



**Citation: Sheppard v. Registrar, *Real Estate and Business Brokers Act, 2002*,
2022 ONLAT HTA REBBA 13849**

Date: 2022-10-21

File Number: 13995/REBBA

Appeal under the *Real Estate and Business Brokers Act, 2002*, S.O. 2002,
Chapter 30, Schedule C and Regulations, as amended, to refuse registration

Between:

ALLAN DOUGLAS SHEPHEARD

Appellant

- and -

THE REGISTRAR, REAL ESTATE AND BUSINESS BROKERS ACT, 2002

Respondent

CONSENT ORDER

ADJUDICATOR: D. Gregory Flude, Vice Chair

DATE: October 21, 2022

APPEARANCES:

For the Applicant: Jeremy Rubenstein, Counsel

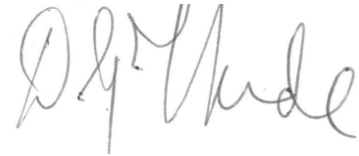
For the Respondent: Ian Daley, Counsel

HEARD IN WRITING

CONSENT ORDER

- [1] The Appellant requested a hearing before the Licence Appeal Tribunal (the "Tribunal") to appeal the respondent's proposal to refuse his registration as a real estate salesperson.
- [2] The parties have advised the Tribunal that they have resolved the issues in dispute and have requested the Tribunal issue an order on consent disposing of this proceeding without a hearing.
- [3] On consent of the parties, and pursuant to Section 4.1 of the Statutory Powers Procedure Act. and subsection 10(2) of the *Real Estate and Business Brokers Act, 2002* ("REBBA") the parties to the proceeding, Allan Douglas Shephard ("Mr. Shephard") and the Registrar, *Real Estate and Business Brokers Act, 2002* (the "Registrar"), waive the requirement of a hearing and hereby consent to an Order of the Licence Appeal Tribunal (the "Order") based on the terms and conditions to the registration of Mr. Shephard as a real estate salesperson under the REBBA attached hereto as Schedule "A."

LICENCE APPEAL TRIBUNAL



D. Gregory Flude, Vice-Chair

Released: October 21, 2022

SCHEDULE "A"

Tribunal File No. 13995/REBBA

In a Matter Before the Licence Appeal Tribunal

BETWEEN

Allan Shephard

Appellant

- and -

Registrar, *Real Estate and Business Brokers Act, 2002*

Respondent

MINUTES OF SETTLEMENT

WHEREAS the Respondent issued a Notice of Proposal, dated March 1, 2022, to refuse the application for registration of the Appellant as a salesperson;

AND WHEREAS the Appellant filed a Notice of Appeal to request a hearing before the Licence Appeal Tribunal ("**Tribunal**") to contest the Notice of Proposal;

AND WHEREAS the parties have engaged in discussions, with the assistance of a Vice-Chair from the Tribunal, aimed at attempting to resolve the dispute without a hearing;

NOW THEREFORE the parties have agreed that this matter be resolved as set out below:

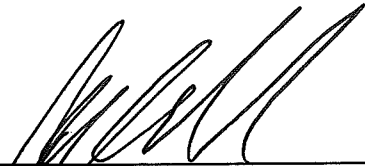
1. The Appellant's registration with the Real Estate Council of Ontario will be accepted and approved by the Registrar, with such acceptance and approval to be made in accordance with a consent order to be issued by the Tribunal as set out below (the "**Consent Order**").
2. The Appellant agrees, pursuant to section 10(2) of the *Real Estate and Business Brokers Act, 2002* (the "**Act**"), that his registration will be subject to the following conditions going forward:

