CANADA / JUDGMENT

R. v. Steer

2025 BCSC 1443

COURT
Supreme Court of British Columbia

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2025 BCSC 1443 R. v. Steer

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

R. v. Steer,

2025 BCSC 1443

Date: 20250725

Docket: 89212

Registry: Nanaimo

Rex

v.

Scott Stanley Matthew Steer also known as Scott Steer

and 1215419 B.C. Ltd.

Corrected Judgment: The text of the judgment was corrected at paragraphs 10, 105, 107, 139, and 140 on August 6, 2025.

Before: The Honourable Mr. Justice Crerar

Oral Reasons for Sentence

Counsel for the Crown:

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Place and Dates of Hearing:

Nanaimo

May 1-2, 2025

July 23-25, 2025

Place and Date of Judgment:

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July 25, 2025

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I. Introduction

[1] On January 8, 2025, after 33 days of applications and trial, this Court found Mr Steer and his co-accused corporation, nominally controlled and owned by his wife Melissa Steer but found to be his alter ego and a sham, guilty of all charges. Those reasons (indexed as R. v. Steer, 2025 BCSC 21: the "Reasons") summarise the charges and key findings:[1]

[1] From July to December 2019, Mr Steer acquired vessels and a refrigerator truck, retrofitted the vessels for commercial fishing, bought fishing gear and supplies, incorporated the numbered company, obtained licences, recruited crew, generated false DFO records, oversaw and directed multiple sea cucumber fishing expeditions in closed areas and without licences, and sold those sea cucumbers. Mr Steer actively orchestrated every aspect of the entire illegal sea cucumber operation of harvest and sale.

[2] The copious and corroborated evidence overwhelmingly indicates that the accused numbered company was a sham, incorporated primarily to attempt to evade the 2016 Thompson J Order and earlier prohibitions, and otherwise to insulate Mr Steer from the criminal and other consequences of his illegal fishing activities. It served at all times as an alter ego of its operating and directing mind, Mr Steer. The evidence also establishes that Melissa Steer was fully involved in this deceptive and evasive plan. It is appropriate to pierce the corporate veil in the present circumstances.

[3] On counts 1 and 2, Mr Steer is guilty as a direct party to the illegal fishing, without a licence, and during a closed time, in coordinating and directing the operations of the Kingfisher and the Harbourside Lodge. He is also guilty as a party to those activities, by aiding and abetting those illegal activities.

[4] On count 4, each of Mr Steer and the numbered company are guilty, in multiple ways. Some of the sea cucumber was caught entirely without a licence. The sea cucumber caught under licence nonetheless contravened the Fisheries Act, as it violated the 2016 Thompson J Order prohibiting the possession or acquisition of licences; it involved false records; and it breached express conditions of licence. Both Mr Steer and the numbered company are guilty as principals. Mr Steer's knowledge of the activities of those working under him makes it unnecessary to consider vicarious liability, but both accused are guilty under that principle as well, as is Mr Steer with respect to all counts.

[5] On counts 5 and 7, Mr Steer is guilty of possessing or acquiring fishing vessels in breach of the 2016 Order. Mr Steer purchased, controlled, acquired, and possessed the Harbourside Lodge. His control over the Kingfisher, as exhibited through his directions to Mr Williams, also establishes his possession of that vessel. The 2016 Thompson J Order that Mr Steer not "possess or acquire any interest, legal or equitable, absolute or contingent, in any such vessel or licences" is not to be read narrowly, as encouraged by the defence, but constituted a blanket prohibition on such possession or acquisition, in keeping with the purpose of the order in the context of the legislative objective and the history of the accused.

[6] On count 8, Mr Steer is guilty of possessing fishing gear, as prohibited in the 2016 Thompson J Order. Copious fishing gear, as well as receipts for fishing gear (in purchases confirmed by witnesses and retail surveillance cameras), were found in the Steers' Catalina Drive primary residence, particularly in the garage, all of which Mr Steer possessed and controlled. The common function of the equipment, coupled with the presence of the similar objects on the Kingfisher, the Harbourside Lodge, and, most pertinently, the Skiff just days before the

search, indicates that most, if not all, of these products would have been used for fishing. The size and numbers of the containers, the amount of equipment, and the presence of hydraulic and manual winches, arms and haulers, indicate that the items were used not for personal, but commercial fishing. Although it makes no difference to the result, I am satisfied that the equipment was in fact Mr Steer's equipment rather than that of Mr Williams.

[2] For count 4, both offenders were found guilty of selling sea cucumbers to Wen Lian Aquaculture ["Wen Lian"] that were caught in contravention of the Fisheries Act, RSC 1985, c. F-14 [the "Act"; references to sections will presumptively be to the Act]. The offenders delivered sea cucumbers to Wen Lian (the principal of which was Ethan Chen) on 18 days between September and December, 2019, receiving payments totaling $1,005,718.

[3] The Reasons are lengthy and detailed, reflecting the multiple charges and voluminous evidence levelled against the offenders. These sentencing reasons will avoid repetition with those Reasons, the contents of which are adopted in, and should be read in conjunction with, these present reasons.

[4] For sentence, the Crown seeks:

a) In respect of Mr Steer:

i. a total effective sentence of 7 years' imprisonment;

ii. a lifetime prohibition order, with language refined to more clearly prohibit conduct that Mr Steer has employed to evade previous prohibition orders;

b) In respect of the corporate offender:

i. a fine of $500,000, specifying that, pursuant to s. 80, Melissa Steer is deemed to be jointly and severally liable for the fine;

ii. a lifetime prohibition order for both the corporate offender and Ms Steer personally, with similar terms to those imposed on Mr Steer.

[5] The Crown also seeks against both offenders:

a) an additional fine under s. 79, for which they would be jointly and severally liable, to disgorge proceeds totaling $1,005,718 received unlawfully from Wen Lian;

b) a $600 restitution order in favour of Mr Morales (a Kingfisher sea cucumber crew member recruited by Mr Steer), to reimburse him for his unpaid out-of-pocket expenses;

c) a s. 72 forfeiture order for the vessels, vehicles, fishing gear, and related items seized from the offenders.

[6] Defence responsibly acknowledges that given past repeated breaches and convictions, a period of incarceration is appropriate, suggesting a custodial sentence of 18 to 24 months. Counsel also acknowledges that a "significant monetary penalty" is appropriate, suggesting that a total monetary penalty of $500,000 for the corporation (not the Steers individually) will reflect the need for denunciation, but also reflect the corporation's financial capacity. The offenders agree to the restitution and forfeiture orders.

II. Law

A. Sentencing generally

[7] In R v. Emery, 2019 BCSC 1789 Madam Justice Ker helpfully summarises the principles of sentencing:

[60] The statutory principles of sentencing are found in s. 10 of the CDSA and ss. 718 through 718.2 of the Code. Both statutes set out the purpose and principles of sentencing. The fundamental purpose is to contribute to respect for the law and the maintenance of a just, peaceful, and safe society. This is achieved by imposing just sanctions to denounce unlawful conduct, deter offenders and others from committing offences, separate offenders from society where necessary, assist in offenders' rehabilitations, provide reparations, and promote a sense of responsibility and acknowledgment of harm done.

[61] There are additional principles set out in ss. 718 through 718.2 of the Code, particularly, the sentence imposed must be proportionate to the gravity of the offence and the offender's moral culpability. The court must also take into account both mitigating and aggravating factors. Moreover, the sentence should be consistent with other sentences for similar offences and similar offenders. The court must exercise restraint in crafting a sentence. In other words, imprisonment should only be imposed where the circumstances make it necessary.

[8] Proportionality is a fundamental tenet of sentencing. Parity and individualisation are secondary to the rule that sentences must be proportionate to the gravity of the offence and the degree of responsibility of the offender: Criminal Code, RSC, 1985, c C-46, s. 718.1 [the "Code"]; R. v. Parranto, 2021 SCC 46 at para. 10.

B. Environmental offence sentencing principles

[9] R. v. Terroco, 2005 ABCA 141, recognised in R. v. Brown, 2010 BCCA 225 at para 13 as the leading case on environmental sentencing principles, sets out five primary factors to consider on sentencing: i) culpability, ii) prior record and past involvement with the authorities, iii) acceptance of responsibility and remorse, iv) damage / harm, and v) deterrence.

[10] Terroco provides further guidance germane to the present issues under each heading:

1. Culpability:

a) "Culpability should be a dominant factor in sentencing for environmental offences." [para 35]

b) Intentional environmental harm is at the extreme end of culpability and will call for more severe penalties than due diligence misses [para 35]

2. Prior Record and Past Involvement with the Authorities:

a) "A prior record indicates that an offender is more concerned about profit than compliance. It can be an aggravating factor. Similarly if the offender has been warned by the authorities about its conduct but persists, that is an aggravating factor." [para 38]

3. Acceptance of Responsibility/Remorse:

a) "An early guilty plea to an environmental offence is a mitigating factor. The cost of investigating and prosecuting such offences often is substantial. An offender who pleads guilty to an environmental offence both admits its culpability for the underlying actions and saves the Crown considerable cost." [para 39]

b) "The admission of culpability is a factor relevant to rehabilitation of the offender. An offender who sees no error is more prone to re-offend than is one who recognizes guilt and takes responsibility." [para 39]

c) "However, the maintenance of the right to a trial is not an aggravating factor, but a neutral one as the right to trial is fundamental." [para 39]

d) " as with the assessment of culpability, factors like prior convictions for the same or similar offences inform the degree of remorse and acceptance of responsibility of the offender. Pleas of remorse from a repeat offender may well ring hollow." [para 40]

e) " the entire enforcement history should be available to the sentencing judge as, for example, previous warnings from the authorities inform the degree of acceptance of responsibility and remorse of the offender." [para 40]

f) "Post conduct changes to practices and procedures can show that an offender is remorseful and has learned from his experience." [para 41]

4. Damage/Harm:

a) "The existence, potential, duration and degree of harm are factors to be fully considered in sentencing for environmental offences." [para 45]

b) "If actual harm is established that is an aggravating factor." [para 45]

5. Deterrence:

a) "A key component of sentences imposed for breaches of environmental protection statutes should be specific and general deterrence." [para 53]

b) "When considering specific deterrence sentencing judges should consider many of the factors I have already outlined .the degree of remorse informs the need for specific deterrence. An offender that takes responsibility for its actions and cooperates with the authorities is on a different footing than an offender that increases its culpability by, for example, attempting a surreptitious cleanup of a spill to avoid civil and penal consequences." [para 56]

c) " sentencing judges should consider the size and profitability of the transaction that resulted in the breach and whether it was part of an ongoing series of breaches." [para 59]

d) "The penalty imposed should also have a deterrent effect on others in that industry who may risk offending." [para 60]

e) "If the sentencing judge finds that the offender regards the potential fine as a mere cost of doing business, that is a serious aggravating factor... Evidence that the offender was warned by the authorities, but persisted in illegal activities, informs this issue as does evidence that the illegal conduct forms part of a pattern of behavior. In both cases, an aggravating factor exists." [para 61]

[11] In the context of environmental violations, jail sentences of increasing severity are imposed where lesser sentences have failed to deter an offender. This principle is reflected in several prior sentencing decisions concerning Mr Steer himself, as discussed below. As a further example, in R. v. Lane, 2008 CarswellOnt 11140 (OCJ), the Court sentenced an offender to 18 months in jail for four waste-related charges. The offender had allowed tires to accumulate at his waste disposal facility without necessary approvals, and had failed to comply with an administrative order of the Ministry of the Environment to remove the tires by a certain date. Fines for three prior convictions had failed to deter him, necessitating incarceration.

C. The Fisheries Act

[12] The Act s 2.1 sets out its purpose: "(a) the proper management and control of the fisheries; and (b) the conservation and protection of fish and fish habitat ."

[13] Offences under the Act are strict liability in order to protect the public, and to conserve limited marine resources. To further those goals, sentencing must reflect any higher degree of fault, as shown through intentional breaches, or recklessness. As stated in R. v Schafhauser, 2017 BCSC 2287:

[11] The Fisheries Act is regulatory legislation designed to protect and preserve a valuable resource and any contravention of it must be taken seriously. Accordingly, the predominant sentencing consideration must be deterrence, both specifically of the accused and generally of other members of the public who are inclined to act in the same manner. Penalties must be sufficiently severe to communicate to the accused that there is a high risk associated with their illegal activities both for the resource they are affecting and to themselves for their conduct

[14] In recent years, courts have noted the importance of protecting the environment from harm inflicted by overfishing, to be reflected in sentencing. For example, in R. v. Turner (November 19, 2021), Sechelt Registry No. 17961-1 (BCPC), Judge Merrick noted:

[6] With respect to Fisheries Act offences, there are additional sentencing principles. First, the protection of the fishery. The public interest in protecting the fishery is hardly a trifling matter whether that fishery is a commercial fishery or a recreational fishery. As I have said on previous occasions, we are stewards of our environment. We have an obligation to others in society and to future generations to be diligent in managing the resources that we have inherited. Social and societal interests override individual entitlements and accountable stewardship is demanded and expected, not merely hoped for from those who choose to fish.

[15] Just as sentencing ranges for impaired driving have shifted in response to community concerns, sentencing ranges have shifted for Fisheries Act offences in part because the court has a better understanding of the impact of overharvesting on a species. We also have to take into account, as Crown counsel has referred to in her submission, that fishing, really, remains an activity that is based on the honour system. The community can simply not employ the number of Fishery Officers that would be required to have a presence on the entirety of the West Coast of British Columbia. The state does not have unlimited resources, and, as a result, there are limits on the number of Fishery Officers that can be present at sea. It is my judgment that police presence or, in this case, Fishery Officer presence does provide a deterrence when they are out in the community, but as I have tried to explain, that simply cannot occur in fishery cases all the time due to the vast expanse of the sea and the coastline and community resources.

