



Real Estate Council of Ontario

**IN THE MATTER OF A DISCIPLINE HEARING HELD PURSUANT TO THE
*REAL ESTATE AND BUSINESS BROKERS ACT, 2002, S.O. 2002, c. 30, Sch. C***

BETWEEN:

REAL ESTATE COUNCIL OF ONTARIO

- AND -

MICHELE ANDREA DENNISTON

DISCIPLINE DECISION AND REASONS FOR DECISION

Subject to Rule 4.02 of the Discipline and Appeals Committee Rules of Practice (*REBBA 2002*), I, the Chair of the Discipline Committee (*REBBA 2002*) have reviewed and considered the Agreed Statement of Facts and Penalty together with the Waiver of Hearing submitted by the Parties to this proceeding and provide the following Order:

FINDINGS: In violation of Sections 26(1) with reference to sections 2(1), 3 and 38 of the *REBBA 2002* Code of Ethics.

ORDER: Fine of \$6,000.00 payable to RECO on or before October 26, 2017.

WRITTEN REASONS:

REASONS FOR DECISION

INTRODUCTION

This matter proceeded on the basis of an Agreed Statement of Facts and Penalty and Waiver of Hearing, pursuant to Rule 4.02 of the Rules of Practice (*REBBA 2002*).

The Agreed Statement of Facts and Penalty read:

AGREED STATEMENT OF FACTS AND PENALTY

1. Michele Denniston ("Denniston") is a member of the Real Estate Council of Ontario ("RECO") and is registered as a broker under the Act. At all material times, Denniston was employed by Brokerage A, a brokerage registered under the Act.
2. On or about February 5, 2016, the Registrar received a complaint from Registrant A concerning the sale of a property municipally known as 1-A Street, City A (the "Property").

3. Registrant A is a member of RECO, and is registered under the Act and employed by Brokerage B, a brokerage registered under the Act.

Listing Agreement - MLS®

4. On or about January 22, 2016, Seller A and Seller B (the "Sellers") entered into a Listing Agreement with Brokerage A, with Denniston acting as their representative, for the sale of the Property. Subsequently, the Property was listed on the Multiple Listing Service ("MLS®").
5. The Listing Agreement provided, *inter alia*, as follows:
 - a. List Price: \$799,900.00;
 - b. Commencement Date: January 27, 2016; and
 - c. Expiry Date: May 15, 2016.
6. The MLS® information provided, *inter alia*, as follows:
 - a. Offer Presentation on January 30, 2016 at 5:00 p.m.;
 - b. Offers to be submitted by 3:00 p.m. on January 30, 2016; and
 - c. Collateral Agreement in Effect.

Offer Presentation

7. As per the MLS® Listing, Registrant A registered an offer on the property before the 3:00 p.m. deadline. At the time of registration for the said offer, Registrant A states that he was advised that four (4) additional offers were already registered. Registrant A was also informed that Denniston had her own offer.
8. Registrant A states that he proceeded to the property for the 5:00 p.m. presentation time, as noted in the MLS® Listing. Registrant A further states that a number of agents, more than four (4) offers that he was advised of, came to the offer presentation.
9. A total of eight (8) offers, including Denniston's, were registered on the Property.
10. Registrant A states that he was unaware of a Collateral Agreement of a 1% Commission reduction off of the final selling price. Denniston states that the Collateral Agreement was referenced in the brokerage comments on the MLS® Listing.
11. The MLS® Listing read as follows: "Collateral Agreement in effect". There is no mention of a 1% Commission reduction, or any other percentage reduction.

It is agreed that Denniston did not meet the standards of professionalism promoted by RECO when:

- A. By failing to inform all of the representatives that had submitted offers on the property, of the total number of offers submitted on the Property, Denniston caused Brokerage A to breach section 26(1) of the Code of Ethics, thereby breaching section 2(1) of the Code of Ethics.

- B. Denniston breached Section 3 of the Code of Ethics by failing to inform Registrant A of the total number of offers submitted on the Property. Her actions led Registrant A and his clients to feel unfairly treated by Denniston.
- C. Denniston failed to use her best efforts to prevent an error, by failing to disclose that her collateral agreement was a 1% reduction, thereby breaching section 38 of the Code of Ethics.

AGREED PENALTY

MICHELE ANDREA DENNISTON, the Respondent, be ordered to pay a penalty of \$6,000.00 on or before on or before October 26, 2017.

By initials below, I, MICHELE ANDREA DENNISTON, acknowledge that I have read and understand the penalty outlined herein and agree to the said terms and/or conditions.

[Respondent's Initials]

By initials below, I, MICHELE ANDREA DENNISTON, agree, understand, acknowledge and consent to waive the requirement for a hearing and to request an Order from the Chair of the Discipline Committee that includes this Agreed Statement of Facts and Penalty as a final settlement of this matter.

[Respondent's Initials]

By initials below, I, MICHELE ANDREA DENNISTON, acknowledge that I exercised my right to be represented by Counsel or agent in this matter.

[Respondent's Initials]

By signature below, the Parties agree, acknowledge, understand and consent to the final settlement of this matter by way of this Agreed Statement of Facts and Penalty.

[The Agreed Statement was duly signed by the Parties.]

DECISION OF THE CHAIR

Having reviewed and considered the Agreed Statement of Facts, the Chair of the Discipline Committee (*REBBA 2002*) concluded that the Respondent breached Sections 26(1) with reference to sections 2(1), 3 and 38 of the *REBBA 2002* Code of Ethics. The Chair of the Discipline Committee (*REBBA 2002*) is also in agreement with the joint submission of the Parties as to penalty and accordingly makes the following order:

1. MICHELE ANDREA DENNISTON is Ordered a Fine of \$6,000.00 payable to RECO on or before October 26, 2017.

[Released: October 2, 2017]