



**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 -

MARK F. LEADER

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 \$ 6,000.00 payable to RECO on or before
December 20, 2021.

Successful completion of the online RECO 'The Compliant Trade – Residential' course and provide RECO with confirmation of successful completion on or before
December 20, 2021.

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, Leader was employed at Brokerage A.
2. Representative A is a salesperson employed by Brokerage B.
3. Individual A is a consumer who owned the property at 1-A Street, City A ("Property").
4. Individual B ("Complainant") is a buyer who was at all material times represented by Representative A on behalf of Brokerage C.
5. Individual C is a registered mortgage broker who assisted the Complainant with his purchase of the Property.
6. On or about June 6, 2019 Individual A entered into a Multiple Listing Service ("MLS®") Listing Agreement ("Listing") with Brokerage A to list the Property for the sale price of \$299,000.00. On the same day, Leader completed a Multiple Listing Service® Property Information Form ("MLS® Information Form"), which indicated, among other things, that the 2019 property taxes for the Property were \$1,650.00.
7. Individual A advised Leader that the annual property tax bill was \$1,650.00. Leader had Individual A acknowledge this by placing her initials next to the "Taxes" field on the MLS® Information Form, stating that the 2019 property taxes for the Property were \$1,650.00. Leader, however, did not take the additional step of confirming the property tax amount with the administration of City A, or asking Individual A to do so.
8. On or about June 6, 2019, Leader posted the Listing, or caused the Listing to be posted, on the MLS® of the City B Regional Real Estate Board.
9. On or about June 10, 2019, Representative A presented an offer on behalf of the Complainant to Leader. The original offer was for \$275,000.00, with a deposit of \$5,000.00.
10. After negotiations between the Complainant and Individual A, the offer was accepted June 11, 2019 at a purchase price of \$285,000.00, with a completion date of July 8, 2019.
11. On or about July 4, 2019, Individual C advised Representative A that he had been told by the Complainant's lender that the tax figure of \$1,650.00 as advertised in the Listing was over \$800.00 less than the actual property tax bill. As a result, the Complainant had to increase his down payment from \$14,250.00 to \$23,900.37 in order to qualify for mortgage financing.

12. The Complainant did not realize until he attended his lawyer's office that the tax information stated on the Listing was incorrect and that he would have to find additional financing in order to complete the transaction.
13. Upon being advised of this discrepancy, Leader inquired if Representative A and the Complainant would like to renegotiate the purchase price. The Complainant declined to do so.
14. It was only because the Complainant was able to secure additional funds from his father that he was able to raise enough money to complete the transaction. Were it not for the additional money from the Complainant's family, the Complainant would not have been able to close the transaction and would have been in legal jeopardy for breach of the agreement of purchase and sale.

SUMMARY OF AGREEMENTS

It is agreed that Leader failed to comply with the Code of Ethics as follows:

- A. Leader failed to take the all of the necessary steps to ascertain the correct amount of the 2019 tax amount for the Property, contrary to section 38 of the Code of Ethics.

It is agreed that Leader failed to comply with the following sections of the Code of Ethics:

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

MARK F. LEADER, the Respondent, be ordered to pay a penalty of \$6,000.00 on or before December 20, 2021.

Mark F. Leader, the Respondent, be ordered to successfully complete the online RECO course 'The Compliant Trade – Residential' on or before December 20, 2021.

By initials below, I, MARK F. LEADER, 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, MARK F. LEADER, 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, MARK F. LEADER, 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 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. MARK F. LEADER is Ordered a Fine of \$6,000.00 payable to RECO on or before December 20, 2021.
2. MARK F. LEADER is Ordered to successfully complete the online RECO 'The Compliant Trade – Residential' course and provide RECO with confirmation of successful completion on or before December 20, 2021.

[Released: June 2, 2021]