III. Mr Steer's record

[15] Mr Steer has a remarkably long record of violations of the Act and other offences, as well as court orders and prohibitions related to those offences. He has 34 convictions on thirteen prior cases, all but two of which occurred before the present offences. His offences date back to 2008. As noted in Steer #3, cited below, at para. 6, however, his record of non-compliance actually predates 2008, before which he received several formal administrative warnings and ticket violations for breaches of the Act and its regulations.

[16] These reasons will recount in some detail Mr Steer's repeated violations of the Act, and past convictions and sentencings, to emphasise parallels to the present case, and to emphasise that the earlier lesser sentences, including multiple short jail sentences, have wholly failed to deter or rehabilitate Mr Steer.

A. 2008 Steer #1 and #2: selling fish without a licence, fishing in a closed area

[17] In Steer #1, Nanaimo Provincial Court File No 66637-1 (Oct 14, 2008), Mr Steer was found guilty of fishing for shellfish during a closed time in June 2008, contrary to s. 63 of the Pacific Fishery Regulations, 1993. He received a $400 fine.

[18] In Steer #2, Nanaimo Provincial Court File No 66610 (Nov 13, 2009) (unreported), Mr Steer was sentenced on one count of offering, in April 2008, to sell halibut and lingcod not caught under a sales licence, contrary to s. 35(2) of the Fishery (General) Regulations. Mr Steer had caught and tried to sell fish designated as Aboriginal food, which may not be commercially sold. Judge Cowling imposed a $3500 fine and ordered forfeiture of a cube van, on consent.

B. 2013 Steer #3: landing fish without validation, defrauding a crew and vessel owner

[19] In Steer #3, 2013 BCPC 323, Judge Gouge imposed a 6-month jail sentence after a lengthy trial. The circumstances of the offences were less sophisticated than those of the case at bar. Judge Gouge outlined the offence:

[5] A successful commercial fishing venture requires a large capital investment in a boat, gear and license(s). Mr Steer owned none of those capital assets, which were well beyond his means. However, he did have a reputation as a skilled and experienced fishing master. That reputation impelled the owners of the Pacific Titan to employ him as its master. As is customary in the industry, the arrangement was that the owners would be reimbursed from the value of the catch (as "validated") for variable expenses (fuel, food for the crew, bait, etc.), and would receive 40% of the value of the catch as a return on their investment in the boat, gear and licenses. The balance would be divided between the master and the crew in shares determined by the master. "Validation" is the process by which landed fish are weighed and counted by designated groundfish observers, the results being reported by the observers to Fisheries & Oceans Canada ("DFO") to be applied against the vessel's fish quota. By landing fish surreptitiously under cover of darkness, Mr Steer avoided validation, and so evaded his obligation to share the value of the catch with the vessel owners and crew. Because the fish were not validated, they were not recorded against the quotas allocated to the Pacific Titan, enabling that vessel to catch more than its allocated quota for 2010.

[Emphasis added.]

[20] At paragraph 15, Judge Gouge noted Mr Steer's deceit: "It is not possible to estimate with any accuracy what weight or value of fish were landed by Mr Steer without validation. Indeed, one of his objectives in committing this crime was to conceal the weight and value of those fish." The Court explained how his activities defrauded his employers and the crew: "[i]t is clear that Mr Steer defrauded the vessel owners and crew members of an aggregate sum in excess of $50,000."

[21] Judge Gouge held that it was necessary to prohibit Mr Steer from the fishery for a period of 10 years. He explained at paras. 27-28, "In my view, Mr Steer represents a threat to the health of the fishery Beginning with his first voyage as master of the Pacific Titan, and throughout his command of the vessel, Mr Steer deliberately infringed 'the rules' in pursuit of his scheme to defraud the vessel owners and crew."

[22] In a manner presaging how Mr Steer mistreated Mr Morales in the present case, Judge Gouge noted how Mr Steer exploited his young employee in that case:

[29] Mr Steer's conduct in relation to Mr. Spika is particularly shocking. Mr. Spika is a young man who came to Canada from his native Germany early in 2010. His first job in Canada was as a member of the Pacific Titan's crew. Because he was an inexperienced fisher, he received the smallest share of the catch. Because the crew shares are determined by reference only to validated landings, and because Mr Steer landed a large part of the catch without validation, Mr. Spika was cheated of his wages. He worked hard for three months for nothing but food and lodging (on-board). To cheat the vessel owners was criminal. To cheat the experienced crew members was unforgiveable. To cheat a young man trying to make his way alone in a new country without the support of friends or family was much worse than unforgiveable. It was an act of moral bankruptcy.

[Emphasis added.]

[23] Mr Steer sought to minimise the gravity of his wrongdoing in submissions that seem to presage the false evidence tendered through Ms Steer and Sammy Williams in the present case. Judge Gouge rejected his evidence, concluding at para. 30, "Shortly put, Mr Steer is a dishonest man, with no respect for the rights of others and no regard for the sustainability of the fishery. It follows that he should be prohibited, for some period of time, from participation in the fishery."

[24] Judge Gouge concluded that a short prohibition order would not be sufficient to protect the fishery, as Mr Steer was unlikely to obey fisheries regulations in the future. At para. 34, he held:

There is nothing in the evidence to lead me to think that he has today any more respect for conservation imperatives or for the rights of others than he had in the past. Rather than take responsibility for his actions, he has sought to evade that responsibility by tendering excuses and explanations which are manifestly false. I note in addition that he has offered $500 in restitution to Mr. Spika (of the order of 3% of the wages of which Mr Steer defrauded him), and nothing by way of restitution to the vessel owners or other crew members. It is apparent that he is a man without a conscience.

[Emphasis added.]

[25] Judge Gouge issued a $15,000 restitution order in favour of Mr Steer's employee: para. 57.

[26] Judge Gouge concluded that a six-month custodial sentence was necessary to give effect to the statutory principles of denunciation and deterrence, given that the offences were deliberate, profit-motivated, and involved fraud and breach of trust: para 51.

[27] Mr Steer filed an appeal of the sentence and was released pending appeal. However, he failed to appear: his appeal was dismissed, and a remand warrant issued. Mr Steer evaded this warrant for eight months until he was arrested: found in possession of a fishing vessel on July 21, 2015 (as discussed below).

C. 2013 Steer #4: fishing in a closed area and selling fish without licence[2]

[28] In the facts leading to Steer #4, in September 2013, Mr Steer had caught 1000 pounds of crab under cover of darkness in Vancouver Harbour (a permanently closed area for harvesting crabs). Surveillance, electronic monitoring data, and cell phone data tracked his movements from Burrard Inlet to an unloading area in Vancouver. He then transported the catch by truck to BC Ferries in Tsawwassen, and then on to Victoria where he sold it. He falsely advised the buyer that the crab had been caught in the Tofino area. After the crab was seized by the DFO, Mr Steer had his lawyer send a letter to the DFO seeking its release, claiming, again falsely, that it had been caught by an associate, Alfred Nelson, under a commercial licence held by Indigenous groups.

[29] Mr Steer also employed Mr Nelson in 2019 for the present offences. In his testimony at trial, Mr Steer's fishing associate Mr Williams indicated that they similarly attempted to use the Indigenous status of Mr Nelson and others to shield Mr Steer's illegal fishing activity.

[30] Mr Steer was convicted and sentenced on Steer #4, following an initial trial before Judge L. Harvey held in 2015. After a successful appeal of that conviction, a new trial was ordered. Mr Steer was again convicted following a retrial before Judge Lowe in 2017. The original four-month jail sentence imposed by Judge Harvey was then reimposed.

[31] The Court noted as aggravating factors Mr Steer's deception of the purchaser, and his profit motive. It also noted his lack of remorse, as displayed by his instruction to counsel to write a false letter to the DFO: paras. 12-14. The Court commented that Mr Steer had shown "callous disregard" for the fishery and held that "[h]is breach of the rules and regulations has been solely to benefit himself financially to the disadvantage of the natural resource and other fishers who comply with the rules": para. 14.

[32] The Court held that a fine was not appropriate, since the fines received in 2008 and 2009 had not deterred Mr Steer: para. 15. Further, probation or a conditional sentence order would not address the principles of deterrence and denunciation, particularly since the offence involved deception, and was committed while Mr Steer was on bail: paras. 18 and 24.

[33] At the sentencing hearing, Melissa Steer provided a letter to the Court, describing Mr Steer's conduct as uncharacteristic, and indicating a belief that he sincerely and completely regretted his actions: para. 21. In further plea for a more lenient sentence, Mr Steer claimed that he had been rehabilitated and deterred by the sentence imposed by Judge Gouge:

[20] His counsel says he did not like jail and is now motivated to turn his life in a different direction. Counsel argues that because Mr Steer has a 10-year fishing prohibition, there is no concern he will reoffend in a similar manner.

[34] The Steers' actions and ongoing breaches since that date indicate that their statements to the Court were cynical self-serving falsehoods.

D. 2014 Steer #5: breaching K-File recognizance

[35] In a non-fishing offence, in December 2014, Mr Steer breached a K-file recognizance (Nanaimo File No. 77535-2KB). He received a suspended sentence, including two years' probation, restraining Mr Steer from contact with his ex-wife and two of his children.

E. 2016 Steer #6: being on a fishing boat in breach of bail

[36] In Steer #6 Nanaimo Court File No 79467 (12 Apr 2016) (unreported), Mr Steer pleaded guilty to breaching his recognizance by being on a vessel.

[37] In April 2016, Mr Steer was on bail on several matters, including the appeal of his conviction on the Judge Harvey decision. DFO officers travelled to Gabriola Island to confirm his recognizance compliance. They observed him board and operate a fishing vessel, the Holly V, in direct violation of his bail condition not to be on board any vessel other than a BC Ferries vessel. Officers then pursued the vessel. When they boarded his vessel, a Steer associate lied to the officers that no one else was on board. The officers located Mr Steer hiding in the hull.

[38] During the sentencing proceedings, Mr Steer's counsel advised Judge Saunders that because of Mr Steer's recent prior convictions, he was "no longer pursuing his longstanding trade in the fishery". Counsel advised that Mr Steer was "retraining and he's attending ground school and moving into the next phase for his pilot's licence."

[39] Subsequent cases, including the present, demonstrate this assertion to the Court to be false. Nonetheless, Mr Steer makes similar claims in his latest pre-sentence report ("PSR") (although at this present sentencing hearing, he wisely did not try to advance that claim again).

[40] Mr Steer's counsel also advised Judge Saunders that it was important that any sentence be brief because Mr Steer was a "stay-at-home" dad while Ms Steer earned an income as a hairdresser: the family's income would "suffer significantly" while he was in jail. Counsel suggested that a short jail sentence would effect rehabilitation and deterrence in Mr Steer:

if Your Honour imposed a very short, sharp period of incarceration that would certainly bring home to him the need to follow these court orders.

[41] Upon imposing the 21-day jail sentence, Judge Saunders reminded Mr Steer that he had a spouse and children, and that jail would have a deleterious effect on the household. The Court cautioned: "That is obviously something you should think about before you get into this type of situation because your record spells out some disregard, in my view, for previous court orders and dispositions, for which you have done some jail time in 2013."

F. 2016 Steer #7: breaching curfew

[42] In Steer #7, Victoria Court File No 160980-6-AC (July 21, 2016) (unreported), Judge Lowe sentenced Mr Steer to a further 21 days' jail for two convictions for breaching his recognizance, after a curfew check revealed him not to be at his house. At trial, Mr Steer provided an elaborate explanation for why he had missed a ferry and was unable to get home on time. Judge Lowe found that Mr Steer displayed a "very cavalier" attitude towards his order. He encouraged Mr Steer to "do some real soul searching and take responsibility for his behaviour moving forward."

G. 2016 Steer #8: possessing fishing gear in breach of prohibition order

[43] In Steer #8, 2016 BCSC 1641, Mr Steer was convicted of possessing fishing gear on board a fishing vessel in contravention of Judge Gouge's order. Justice Sharma imposed a sentence of 45 days' jail, and extended Judge Gouge's prohibition order for an additional 5 years.

[44] Mr Steer again advised the Court that he was pursuing employment outside the fishery and was enrolled in flight school: para. 20.

[45] Several factors tended to reduce the sentence that might otherwise have applied. The offence was limited to a single day, so s. 78.1 did not apply. The Court found that only two of the pieces of gear had been possessed by Mr Steer knowingly; he was merely reckless or willfully blind with respect to the presence of the other gear on the vessel: para. 22. None of the gear was found to be owned by Mr Steer. The Court also held that the vessel itself did not belong to Mr Steer, but rather to a third party. Justice Sharma also noted that mere possession of fishing gear was a less serious offence than fishing in violation of a prohibition order: para. 25.

[46] Again, the Court cautioned Mr Steer that he would face more severe sentences, which would affect his family, if he breached his prohibition order again:

[31] And I am speaking directly to you. I hope you realize that if you continue to breach these court orders under the Fisheries Act, if you continue to, as I have found, treat those orders casually, you are going to be subjected to more serious, longer jail terms. I want you to think very hard about that.

[32] I want you to think about what it will do to you and your family. You are 38. You do not want to find yourself in your 40s and 50s going in and out of jail. What will your kids do? What will your spouse do? What will you do when you get out? So I want you to think very carefully about that, sir.

H. 2015-16 Steer #9: breaching probation order

[47] On September 10 and 23, 2015, Mr Steer breached his probation order arising from a domestic matter: he contacted his children from jail, contrary to the order. He pleaded guilty in August 2016 and was sentenced to one day of jail, with six months' probation.

I. 2016 Steer #10: possessing a vessel and gear, having an interest in a vessel

[48] In September 2016, soon after his Steer #8 sentence, Mr Steer dealt with two outstanding fisheries files through joint submissions on guilty pleas.

[49] In the first, Steer #10, Surrey Court File No 213191-2C (Sept 7, 2016) (unreported), Judge Gunnell accepted the joint submission of 60 days' jail and a 17-year prohibition order. Mr Steer pleaded guilty to possessing a fishing vessel, in July 2015, contrary to his prohibition order, together with fishing gear located on the vessel. Fishery officers had observed Mr Steer hitching a trailer containing the vessel to a truck. The truck was stopped, and Mr Steer was arrested. Officers then searched the vessel, finding fishing gear on board.

