



**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 -

DONNA MARIE ROBERTSON

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, 4, 5, 25 (ref.s.2), 26 (ref.s.2), 37, 38 and 39 of the REBBA 2002 Code of Ethics.

ORDER: Fine of \$10,000.00 payable to RECO on or before August 29, 2019.

WRITTEN REASONS: *attached*

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

It is agreed as follows:

1. Donna Marie Robertson (“Robertson”) is and was at all relevant times registered under the Act as a Salesperson, employed by the Brokerage A.
2. Representative A is and was at all relevant times registered under the Act as a Salesperson, employed by the Brokerage B.
3. Representative B is and was at all relevant times registered under the Act as a Salesperson, employed by the Brokerage C.
4. On or about January 28, 2017, Robertson entered into a listing agreement with her Seller Clients to sell their property located at 1-A Street, City A (the “Property”).
5. The Property was listed for sale on MLS® on or about February 3, 2017.
6. On or about February 6, 2017, Robertson received a conditional offer on the Property from Representative A on behalf of his buyers. The offer, *inter alia*, included the following:
 - a. Purchase Price: \$185,000.99; and
 - b. Conditions on insurance and financing.
7. On or about February 8, 2017, Robertson received a second offer on the Property from Representative B on behalf of her client, Individual A, who is the complainant in this matter. The offer, *inter alia*, included the following:
 - a. Purchase Price: \$175,000.00; and,
 - b. Conditions on financing, insurance and well inspection.
8. Representative A and Representative B were both advised that there were multiple offers on the Property.
9. On or about February 8, 2017, Robertson received a firm offer on the Property from her own buyer client, Buyer A, for \$215,000.00.

SUMMARY OF AGREEMENTS

It is agreed

10. On or about February 8, 2017, Robertson's seller client accepted Robertson's buyer client's offer. At no time did Robertson advise Representative B or Representative A that she had her own buyer client, thereby breaching sections 3, 4, 5, 26 (ref. s.2), 37, 38 and 39 of the Code of Ethics.
11. Robertson entered into a collateral agreement with her Seller Clients on or about January 26, 2017. The terms of the collateral agreement states: "It is understood and agreed that if the Listing Sales Representative(s), Donna Robertson, sells the Property himself/herself, then the commission shall be reduced to 3% of the sale price..."
12. At no material time did Robertson disclose the existence of her Collateral Agreement with her Seller Client to Representative B and/or Representative A, thereby breaching sections 3, 4, 5, 25 (ref. s. 2), 37, 38 and 39 of the Code of Ethics.

AGREED PENALTY

DONNA MARIE ROBERTSON, the Respondent, be ordered to pay a penalty of \$10,000.00 on or before August 20, 2019.

By initials below, I, DONNA MARIE ROBERTSON, 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, DONNA MARIE ROBERTSON, 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, DONNA MARIE ROBERTSON, 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 3, 4, 5, 25 (ref.s.2), 26 (ref.s.2.), 37, 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. DONNA MARIE ROBERTSON is Ordered a Fine of \$10,000.00 payable to RECO on or before August 29, 2019.

[Released: March 29, 2019]