

2019-021

**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-

Angela Boyle
RESPONDENT

Date of Hearing: December 1, 2020, 1400hrs

Place of Hearing: Teleconference

Members of Committee: Karl Merrill, Chair
Jean LeBlond
Jeremy Deering
Alissa Lee
Marc Richard, Q.C., Government Appointee

Appearances: John Townsend, Q.C., Counsel for the Association

The Chair noted persons attending the hearing:

Present: N/A

Via Teleconference: Mr. Merrill, Mr. LeBlond, Mr. Deering, Mrs. Lee, Mr. Richard,
Mr. Townsend, Mrs. Boyle, Mr. Mitchell McLean (Registrar), and
Mrs. Jodie Yerxa (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 August 15th, 2019 and September 20, 2019, both dates inclusive, Angela Boyle, being a member, as defined by *An Act to Incorporate the New Brunswick Real Estate Association*, Chap. 115, S.N.B., 1994 (the *Act*), and while acting in Dual Agency capacity:

- 1) Did not protect and promote the interest of her Client; and
- 2) Did not deal fairly with all parties to a transaction.

All as set out in the Complaint of [REDACTED] dated September 20, 2019, thereby committing an act of professional misconduct, in violation of Article 3 of the REALTOR® Code (effective March 2016), and punishable under ss. 23(4) and 23(5) of the *Act*.

The charges were contained in the Updated Notice of Penalty Hearing dated 17 November 2020 (file 2019-021), which was entered into the record as Exhibit #16.

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

Mrs. Boyle, representing herself, confirmed that she 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 consultation, he and Mrs. Boyle had agreed to make a joint submission respecting the charges.

The Registrar recorded the acknowledgement of the Joint Submission entered into record as Exhibit #14, “Joint Submission to Discipline Committee – 12 Nov 2020”.

Mr. Townsend stated that 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 Mrs. Boyle was willing to admit to the substance of the complaint and had accepted the proposed fine of \$750 and hearing costs of \$500, both to be paid within 30 days of receipt of the Committee’s decision.

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

Mrs. Boyle also agreed upon the recommendation made by Mr. Townsend.

Findings:

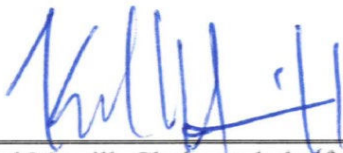
The Committee considered the facts as set out in Exhibit 14 which was jointly submitted by all parties. Recognition was given to the Respondent’s willingness to accept responsibility for the substance of the complaint pursuant to a breach under Article 3 of the REALTOR® Code as alleged in the Updated Notice of Penalty Hearing dated 17 November 2020.

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 12 November 2020 including all terms and conditions contained therein. Mrs. Boyle is directed to pay a fine of \$750 and a cost assessment of \$500 on or before 8 January 2021, 1700hrs.
2. Should the noted fine and 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 both the fine and cost assessment are paid in full to the Association by Mrs. Boyle. 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)(f) of *the Act*, the Discipline Committee directs the Registrar to publish this decision on the Association website: www.nbrea.ca.

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 11th day of December, 2020.



Karl Merrill, Chair, on behalf of the Committee
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