[50] Mr Steer also pleaded guilty to having a beneficial interest in a second vessel, the Our Bro, between April and July 2015. A company called Golden Crown Marketing owned the Our Bro, and a prawn licence associated to it. Mr Steer entered into an agreement under which he paid the company for the right to use the Our Bro and its licence to fish for prawn. In parallels to the present case, Mr Steer then arranged for another fisherman to fish approximately 2,100 kilograms of prawn using the vessel. It was agreed that the arrangement gave Mr Steer a beneficial interest in the vessel, contrary to his prohibition order.

[51] The offences before Judge Gunnell were substantially less sophisticated than those in the present case, justifying the joint submission. For example, they did not involve over $1 million worth of fish; unlicensed fishing; fishing in a closed area; or an extensive network of underlings overseen by Mr Steer.

[52] During the sentencing hearing, Mr Steer yet again indicated he would turn over a new leaf and seek a new vocation: para. 17. He also sought, however, an exception to the fishing prohibition to allow him to participate in the dive fishery. The Court declined to grant this exception.

[53] Notwithstanding this express judicial rejection of a dive fishing exception, Mr Steer then proceeded to engage in the dive fishery, in the facts leading to the present convictions.

J. 2016 Steer #11: possessing fishing gear

[54] In Steer #11, 2016 BCSC 2015, Mr Steer pleaded guilty to possessing fishing gear in breach of his prohibition order. The gear was found in April 2014 on board a vessel that Mr Steer had leased from a third party, purportedly for use in transporting passengers, as opposed to fishing. Justice Thompson accepted the joint submission for an 80-day jail sentence and a 22-year prohibition order. The Court expressed some concern that the proposed sentence was too low but ultimately decided "not to upset the joint sentencing submission", finding that it was "barely within the range of fit sentences": para. 11. Justice Thompson starkly warned Mr Steer:

[2] but one of these times, Mr Steer, it is not going to be 80 days in jail. One of these times it is going to be an awfully lot longer than that.

[Emphasis added.]

K. 2020-2021 Steer #12: fishing in Vancouver Harbour

[55] We now turn to Mr Steer's most recent guilty verdicts: imposed after and based on his actions occurring after his actions leading to the present convictions.

[56] In Steer #12, 2021 BCSC 2404, Justice Edelmann (then of this Court) sentenced Mr Steer for the offences arising on March 2, 2020 in Vancouver Harbour, in which Mr Steer, Mr Williams and Mr Schill caught approximately 250 crabs under cover of darkness (the incident, discussed in paras 17-22 of the Reasons, led to the investigation revealing the present offences). This is déjà vu all over again: Steer #4 arose from Mr Steer's illegal crab fishing at night in Vancouver Harbour in 2013.

[57] The Court imposed a six-month jail sentence, a lifetime prohibition from fishing or being on any fishing vessel, and a five-year prohibition from fish brokering. The Court found that "his permanent exclusion from the fishery is warranted": para. 44. In assessing the prohibition from fish brokering, Justice Edelmann stated:

[46] The complete disregard Mr Steer has persistently shown for fisheries laws over the course of many years raises substantial and legitimate concerns around his reliability as a broker of fish or owner of fishing vessels. In my view, Mr Steer has shown, in no uncertain terms, that he cannot be trusted to adhere to fisheries regulations. The regulation of the commercial fishery relies on the trustworthiness and reliability of the participants in the fishery, including the owners of vessels and fish brokers. Given the clear pattern of disregard for fisheries regulations, I find Mr Steer's exclusion from the fishery is warranted.

[58] Those words speak to the present circumstances, but even more powerfully. The circumstances before Justice Edelmann were considerably less aggravated than those in the present case. It was a single day of fishing, with a small-scale catch. Mr Steer was directly involved in the fishing. There was no evidence before the Court of the sophistication of the present sea cucumber scheme, such as the illegal acquisition of licences and vessels, the use

of alter egos, modifications to vessels at considerable expense, the purchase of a refrigerated truck, or the hiring and oversight of various workers. There was no evidence before Justice Edelmann of fraud. On the contrary, the Court specifically noted the absence of this aggravating feature: para. 16. Because the offences were limited to a single day, s. 78.1 of the Act was inapplicable, limiting the maximum potential jail sentence on each count to 2 years' imprisonment: para. 26. Because the offences related to a single discrete incident on a single day, concurrent sentences were appropriate.

L. 2020-2021 Steer #13: crab and prawn fishing

[59] Earlier this month, Mr and Ms Steer were found guilty by the Provincial Court in Nanaimo on one charge each, for failing to provide information to a fishery officer, pursuant to the Act, s. 61(4) (Nanaimo Court File No. 89255). Sentencing is set for September of this year.

[60] Like the events surveyed in the next section of these Reasons, those proceedings indicate that Ms Steer and Mr Steer continued to operate seafood businesses in Canada in 2021, in breach of prohibitions, after Mr Steer's arrest for the events leading to the present convictions.

[61] On September 21, 2020 Mr Steer incorporated another company: Giant Red Cucumber Producers Ltd. One of two directors was named "Scott Matthew" (an alias frequently used by Mr Steer: his first and second names), with a mailing address at the Steers' Gabriola Island home address.

[62] Ms Steer signed an advance payment and product guarantee agreement on behalf of a company called Shore to Door Seafood Products Inc. (again, with the Steers' Gabriola Island address) to receive $40,000 in advance to provide the Richmond company Shin Grand Trading Ltd with crab, prawn, and other seafood. Between March and July 2021, Shore to Door invoiced Shin Grand a total of $299,989. The invoices also referred to the companies "1215419 BC Ltd" and "Giant Red Sea Cucumber Producers Ltd". The invoices directed that bank transfers be made to 1215419 BC Ltd, at their Gabriola Island address.

[63] The DFO initially met with Mr Steer on October 23, 2020 to advise him of the requirement to keep and maintain all records regarding seafood transactions. Mr Steer objected, telling the DFO that he does not have to comply with ss 49 and 61, as he only buys and sells product out of country.

[64] In September 2021, the DFO served demand notices on both Mr and Ms Steer, requiring them to provide all documentation regarding their involvement in fishing from January through September 2021. They were required to provide these documents by October 1, 2021, but failed or refused to do so.

IV. The Steers' ongoing illegal fishing operations

A. Introduction

[65] Again, as he did in several prior sentencing proceedings, Mr Steer asserted to the PSR author that he has stopped fishing and has finally begun to comply with his prohibition orders. He claimed that he now imports dishwashing pods from China, distributing them to Canadian wholesalers and retailers, as well as running a welding business. Mr Steer again stated his intention to pursue a licence for operation of a private plane, a tractor trailer, or a tugboat.

[66] In between the two stages of the sentencing hearing, Mr Steer withdrew his claim to have turned over a new leaf. Defence does not seek to advance remorse or rehabilitation as mitigating factors. This was wise, as extensive evidence of post-charge misconduct contradicts Mr Steer's PSR claims, and displays powerfully that neither his lengthy history of past convictions nor his present arrest and prosecution have had any deterrent or rehabilitative effect.

[67] At the sentencing hearing, the Crown presented compelling evidence that throughout the course of this prosecution, Mr Steer (with Ms Steer) has continued to engage in deceptive conduct and violations of the Act and court orders, in multiple ways. Defence does not contest any of these factual assertions advanced by the Crown.

[68] While post-charge misconduct or offences must not be treated as an aggravating factor, it can be relevant to the presence or absence of remorse, the character of the offender, his risk of re-offending, his prospects for rehabilitation, the need for specific deterrence, and to negate mitigating factors: R. v. Angelillo, 2006 SCC 55 at paras. 27-37 and R. v. Zeek, 2004 BCCA 42 at paras. 22-26. Recently, in R. v. Kardan, 2024 BCCA 56, Madam Justice DeWitt-Van Oosten confirmed that misconduct following the offences that form the subject of the sentencing is highly relevant to the individualised assessment of a fit sentence for the offender:

[29] In response to the second alleged error in principle, I interpret the judge's consideration of the circumstances surrounding the September and October 2020 offences as focused on Mr. Kardan's conduct and character as an offender, namely, the incorrigible nature of his continued engagement and willingness to participate in illegality. The fact that Mr. Kardan continued to engage with the dial-a-dope operation and offend after being twice arrested by the police (something he admitted to), was highly relevant to an assessment of him as an offender, including his rehabilitative prospects and the need for specific deterrence.

[30] The approach taken here is consistent with this Court's ruling in R. v. Pete, 2019 BCCA 244, that convictions arising from conduct that occurs later in time can be considered for purposes of assessing an offender's moral culpability and prospects for rehabilitation (at para. 40). I am not persuaded the judge erroneously treated the September and October 2020 offences as prior convictions that justified an increased sentence, or as an aggravating circumstance per se: Pete at para. 40. Instead, it was what those offences said about Mr. Kardan's mindset and his behaviour as an offender that was of interest to the judge, and this

information appropriately informed the individualized assessment of a fit sentence.

[Emphasis added.]

[69] The evidence of the Steers' ongoing illegal commercial fishing business also speaks, importantly, to their ability to pay fines and other monetary terms of the sentence: see, for example, R. v. Hayward, 2013 ONCJ 668, at para 157.

[70] It is important to review the Steers' ongoing illegal activities in some detail, to determine the appropriate sentence.

B. 2020-24: continued sea cucumber sales to Mr Chen

[71] After Mr Steer was released from custody in March 2020, he continued to discuss providing Mr Chen with fish: at trial, Mr Chen confirmed such text communications from April and August 2020, as evidenced in trial exhibits.

[72] Remarkably, Mr Steer continued such breaches of prohibition orders during the present trial itself. Mr Steer continued to provide sea cucumbers to Mr Chen in subsequent seasons, up to and including during the trial of this matter, in the latter half of 2024.

[73] On May 18, 2024, a new numbered company, 1481891 B.C. Ltd., was incorporated. Melissa Steer is listed as the sole director. The company search provides an address at #210-174 Wilson Street, in Victoria: the address of League and Williams, Mr Steer's usual law firm, which handled the registration of the corporate offender, as well as Mr Steer's vessels used for illegal sea cucumber fishing: the Harbourside Lodge and the Kingfisher.

[74] In November 2024 (in between the phases of the present trial), a commercial diver named Shayne Weston contacted the DFO to advise that Mr Steer had recently hired him to fish for sea cucumbers in Kodiak, Alaska, but that Mr Steer had failed to pay him. Mr Steer had agreed to pay him and his crew roughly $24,000 USD. Around October 15, 2024, Mr Weston and his crew packed up the sea cucumbers. Mr Steer pre-arranged and covered the cost of all required paperwork, transport, and insurance to send the sea cucumbers to Canada. He paid those costs using a Mastercard bearing the name of Melissa Larocque (that is, Ms Steer). Mr Steer created an air waybill, listing the sender as Shayne Weston of "174 Willson Street" in Victoria: again, the League and Williams law firm address. The consignee's name on the air waybill was "CSL Seafood Ltd.", at the same address. The handling information refers to "fresh sea cucumbers" and "Scott Matthew".

[75] On November 14, 2024, DFO investigators conducted an audio-recorded interview of Ye Keng Li of CSL Seafood Ltd. Mr Li advised that he agreed to clear the sea cucumber shipment through customs as a favour to Mr Steer, but the sea cucumbers were not purchased by CSL Seafood Ltd. Mr Li said he solely dealt with Mr Steer, and has never communicated with Melissa Steer (again, following the same pattern as in the present case: it is Mr Steer's business). Mr Steer directed Mr Li to deliver the sea cucumbers to Wen Lian (now rebranded Wansheng Aquaculture), at its Fraser Street address in Vancouver, and he did so. The courier

received a $1000 email e-transfer for delivery costs. The funds came from 1481891 BC Ltd.: Ms Steer's new numbered company.

[76] For his part, Mr Chen confirmed that he did indeed receive a shipment of sea cucumbers, filling five totes, from Mr Steer in October 2024.

[77] Mr Steer communicated with Mr Chen in respect of this delivery using WeChat. Mr Steer's WeChat profile name was Alaskan Feast-Scott. Alaskan Feast Seafood Products Ltd. is another Steer corporation, incorporated in September 2020. The listed directors are "Scott Matthew" and Mr Steer's fishing associate Mr Nelson, each with a stated address of the Steers' Gabriola Island residence.

[78] Literally during the trial of this matter, on July 12 and 17, 2024, Mr Steer sent Mr Chen four WeChat voicemail messages, reporting on trial developments. In the voicemail messages, Mr Steer described the trial as "pointless" and "a waste of time". He told Mr Chen, soon to appear as a witness, that his testimony would "all be a waste of time because it will all be easy to explain".

[79] On October 6, 2024, at the beginning of the sea cucumber season and before the December 2024 trial continuation, Mr Steer texted Mr Chen a photograph of sea cucumbers along with the following solicitation:

Good quality area available next weekend landed Vancouver

$5.75 USD Vancouver looks good

There's about 20,000 lbs headed out of Alaska today into Vancouver who's that going too [sic]?

[80] On October 18, 2024, Mr Steer texted Mr Chen:

Morning, we have 4,496 lbs over to you once truck can deliver bit later.

Correction will arrive later today, will get updated time.

[81] The two then exchanged messages to coordinate the delivery, with Mr Steer sending Mr Chen the phone number of the driver.

[82] Mr Steer then followed up with a text message in October, asking Mr Chen whether the quality of the sea cucumbers was acceptable:

How did that go for quality and looking at recovery?

