

**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 -**

**KRISTINA BARYBINA**

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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 4, 5 and 21(1) of the *REBBA 2002* Code of Ethics.

**ORDER:** Total Fine of \$ \$5,000.00 with \$1,000.00 payable to RECO not later than 90 days after the date of the Decision of the Discipline Committee on this matter and the remaining \$4,000.00 payable not later than 365 days.

Successful completion of the RECO CE: Introduction to TRESA course not later than 90 days after the date of the Decision of the Discipline Committee on this matter and provide proof of completion to RECO within 60 days of completion of the course.

**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. At all relevant times, Kristina Barybina (“**Barybina**”) was registered as a salesperson under the *Real Estate and Business Brokers Act, 2002* (“**Act**”).
2. At all relevant times, Barybina was employed at Brokerage A.
3. At all relevant times, Barybina represented Individual A (*the “**Complainant**”*) in the purchase of a plot of vacant land previously addressed as 1-A Street, City A, Ontario (*the “**Listed Address**”*), currently addressed as 2-B Street, City A, Ontario (*the “**New Address**”*), (*both, the “**Property**”*).
4. At all relevant times, Registrant A represented Seller A (*the “**Seller**”*), in the sale of the Property.
5. On or around February 4, 2022, Registrant A listed the Property on the local board listing service with an asking price of \$155,000, indicating the zoning as “Res” and included in the client remarks: “21+/- Acres of Ready To Build Vacant Land”, and “Clear What You Need To Build The Perfect Dream Home Here”.
6. At all relevant times, the Complainant had advised Barybina that she was interested in purchasing the Property to build a residential home.
7. At or around 2:56 p.m. on February 16, 2022, the Listing was edited to change the zoning for the Property from “Res” to “Ma/EP”, which in the City A Zoning Bylaws means Marginal Agricultural Zone and Environmental Protection Zone.
8. At or around 9:08 p.m. on February 16, 2022, Barybina sent Registrant A an offer from the Complainant to purchase the Property. This offer included a purchase price of \$175,000.00 and a condition requiring the Seller to provide a survey for the Property showing all easements, structures, buildings, rights of way and encroachments.
9. On or about February 18, 2022, Price advised Barybina via text message that the Seller “doesn’t have a survey so he wants you to take out that part and resubmit”.

10. On or about February 18, 2022, the Complainant sent an inquiry to the Planning Department of the Municipality of City A regarding the possibility of obtaining a building permit on the Property.
11. On or about February 18, 2022, Barybina sent an improved offer to purchase the Property from the Complainant to Registrant A. This offer was unconditional, removing the previous condition requiring the survey be provided but otherwise unchanged from the first offer, and was accepted by the Seller (the “**Agreement of Purchase and Sale**”).
12. At no time prior to entering into the Agreement of Purchase and Sale had the Complainant received any confirmation regarding the possibility of receiving building permits from the Municipality of City A.
13. On or around March 21, 2022, the transaction to purchase the Property completed successfully.
14. On or around March 24, 2022, the Complainant received notice from the Municipality that:
  - a) there was no entrance permit on the Property and;
  - b) there was a mapping error that showed the 9-1-1 number on the wrong property, meaning the listed address was incorrect, and;
  - c) the building where an old house had burned down 30 years ago is not considered a legal non-confirming building and would not be considered to be “grandfathered”, and;
  - d) there was a large Deer Stratum Yard 1 (*the “Deer Yard”*) (later found to be covering approx. 80% of the Property) that would prohibit the building of a residence on any of portion of the Property located in the Deer Yard, and outside the Deer Yard, require the building be more than 100 meters away from Highway A.
15. The Complainant completed a protracted process in order to build a residence on the Property, including: correcting the address for the Property, obtaining an

entrance permit, building a driveway, having the Deer Yard status changed, and having the Property rezoned.

16. This process cost the Complainant approximately \$6,525.45, not including travel expenses, hotel accommodation and lost wages to attend a hearing in City B, Ontario regarding the rezoning of the Property for residential use.

## **SUMMARY OF AGREEMENTS**

**It is agreed that Barybina failed to comply with the Code of Ethics (O. Reg. 580/05) as follows:**

- A. Barybina failed to conduct the appropriate and required due diligence to determine a material fact relating to the zoning and permitted uses of a property and advise her buyer client adequately regarding the possible restrictions to building a residential home on a property, contrary to sections 4, 5 and 21(1) of the Code of Ethics.
- B. Barybina failed to recommend and/or include adequate provisions in the Agreement of Purchase and Sale regarding the zoning or permitted uses to protect her buyer client's interests, contrary to sections 4 and 5 of the Code of Ethics.

**It is agreed that Barybina failed to comply with the following sections of the Code of Ethics (O. Reg. 580/05):**

Best interests

4. A registrant shall promote and protect the best interests of the registrant's client.

Conscientious and competent service, etc.

5. A registrant shall provide conscientious service to the registrant's clients and customers and shall demonstrate reasonable knowledge, skill, judgment and competence in providing those services.

Material facts

21. (1) A broker or salesperson who has a client in respect of the acquisition or disposition of a particular interest in real estate shall take reasonable steps to determine the material facts relating to the acquisition or disposition and, at the earliest practicable opportunity, shall disclose the material facts to the client.

### **AGREED PENALTY**

**The Respondent understands and agrees to the following penalty:**

To pay a total fine of **\$5,000.00** with **\$1,000.00** payable not later than **90** days after the date of the Decision of the Discipline Committee on this matter and the remaining **\$4,000.00** payable not later than **365** days.

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

<b>Course Title (Provider)</b>	<b>Completion date</b>
CE Course: Introduction to TRESA	Not later than <b>90 days</b> after the date of the Decision of the Discipline Committee on this matter.

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

**Respondent acknowledgements:**

1. I acknowledge that I have read and understand the penalty outlined herein and agree to the said terms and/or conditions.
2. I acknowledge my right to seek legal counsel in this matter before signing this agreement.

3. I 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 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 4, 5, and 21(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. KRISTINA BARYBINA is Ordered a total Fine of \$5,000.00 with \$1,000 payable to RECO not later than 90 days after the date of the Decision of the Discipline Committee on this matter and the remaining \$4,000.00 payable not later than 365 days.
2. KRISTINA BARYBINA is Ordered to successfully complete RECO CE course: Introduction to TRESA, not later than 90 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.

*[Released: March 21, 2025]*