

**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 -

JACQUELINE PENNINGTON

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 38 of the *REBBA 2002* Code of Ethics.

ORDER: Fine of \$ 8,000.00 payable to RECO not later than 120 days after the date of the Decision of the Discipline Committee on this matter.

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, Jacqueline Pennington ("**Pennington**") was registered as a broker under the *Real Estate and Business Brokers Act, 2002* ("**Act**"), and is currently registered under the *Trust in Real Estate Services Act, 2002*.
2. At all relevant times, Pennington was employed at Brokerage A.
3. At all relevant times Pennington represented the sellers of 1-A road, City A (*the "Property"*).
4. At all relevant times, Buyer A and Buyer B (*the "Buyers"*) were the buyers of the Property.
5. At all relevant times, Representative A, an agent employed at the Brokerage B represented the Buyers in the purchase of the Property.
6. On or around June 10, 2020, Pennington uploaded a listing for the Property onto the Northumberland Association of Realtors ("**NAR**") database. The listing indicated it was MLS #XXX, had an asking price of \$1,450,000 and represented the annual property taxes for 2019 as \$6,000 ("**NAR Listing 1**").
7. On or around June 13, 2020, Pennington uploaded a listing for the Property onto the Toronto Regional Real Estate Board ("**TRREB**") listing service. The listing indicated it was MLS #XZZ, had an asking price of \$1,450,000 and represented the annual property taxes as "\$3,000.00 / 2019" ("**TRREB Listing 1**").
8. Sometime between June 13 and June 20, 2020, the Buyers came across TRREB Listing 1 and on or about June 20, 2020, viewed the Property with a representative who later referred the Buyers to Representative A.
9. The Buyers did not make an offer on the Property after the June 20, 2020, viewing and continued in their search to purchase a property with Representative A.
10. On or around July 23, 2020, the sellers amended their listing agreement with Brokerage A. The only amendment was a sale price reduction of the Property to

\$1,389,000. The listings on both NAR and TRREB were updated to reflect the new asking price, but the 2019 property tax amounts were unchanged (*respectively*, “**NAR Listing 2**” and “**TRREB Listing 2**”).

11. On or around September 18, 2020, Representative A submitted the Buyer’s offer to purchase the Property. The Agreement of Purchase and Sale (*the “APS”*) included an offer price of \$1,315,000 and a December 2, 2020, completion date.
12. On or about September 18, 2020, the sellers made a counteroffer with a purchase price of \$1,320,000, all other terms unchanged, which was accepted by the Buyers.
13. On September 20, 2020, Representative A sent an email to the Buyers with the APS and a copy of TRREB Listing 2.
14. On or about November 26, 2020, the Buyers became aware that the annual property tax for 2019 indicated on TRREB Listing 1 and 2 of \$3,000 had been inaccurate and instead was \$7,019.17.
15. On or about November 26, 2020, Representative A sent Pennington a request for an abatement of the purchase price for the Property of \$20,000, due to the inaccurate property tax amount indicated in TRREB Listing 2. The request was refused by the sellers.
16. On or about December 2, 2020, on advice from their transaction lawyer, the Buyers completed the transaction for the Property.
17. Pennington received \$23,660 in commission upon completion of the transaction.

SUMMARY OF AGREEMENTS

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

- A. As a seller representative, Pennington included inaccurate property tax information in the MLS listings, contrary to section 38 of the Code of Ethics.

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

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.

AGREED PENALTY

The Respondent understands and agrees to the following penalty:

To pay a fine of **\$8,000.00** not later than **120 days** after the date of the Decision of the Discipline Committee on this matter.

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

Course Title (Provider)	Completion date
CE Course: Introduction to TRESA	Not later than 90 days 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 Section 38 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. JACQUELINE PENNINGTON is Ordered a Fine of \$8,000.00 payable to RECO not later than 120 days after the date of the Decision of the Discipline Committee on this matter.
2. JACQUELINE PENNINGTON is Ordered to successfully complete 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 to provide proof of completion to RECO within 60 days of completion of the course.

[Released: November 20, 2024]