[83] Mr Chen replied by sending Mr Steer a photograph of the sea cucumbers: he complained that they were slimy and smelled bad. Mr Steer hypothesised that they had degraded in transit over the border. Mr Steer nonetheless proposed that they continue their supply arrangement:

Mr Steer: What's those Cukes worth? Divers were at $4.50 usd but that was assumed for good quality of course

There's about 80,000 lbs left for where they are working and it's just them so they were wanting to keep going and can definitely sort things out for shaving time off on logistics

[84] Apart from undermining Mr Steer's claim to have turned a new leaf, and apart from further breaching the Act and its regulations, these actions directly breach the November 12, 2021 Edelmann J prohibition order that prohibits Mr Steer not only from fishing, but also, in the broadest of terms, from "being involved in the purchase or sale of fish".

C. 2021 to 2022: principal operator of a fishing vehicle

[85] On October 8, 2022, the DFO observed a flat deck truck, known to be associated to Mr Steer, parked at Fisherman's Wharf in Campbell River. Its driver said that he was heading to Gold River to pick up "cukes", and that the crane on the vehicle would be used to offload the sea cucumbers from the vessel Bartster: Mr Steer hired the Bartster to fish for sea cucumbers using licences that Mr Steer illegally acquired.

[86] The driver first said the truck belonged to "Scott Castle": another Steer alias. After the officer asked the driver for the vehicle registration, he then stated that the vehicle belonged to "Scott Steer". The vehicle registration indicated that the vehicle was leased to Ms Steer, with Mr Steer as the principal driver.

[87] ICBC records also indicate that the truck was registered as a work vehicle for "farm use and fisherman use". Three insurance and licence certificates were issued for the vehicle in 2021 and 2022: all signed by Melissa Steer. All three list Messrs Steer and Williams as drivers of the vehicle, and designate Mr Steer as the principal driver. The second and third certificates were issued after Justice Edelmann's order came into effect, expressly prohibiting Mr Steer from both fishing and fish brokering.

[88] The truck documentation strongly supports a finding that the Steers obtained a new flat deck truck for fishing use to replace their previous flat deck truck that was seized by the DFO during the execution of the search warrant at the Steer residence on March 6, 2020.

D. 2023: again hiring Mr Robinson to fish sea cucumbers

[89] At the trial of this matter, witness Brion Robinson, a vessel master hired by Mr Steer to fish for sea cucumbers in 2019 using his illegally-obtained licences, confirmed that Mr Steer again hired him to fish sea cucumbers in 2023.

E. 2023: brokering crab in breach of prohibition order

[90] A November 14, 2023 civil suit brought by Crab Alaska LLC against Mr Steer, Harbourside Marine Ltd., and Giant Red Sea Cucumber Producers Ltd., further indicates that Mr Steer remained active in fishing following his arrest.

[91] As set out above, Giant Red Sea Cucumber Producers Ltd. is another of Mr Steer's corporations. Harbourside Marine Ltd. is another of Mr Steer's corporations. It started operating in January 2017 as a sole proprietorship of Mr Steer. It was registered as a sole proprietorship on May 19, 2020, shortly after Mr Steer's release from custody. It was then incorporated on May 20, 2020, with Mr Steer as its sole director.

[92] The claim alleges that on or around March 2, 2023, Crab Alaska agreed to supply 5,473 lbs of crab to the defendants for $96,324 USD. On or around March 9, Crab Alaska delivered the crab to Seattle where it was received by Jacombs Seafood and imported into Canada. In March 2023, Crab Alaska received six payments for the crabs, totaling $40,839.20 USD, from Giant Red Sea Cucumber Producers Ltd. Mr Steer's company then failed to make any further payments, leaving Crab Alaska out of pocket $55,484.80.

[93] Jacombs Seafood Ltd was also named as a defendant. The Jacombs response to civil claim asserts that it had a contractual relationship with Giant Red Sea Cucumber Producers Ltd., which had posted an offer to supply 5,473 lbs for $17.80 USD per pound. Jacombs accepted the offer from Mr Steer's company, which then provided instructions for Jacombs to pick up the crab in Seattle from Crab Alaska. The response also alleges that Jacombs received an invoice for $97,419.40 USD from Giant Red Sea Cucumbers Producers Ltd., which it paid in full.

F. 2020 to 2024: creating and tendering false evidence

[94] The offenders' conduct in creating and tendering false evidence is also relevant to the presence or absence of remorse and the prospects for rehabilitation. At trial, extensive evidence was elicited by the defence from Mr Williams and Ms Steer that was clearly and deliberately false: Reasons, paras. 138-139 and 148-182.

[95] The offenders' misconduct in this regard was not limited to the trial on this matter. It spanned the entirety of this prosecution. On December 10, 2020, Mr Steer swore a false affidavit that was tendered by the corporate accused in the property detention proceedings. Seeking the return of the seized property to the corporate accused, the affidavit falsely attests, for example, that the Harbourside Lodge and Kingfisher were purchased by Melissa Steer "with funds from her ongoing business of buying and selling seafood and vessels and equipment".

[96] Further, in April 2023, Mr Steer brought a bail review application, in which he tendered an affidavit from Ulises Uribe Gonzales, a diver hired by Mr Steer, and one of the anticipated Crown witnesses in this trial. The Gonzales affidavit contains assertions that are directly contradicted by admissions in Mr Steer's December 2020 affidavit. For example, Mr Steer admitted at para. 15(a) of his affidavit, "I did pay for flights to Canada for Mr Gonzales and his son to come and work for me". However, the Gonzales affidavit that Mr Steer tendered at his bail review attested to the contrary, "Scott Steer did not pay for my flight to Canada" and "I was not working for Mr Scott Steer during my visit": paras 2-3 and 11.

[97] Similarly, in apparent preparation for the bail review and trial, Mr Steer asked Mr McNeill to sign a draft affidavit dated September 11, 2022 that he himself had drafted. Mr McNeill wisely declined to sign the document, which was almost entirely false: Reasons, paras. 132-133.

G. Conclusion

[98] Mr Steer's persistent post-offence misconduct shows an ongoing disregard for the prohibition orders and the Act. It shows a willingness to continue offending unabated despite yet another arrest and prosecution. While these facts cannot be considered as aggravating factors, they negate any suggestion that Mr Steer stopped engaging in the fishery following his March 2020 arrest or the laying of the present charges, or that he has embarked on a law-abiding path. Since at least 2016 Mr Steer has been falsely telling courts that he is pursuing employment outside the fishery and enrolling in flight school or other pursuits: Steer #8 at para. 20. His post-offence misconduct indicates the unlikelihood of remorse or rehabilitation, now or in future. It also puts the lie to Mr Steer's assertion to the PSR author that he will comply with the conditions of any Court order (pp. 3-4).

[99] The fishing sales also provide evidence that the corporation, and thus Mr Steer, continued to bring in revenue through the business. In turn, it provides further evidence that the company has the ability to pay a fine.

V. Aggravating factors

[100] The present offences exhibit many significant aggravating features.

[101] Mr Steer's long record of past convictions, and his repeated violations of the Act, are highly aggravating. The Crown understands Mr Steer's record to be the longest record of Fisheries Act violations in Canadian history. Warnings, fines, prohibitions, and multiple incarceration sentences of various lengths have all failed to deter or reform Mr Steer.

[102] In committing the present offences, Mr Steer breached four prohibition orders. This further illustrates his contempt for the court process, as well as the futility of protecting the public and marine resources through further prohibitions or less intrusive means reliant on his voluntary compliance and reform. As noted in R. v. Jones, 198 CCC (3d) 519, 2005 CanLII 22449 (ON CA)[3]:

[20] A prohibition order works to the advantage of the offender when being sentenced on the conviction that gives rise to the order. By addressing the protection of society, the making of such an order allows the court to pay greater heed to the rehabilitation of the offender, and reduce the weight on the need to separate the offender from society.

[21] The relative weighting of the objectives of sentencing is different when the offender is being sentenced for breach of the prohibition order. On this occasion, the offender has demonstrated an unwillingness to be governed by court orders and has not responded to society's efforts to rehabilitate him. It has become apparent that society cannot be protected by a prohibition order, and so the objective of separating the offender from society to protect the community acquires greater weight.

[Emphasis added.]

[103] The Steers' degree of calculation, planning, and organisation for the offences is also highly aggravating. Mr Steer was the directing mind of a complex organisation that involved numerous co-conspirators, unwitting employees and subcontractors: Reasons, paras 184, 244. He employed Mr Williams in a middle management position. Melissa Steer assisted with banking and paperwork. He recruited many lower-level employees as divers and crew to work on the unlicensed vessels that Mr Steer illegally acquired: these included Messrs Morales, Schill, Nelson and Leonard August. Mr Steer also commissioned several other vessels and their crew to fish the licences that he also illegally acquired.

[104] Mr Steer's operations required significant financial outlay and organisation to purchase vessels; extensively retrofitting those vessels for commercial fishing; covering the costs of transportation, lodging, equipment, and salaries; and leasing seven licences, at approximately $105,000 per licence: Reasons, para. 109. The scale and sophistication of the operation is also reflected by the fact that the proceeds from Wen Lian alone exceeded $1 million.

[105] Mr Steer's consistent subterfuge, use of proxies, and stealth are also highly aggravating:

a) Setting up the numbered company as a cloak over the illegal activity: Reasons, paras. 202-216;

b) Moving money through Melissa Steer's account to pay for the Harbourside Lodge: para. 37;

c) Changing the Harbourside Lodge bill of sale after the fact to substitute the name of the corporate accused: paras. 38 and 282;

d) Regular use of aliases to obscure his connection to illegal activity: "Scott Matthew", "Matthew Scott", and "Scott Hillard": paras. 41, 43, 52, and 213;

e) Use of Mr Steer's defunct corporation Alaskan Moon as an alias and alter ego: para. 217;

f) Directing Messrs Morales and Schill to use recreational tidal fishing licences, as a cover for illegal commercial harvesting: paras. 242 and 246;

g) Covering and hiding fishing equipment on vessels to avoid detection: paras. 77-79;

h) Directing his employees to fish at times when DFO patrol planes were less likely: para 76; and

i) Directing his employees to dump illegally harvested sea cucumbers overboard if there was a risk of being discovered: para. 76.

[106] Mr Steer not only acted deliberately, but fully recognised and even exulted in the criminality of his actions. His knowing and mocking flouting of the law and court orders is encapsulated in his text message to Mr Williams: " it's all illegal lol": para. 141.

[107] As in his past offences, Mr Steer used Mr Williams's Indigenous status to conceal his illegal fishing activities: paras. 141-142. In a December 9, 2020 text exchange, just after the Morales sea cucumber harvesting trip, Messrs Steer and Williams not only indicate their consciousness of guilt, but also that they used Mr Williams's Indigenous status as a cloak:

Williams: These guys You have your paper work right

Just right paranoid thinking about paperwork all the time

Steer: Just tell him it's all illegal lol

Steer: Say your Indian all good u r the paperwork lol

Williams: It is kinda true lol

Williams: I am the paperwork

[108] It is aggravating that Mr Steer committed his offences entirely for financial gain: R. v. Varnicolor Chemical Ltd., 1992 CarswellOnt 221 at para. 43, [1992] O.J. No. 1978.

[109] As in Steer #3, Mr Steer abused the trust of various individuals in the course of committing the offences. He failed to pay Mr Robinson for his fishing in December 2019, and he failed to pay Mr Schill for harvesting sea cucumbers in October and November: Reasons, paras. 94 and 146. Mr Steer's treatment of Mr Morales was particularly egregious. He convinced Mr Morales to leave his family in Alberta and fly to Vancouver Island for work. Mr Steer then exposed Mr Morales to physical and legal danger, and then refused to pay him or even reimburse him for his expenses. As revealed by Mr Steer's discussion with Mr Regehr, who sold him the refrigerator van, Mr Steer specifically targeted workers of Mexican nationality like Mr Morales: Reasons, para 52.

[110] The protracted period of Mr Steer's offences is an aggravating factor. The Act expressly codifies this factor in s. 78.1, which deems offences committed or continued on more than one day to be a separate offence for each day on which the contravention is committed or continued. All of the offences, except count 8, spanned a considerable length of time:

a. The unlawful sales offences (Count 4) extended the entire sea cucumber season, from September to December 2019. During that time, the offenders delivered sea cucumbers to Wen Lian on 18 days and on 9 other days received payments totaling $1,005,718. Offences of selling include the days the product is delivered and the days payment is received: R. v. Sansalone, 2010 ONCA 281, leave to appeal ref'd 2010 CanLII 51313 (SCC); R. v. Do, 2011

ABQB 135 at paras. 48-52. Accordingly, separate penalties may be assessed under s. 78.1 for each of the 27 days on which sea cucumbers were delivered and/or payments were received.

b. Mr Steer also had an interest in both vessels for many months before their seizure on June 2, 2020. The Harbourside Lodge bill of sale was signed on July 5, 2019. The application to transfer the Kingfisher's registration to the numbered company was submitted on October 22 and processed on October 25, 2019. Possession is a continuing offence, spanning however long the item is illegally possessed: R. v. Bell, [1983] SCR 471 at para. 29.

c. The unlicensed fishing offence (Count 1) was similarly protracted. It commenced around October 24, 2019 (Reasons, paras. 84-99). The trip on which Mr Schill worked for 20 days yielded 2,600 pounds of sea cucumbers. On another trip, the crew caught 21,400 pounds in one week. The fishing undertaken by Messrs Morales and Martin on December 8 and 9 yielded approximately 500 kilograms.

d. The fishing in a closed area (Count 2) spanned December 8 and 9, 2019.

[111] As a final aggravating factor, the offenders committed several additional uncharged offences in the course of committing the offences for which they were convicted, including Code offences: Reasons, paras. 255-258. The unlawful sea cucumber sales conviction breached several uncharged offences under the Act, including breaches of prohibitions in obtaining interests in licences, as well as providing false statements and records. Those falsified records also constituted forged documents made or uttered contrary to Code, ss 366 and 368: Reasons, paras. 119-126, 129-134, 182, and 192.

