



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 -

RAYMOND FOSTER

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 4, 5, 37(1) and 38 of the *REBBA 2002* Code of Ethics.

ORDER: 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 March 11, 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. Foster is a salesperson registered with Brokerage A, a brokerage registered under the Act.

2. During the relevant period, Brokerage A had a listing agreement for a property located at 1-A Street, City A ("Property"). Foster acted on behalf of Brokerage A in representing the sellers, Seller A and Seller B ("Sellers").
3. Representative A is a salesperson registered with Brokerage B, a brokerage registered under the Act, and represented the buyers, Buyer A and Buyer B ("Buyers") in their purchase of the Property.
4. The Property was advertised on the Multiple Listing Service® ("MLS") for sale. Among other information contained in the listing, was the notation "Taxes: \$3,440.60/2016."
5. The Agreement of Purchase and Sale was dated April 2, 2017, wherein the parties agreed to a sale price of \$745,000.00 with a deposit of \$30,000.00. The completion date for the transaction was June 30, 2017.
6. Shortly before the completion date, the Buyers discovered through their lawyer, that the actual property taxes for 2016 were \$4,620.81. Further the property taxes for 2017 were \$4,821.49.
7. Foster advised that the Sellers verbally advised him of the 2016 property tax amount.

Raymond Foster:

1. Foster failed to protect the best interests of his clients, the Sellers, when he failed to verify the property tax information conveyed in the advertisement on MLS. Further, Foster failed to provide conscientious and competent service by failing to verify all information to be included in the MLS advertisement before it appeared online. By failing to verify information contained in an advertisement, Foster did not independently verify information concerning the trade in real estate. Foster had a duty, as a registrant, to use his best efforts to prevent error, misrepresentation, fraud or any other unethical practice in respect of a trade in real estate. This conduct, when taken together, is a violation of Sections 4, 5, 37(1) and 38 of the Code.

Representative A:

2. Representative A failed to protect his best interests of his clients, the Buyers, when he failed to verify the property tax amount which appeared in the MLS. Such information is easily available and as the Buyers representative, he should have known that this information was important to the Buyers. Further, Representative A failed in his duty to

provide conscientious and competent service to his clients, the Buyers, when he allowed them to rely on unverified information in making their decisions related to this transaction. Taken together, this conduct is in violation of Sections 4 and 5 of the Code.

Brokers and salespersons

Best interests

4. A registrant shall promote and protect the best interests of the registrant's clients.

Conscientious and competent service, etc.

5. A registrant shall provide conscientious service to the registrant's clients and customers and shall demonstrate reasonable knowledge, skill, judgment and competence in providing those services.

Inaccurate representations

37. (1) A registrant shall not knowingly make an inaccurate representation in respect of a trade in real estate.

Error, misrepresentation, fraud, etc.

38. A registrant shall use the registrant's best efforts to prevent error, misrepresentation, fraud or any unethical practice in respect of a trade in real estate.

AGREED PENALTY

RAYMOND FOSTER, the Respondent and **REPRESENTATIVE A**, the Respondent, be ordered to each completed 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 March 11, 2019.

By initials below, we, **RAYMOND FOSTER** and **REPRESENTATIVE A**, acknowledge that we have read and understand the penalty outlined herein and agree to the said terms and/or conditions.

[Respondent's Initials]

By initials below, we, **RAYMOND FOSTER** and **REPRESENTATIVE A**, 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, we, **RAYMOND FOSTER** and **REPRESENTATIVE A**, acknowledge that we exercised our 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

RAYMOND FOSTER

Having reviewed and considered the Agreed Statement of Facts, the Chair of the Discipline Committee (*REBBA 2002*) concluded that the Respondent breached Sections 4, 5, 37(1) 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. RAYMOND FOSTER 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 March 11, 2019.

[Released: February 7, 2019]