
**IN THE MATTER OF A DISCIPLINE PROCEEDING HELD PURSUANT TO THE
*TRUST IN REAL ESTATE SERVICES ACT, 2022***

BETWEEN:

REAL ESTATE COUNCIL OF ONTARIO

- AND -

BRENDAN DAVID MARTIN CLARK (registered as BRENDAN CLARK)

DISCIPLINE DECISION AND REASONS FOR DECISION

Subject to Rule 4.02 of the Discipline and Appeals Committee Rules of Practice (*TRESA 2002*), I, the Chair of the Discipline Committee (*TRESA 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 1 and 5(a)(b) of the *TRESA 2002* Code of Ethics.

ORDER: Fine of \$8,000.00 payable to RECO on or before six (6) months after the date of the Discipline Committee in this matter: September 25, 2026.

Successful completion of the “*Introduction to TRESA*” course and provide proof of completion to RECO not later than 120 days after the date of the Decision of the Discipline Committee on this matter, and to provide proof of completion to RECO within 60 days of completion of the course.

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 (*TRESA 2002*).

The Agreed Statement of Facts and Penalty read:

AGREED STATEMENT OF FACTS AND PENALTY

It is agreed as follows:

1. At all material times, Clark was employed at Brokerage A. Clark is currently employed at the Brokerage B.
2. **Broker A** was a broker employed by Brokerage C and represented Representative A (the “**Complainant**”) in the sale of a property known municipally as 1-A Street, City A (the “**Property**”).
3. Clark was, at all material times, a registered salesperson who represented himself and two others in the purchase of the Property.
4. On or about April 14, 2024, Clark entered into an Agreement for Purchase and Sale to purchase the Property from the Complainant for \$979,000, inclusive of a \$30,000 down payment, with a closing date of August 7, 2024.
5. In July 2024, Clark indicated that he was unable to complete the purchase of the Property, and he proposed assigning the Agreement for Purchase and Sale to a new buyer that he would attempt to locate.
6. Broker A agreed on behalf of the Complainant to allow Clark to conduct showings of the Property to prospective assignees in exchange for a fee of \$10,000. The alleged agreement was reduced to writing in a text message exchange between Clark and Broker A on July 19, 2024, wherein the following was stated:

Clark: Can we do that walk through at 6:30 tonight?

Clark: Then our final will just be right before closing to make sure all is good

Broker A: 10k assignment ok?

Clark: Yep

7. Clark disputes the context in which the text messages are presented but acknowledges that the text messages could give rise to the reasonable inference of an agreement between the parties with respect to the fee to be paid.
8. After Clark conducted a showing of the Property on or about July 19, 2024 with the prospective assignees, an offer to purchase the Property was received by Clark on or about July 20, 2024, containing the same terms and price Clark had agreed to originally with the Complainant. Clark subsequently accepted the assignment.
9. After the assignment was agreed to and in response to an inquiry from Broker A regarding the potential assignment of the Agreement for Purchase and Sale, Clark sent a text message to the Broker A advising, in part, as follows:

It's all good don't worry about it actually

10. Clark disputes that the above text exchange was meant to convey that the transaction would proceed without an assignment. Notwithstanding that, Clark acknowledges that the aforementioned text message from him to Broker A may have indicated to Broker A that the transaction would proceed without an assignment.
11. On or about August 1, 2024, the Complainant was advised by his lawyer that the transaction was being assigned and was presented with the Agreement for Purchase and Sale with the new buyers listed thereon, but it did not include the \$10,000 fee which the Complainant understood was owing.
12. The Complainant requested payment of the fee, but to date has not received same.

SUMMARY OF AGREEMENTS

It is agreed that Clark failed to comply with the Code of Ethics (O. Reg. 365/22) as follows:

- A. Clark failed to take appropriate precautions to ensure that the substance of the proposed agreement was clear, unambiguous and properly understood by all parties. Clark further failed to take appropriate steps to ensure that his representations in respect of the proposed assignment and related fee were accurate and not misleading, contrary to sections 1 and 5 of the Code of Ethics.

Integrity, honesty, good faith, etc.

1. In carrying on business, a registrant shall act with courtesy, honesty, good faith and integrity in relation to every person the registrant deals with.

Misrepresentation, etc.

5. In carrying on business, a registrant,
- (a) shall make best efforts to ensure that any representations are accurate and are not misleading; and
 - (b) shall not engage in or be a party to misrepresentation or any unethical practice.

AGREED PENALTY

The Respondent understands and agrees to the following penalty:

To pay a fine of **\$8,000.00** on or before 6 months after the date of the Decision of the Discipline Committee in this matter.

To successfully complete the following courses or programs by the identified completion date:

Course Title (Provider)	Completion date
Introduction to <i>TRESA</i>	Not later than 120 days after the date of the Decision of the Discipline Committee in this matter.

To provide proof of completion to RECO within 60 days of completion of the courses.

Respondent acknowledgements:

1. I, Brendan Clark, acknowledge that I have read and understand the penalty outlined herein and agree to the said terms and/or conditions.
2. I, Brendan Clark, acknowledge my right to seek legal counsel in this matter before signing this agreement.
3. I, Brendan Clark, agree, understand, acknowledge and consent to waiving my right to a hearing before the Discipline Committee.

Waiver of hearing before the Discipline Committee:

4. The parties consent to disposing of the matter without a hearing before the Discipline Committee and agree to the terms set out herein.

5. The parties request an Order from the Chair of the Discipline Committee that includes this Agreement of Facts and Penalty as a final settlement of this matter.

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 Parties duly signed the Agreed Statement.]

DECISION OF THE CHAIR

Having reviewed and considered the Agreed Statement of Facts, the Chair of the Discipline Committee (*TRESA 2002*) concluded that the Respondent breached Sections 1 and 5(a)(b) of the *TRESA 2002* Code of Ethics. The Chair of the Discipline Committee (*TRESA 2002*) is also in agreement with the joint submission of the Parties as to penalty and accordingly makes the following order:

1. CLARK, Brendan David Martin (registered as CLARK, Brendan) is ordered to pay a fine in the amount of \$8,000.00, payable to RECO, on or before 6 months after the date of the Decision of the Discipline Committee in this matter.
2. CLARK, Brendan David Martin (registered as CLARK, Brendan) is ordered to successfully complete the "Introduction to TRESA" course not later than 120 days after the date of the Decision of the Discipline Committee in this matter, and to provide proof of completion to RECO within 60 days of completion of the course.

Released: March 25, 2026