



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 -

**VICTORIA McDOUGALL also known as VICKI McDOUGALL AND
CENTURY 21 EXPLORER REALTY INC.**

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:

VICTORIA McDOUGALL also known as VICKI McDOUGALL:

FINDINGS: In violation of Sections 3, 4, 5 and 29 of the *REBBA 2002* Code of Ethics.

ORDER: Fine of \$7,500.00 payable to RECO on or before March 30, 2018.

Successful completion of the Real Estate Institute of Canada “REIC 2600: Ethics and Business Practice” course and provide RECO with confirmation of successful completion on or before March 30, 2018.

CENTURY 21 EXPLORER REALTY INC.:

FINDINGS: In violation of Section 3, 4, 29 and 41(1) of the *REBBA 2002* Code of Ethics

ORDER Fine of \$7,500.00 payable to RECO on or before March 30, 2018.

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 or about July 15, 2015, an offer to purchase a Property located at 1-A Street in City – A (the “Property”), was accepted by Seller A and Seller B (collectively, the “Sellers”). The initial closing date was August 13, 2015. Among other things, the Agreement of Purchase and Sale (the “APS”) indicated that the deposit amount of \$2,000.00 was to be held in trust by the listing brokerage. The APS was conditional on the Buyers obtaining financing, which condition was waived on July 21, 2015.
2. The brokerage holding the listing on the Property was Century 21 Explorer Realty Inc. The listing sales representative was Victoria McDougall and the Buyer sales representative was Representative A. Both Victoria McDougall and Representative A were, during the period in question, employed by Century 21 Explorer Realty Inc.
3. On or about July 22, 2015, the Buyers provided a deposit cheque in respect of the transaction. The first cheque was returned by the bank as Non-Sufficient Funds. On August 7, 2015, the Buyers provided a second cheque, which was also returned NSF.
4. On July 29, 2015, McDougall was advised by Century 21 Explorer Realty Inc.’s accounting department, via e-mail, that the first deposit had been returned NSF. On August 11, 2015, Century 21 Explorer Realty Inc.’s accounting department sent a second e-mail, indicating that the second cheque had been returned NSF as well. Representative B, who is the Broker of Record for Century 21 Explorer Realty Inc., was also copied on these e-mails.
5. On August 11, 2015, the parties agreed to extend closing to August 24, 2015. On August 24, the parties agreed to extend the closing another day, to August 25, 2015.

6. At no point during these events were the Sellers told that the deposit cheques had both been returned. Further, Representative A was not told that the cheques had been returned. The Sellers were only told that the Buyer needed more time to arrange financing.
7. The failure of Victoria McDougall and Century 21 Explorer Realty Inc. to inform and advise Representative A (as the Sellers representative) or their clients, the Sellers, of the NSF deposit cheques and the true reasons for extending closing, this conduct is a violation of Sections 3, 4, 5 and 29 of the Code of Ethics.
8. Century 21 Explorer Realty Inc. failed to protect and inform its' clients of the true situation regarding deposit monies and the reasons for extending the closing date. Century 21 Explorer Realty Inc. also failed in its duty to inform the Sellers representative on the transaction, Representative A of the true situation at hand. This conduct is in violation of Sections 3, 4, 29 and 41(1) of the Code of Ethics.

AGREED PENALTY

VICTORIA McDOUGALL also known as VICKI McDOUGALL, the Respondent, be ordered to pay a penalty of \$7,500.00 on or before March 30, 2018.

In addition to the above penalty, the Respondent must enroll in Ethics and Business Practice course provided by the Real Estate Institute of Canada (REIC) 2600, and provide proof of successful completion of the course on or before March 30, 2018.

By initials below, I, VICTORIA McDOUGALL also known as VICKI McDOUGALL, 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, VICTORIA McDOUGALL also known as VICKI McDOUGALL, 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, VICTORIA McDOUGALL also known as VICKI McDOUGALL, 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.]

AGREED PENALTY

CENTURY 21 EXPLORER REALTY INC., the Respondent, be ordered to pay a penalty of \$7,500.00 on or before March 30, 2018.

By initials below, I, CENTURY 21 EXPLORER REALTY INC., acknowledge that I have read and understand the penalty outlined herein and agreed to the said terms and/or conditions.

[Respondent's Initials]

By initials below, I, CENTURY 21 EXPLORER REALTY INC., 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, CENTURY 21 EXPLORER REALTY INC., 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

VICTORIA McDOUGALL also known as VICKI McDOUGALL

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 and 29 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. VICTORIA McDOUGALL also known as VICKI McDOUGALL is Ordered a Fine of \$7,500.00 payable to RECO on or before March 30, 2018.
2. VICTORIA McDOUGALL also known as VICKI McDOUGALL is Ordered to successfully complete the Real Estate Institute of Canada “REIC 2600: Ethics and Business Practice” course and provide RECO with confirmation of successful completion on or before March 30, 2018.

DECISION OF THE CHAIR

CENTURY 21 EXPLORER REALTY INC.

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, 29 and 41(1) 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. CENTURY 21 EXPLORER REALTY INC. is Ordered a Fine of \$7,500.00 payable to RECO on or before March 30, 2018.

[Released: September 11, 2017]