

2020-004B

**DECISION OF THE DISCIPLINE COMMITTEE
WITH RESPECT TO PENALTY**

In the matter of a Discipline Committee Hearing held pursuant to Section 23(1) of *An Act to Incorporate the New Brunswick Real Estate Association* (the "Act");

BETWEEN

The New Brunswick Real Estate Association (the "Association")

-and-

Ronald Chester Young
RESPONDENT

Date of Hearing: February 16, 2022, 1340hrs
Place of Hearing: Teleconference
Members of Committee: Kevin MacDonald, Chair
Joan Hayes
Alexandre Bellefeuille
Alissa Lee
Miguel LeBlanc, Government Appointee
Appearances: John Townsend, Q.C., Counsel for the Association
Mel Norton, Counsel for the Respondent

The Chair noted persons attending the hearing:

Present: N/A

Via Teleconference: Mr. MacDonald, Mrs. Hayes, Mr. Bellefeuille, Mrs. Lee, Mr. LeBlanc, Mr. Townsend, Mr. Young, Mr. Norton, Mr. Mitchell McLean (Registrar), and Mrs. Jill Whitlock (Court Reporter).

The Chair read the charges, directly quoted from the Notice of Penalty Hearing, submitted by Mr. Townsend, Q.C., counsel for the Association:

Between January 17, 2019, and January 10, 2020, both dates inclusive, Ronald Chester Young, being a member, as defined by the Act to Incorporate the New Brunswick Real Estate Association, Chap. 115, S.N.B., 1994 (the Act):

- i. failed to deal fairly with all parties to a transaction,
- ii. failed to ensure that all advertising and promotion accurately reflected the property and other details.

All as set out in the complaint of [REDACTED] and [REDACTED] dated February 10, 2020, thereby committing an act of professional misconduct, in violation of Articles 3 and 13 of the REALTOR Code (effective December 19, 2019), and punishable under ss. 23(4) and 23(5) of the Act.

The charges were contained in the Notice of Penalty Hearing dated 10 February 2022 (file 2020-004B), which was entered into the record as exhibit I.

All parties acknowledged the jurisdiction of the Committee to hold the hearing.

Mr. Norton, on behalf of Mr. Young, confirmed that he wished to proceed to the penalty hearing stage, without a hearing on the merits of the charges.

Submissions:

Mr. Townsend stated, as a result of pre-hearing consultations, he and Mr. Norton had agreed to make a joint submission respecting the charges. The pre-hearing consultation was conducted at an earlier date between Mr. Young, Mr. Letson, Mr. Townsend and Mr. McLean and was held without prejudice.

Mr. Townsend stated that the joint submission should be accepted by Discipline Committees or Courts unless it can be demonstrated that the proposal is unreasonable or contrary to the public interest. He explained that a joint submission is not intended to take decision making power away from the Discipline Committee. He further explained that a joint submission demonstrates a high degree of cooperation between the parties as they work in a responsible, reasonable, and in good faith manner to resolve issues. He reiterated that the Discipline Committee retains the discretion to reject the terms of the joint submission, but only if the terms are unreasonable or contrary to the public interest.

Mr. Townsend stated that Mr. Young was willing to admit to the substance of the complaint through an admission of guilt respecting all charges. Mr. Young had also volunteered to make restitution to the complainant in the amount of \$4831.29. It should be fully understood this undertaking was initiated by the respondent and on a completely voluntary basis. The Discipline Committee does not have the authority under *the Act* to order that restitution be made to a complainant.

Mr. Young accepted the proposed hearing costs of \$1000 to be paid within 30 days of the Committee's decision. There would not be a fine assessed against the member in light of the voluntary undertaking of providing restitution to the Complainant. Mr. Young did agree that a reprimand be issued and that it would be recorded on his sanction history.

Mr. Townsend recommended that the Discipline Committee accept the joint submission as presented.

Mr. Norton, on behalf of Mr. Young, agreed with recommendation made by Mr. Townsend.

Findings:

The Committee considered the facts as set out in Exhibits A through I which were jointly submitted by all parties. Recognition is given to the Respondent's willingness to accept full responsibility for the substance of the complaint pursuant to a breach under Article 3 and 13 of the REALTOR® Code of Ethics as alleged in the Discipline Committee File. The Discipline Committee also recognizes Mr. Young's voluntary undertaking to provide restitution to the Complainant. The Discipline Committee feels that the reprimand and hearing costs proposed through voluntary submission are adequate for the lack of attention to detail and the maintenance of fairness provided by Mr. Young while selling his own property to members of the public.

The Committee finds that the Joint Submission is reasonable and hereby orders the following pursuant to s. 23(4) of *the Act*:

1. The Committee Accepts the Joint Submission of the parties dated 16 February 2022 including all terms and conditions contained therein. Mr. Young is directed to pay hearing costs in the amount of \$1000 on or before 25 March 2022.
2. Should the noted cost assessment not be received by the deadline indicated, membership in the Association will be automatically suspended. Future membership with the Association will not be considered unless hearing cost assessment is paid in full to the Association by Mr. Young. Reinstatement of membership will be subject to Association policies, including an absence time limit of two years, reinstatement fees and mandatory course requirements.
3. Pursuant to s. 23(4)(c) of *the Act*, the Discipline Committee directs the Registrar to reprimand the member and further directs that the fact of the reprimand be recorded on the register.
4. Pursuant to s. 23(4)(f) of *the Act*, the Discipline Committee directs the Registrar to publish this decision on the Association website:

<https://www.nbrea.ca/office-of-the-registrar/discipline-decisions/>

In accordance with s. 25(1) of *the Act*, the Respondent may appeal this decision within thirty (30) days from the date of the decision.

Dated this 24 day of February, 2022.



Kevin MacDonald, Acting Chair, on behalf of the Committee
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