board accepts that there is no evidence of any missing funds. If there has been any such evidence the penalty would likely to have been suspension or cancellation).
95. The Board also notes that in most of the other matters quoted above concerning penalties is that in most of them the agent took action to fix the problem once identified.
96. The Board also considers that the provision of misleading information is a serious matter. Delegates of the Board make decisions about renewals based largely on the answers provided in the application forms. Provision of misleading information can potentially lead to licences being wrongly renewed.

² Section 125B, *Agents Licensing Act 1979*

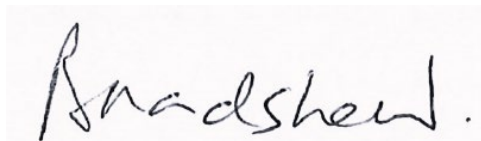
97. Under section 69(1)(a) of the AL Act the penalty imposed on Ryanlee Properties Pty Ltd is that of a penalty of \$1850.
98. Under section 69(3) of the AL Act, the Board directs Ryanlee Properties Pty Ltd to make payment of the fine within 60 days of the date of this notice.
99. Under section 69(3) of the AL Act the Board also directs Ryanlee Properties Pty Ltd to provide all relevant information for the outstanding audits to a registered company auditor by 30 June 2025.

Penalty for Ms Ryan

100. The Board has found that, as referred to in section 68(1) of the AL Act, Ms Ryan, in her roles as business/branch manager and director of Ryanlee Properties Pty Ltd, has breached the rules of conduct and that it is authorised to take disciplinary action.
101. Under section 69(1)(b) of the AL Act the penalty imposed is that of a fine of \$3700. The reasons are the same as those set out concerning Ryanlee Properties Pty Ltd with the difference between the two taking into account the personal responsibility of Ms Ryan for all of the breaches.
102. Under section 69(3) of the AL Act, the Board directs Ms Ryan to make payment of the fine within 60 days of the date of this notice.

Right of review

103. 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.
104. For the purposes of section 85(3), “affected persons” include the applicant, agents and agents representatives affected by the decisions.
105. 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.



Dated 5 June 2025

Robert Bradshaw

Chairperson (for Agents Licensing Board of the Northern Territory)