[112] Under Code, s 725(1)(c) the Court "may consider any facts forming part of the circumstances of the offence that could constitute the basis of a separate charge". Offences for which an offender has not been charged but which are proven under s. 725(1)(c) may be treated as aggravating circumstances under s. 718.2(a) of the Code: R. v. Larche, 2006 SCC 56; R. v. Shin, 2015 ONCA 189 at paras. 87-97. Where a Court relies on such uncharged offences as an aggravating factor on sentence, the Court must note them on the indictment pursuant to s. 725(2), to protect the offenders from future prosecution for those offences. The Court does so. The Crown expressly confirms that by relying on this misconduct for the purposes of sentencing in this matter, it is giving up the ability to prosecute those offences separately in their own right.

[113] I agree that the facts underlying the above additional offences satisfy the test applicable to s. 725(1)(c): they all form "part of the circumstances" of the offences on the present Indictment. They all exhibit the necessary "connexity" with the offences on the indictment, both in time and place: Larche at paras. 48-56.

VI. Mitigating circumstances

[114] The offenders raise some potential factors in mitigation, or otherwise to lessen any penalty, in the pre-sentence report, as well as directly. That said, mitigating factors are few and thin, in contrast to most cases. There is no assertion of remorse or rehabilitation. There is no proposal to disgorge or repay illicit profits. There are no letters of support or of good character.

[115] In contrast to most PSRs, there is no environmental explanation for his serial offences and recidivism. Mr Steer described to the PSR author his upbringing and family as "supportive and loving", and his childhood as "free of violence, neglect, or any other forms of abuse." Apart from OCD and ADHD (the impulsive aspects of which he initially tied to his offences in the PSR, but he did not advance at the sentencing hearing), and a heart condition, he has enjoyed good health throughout his life. He has no apparent drug or alcohol issues.

A. Dependents

[116] Defence notes the five children who live with Mr and Ms Steer at their home on Gabriola Island: four from their relationship, and one child from Ms Steer's previous relationship. Some suffer from health and cognitive issues. Defence also notes that Ms Steer herself suffers from various health issues, including migraines, anxiety, and generalised pain. In multiple past sentencing hearings, Mr Steer has sought leniency based on the needs of his family.

[117] It is not unusual for an offender to have children or dependants. As noted by Madam Justice Devlin in R. v. Kim, 2022 BCSC 518:

[78] I accept that Mr. Kim's incarceration will have an impact on his young family. However, those are the consequences of his poor choices. Returning to the comments at para. 5 of Tam, although Mr. Kim asks for mercy on account of the collateral consequences his family will suffer, I must consider the collateral consequences that society as a whole will suffer:

I am asked to treat the accused with mercy but the mercy the court must exercise is the mercy of society and not that which an individual judge might desire to exercise because of the sympathy he feels for the family of the accused and for the innocent baby who will be yet one more of the social victims of what has occurred.

[79] Mr. Kim, you are no doubt aware that your actions have jeopardized the opportunity you may have to become involved in your young children's lives. You have stated in your letter and I accept that you are motivated to make the necessary changes in your lifestyle going forward. You are fortunate to have the unrelenting support of your wife and mother. I sincerely hope you can make the changes needed to support your family in the future.

[118] Dismissing Mr Kim's appeal from sentence (2023 BCCA 313), the Court of Appeal held:

[46] The judge was aware of, and indeed acknowledged, the impact that the sentence would have on Mr. Kim's family (at paras. 78-79). However, given the seriousness of the conduct giving rise to the charges, she gave priority to the principles of deterrence, denunciation, and protection of the public, which was within her discretion to do.[4]

[119] As set out above, multiple past sentencing judges have specifically warned Mr Steer of the consequences of further offences on his ability to care for and spend time with his children. In Steer #6, Saunders PCJ cautioned that jail would have a deleterious effect on the household. In Steer #8, Sharma J specifically warned Mr Steer that if he continued to offend, he would be subject to more serious, longer jail terms affecting his family.

[120] Mr Steer continued in his illegal fishing operations with eyes wide open to the likely consequences of his illegal activities on his family life. It is through his voluntary actions that he is separated from his family. In the interim, Ms Steer will continue to be the primary caregiver, as she has served during his previous periods of incarceration.

B. Credit for time served

[121] Mr Steer has not served any time in custody for these charges. These charges were laid in 2021. The year before, Mr Steer spent a brief period in custody following his arrest in Vancouver Harbour. That period of custody was attributable to the matter before Justice Edelmann and was credited to Mr Steer on a 1.5:1 basis: Steer #12 at para. 38.

C. Credit for time allegedly on strict bail conditions

[122] Mr Steer suggested to the PSR author that his bail conditions are restrictive. I agree that this argument is unwarranted, for several reasons.

[123] First, Justice Edelmann took Mr Steer's time under house arrest into account in assessing an appropriate sentence on the Vancouver Harbour file: Steer #12 at para. 37. Accordingly, Mr Steer has already received credit for his time on bail before November 12, 2021, when Justice Edelmann imposed his sentence.

[124] Second, Justice Edelmann sentenced Mr Steer to a 6-month jail sentence, to be followed by 3 years' probation. For the first 12 months of the probation order, Mr Steer was under a curfew. Accordingly, Mr Steer was either serving his jail sentence or subject to the curfew from November 2021 to May 2023; his bail conditions during this time were not significantly more restrictive than the sentence he was serving.

[125] Third, Mr Steer is himself to blame for the length of his time under bail. The offenders have dragged and delayed at every step of these present proceedings, through multiple changes of counsel, multiple requests for adjournments, and serial non-compliance with Court directions and deadlines. This matter was originally scheduled for trial in September 2022, and then in July 2023: both were adjourned due to defence delay. The trial of this matter was on track to finish as anticipated in July 2024, but was bifurcated to end in December

2024 because of defence delay and imprecise time estimates. Sentencing was scheduled for March 2025, but again, Mr Steer needed not one but two adjournments. In adjourning the July 2023 trial dates, the then-assigned judge, Madam Justice Power noted that the Steers' approach to this matter had "not been diligent and, on some levels, had been deliberately obstructionist" and that the actions of the Steers had been "disrespectful to the process". She held, accordingly, that the delay occasioned by the trial adjournment lay at the feet of the defence.[5]

[126] Fourth, Mr Steer's bail conditions have not, in fact, been restrictive. While condition 1 of the release order contemplates a house arrest, it permits Mr Steer to be away from his residence with the permission of his bail supervisor. His bail supervisors have been generous in granting exceptions: 204 permission letters between August 2021 and February 2025, including exemptions spanning multiple, often consecutive, days. Mr Steer has been free to do a wide variety of activities: social, recreational, commercial and otherwise.

[127] Fifth, the evidence of post-charge misconduct detailed above further indicates that Mr Steer's bail conditions have not been particularly, or sufficiently, restrictive. They have apparently not prevented him from continuing to engage in further offences, as set out above.

[128] Sixth, as set out below, the Crown's proposed sentence for Mr Steer already includes a substantial reduction for totality that would more than account for any restrictions posed by Mr Steer's bail conditions.

VII. Sentence and orders

A. Introduction

[129] I will start with the uncontroversial orders.

B. Restitution order to Mr Morales

[130] The Crown seeks an order that Mr Steer pay $600 restitution to Mr Morales under s. 738 of the Code and s. 79.2(i) of the Act, to cover his out-of-pocket expenses in traveling to and from Alberta to Vancouver Island to fish on the Kingfisher: Reasons, para. 69. The offenders agree to this order. It is so ordered. Mr Steer shall pay that money into Court.

C. Forfeiture of seized property

[131] The offenders do not object to the s.72(1) forfeiture order sought by the Crown for seized property by means of or in relation to which the offence was committed:

a. Lincoln Navigator, BC Licence ET2 05G

b. Related seized boat trailer, BC Licence WFD 00P

c. Flat Deck Truck, BC Licence NR 1785

d. Kingfisher MK III vessel

e. Harbourside Lodge Vessel

f. 5 cell phones, GPS SPOT device, and navigational electronics (held by the DFO forensic analysis team)

g. items seized from 5361 Catalina Drive: Items 1, 2, 5, 6, 7, 10, 13, 15, 17, 18, 19, 20, 22, 23, 24, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 53, 55, 56, 57, 58, 59, 60, 61, 62, and 63.

h. items seized from the Harbourside Lodge and Kingfisher vessels.

[132] This order is especially appropriate in the present circumstances, as most of these items Mr Steer was expressly prohibited from possessing in the first place. It is so ordered.

[133] At her request, not opposed by the Crown, Ms Steer's two personal phones seized from the residence are not subject to forfeiture, and shall be returned to her.

D. Retention of trial exhibits

[134] The Court orders that the Registry keep, and not destroy or return any exhibits filed in this matter until further direction of the Court, given potential further investigations and prosecutions.

E. Prohibition orders for Mr Steer, the corporate offender and its directors

[135] Under ss. 79.1(b), 79.2(a) and (i), the Crown seeks against Mr Steer a lifetime prohibition from any involvement in any fishing or fish brokering activities, or use or ownership of fishing gear, licences, or vessels. The Crown seeks to forestall any attempt by Mr Steer to evade the present prohibitions, by seeking wider prohibition orders prohibiting possession of fish, except for personal consumption, not to exceed 2 kilograms; and being on any vessel of any kind, other than a BC Ferries vessel. The Crown also seeks prohibitions on contacting various named associates, employees, contractors, and customers involved, knowingly or unknowingly, in Mr Steer's illegal fishing operations.

[136] The Crown seeks similarly broad prohibitions against the corporate offender for an indefinite period, and against Ms Steer, as its ostensible sole director, officer, and owner, for ten years.

[137] Defence proposes a prohibition from "involvement in fishing activities, vessels, and gear": 20 years for Mr Steer, and a lifetime ban for the corporate offender. For Ms Steer, defence seeks a five-year prohibition, with leave to fish with her children. Defence further argues that the prohibition against Mr Steer being on any vessel except a BC Ferries vessel is overbroad and constitutes effective banishment for an island resident.

[138] With respect to these arguments, Mr Steer carried out his fishing business in the present case in ostensible pleasure craft that he retrofitted for commercial fishing. Further, the proposed broad order is not new: past orders have included similarly broad prohibitions, limiting his sea craft use to BC Ferries. As with vessels, Mr Steer also sought to hide his illegal fishing activities through human proxies, including Ms Steer herself, as well as Indigenous and other associates and employees.

[139] I agree that the extraordinary circumstances of this case, including Mr Steer's extraordinary record of persistent prohibitions, through indirect and stealthy means, necessitate prohibition orders with broadest terms that leave no loophole temptations for Mr Steer to attempt further evasions. None of the five different prohibition orders imposed on Mr Steer have deterred him: they only spurred him on to find new ways to attempt to circumvent their terms. Those means included the use of a sham corporation, with Ms Steer presented as its sham owner and director. The broad prohibition orders against the corporate offender and Ms Steer are similarly necessary to denounce and scotch such attempts.

[140] The Court issues the prohibition orders in the forms attached as Appendices A to C of the Crown's submissions.

F. Monetary orders against corporate offender and Mr and Ms Steer

1. Introduction

[141] The Crown seeks a s.78 fine of $500,000 against the corporate offender, as well as a s. 79 fine of $1,005,718, against both the corporate offender and Mr Steer. The latter amount represents the amount of proven gross revenue the offenders earned from the sale of sea cucumbers to Wen Lian.

[142] Section 78:

Punishment not otherwise provided for

78 Except as otherwise provided in this Act, every person who contravenes this Act or the regulations is guilty of

.

(b) an indictable offence and liable, for a first offence, to a fine not exceeding five hundred thousand dollars and, for any subsequent offence, to a fine not exceeding five hundred thousand dollars or to imprisonment for a term not exceeding two years, or to both.

[143] Section 79:

Additional fine

79 Where a person is convicted of an offence under this Act and the court is satisfied that as a result of committing the offence the person acquired monetary benefits or monetary benefits accrued to the person, the court may, notwithstanding the maximum amount of any fine that may otherwise be imposed under this Act, order the person to pay an additional fine in an amount equal to the court's finding of the amount of those monetary benefits.

2. Sentencing an organisation

[144] I will now turn to the principles governing sentences for corporations. In some ways, this analysis is superfluous, given that the corporate offender was a sham alter ego for Mr Steer. The following observations under the rubric of corporate fault apply even more profoundly to the Steers' personal actions with respect to the illegal fishing operations. Conversely, the observations in these reasons with respect to Mr Steer equally apply to the corporate offender, through which he carried out many of the illegal fishing activities and acquisitions, beyond the mere sale of sea cucumbers to Wen Lian.

[145] The Code s 718.21 sets out considerations for sentencing an organisation:

A court that imposes a sentence on an organization shall also take into consideration the following factors:

(a) any advantage realized by the organization as a result of the offence;

(b) the degree of planning involved in carrying out the offence and the duration and complexity of the offence;

(c) whether the organization has attempted to conceal its assets, or convert them, in order to show that it is not able to pay a fine or make restitution;

(d) the impact that the sentence would have on the economic viability of the organization and the continued employment of its employees;

(e) the cost to public authorities of the investigation and prosecution of the offence;

(f) any regulatory penalty imposed on the organization or one of its representatives in respect of the conduct that formed the basis of the offence;

(g) whether the organization was -- or any of its representatives who were involved in the commission of the offence were -- convicted of a similar offence or sanctioned by a regulatory body for similar conduct;

(h) any penalty imposed by the organization on a representative for their role in the commission of the offence;

(i) any restitution that the organization is ordered to make or any amount that the organization has paid to a victim of the offence; and

(j) any measures that the organization has taken to reduce the likelihood of it committing a subsequent offence.

[146] I agree with the Crown that these considerations indicate that a significant penalty is necessary.