- a. Commencing from the date he becomes registered, the Appellant will provide RECO with quarterly reports to contain a printed summary of his completed and pending trades as confirmed by his brokerage;
- b. Commencing from the date he becomes registered, the Appellant will provide Office of the Registrar with quarterly reports of payments made, with proof, to the Canada Revenue Agency (CRA) pursuant to the payment terms set out in his consumer proposal dated April 21, 2022 (the "**Consumer Proposal**");
- c. The Appellant will notify RECO immediately, in writing, if he was not successful in complying with his Consumer Proposal, and he shall provide a letter from the Trustee outlining the reasons his Consumer Proposal was not successful;
- d. The Appellant will provide RECO with a copy of his Certificate of Full Performance upon successful completion of his Consumer Proposal;
- e. The Appellant will provide RECO with a letter from the Trustee on the status of his Consumer Proposal proceedings with each application he makes for registration, renewal, or reinstatement under the Act until the Consumer Proposal has been successfully completed;
- f. The Appellant will provide RECO with copies of the current account statements for each of the CRA accounts listed as creditors in his Consumer Proposal with each application he makes for registration, renewal, or reinstatement under the Act;
- g. The Appellant will notify RECO immediately, in writing, of any judgments obtained against him, and shall provide copies of said judgment along with a repayment schedule (if available) as part of such notification;
- h. The Appellant will successfully complete RECO's *Compliance and Ethics in Real Estate* course (both Part 1 and 2) by his first application for renewal after his registration is reinstated;
- i. The Appellant will not apply to be an officer, director, partner, shareholder, interested person, associated person, broker of record, or sole proprietor of a real estate brokerage;
- j. The Appellant will not have signing authority or be designated as an alternate signatory on any statutory trust account established under the Act;

- k. The Appellant will notify RECO immediately, in writing, of any complaints made against him to or through his brokerage, including any complaints made by clients, consumers, brokerage employees, registrants, or any real estate boards, and he shall provide RECO with the details of such complaints, including any documentation that RECO may request and/or require. For clarity, this notification obligation does not apply in respect of complaints that are made directly to RECO about him;
 - l. The Appellant will notify RECO in writing within 5 days should he transfer his registration to another brokerage; and
 - m. The Appellant will make his current Broker of Record aware of these conditions on his registration and provide RECO with a signed written acknowledgement of same from the Broker of Record. In the event the Appellant transfers his registration while any of these conditions are still in effect, then the Appellant will make the Broker of Record at the new brokerage aware of these conditions and provide the Office of the Registrar with a signed written acknowledgment of same from the new Broker of Record.
3. Subject to the agreement and/or alteration of the Tribunal, the Consent Order of the Tribunal will be in the form attached hereto as Appendix A.
 4. Nothing in this agreement or the Consent Order of the Tribunal arising out of this agreement restricts in any manner the ability of the Registrar to commence or take any further action pursuant to the *Real Estate and Business Brokers Act, 2002* (or its successor legislation) based on any information, deficiency or event that may come to the Registrar's attention for the first time after the execution of these Minutes of Settlement. Further, if new or additional information comes to the attention of RECO related to the Appellant's my honesty and integrity, financial responsibility or compliance with law, or if I breach any of these conditions, the Registrar may take further administrative action, including issuing a proposal to revoke my registration, based on the totality of the evidence of my past conduct. Nothing in these conditions shall prejudice or limit the Registrar's rights under the Act.
 5. The Appellant acknowledges that he has read and understood the terms of these Minutes of Settlement and confirms that he has obtained independent legal advice with respect to the content of these Minutes of Settlement.

6. These Minutes of Settlement may be executed in counterparts and a faxed or scanned copy shall be considered valid and binding.


EXECUTED BY:



Allan Shephard



Date



Joseph Richer
Registrar
Real Estate and Business Brokers Act, 2002

October 19, 2022

Date

Appendix A – Draft Form of Consent Order

BACKGROUND

1. Alan Shephard (the “**Appellant**”) instituted an appeal of a Notice of Proposal that was issued by the Registrar, *Real Estate and Business Brokers Act, 2002* (the “**Registrar**”) on March 1, 2022.
2. The Registrar proposed to refuse the Appellant’s application on the following grounds:
 - a. he was not entitled to registration because he did not meet the eligibility requirements for reapplication as set out in section 17 of the Act;
 - b. given his financial situation, he could not reasonably be expected to be financially responsible in the conduct of business; and
 - c. his past conduct provided reason to believe that he would not carry on business in accordance with the law, and with integrity and honesty.
3. The parties have advised the Tribunal that were able to agree upon a settlement of all outstanding issues in this matter and have requested that the terms of the settlement be incorporated into a consent order disposing of this proceeding.
4. Executed minutes of settlement were provided to the Tribunal on **[INSERT DATE]**.

