



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 -

BETHANY SPRING BOWYER

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 3, 5, 6(1) and 38 of the *REBBA 2002* Code of Ethics.

ORDER: Fine of \$7,000.00 payable to RECO on or before August 8, 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. Representative A is and was at all relevant times registered under the Act as a Broker, employed by the Brokerage A.

2. Bethany Spring Bowyer (“Bowyer”) is and was at all relevant times registered under the Act as a Salesperson, employed by the Brokerage, Brokerage B.
3. On or about September 7, 2015, Bowyer was hired to list a residential property located at 1-A Street, City A (the “Property”) for sale on behalf of her client City A Building and Investments Ltd. (“City A Investments”). The Property was a rebuilt custom home.
4. On or about September 27th, 2015, Bowyer was contacted by Representative A. Representative A informed that her clients were interested in making an offer to purchase the Property.
5. The provisions of the Agreement of Purchase and Sale (“APS”) were, *inter alia*, as follows:
 - a. Purchase price: \$355,000.00
 - b. Completion Date: December 14, 2015
 - c. Conditional on:
 - i. Financing
 - ii. Home Inspection
 - iii. Insurance
 - iv. Sales of buyers’ property
 - d. Clauses regarding sewage system, all chattels and fixtures and all equipment (including electrical) “shall be in good working order”. Warranty will “survive and not merge on completion of this transaction”.
6. All conditions were waived and/or removed by the deadline on October 23, 2015 by 8:00 p.m.
7. At the time the APS was presented, Representative A was advised by Bowyer that the Property did not have a warranty with Tarion, however, Bowyer advised that the Tarion warranty was an “add-on” and that it was optional to the buyers if they wanted to purchase it. Bowyer and/or Representative A failed and/or neglected to advise that Tarion is mandatory for all new homes.
8. At the time of the offer, Bowyer also represented that the property had passed all required inspections for occupancy. This was incorrect.

SUMMARY OF AGREEMENTS

It is agreed

Bowyer advised that Tarion was only optional and permitted the a newly built Property to be listed and sold without Tarion warranty coverage, thereby breaching sections 3, 5, 6 (1) and 38 of the Code of Ethics.

AGREED PENALTY

BETHANY SPRING BOWYER, the Respondent, be ordered to pay a penalty of \$7,000.00 on or before August 8, 2019.

By initials below, I, BETHANY SPRING BOWYER, 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, BETHANY SPRING BOWYER, 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, BETHANY SPRING BOWYER, acknowledge that I was aware of 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 3, 5, 6(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. BETHANY SPRING BOWYER is Ordered a Fine of \$7,000.00 payable to RECO on or before August 8, 2019.

[Released: February 14, 2019]