



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 -

CHERYL PRICE (operating as "DIANE PRICE")

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 Section 4 of the *REBBA 2002* Code of Ethics.

ORDER: Fine of \$3,500.00 payable to RECO on or before December 1, 2017.

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. On July 29, 2015, Cheryl Price (operating as Diane Price) listed a property located at 1-A Street in City A (the "property") on behalf of her brokerage, Brokerage A. The property appeared on the MLS shortly afterwards.

2. On July 30, 2015, two showings of the property were conducted. Registrant A viewed the property with her clients. Registrant B also viewed the property with her clients.

There were three showings booked all day until the last one at 8:00 p.m. for Registrant C and her clients.

3. At 2:28 p.m. that day, Registrant D contacted Cheryl Price by Gmail chat and advised that she had prepared an offer on behalf of her clients.

4. At 2:30 p.m. that day, Registrant B registered her clients' offer with Brokerage A. Approximately an hour later, she spoke on the phone with Cheryl Price to advise that she would be placing her offer into the mailbox at the property itself.

5. At 3:01 p.m. on July 30, 2015, a text message exchange occurred between Registrant D and Cheryl Price, in which Cheryl Price advised that the offer presentations would be done at 9:30 p.m. that evening, in order to accommodate Registrant C's showing.

6. At some point later that afternoon, Cheryl Price attended at the property and advised her seller clients of the offer from Registrant B. She says that she put the option to them of waiting for the 8:00 p.m. showing; however, they chose to go ahead anyway and look at the offer. Registrant B's clients' offer was accepted at 4:45 p.m. July 30, 2015.

7. Cheryl Price and Registrant D spoke by phone about 8:21 p.m. that evening, when Registrant D asked if there were any other offers (anticipating the presentation at 9:30 p.m.); Cheryl Price advised that the property had already been sold.

8. Cheryl Price says that she mistakenly believed that Registrant B and Registrant D were working together and believed that she only ever received one offer for the property.

9. It is alleged that Cheryl Price did not protect the best interests of her seller clients by failing to keep track of, and properly distinguishing between, the various offers for the property. She presumed that Registrant D and Registrant B were working together, however, if she had examined Registrant B's offer closely, she would have noticed that Registrant B was employed by a different real estate brokerage than Registrant D. This conduct is in violation of section 4 of the Code of Ethics.

10. In failing to keep track of and distinguish between various offers for the property, Cheryl Price failed to protect her clients' best interests in that the sellers could have had a multiple offer situation and, therefore, received a better price for their property. This conduct is in violation of section 4 of the Code of Ethics.

AGREED PENALTY

CHERYL DIANE PRICE operating as DIANE PRICE, the Respondent, be ordered to pay a penalty of \$3,500.00 on or before December 1, 2017.

By initials below, I, CHERYL DIANE PRICE operating as DIANE PRICE, 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, CHERYL DIANE PRICE operating as DIANE PRICE, 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, CHERYL DIANE PRICE operating as DIANE PRICE, 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 Section 4 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. CHERYL DIANE PRICE operating as DIANE PRICE is Ordered a Fine of \$3,500.00 payable to RECO on or before December 1, 2017.

[Released: July 6, 2017]