ORDER AND DIRECTION

5. Accordingly, on the consent of the parties and upon having reviewed the agreement signed by the Appellant and the Registrar, the Tribunal, pursuant to subsection 14(5) of the *Real Estate and Business Brokers Act, 2002* directs and orders:
 - a. the Registrar not to carry out the Notice of Proposal to refuse the Appellant’s application for registration, but rather that the Registrar proceed to approve the application with the following conditions to attach to the registration of the Appellant going forward:
 - i. Commencing from the date he becomes registered, the Appellant will provide RECO with quarterly reports to contain a printed summary of his completed and

pending trades as confirmed by his brokerage;

- ii. Commencing from the date he becomes registered, the Appellant will provide Office of the Registrar with quarterly reports of payments made, with proof, to the Canada Revenue Agency (CRA) pursuant to the payment terms set out in his consumer proposal dated April 21, 2022 (the "**Consumer Proposal**");
- iii. The Appellant will notify RECO immediately, in writing, if he was not successful in complying with his Consumer Proposal, and he shall provide a letter from the Trustee outlining the reasons his Consumer Proposal was not successful;
- iv. The Appellant will provide RECO with a copy of his Certificate of Full Performance upon successful completion of his Consumer Proposal;
- v. The Appellant will provide RECO with a letter from the Trustee on the status of his Consumer Proposal proceedings with each application he makes for registration, renewal, or reinstatement under the Act until the Consumer Proposal has been successfully completed;
- vi. The Appellant will provide RECO with copies of the current account statements for each of the CRA accounts listed as creditors in his Consumer Proposal with each application he makes for registration, renewal, or reinstatement under the Act;
- vii. The Appellant will notify RECO immediately, in writing, of any judgments obtained against him, and shall provide copies of said judgment along with a repayment schedule (if available) as part of such notification;
- viii. The Appellant will successfully complete RECO's *Compliance and Ethics in Real Estate* course (both Part 1 and 2) by his first application for renewal after his registration is reinstated;
- ix. The Appellant will not apply to be an officer, director, partner, shareholder, interested person, associated person, broker of record, or sole proprietor of a real estate brokerage;
- x. The Appellant will not have signing authority or be designated as an alternate signatory on any statutory trust account established under the Act;

- xi. The Appellant will notify RECO immediately, in writing, of any complaints made against him to or through his brokerage, including any complaints made by clients, consumers, brokerage employees, registrants, or any real estate boards, and he shall provide RECO with the details of such complaints, including any documentation that RECO may request and/or require. For clarity, this notification obligation does not apply in respect of complaints that are made directly to RECO about him;
 - xii. The Appellant will notify RECO in writing within 5 days should he transfer his registration to another brokerage; and
 - xiii. The Appellant will make his current Broker of Record aware of these conditions on his registration and provide RECO with a signed written acknowledgement of same from the Broker of Record. In the event the Appellant transfers his registration while any of these conditions are still in effect, then the Appellant will make the Broker of Record at the new brokerage aware of these Commencing from the date conditions and provide the Office of the Registrar with a signed written acknowledgment of same from the new Broker of Record.
6. The Registrar will ensure the processing and completion of the Appellant's registration is completed as soon as is practicable after the issuance of this decision, and the Registrar will advise the Appellant via email that his registration is active once that process has been completed.
7. The proceedings in this matter are concluded and disposed of without a hearing on the basis of the terms set out above.