[147] With respect to (a), the corporation in fact received more than $1 million as a result of the offences. This amount is based solely on known payments from Wen Lian. Other revenues, from other buyers, are unknown. The trial evidence indicated that revenues were likely significantly more. Steer bank records indicated that that the Steers received a total of $1.235 million CAD, and $60,992 USD in payments from seafood and fishing related businesses between February 2019 and March 2020. Those records show $1.5 million deposited into the Steers' accounts, and $1.36 million withdrawn from those accounts. The evidence at trial indicated that thousands of pounds of additional sea cucumber were caught and sold, in addition to the sea cucumbers sold to Wen Lian. While Wen Lian received 87,373 pounds of sea cucumbers, the validation records establish that, between October and December 2019 alone, the offenders harvested 97,722 pounds of sea cucumbers under their illegally-obtained licences, and that the offenders also harvested thousands of pounds of additional sea cucumbers without a licence: Reasons, paras. 68 and 93-94.

[148] With respect to (b) and (c), this was a sustained, planned, and deliberate effort to exploit the fishery and evade and undermine the multiple Court orders to which Mr Steer was subject. The corporation was created for the sole purpose of thwarting fisheries regulations, and allowing Mr Steer to fish in breach of prohibition orders.

[149] With respect to (d), the corporate offender is sham, operated solely by and for the Steers, with ad hoc hirelings. Consideration (d) speaks more to a larger corporation with legitimate business activities, the employees and community of which may be indirectly harmed by economic penalties. I agree that the present is a rare case where this factor is irrelevant.

[150] With respect to (e), the economic and staffing cost of the investigation and prosecution and trial was no doubt enormous. The trial spanned six weeks, with some 30 witnesses, including 15 civilians. Witnesses attended trial from the Lower Mainland, throughout Vancouver Island, Alberta, Europe, and China. Multiple search warrants were executed, including at the Catalina residence, on the Harbourside Lodge, and on the Kingfisher. The investigation comprised multiple locations, including diving and arrests in North Vancouver, with seizures in Nanaimo, Campbell River, and Port McNeill. The DFO had to obtain production order for records from Rogers, BMO, CIBC, and Telus, as well as obtain technical and forensic evidence.

[151] With respect to (f), there is no evidence that any regulatory body has imposed any penalty on the organisation or a representatives.

[152] With respect to (g), the organisation is Mr Steer's alter ego. He has been convicted of many other fisheries offences. His prior conduct is thus relevant and aggravating in assessing the appropriate penalty for the organisation, because at its helm throughout was an individual undeterred by significant past sentences.

[153] Consideration (h) is irrelevant: Mr Steer is the directing mind of the corporation; and Ms Steer, as the nominal owner and director stated her view that Mr Steer had done nothing wrong. There is no evidence that the corporation has sanctioned any of its employees or directors.

[154] With respect to (i), there is no indication the corporation has voluntarily paid any restitution. The Court must take into account the restitution order to Mr Morales that it has made, as part of the totality principle. But as Mr Morales should have been paid for these expenses in any case, and these amounts are modest, they have minimal impact on the overall sentence imposed on the corporate offender.

[155] With respect to (j), there is no indication that the organisation has done anything to reduce the likelihood of committing a subsequent offence: on the contrary, as set out above, the Steers have continued to broker in fish.

[156] In addition to these considerations, statutory and jurisprudential authorities militate towards a significant monetary order against Mr Steer, as well as the corporate offender and its nominal principal, Ms Steer.

[157] As set out above, the maximum sentence for Count 4 for a first offender is $500,000 per day that the offence was committed or continued, as well as a 2-year sentence for each count. Insofar as these offences were committed over a six-month period, the Crown is restrained in seeking only a $500,000 fine.

[158] For a fine to be effective, it must exceed the cost of doing business: Terroco at para. 60. As Terroco states at para. 63: " Ultimately, a fit sentence should consider both the offence and the offender. It should be such that it is cheaper to comply than to offend and it must be meaningful to the offender by securing and holding its attention." See also Schafhauser at para 12.

[159] The Crown cites several cases where corporate defendants received significant fines for fishing and other regulatory offences. It concedes that none of these precedents match the fines sought in this case, and argues, fairly, that the present offences, coupled with Mr Steer's significant recidivism, the active use of deception as through the sham corporation, and other aggravating circumstances, make the present case one of first instance. This is not unreasonable or surprising: the individualised consideration of environmental offences spans a broad range of culpability and a broad range of sentences. As noted in Terroco:

[65] For the same reason I consider it impossible to establish any form of guidelines regarding sentencing under either the EPEA or the DGTHA. Offences under these statutes are similar to manslaughter in that they may be committed in practically infinite variety. Manslaughter

ranges from near accident to near murder. These offences range from incidents where due diligence is a near miss to ones where the Crown nearly establishes intentional conduct. At the same time, like offences for like offenders should attract similar sentences. The range of sentence for similar offences by similar offenders should not be so large as to be disparate.

[160] Many of the Crown's regulatory prosecution precedents proceeded summarily, with the offender facing maximum penalties considerably lower than the present. The Crown also notes that many of the fines in the following cases were less than they might have been had the offender not pleaded guilty:

a) R. v. Labrador Sea Products Incorporated, 2009 NLTD 163: the corporate accused was fined $275,000 ($395,000 adjusted for inflation) for a large-scale scheme to circumvent reporting obligations under the Act. The offender falsified documents, including purchase slips and offload tally forms. The amount of catch was considerably less than the present circumstances: approximately $200,000 in misreported or underreported catch. Further, the offender mitigated its position through a guilty plea and a joint submission.

b) H & H Fisheries Ltd., 2014 NSPC 61: the corporate accused was charged with three periods of possessing, purchasing, or selling fish caught in contravention of s.33 of the Act: roughly $681,000 of halibut not properly offloaded and reported. The Crown proceeded summarily (such that the maximum penalty was $100,000 per offence. In total, $175,000 in fines were imposed ($230,000 adjusted). The Court also imposed a s. 79 order for the value of the gross revenue: an additional $218,133 ($284,837 adjusted). Mitigating factors were the early guilty plea, the lack of prior convictions, and the corporation's acceptance of full responsibility.

c) R. v. Pasco Seafood Enterprises Inc., 2019 BCPC 228: on three counts based on the unlawful purchase and sale of fish caught in a closed area, the Court imposed $175,000, as well as a $298,131 disgorgement order for the gross revenue from their activities. Again, the matters proceeded summarily, with maximum penalties of $100,000 per offence. The corporation had no prior enforcement history.

d) R. v. Tenshi Seafood Ltd, Richmond Provincial Court File No. 63048-2C (3 Mar 2021) (unreported): On a single count of obstructing the DFO based on hidden documents, the corporate offender, and owner received a total of $100,000 in fines divided $75,000 for the corporation and $25,000 for the owner. Again, the Crown proceeded summarily. Again, this was a first offence, with a joint submission and a guilty plea.

e) R. v. Keitsch, 2024 BCSC 2054: this Court upheld total fines for Mr Keitsch of $250,000 on multiple counts, including fishing during a closed time, breaches of conditions of licence, and failing to produce a licence. The trial judge characterised the conduct as reckless rather than calculating. Mr Keitsch pleaded guilty to the majority of charges, and had no prior record.

f) R. v. Lake Louise Ski Area Ltd, 2020 ABQB 422: the Court upheld a sentence of $2.1 million after the ski area negligently cut down whitebark pine trees, protected under the Species at Risk Act. The accused pleaded guilty, and there was no intention to commit the offence.

3. Defence position: monetary orders against corporate and individual offenders

[161] Defence acknowledged that a significant monetary penalty is appropriate, and suggests a $500,000 fine, to be imposed on the corporate offender alone, with no fine imposed on Mr Steer personally. Defence raises several objections to the effective $1.5 million monetary penalty effectively sought by the Crown against the Steer family unit.

[162] First, while acknowledging that recent authorities favour a gross revenue calculation of a s 79 fine, defence cites several older Newfoundland appellate authorities that have interpreted "monetary benefits" to refer to the net profit acquired by the offender, rather than the gross revenue or value of illegal product: R. v. Oates, 2004 NLCA 6; R. v. Meade 2004 NLCA 11; and R. v. Sheppard, 2019 NLPC 1318A0022 at para 29.

[163] I agree with the Crown that the weight of British Columbia authority focuses on disgorgement of gross receipts rather than mere net profits.

[164] Outside of the fisheries context, R. v. Vallières, 2022 SCC 10 at para 29 indicates that gross income derived from the sale of property obtained by crime is the proper target of a fine in lieu of forfeiture of the property that is proceeds of crime.

[165] This conclusion is matched by multiple authorities within the fisheries context.

[166] R. v. Henneberry, 2006 NSPC 26, the Court imposed a s. 79 fine in the amount of the gross revenue received from illegal fishing.[6] The Court declined to follow Newfoundland jurisprudence (Meade and Oates) that interpreted "monetary benefits" to mean net profits. The Court noted:

[20] It seems clear that, whatever else the principle of deterrence requires in a particular case, it must begin with depriving the offender of the benefit of his illegal acts. As Judge Freeman (as he then was) put it in R. v. Ross, [1990] N.S.J. No. 495, 96 N.S.R. (2d) 444 (N.S.Co.Ct.) at para. 18:

. . . Forfeiture of an illegal catch is not a strong deterrent and may be compared with depriving a thief of his loot.

[167] The Court noted that gross income in itself is an ill-gotten advantage to the corporation, and that limitation of fines or disgorgement to the net profits would fail to achieve the critical goal of denunciation and deterrence:

[26] gross income is a monetary benefit to any enterprise, whether or not there is a profit after all expenses have been deducted. As [the Crown expert] stated, there is a monetary benefit to any enterprise in being able to pay its expenses; without gross income from which to pay expenses no enterprise can stay in business long.

[27] In addition, to narrow the meaning of "monetary benefit" in this context to "net profit" is to overlook the paramount purpose of sentencing in a regulatory context: to deter both the offender and others in his/her position from engaging in the illegal activity. If offenders know that, if caught, they will be deprived of the entire benefit of their illegal catch, and that they will therefore have to pay for the costs associated with their illegal fishing from other sources, the cost-benefit analysis will make illegal fishing much less attractive and they may be less likely to "take a chance" than if they know that even if caught their expenses will be covered.

[168] In reaching this conclusion, Henneberry cited the summary conviction appeal decision of R. v. Reid, 2001 BCSC 1370, where Mr Justice Lowry (then of this Court) held that a s.79 fine based on gross proceeds is appropriate:[7]

[16] I conclude then that the trial judge erred in principle in basing his disposition on the accused's conduct being inadvertent, and that he failed to take the importance of general deterrence into account. The conditional discharge that permitted the accused to retain the proceeds of the concluded sale was at odds with the sentences in fisheries prosecutions generally and was not a fit disposition.

[17] I am unable to find in the circumstances any reason why the accused should be permitted to retain the benefit of the illegal sale of octopus. He concedes that the proceeds of the product that was seized must be forfeited, and I can see no justification for his retaining the proceeds of the octopus he sold and delivered before it was seized. A fine under s. 79 should have been imposed.

[Emphasis added.]

[169] Henneberry in turn has been followed by several courts, including in this province.

[170] H & H Fisheries Ltd., 2014 NSPC 61 at para. 75 notes that the paramount sentencing objectives for fisheries offences mandates a gross revenue measure: "Since deterrence, both specific and general is the paramount sentencing consideration in cases of this nature, it hardly seems logical that Parliament would have intended that the additional direct or indirect costs of doing illegal business would then be utilised to reduce or offset the potential penalty of the offender."

[171] In R. v. Gwaii Woods Products Ltd., 2017 BCPC 6 at para. 91, the Court approved of the reasoning in Henneberry and H & H and expressly held that "[i]f an additional fine is imposed, then the monetary benefits (gross revenue) generated by each of the Defendants may be subject to that fine ."

[172] Pasco Seafoods, supra, also imposed an additional fine reflecting gross revenue, following Gwaii Woods and Henneberry.

[173] Second, defence argues the Terroco principles speak more to a large ongoing corporate concern that sells its product to grocery stores. Such offenders can indeed consider fines as a cost of doing business, and pay large fines out of their ongoing legitimate revenue. Defence argues that the present offenders would be unable to do so.

[174] I disagree that the Terroco principles are limited to offenders with ready means to satisfy fines through ongoing and future operations. On the contrary, given his long record, Mr Steer has calculated the risks versus rewards of his illegal operations. This approach would render toothless Terroco's mandated goals of denunciation and deterrence. Further, Mr Steer's ongoing illegal fishing activities, including those during the trial of this matter, illustrate that he is not dissimilar to the hypothetical ongoing fishing operator raised by defence.

[175] Third, defence argues that there is no evidence that either offender has the means to pay the $1.5 million fine sought by the Crown, or that they gained significant wealth from their illegal fishing operations. R. v. Topp, 2011 SCC 43 and Code, s 734(2) confirm that the Court must be satisfied that the offender will be able to "pay the fine or discharge it under section 736."

[176] Authorities under the Code indicate that the Crown's persuasive burden in this regard is not particularly onerous. The Crown must establish the offender's ability on the balance of probabilities: Topp, para 27. The offender bears no onus to establish an inability to pay, but their silence is risky: absent a credible explanation, it is open to the court to infer the offender's ability to pay: para 7. Specifically "[i]n the absence of a reasonable explanation to the contrary, past receipt of illegally obtained funds will often — but not always — support an inference that the offender still possesses sufficient funds to pay a fine at the time of sentencing ": para 27. That inference will be influenced by all relevant factors, but by two in particular: "the length of time that has passed between the acquisition of the funds and the imposition of sentence, and the amount of funds acquired": para 30. Topp confirms that the Crown is not required to identify with forensic exactitude assets available to the offender to pay the fine, "but may instead rely on various types of indirect evidence to satisfy the trial judge of the offender's ability to pay — including evidence that the offender had possession of impugned funds in the relatively recent past, evidence of an ongoing lavish lifestyle, and evidence of the offender's earning potential": para 35. As stated by our Court of Appeal in R. v. Stevic, 2022 BCCA 45:

[16] Where there is past receipt of illegally obtained funds, a judge may infer the accused has the ability to pay a fine in the absence of a reasonable explanation that they no longer possess their ill-gotten gains: Topp at para. 7. A judge may also make this inference if they have sufficient financial information, obtain the assurance of counsel, or consider the conduct of the accused: R. v. S.W.M., 2010 BCCA 86 at para. 20; R. v. United States of America (2004), 2004 CanLII 14795 (ON SC), 71 O.R. (3d) 141 at para. 37, 184 C.C.C. (3d) 427 (S.C.); R. v. Shin, 2015 ONCA 189 at paras. 108-128.

