



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 -

WILLIAM R. SHACKLETON (a.k.a. BILL SHACKLETON)

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(1), with reference to section 26 (1), 3, 17, 38 and 39 of the *REBBA 2002* Code of Ethics.

ORDER: Fine of \$7,500.00 payable to RECO on or before September 8, 2020.

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. William R. Shackleton, also known as Bill Shackleton (“Shackleton”) is registered as a salesperson under the Real Estate and Business Brokers Act, 2002.
2. At all material times, Shackleton was employed at Brokerage A.

3. At all material times, Representative A was employed at Brokerage A.
4. Buyer A (“Complainant”) was one of the unsuccessful potential buyers that competed to buy a residential property located at the municipal address of 1-A Street, City A (the “Property”), with Representative A acting as the buyer representative from Brokerage A.
5. Seller A, Seller B, Seller C, Seller D and Seller E (the “Sellers”) were the owners and Sellers of the Property.
6. On or about January 26, 2018, the Sellers entered into a Listing Agreement (“MLS Listing”) with Brokerage A, through Shackleton to list the Property for sale on the Multiple Listing Service® (the “MLS®”) with an asking price of \$549,000.00.
7. On or about January 31, 2018, the Property was listed on the MLS. The MLS Listing received significant buyer interest. Between the dates of January 31, 2018, and February 4, 2018, seven offers were received by the Sellers.
8. Shackleton, initially, did not disclose to all competing buyer representatives that submitted offers on behalf of their clients, that seven competing offers existed, and that all seven would be presented to the Sellers of the Property, on or about February 4, 2018.
9. On or about February 4, 2018, after presenting the seven competing offers to the Sellers, Shackleton gave all competing representatives an opportunity to improve their offers.
10. A chart below illustrates all offers received with particulars and their action taken when provided an opportunity to resubmit an improved offer.

Offer Date	Buyer	Representative/Brokerage	Resubmitted Offer
February 2, 2018	Buyer C and Buyer D	Representative B / Brokerage B	Decline to resubmit
February 2, 2018	Buyer E	Representative C / Brokerage C	Resubmitted
February 3, 2018	Buyer F	Representative D / Brokerage D	Decline to resubmit
February	Buyer G and	Representative E /	Decline to

3, 2018	Buyer H	Brokerage E	resubmit
February 3, 2018	Buyer I and Buyer J	Representative F / Brokerage A	
February 4, 2018	Buyer A and Buyer B	Representative A / Brokerage A	Decline to resubmit
February 4, 2018	Buyer K and Buyer L	Representative G / Brokerage A	

11. Shackleton failed to inform all competing representatives that three of the seven offers received, and being presented to the Sellers on or about February 4, 2018, were from Brokerage A.
12. On or about February 4, 2018, the Agreement of Purchase and Sale (the “APS”) of the accepted offer was executed with Brokerage A representing the successful buyer and with Representative G acting as the brokerage representative for Brokerage A. Representative G also a co-listing representative of the Property, for Brokerage A.
13. The APS’s completion date was scheduled for June 26, 2019.
14. Shackleton failed to inform all the competing brokerage representatives that Brokerage A was in a dual agency position as Brokerage A’s co-listing representative was competing with her own buyer client.
15. The Complainant filed a complaint with RECO on or about February 16, 2018.

SUMMARY OF AGREEMENTS

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

16. Failed to disclose the existence of three offers received before a presentation date, where Brokerage A represented the potential buyer and the Sellers, to all competing representatives, contrary to section 2(1), with reference to section 26(1) of the Code of Ethics.
17. Failed to treat every person dealt with in the course of a trade in real estate fairly, honestly and with integrity, when he failed to inform all competing representatives that seven competing offers were being presented to the Sellers, on or about February 4,

2018, and that three of the offers were from Brokerage A, being his own brokerage, contrary to section 3 of the Code of Ethics.

18. Purposefully suppressed, during the offer process, the fact that Brokerage A represented both the Sellers and prospective buyers, in three competing offers. Shackleton failed to inform all competing representatives of the dual agency position of Brokerage A, in writing, and before any offer or improved offer was requested or made, contrary to section 17 of the Code.
19. Failed to use his best efforts to prevent error, misrepresentation, fraud or any unethical practice in respect of a trade in real estate when he failed to disclose the existence of all seven offers of which three were from Brokerage A, contrary to 38 of the Code of Ethics
20. Engaged in an act or omission that, having regard to all of the circumstances, would reasonably be regarded as disgraceful, dishonourable, unprofessional or unbecoming when he failed to inform of the existence of seven competing offers, to all competing representatives, and before the sale representatives were asked to submit improved offers, contrary to section 39 of the Code of Ethics.

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

Brokers and salespersons

2. (1) A broker or salesperson shall not do or omit to do anything that causes the brokerage that employee, the broker or salesperson to contravene this Regulation.

Fairness, honesty, etc.

3. A registrant shall treat every person the registrant deals within the course of a trade in real estate fairly, honestly and with integrity.

Nature of relationship

17. If a registrant represents or provides services to more than one buyer or seller in respect of the same trade in real estate, the registrant shall, in writing, at the earliest practicable

opportunity and before any offer is made, inform all buyers and sellers involved in that trade of the nature of the registrant's relationship to each buyer and seller.

Competing offers

26. (1) If a brokerage that has a seller as a client receives a competing written offer, the brokerage shall disclose the number of competing written offers to every person who is making one of the competing offers, but shall not disclose the substance of the competing offers.

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.

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

WILLIAM R. SHACKLETON (a.k.a. BILL SHACKLETON), the Respondent, be ordered to pay a penalty of \$7,500.00 on or before September 8, 2020.

By initials below, I, WILLIAM R. SHACKLETON (a.k.a. BILL SHACKLETON), 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, WILLIAM R. SHACKLETON (a.k.a. BILL SHACKLETON), 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, WILLIAM R. SHACKLETON (a.k.a. BILL SHACKLETON), 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 2(1) with reference to section 26 (1), 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. WILLIAM R. SHACKLETON (a.k.a. BILL SHACKLETON) is Ordered a Fine of \$7,500.00 payable to RECO on or before September 8, 2020.

[Released: December 16, 2019]