



Real Estate Council of Ontario

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**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 -**

**SARAH LOUISE TOTH**

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**DISCIPLINE DECISION AND REASONS FOR DECISION**

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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:

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**FINDINGS:** In violation of Sections 3, 4 and 39 of the *REBBA 2002* Code of Ethics.

**ORDER:** Fine of \$5,000.00 payable to RECO on or before October 31, 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**

**It is agreed as follows:**

1. Representative A and Toth are both employed by Brokerage A.

2. On October 5, 2017, Seller A and Seller B (the “Sellers”) entered into a listing agreement with Brokerage A to list their property located at 1-A Street, City A (the “Property”), for sale.
3. The Property was advertised on the MLS system with an asking price of \$1,599,000.00. In the brokerage remarks section, the following notation was included: “*Offers at property on Oct 30 – 7pm. Register by 5.*”
4. Buyer A (the “Complainant”), a consumer, saw the property on Wednesday October 25 at approximately 2 p.m. They were accompanied by Toth, who advised them that offers were due on October 30. She further advised that a bully offer had been received on October 23 but had been rejected by the sellers.
5. The Complainant and Toth communicated via emails starting at 3:47 p.m. on October 25. At 6:09 p.m. on October 25, the Complainant asked what time would offers be presented on October 30. On October 25 at 7:05 p.m., Toth replied that offers would be presented at 7:00 p.m. on October 30.
6. The Sellers accepted an offer for the Property at 9:55 p.m. on October 25. The sale price was \$1,950,000.00.
7. The following day, October 26, the Complainant drove past the Property and saw a “Sold” sign. The Complainant was not told that an offer had come in or that the offer time/day had changed.
8. Upon investigation by RECO staff, it was determined that 24 registrants had visited the Property. It appears that all or most of those registrants received notification that an offer had been registered on the Property. However, none of those registrants had received any sort of notification that the day and time for the offer presentation had changed.

#### SUMMARY OF AGREEMENTS

It is agreed that Toth failed to comply with the Code of Ethics as follows:

1. Failed in her duty to treat everyone in respect of a trade in real estate fairly, honestly and with integrity when she failed to notify all interested parties that the time and date for offer presentations had been changed. She further failed in this duty when she failed to update the MLS advertisement to show the change in offer day and time. This conduct is in violation of Sections 3 and 39 of the Code of Ethics.

2. Failed in her duty to promote the best interests of her clients, the Sellers, when she failed to update the MLS and interested parties in relation to the new offer date and time. This failure caused her clients to only receive one offer for their Property, when there was the potential to receive multiple offers. This conduct is in violation of Section 4 of the Code of Ethics.

It is agreed that Toth failed to comply with the following sections of the Code of Ethics:

Fairness, honesty, etc.

3. A registrant shall treat every person the registrant deals with in the course of a trade in real estate fairly, honestly and with integrity. O. Reg. 580/05, s. 3.

Best interests

4. A registrant shall promote and protect the best interests of the registrant's clients. O. Reg. 580/05, s. 4.

Unprofessional conduct, etc.

39. A registrant shall not, in the course of trading in real estate, engage in any act or omission that, having regard to all of the circumstances, would reasonably be regarded as disgraceful, dishonourable, unprofessional or unbecoming a registrant.

#### AGREED PENALTY

SARAH LOUISE TOTH, the Respondent, be ordered to pay a penalty of \$5,000.00 on or before October 31, 2019.

By initials below, I, SARAH LOUISE TOTH, 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, SARAH LOUISE TOTH, 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, SARAH LOUISE TOTH, 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, 4 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. SARAH LOUISE TOTH is Ordered a Fine of \$5,000.00 payable to RECO on or before October 31, 2019.

*[Released: June 21, 2019]*