[177] In Keitsch at paras 42-43, for example, the offender's gifting of a boat worth roughly $500,000 just before trial, provided compelling evidence of an ability to pay a $250,000 fine.

[178] I agree that the totality of the evidence before the Court indicates, on a balance of probabilities, that Mr and Ms Steer likely have the means to satisfy a significant monetary penalty. As set out above, $1.5 million flowed into the Steers' bank accounts during the period in question. The trial evidence, and evidence introduced in this sentencing hearing, indicate that Mr Steer carried out and has continued to carry out at least until very recent times further considerable illegal fishing operations, receiving significant proceeds. As noted by Judge Gouge in 2013, a successful commercial fishing venture requires a large capital investment in vessels, gear, and licences: again, activities continuing to at least the date of trial. These include the recent purchase of a flat bed truck, to replace the one seized in 2020.

[179] Further, while they do not own their residence, the Steers presently live in a large, luxuriant, and beautiful Gabriola Island home with a 2025 assessed value of $924,000. The permission letters from Mr Steer's bail supervisors show that he has continued to shop at a multitude of retail locations.

[180] While I place limited weight on this final consideration, the offenders managed to retain two King's Counsel to represent the corporation throughout the trial, even though the interests of the two offenders were aligned, and their defences were generally indistinguishable and complementary at trial.

[181] Finally, the Steers themselves have provided no admissible evidence to contradict these indications that they would be able to pay a significant monetary penalty. The Court imposed a June deadline for defence to advise whether it required a Gardiner hearing: defence advised that it did not, and would focus its submissions on the record already before the Court. Just before the end of defence sentencing submissions, the Steers handed their counsel two documents indicating that they and various corporations they control owe the Canada Revenue Agency some $3.1 million dollars in tax arrears. Given the lateness of these documents, and the Steers' history of fabricating official documents, as illustrated in this case, I place no weight on this late assertion.

[182] Fourth, the defence cites Keitsch at para. 100, which holds that, unlike a forfeiture order under s. 72(1), a fine issued under s. 79 is subject to the totality principle. Accordingly, on issuing such a fine, the Court is required to consider a s. 79 monetary amount together with any other penalties it imposes. I will return to Keitsch momentarily.

[183] In summary, defence argues that an effective $1.5 million dollar overall monetary penalty, combined with the Steers' prohibition from fishing, Mr Steer's likely lengthy incarceration, and the likely loss of their house in the execution on the fines, "would be nothing less than crushing for this family."

4. Conclusion

[184] I agree that the present case is one of first instance, and that no previous decisions concerning regulatory breaches provide an adequate sentence or sentencing range for the unprecedented circumstances of this case, and Mr Steer's persistent history of illegality. In contrast to some regulatory prosecutions, the present offences did not result from oversight or a due diligence failure. As this Court found, the offences " were committed as part of a deliberate, deceptive, and wide-ranging scheme to fish illegally": Reasons, para. 261. The offenders' deliberate and multifarious deception and dishonesty, and their brazen exploitation of finite marine resources, in direct contravention of multiple court orders, all in the context of Mr Steer's long record, must be met with significant penalties for meaningful deterrence and denunciation. The offenders' culpability is at the highest level.

[185] At the same time, by Keitsch, I must consider the total sentence, including Mr Steer's incarceration, which subject I will turn to next. Further, whether classified as a fine or a restitution order, any monetary penalty in excess of $1,000,000 on an individual will generally achieve the goal of denunciation and deterrence: it is not necessary, with an eye to totality, to impose the full amount sought by the Crown.

[186] With these considerations in mind, the Court orders that both offenders pay, in total, $1,005,718 under s.79, representing the full gross revenues received from Wen Lian for the illegally caught sea cucumbers: to order less would allow the Steers to profit from their illegal activities, contrary to Terroco.

[187] On this, the Court imposes a modest additional s. 78 fine of $100,000 (not $500,000 as sought by the Crown) on the corporate offender, specifically to condemn the Steers' deliberate, destructive, and dishonest actions, and to recognise that their profits from their illegal fishing operations exceeded the Wen Lian sale amount.

[188] Ms Steer shall be jointly liable for each amount owed by the corporation, under s. 80:

Who shall be liable

80 Unless otherwise specified, every proprietor, owner, agent, tenant, occupier, partner or person actually in charge, either as occupant or servant, shall be deemed to be jointly and severally liable for any penalties or moneys recovered under any provision of this Act or the regulations.

[189] There is no basis to depart from the presumption that Ms Steer be held jointly and severally liable for both fines. As noted in the Reasons, Ms Steer was not simply a passive vessel for the sham corporation, for which she served as director, but was an active and willing participant in the fraudulent and illegal purchase and sale of sea cucumbers, in part through personally filling out the forged fish slips, in breach of the Act and Code: Reasons, paras. 270, 277.

[190] While I have concluded that on a balance of probabilities, the Steers have the means to repay these amounts, I recognise that they are significant. Any potential concerns about the offenders' immediate ability to pay, may be remedied by additional time to pay, and not by diluting the deterrent nature of the sentence by lowering the fine amount: R. v. Lavigne, 2006 SCC 10 at para 48; Shafhauser at para. 13.

[191] Crown suggests repayment over a 10-year period. Defence suggests a 25-year period. I accept that neither denunciation nor deterrence will be undermined by requiring repayment over a 20-year period, with payments required on the first day of each month: $416.67 per month for the s. 78 fine, and $4,190.49 per month for the s.79 fine.

G. Mr Steer custodial sentence

1. Introduction

[192] Amongst various sentencing scenarios, the Crown primarily proposes a total effective sentence of 7 years' imprisonment. Defence proposes a custodial sentence of 18 to 24 months' imprisonment, served concurrently. The following table illustrates the positions advanced by each side:

Count

Subject Matter and offence dates

Crown (all consecutive)

Defence (all concurrent)

5

Harbourside Lodge

July 5, 2019 - June 2, 2020

2 years

12 months

7

Kingfisher

Oct 1, 2019 - June 2, 2020

2 years

12 months

8

Fishing gear

March 6, 2020

6 months

9 months

1

Unlicensed fishing

Oct 24, 2019 - Dec 11, 2019

2 years

12 months

2

Fishing in closed area

Dec 8-9, 2019

1 year

9 months

4

Unlawful sales

Sept 11 - Dec 19, 2019

4 years (s. 78.1)

18 months

Aggregate sentence (pre-totality reduction):

11 years, 6 months

18 months

Effective sentence (after totality reduction):

7 years

18 months

2. A fit sentence

[193] I will not repeat the multiple specific significantly aggravating features of Mr Steer's illegal fishing, canvassed above.

[194] For completeness, I will summarise those and other facts (including non-aggravating factors such as the lack of remorse, rehabilitative steps, or a guilty plea) in the Terroco framework:

a) Culpability: Mr Steer's actions were at the extreme high end of the culpability scale: they were deliberate, calculated, and stealthy, rather than resulting from a reckless or negligent due diligence failure, as is often case with regulatory offences;

b) Prior record and past involvement with the authorities: as detailed above, Mr Steer carried out his illegal fishing in the face of a remarkable record of multiple specific judicial warnings and orders and lesser sanctions, including multiple past jail sentences;

c) Acceptance of responsibility and remorse: Mr Steer exhibits no remorse for his actions. The PSR author notes that "Mr Steer does not take full responsibility for his actions and the undersigned is unable to assess his attitude and understanding around the offences." The PSR also notes that "Mr Steer cannot be assessed regarding attitude and understanding of the offences due to his position on the outcome of the trial." As noted in Terroco, an offender who sees no wrong is more prone to re-offend: para 39.

d) Damage and harm: Mr Steer inflicted significant harm on marine resources, fishing in at least four expeditions over six weeks (the entire sea cucumber harvesting season), and hauling up almost 100,000 pounds of sea cucumbers, including in areas expressly closed to any harvesting for multiple years. As they were caught without a licence, with false papers, the DFO could not consider them in their calculations for a sustainable harvest rate. The impact statement of Pauline Ridings (a DFO biologist focused on, inter alia, the sea cucumber fishery), confirms that in addition to environmental harm, overharvesting imperils the ability of sea cucumbers to regenerate their numbers, thus threatening future commercial and non-commercial harvests.

e) Deterrence: as noted at Shafhauser, para. 11, as the Act is designed to protect and preserve a valuable resource, the predominant sentencing consideration must be deterrence, both specifically of the offender and generally of other members of the public. Penalties must be sufficiently severe to communicate to offenders and potential offenders that their illegal activities attract a significant consequential risk. The penalty must be more than simply a cost of doing business. The scope and stealth of Mr Steer's illegal fishing must attract a considerable penalty to effect specific and general deterrence, for himself as well as other potential illegal fishers. Less intrusive past penalties, including multiple lesser incarceration periods, have had zero deterrent effect on Mr Steer: on the contrary, they have driven him to employ greater stealth and deception in his continued illegal fishing.

[195] As set out above, this is a case of first instance, given the extraordinary circumstances of the offender and the offences. Neither side is aware of any fisheries, or even environmental cases, with similarly egregious facts involving repeated deliberate and deceptive breaches of the Act and specific court orders, in the face of a lengthy record of repeated similar offences and sentences.

[196] In this, I agree that the fisheries cases proffered by defence have little application: R. v. McNeill, 2007 BCSC 773 and R. v. Steer, (23 August 2018) (Port Alberni 40679-1) (unreported). [8] Neither involved breaches of court orders, past jail sentences, abuse of trust, ancillary breaches of the Code, extended fishing periods, catches akin to the present magnitude, or deception and stealth with respect to the fishing or its proceeds. Further, those offenders exhibited significant mitigating factors. McNeill was an early guilty plea, with several letters of support for the Indigenous offenders; (Stan) Steer was elderly, suffered from serious health issues, and had largely given up fishing.

[197] The Crown urges the Court to consider by analogy sentences for offences involving fraud and deception, arguing that the present offences are akin to a $1 million fraud involving active and multifarious deceit. In R. v. Earl, 2024 BCSC 971, for example, the Court imposed 6 years' imprisonment on a bookkeeper who had defrauded her employer of over $1 million. In contrast to the present case, there were significant mitigating factors, including no prior convictions; remorse; depression; past abuse; physical ailments; and several letters of support.

[198] Defence argues that the fraud-related cases proffered by the Crown are inappropriate, but that if the Court is inclined to see parallels, it should follow its own proffered fraud-related cases involving crimes in the $1 million range. Again, I agree that the significant mitigating factors and absence of repeated breaches of court orders in those cases offer little guidance for the present egregious facts:

a) R. v Pastore, 2017 ONCA 487: (15 months' imprisonment): offender pleaded guilty; and had no criminal record;

b) R. v. Cunsolo, 2012 ONSC 114: (18 months' imprisonment): not operating mind of fraudulent scheme; no record; trouble free in the seven years since offence;

c) R. v Campbell, 2005 ONCJ 286: (conditional sentence): pleaded guilty; no record; letters of support; aged 65; psychiatric conditions prompted crimes;

d) R. v Bullen, 2018 ONCJ 745: (two years' imprisonment): pleaded guilty; unrelated record; money substantially repaid;

e) R. v Kilba, 2012 ABPC 302: (30 months' imprisonment): pleaded guilty; expressed remorse; money substantially repaid; no record; not operating mind.

[199] The Crown also presented R. v. Codina, 2018 ONSC 2180, aff'd 2019 ONCA 986, leave to appeal ref'd 2023 CanLII 24532 (SCC). There, the Court imposed 7 years' imprisonment on an offender found guilty of four counts of providing advice on immigration matters without a proper licence, contrary to s. 91(1) of the Immigration and Refugee Protection Act ("IRPA"), and 4 years' imprisonment for counselling one of the four clients to make a misrepresentation on an immigration application. The latter sentence was concurrent to the s.91 offence with respect to the same client, but consecutive with respect to the counts concerning the other clients. This resulted in an aggregate sentence of 10 years, which was then reduced to 7 years for totality.

[200] While not a fisheries case, I agree that Codina provides some guidance to the present Court. Like Mr Steer, the Codina offender was an ungovernable recidivist, for whom past lesser sanctions, including shorter periods of incarceration, had had no effect: she repeatedly returned to the same unauthorised immigration practice. Her crimes were motivated by profit. They involved planned, calculated, and sustained deception, as well as breaches of trust. Like Mr Steer, she exhibited no remorse or recognition that her actions were wrong and illegal. The thrust of the words of Molloy J describing Ms Codina could apply equally to Mr Steer, wholly ungovernable and unresponsive to court orders and sentences of increasing severity:

[85] On a similar note, and to this limited extent, the need to separate Ms. Codina from society is also a factor in sentencing. Typically, this factor arises where the offender is violent and likely to harm people if not put in prison. Ms. Codina does not fall into that category. She does, however, represent a threat to the community because she is ungovernable. She is unscrupulous and preys on the unwary. Since she is neither a lawyer nor a registered immigration consultant, there is no governing body to monitor or supervise her conduct. She is entirely unrepentant, indeed, belligerently so. Unless there is a significant attitude shift, of which I see no evidence whatsoever, I believe she will likely commit similar wrongdoing in the future.

[201] Defence argues that an 18-month sentence will be a significant step up from his longest prior sentence of six months, and states that that experiment has yet to be tried, and ought to be tried rather than imposing a longer sentence.

