



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 -

MARY-JO PITFIELD

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 2, 3, 17, 38 and 39 of the *REBBA 2002* Code of Ethics.

ORDER: Fine of \$10,000.00 payable to RECO on or before June 28, 2019.

Successful completion of the Real Estate Institute of Canada (REIC) "REIC 2600: Ethics and Business Practice" course and provide RECO with confirmation of successful completion on or before April 26, 2019.

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. Mary Jo Pitfield (“Ms. Pitfield”) and Ward Pitfield (“Mr. Pitfield”, collectively the “Pitfields”) are registered as salespersons to trade in real estate under the Act, and at all material times were employed by Brokerage A, a brokerage also registered under the Act.
2. The Complainant is registered as a salesperson to trade in real estate under the Act, employed by Brokerage B, a brokerage also registered under the Act.
3. On or about April 2, 2016, Seller A and Seller B (“Sellers”) entered into a listing agreement through the Pitfields, and with Brokerage A, (“Listing Agreement”) to list for sale the residential property located at 1-A Street, City A (“Property”). Ms. Pitfield signed the Listing Agreement on behalf of Brokerage A.
4. The Property was subsequently listed for sale on the multiple listing service, identifying both Pitfields as salespersons acting on behalf of Brokerage A. The listing stated that offers were to be considered no earlier than April 11, 2016.
5. On April 11, 2016, Ms. Pitfield advised the Complainant that there were three offers on the Property. At approximately 4:30 p.m., the Complainant attended the offer presentation taking place at the Property with his clients, Buyer A and Buyer B (“Buyers”), and an offer was presented for the Buyers to purchase the Property.
6. The Complainant and the Buyers proceeded to wait outside.
7. At approximately 5:00 p.m., Ms. Pitfield came out to the Complainant and informed him that one of the offers had been sent home and the Buyers’ offer was so close to the remaining offer for the Property that the Sellers were unable to decide between them. After consulting with the Buyers, it was decided that an improved offer would be submitted (“Improved Offer”). The Improved Offer was then hand delivered to the Pitfields.
8. Mr. Pitfield later called the Complainant to advise that the offers were still too close, and so the Buyers again improved their offer. After some further back and forth, however, the Complainant was informed by Mr. Pitfield that the Sellers had decided to accept another, competing offer.
9. On or about April 13, 2016, the Complainant learned that the Property had sold for less than the last offer they had made, and that Brokerage A had represented both the Sellers and successful buyers. When the Complainant inquired with Mr. Pitfield about this, Mr. Pitfield immediately apologized. The Pitfields acknowledge that neither of them

disclosed to the Complainant in writing the fact that Brokerage A was in a multiple-representation situation, the successful buyers being represented by other salespersons also employed by Brokerage A, or that Brokerage A had entered into a collateral commission agreement, reducing the commission these co-operating salespersons were entitled to, thereby making their client's offer more favourable than the last offer made by the Buyers.

SUMMARY OF AGREEMENTS

It is agreed the Pitfields failed to comply with O. Reg 580/05: Code of Ethics ("Code") when they:

- A. Failed to disclose to the Complainant in writing, at the earliest practicable opportunity, and before any offer was made for the Property, that Brokerage A was representing both the Sellers and one of the buyers making an offer to purchase the Property, contrary to sections 3, 17, 38, and 39 of the Code.
- B. Failed to disclose the existence of and details of the Collateral Commission Agreement to the Complainant, contrary to section 2 of the Code as it pertains to section 25(1) of the Code, as well as sections 3, 38, and 39 of the Code.

AGREED PENALTY

MARY-JO PITFIELD, the Respondent, be ordered to pay a penalty of \$10,000.00 on or before June 28, 2019.

WARD PITFIELD, the Respondent, be ordered to pay a penalty of \$10,000.00 on or before June 28, 2019.

In addition to the above penalty, the **PITFIELDS** must enrol in the "Ethics and Business Practice Course" provided by the Real Estate Institute of Canada (REIC), and provide proof of successful completion of the course on or before April 26, 2019.

By initials below, I, **MARY-JO PITFIELD**, 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, **WARD PITFIELD**, 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, **MARY-JO PITFIELD**, 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, **WARD PITFIELD**, 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, **MARY-JO PITFIELD**, acknowledge that I exercised my right to be represented by Counsel in this matter.

[Respondent's Initials]

By initials below, I, **WARD PITFIELD**, acknowledge that I exercised my right to be represented by Counsel 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 Respondents breached Sections 2, 3, 17, 38 and 39 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. MARY-JO PITFIELD is Ordered a Fine of \$10,000.00 payable to RECO on or before June 28, 2019.
2. MARY-JO PITFIELD is Ordered to successfully complete the Real Estate Institute of Canada (REIC) "REIC 2600: Ethics and Business Practice" course and provide RECO with confirmation of successful completion on or before April 26, 2019.

3. WARD PITFIELD is Ordered a Fine of \$10,000.00 payable to RECO on or before June 28, 2019.

4. WARD PITFIELD is Ordered to successfully complete the Real Estate Institute of Canada (REIC) "REIC 2600: Ethics and Business Practice" course and provide RECO with confirmation of successful completion on or before April 26, 2019.

[Released: November 14, 2018]