[202] I cannot agree. An 18-month sentence in a provincial institution would fail to satisfy the paramount sentencing objectives of denunciation and deterrence. As Mr Steer has shown, it is impossible for the DFO, with its limited resources, to actively patrol every bay and fjord on the vast British Columbia coast for marine poaching: a significant sentence must be imposed to deter Mr Steer and other active or potential poachers. It is clear that past lesser sanctions, including multiple shorter periods of incarceration, over his long record of violations, have been wholly ineffective in changing Mr Steer's behaviour. He is wholly unrepentant. Rehabilitation is highly unlikely. On the contrary, his actions over the past 17 years indicate that he will almost certainly return to marine poaching as soon as he is released from prison. Only a very significant step up in incarceration has any hope of

effecting rehabilitation, denunciation, and deterrence. Only incarceration will prevent him from inflicting further harm on the scarce public resource of the fisheries.

[203] In this, our Court of Appeal has recently confirmed that while the step-up principle aims to ensure that increases in sentence for even repeat offenders remain moderate, to avoid discouraging their rehabilitation, the principle has less application where rehabilitation is unlikely, and less application where the offender's actions necessitate strong denunciation and deterrence. As stated by Madam Justice DeWitt-Van Oosten in R. v. Davidson, 2025 BCCA 111:

[48] It is within the discretion of a sentencing judge to apply increasingly stringent sentences for repeat offences. The step-up principle is meant to constrain that escalation. The principle does not direct or oblige a court to impose an increase for each repeat offence. Rather, it works to keep any increases that may be imposed moderate so as to avoid undermining the offender's rehabilitation. This principle is applied case-by-case and generally engaged where rehabilitation is a significant factor at sentencing: R. v. Kory, 2009 BCCA 146 at paras. 6-7. It is likely to have reduced or no application in cases where the "dominant sentencing factor" is public protection: R. v. Vickers, 2007 BCCA 554 at para. 16, citing R. v. Robitaille (1993), 1993 CanLII 2561 (BC CA), 31 B.C.A.C. 7 at paras. 8, 9, 1993 CanLII 2561 and other cases. Or, where the circumstances of the case call for a strong denunciatory and deterrent sanction. See, for example, R. v. D.F.B., 2006 BCCA 350, in which the step-up principle was found to have no application in a robbery case because, in part, the offender had a "lengthy record for similar offences": at para. 9.

[Emphasis added; underlining original.]

[204] Further, his previous six-month sentence highlights the need for a substantial penitentiary sentence in the present case. The sophistication and subterfuge of the current offences are vastly more aggravating than those before Judges Gouge, Harvey, Saunders, and Gunnell, or Justices Sharma, Thompson, or Edelmann, leading to shorter periods of incarceration. Those repeated custodial sentences clearly failed to deter Mr Steer. The only remaining penalty, therefore, that offers any prospect of satisfying the principles and purposes of sentencing is a lengthy penitentiary sentence. There is no other way to protect the resource, denounce such unlawful conduct, promote a sense of responsibility, and deter future offences. Mr Steer's escalating pattern of violations has deprived the Court of any other realistic or reasonable options.

[205] Not only does Mr Steer exhibit no remorse or rehabilitation, but he exhibits active contempt for the concept of lesser punishment. Amongst the many text messages surveyed at trial, was the following exchange with his long-term associate Mr Williams, mocking another illegal fisher's agreement to plead guilty and serve community service:

Mr Steer: What an idiot he has rights and orders and he agrees too [sic] a shit over board deal what an idiot

I did less with 3 months in jail lol

Mr Williams: Lmao

Mr Steer: He would of been better too [sic] do 60 days jail but on weekends lol

Sit for 48 hours and get credit for 3 days while watching tv in your own room lol

Mr Williams: Yeah he's scared to do that cause he knows he snitched on me and you and he knows we know lots of people and he knows what happens to snitches

And he watches a lot of gangster movies lmao

Mr Steer: It would be at the lake and weekend jail is by yourself in your own private room lol

Plus u get too [sic] get canteen too lol

[206] In short, lesser punishments are literally a joke to Mr Steer.

3. Concurrent or consecutive

[207] As set out above, the fundamental principle of sentencing is to impose a proportionate sentence. Judges may impose consecutive sentences so long as they ensure that the aggregate sentence is proportionate, with regard to the totality principle: R. v. Lee, 2018 BCCA 428 at para. 17; Code, s. 718.2(c).

[208] The test for the imposition of a consecutive or concurrent sentence is "whether the acts constituting the offence were part of a linked series of acts within a single endeavour": R. v. Borecky, 2013 BCCA 163 at para. 19; R. v. Lee at para. 18. In applying this test, courts look to a variety of factors, including whether the offences occurred at different times, the degree to which the offences are related, and whether the offences violated different legally protected interests.

[209] As stated by our Court of Appeal in Lee:

[17] In Mann, this Court also affirmed that, as stated in Borecky, the decision to order concurrent or consecutive sentences is a discretionary exercise that must be treated with the same appellate deference owed to sentencing judges concerning the length of the sentence imposed. In upholding consecutive sentences imposed for drug and firearms offences closely linked in time and place in Mann, Justice Fitch further affirmed that, in such circumstances, judges may impose consecutive sentences so long as they ensure that the aggregate sentence is proportionate by having regard to the totality principle.

[18] In my view, Mann is dispositive of this ground of appeal. As this Court held in Li, the test for the imposition of a consecutive or concurrent sentence is "whether the acts constituting the offence were part of a linked series of acts within a single endeavour". That test does not, however, compel the imposition of concurrent sentences where there is similar or overlapping evidence relating to both charges or a close link in time and place between them. Nor does consideration of whether the offences engage different legally protected

interests amount to a legal error. On the contrary, in Mann, the offender pleaded guilty to drug-related offences and to possession of a loaded handgun found in close proximity to the drugs in his residence. The sentencing judge in Mann imposed a global sentence of seven years' imprisonment comprised of consecutive sentences for the drug and firearms offences. Applying R. v. Crevier, 2015 ONCA 619 (Ont. C.A.), the sentencing judge concluded that a consecutive sentence should be imposed for the firearms offence because, although committed at the same time, the gun and drug offences engaged different legally protected interests. On appeal in Mann, this Court saw no error in principle in the sentencing judge's analysis.

[210] Courts have held that, generally, sentences for breaching court orders should run consecutively to sentences for other offences, as breaches of court orders engage different legally protected interests: R. v. Ball, 2014 BCCA 120 at para. 24-25. This principle has been applied even where the offences relate to the same underlying act, such as the possession of a single firearm. In R. v. Chambers, 2013 ONCA 680 at para 22, for example, the offender breached two prior prohibition orders by possessing a single gun, the Court approved the sentence on each breach running consecutively to each other and consecutively to the charge of possession simpliciter of the gun. The Court noted that while the social purpose of the prohibition orders was identical - banning firearms from the appellant - the breaches nonetheless constituted separate offences, referable to prohibition orders imposed at different times, in different circumstances.

[211] I agree that despite some overlap in the offences (some fishing equipment was likely used for some of the illegal fishing on the prohibited vessels), the circumstances of this case and this offender strongly support the imposition of consecutive sentences on the various counts on which Mr Steer has been found guilty. Each offence covered a different time period. Each involved offences committed in different locations. Each offence involved the invasion of a different legally protected interest. Moreover, Mr Steer was breaching multiple prohibition orders, engaging the reasoning in Chambers. All the circumstances therefore support consecutive sentences on Counts 5, 7, and 8

[212] Similarly, the unlicensed fishing offences captured by Count 1 involved at least four expeditions that took place at different times. Only one of those expeditions (the one involving Mr Morales) was established to have taken place in a closed area. Accordingly, the offence in Count 2 is not coincident with the offences encompassed by Count 1 in time or place. Moreover, fishing in a closed area invades a different legally protected interest than fishing without a licence, due to the enhanced conservation concerns it raises, as discussed under the harm / damage considerations under Terroco.

[213] Finally, Count 4 (unlawful sales), encompasses large volumes of fish caught with a licence, not in closed areas. It covers offences not covered by the other counts. It concerns cucumbers caught in separate locations and on separate days from the fish that was the subject matter of Counts 1 and 2. The fish caught by the crew that included Mr Morales was not sold to Wen Lian: it was landed after the last 2019 Wen Lian delivery. Moreover, the fish

caught under licences in which Mr Steer was prohibited from having an interest engaged different legally protected interests and different conservation concerns than the poached fish captured by Counts 1 and 2. The fish caught with licences was also tainted by a unique wrong: the falsification of validation records and fish slips. A separate sentence on Count 4 is therefore appropriate.

[214] In any case, concurrent sentences resulting in a modest term of imprisonment, as encouraged by defence, would wholly fail to denounce and deter Mr Steer's apparently incorrigible long-term and ongoing illegal fishing, and, equally important, flouting of court orders. Even after considering the restraint principle, consecutive sentences along the lines suggested by Crown are both proportionate and necessary to address the uniquely egregious culpability of this offender and these offences. His actions and offences before and after the present counts show the need for specific deterrence and denunciation, as well as protection of the public and its interests in the fisheries and environment, through a significant period of incarceration.

4. The totality principle

[215] R. v. Li, 2009 BCCA 85, recently endorsed in R. v. Moazami, 2025 BCCA 190 at para 52, summarises the totality principle:

[27] The principle of totality also factors into the imposition of an appropriate aggregate sentence for multiple offences. In M.(C.A.), Lamer C.J.C. described the principle:

[42] In the context of consecutive sentences, this general principle of proportionality expresses itself through the more particular form of the "totality principle". The totality principle, in short, requires a sentencing judge who orders an offender to serve consecutive sentences for multiple offences to ensure that the cumulative sentence rendered does not exceed the overall culpability of the offender. As D.A. Thomas describes the principle in Principles of Sentencing (2nd ed. 1979) at p. 56:

The effect of the totality principle is to require a sentencer who has passed a series of sentences, each properly calculated in relation to the offence for which it is imposed and each properly made consecutive in accordance with the principles governing consecutive sentences, to review the aggregate sentence and consider whether the aggregate sentence is "just and appropriate".

[28] Thus, there is a two-stage approach to sentencing an offender convicted of multiple offences. The first stage is to determine the appropriate sentence for each offence, and decide whether the individual sentences should be made consecutive or concurrent. If consecutive sentences are imposed, then the second stage is to determine whether the sentences, in the aggregate, offend the totality principle. If the sentence, as a whole, is unduly harsh or disproportionate, then the length of the individual sentences should be adjusted in order to arrive at an appropriate global sentence...

[Emphasis added.]

[216] I am satisfied that the Crown's proposed reduction of the consecutive sentences by 4.5 years, from which I will deduct a further year, from the aggregate sentence length of 11.5 years, achieves the totality principle and renders a sentence commensurate to Mr Steer's culpability: one that is proportionate, just, and appropriate. This discount reflects both the cumulative incarceration time based on the six offences, as well as the significant monetary penalties imposed on Mr Steer and his alter ego corporation, discussed above. Those fines in turn have been discounted to reflect the length of Mr Steer's incarceration.

5. Conclusion

[217] Mr Steer considers himself unbound by laws. His deliberate deception and illegal fishing shows contempt for the fragile and finite marine resources and ecosystems. He shows contempt for the fishermen who follow the rules. He shows contempt for the laws of Parliament and the orders of the Court. He shows contempt for the efforts of past courts to steer him towards an honest path through less severe sanctions that rely on his honesty and compliance. The only way to stop Mr Steer from ravaging the ocean and flouting the law and court orders is to move him far from the sea for a long period of time. A significant period of incarceration is not only proportionate and just, but necessary.

[218] Mr Steer, please stand.

[219] In view of all of the circumstances of this case, including the considerable aggravating circumstances, the paucity of mitigating circumstances, and the totality of your sentence, the Court sentences you to a global sentence of six years, with the time for each count set out above in the Crown's proposal, as reduced, each served consecutively.[9]

[220] You may be seated.

[221] The Court thanks Messrs Cramer, McFadgen, and Westell for their excellent and responsible submissions and representation of their clients at this sentencing hearing.

"Crerar J."

[1] Paragraph numbering as per Schedule: Oral Summary of Conclusions.

[2] Victoria Court File No. 160980 (Aug 4, 2015 - initial trial decision), (Oct 8, 2015 - sentencing decision), (Aug 25, 2017 - decision on retrial) (unreported).

[3] While the case concerns firearms prohibitions, its principle still applies to the present case of repeated deliberate breaches of court orders. These comments of Juriansz JA at paras. 20-21 (dissenting but not on this point) were approved in the majority decision at para. 48

[4] The Court in R. v. Codina, infra, dismissed similar arguments with respect to the offender's aged mother for whom she served as caregiver: paras. 112-113.

[5] Nothing in this paragraph or in these reasons is meant to be a criticism of Mr Westell, who was not counsel at the time, but was only retained late in the process for the purpose of sentencing. Nor is it intended to be a criticism of the Steers' counsel at the time. Throughout the prosecution of this matter, there has been ample evidence to confirm that the Steers themselves are to blame for delay, at times deliberate and calculated.

[6] Upheld twice on appeal: 2009 NSSC 95 at paras. 157- 172; and 2009 NSCA 112 at paras. 53-67

[7] Para 4: " The octopus caught was stored and, ultimately, the accused approached a potential buyer and concluded a sale of about 6,000 pounds for $10,892 . Para 19: "The appeal is allowed. The conditional discharge is set aside, the forfeiture order made by the trial judge will stand, a fine of $500 is imposed under s. 78, and an additional fine of $10,892 is imposed under s. 79."

[8] Remarkably, both cases involve individuals connected to this case. Mr McNeill is the captain of the Zomby Wolf: he testified at trial that Mr Steer hired him to fish for sea cucumbers. Stan Steer is Mr Steer's father.

[9] After the post-totality reduction, attributed as follows: Court 5 (14 months); Court 7 (14 months); Court 8 (2 months); Court 1 (14 months); Court 2 (6 months); Court 4 (22 months).

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