



OFFICE OF THE REGISTRAR / BUREAU DU REGISTRAIRE

COMPLAINT 2024-002

NBREA v. BRYAN HARDY

DISCIPLINE DECISION

This Discipline Decision was produced by the Discipline Committee of the New Brunswick Real Estate Association in accordance with *An Act to Incorporate the New Brunswick Real Estate Association*.

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Recitals

DECISION OF THE DISCIPLINE COMMITTEE WITH RESPECT TO MERIT & SANCTION

In the matter of a Discipline Committee Hearing held pursuant to Section 23(1) of
The New Brunswick Real Estate Association Act (the “Act”):

BETWEEN

The New Brunswick Real Estate Association (the “Association”)

-and-

Bryan Hardy (the “Respondent”)

Date of Hearing: May 13–14, 2025, 9:30 am

Place of Hearing: Crowne Plaza, Moncton, New Brunswick

Members of Committee: Fanny Bodart, Chair
Joanne MacMillan
Chris Turner
Jeffrey Smith
Andrea Stierle-MacNeill, Public Appointee

Appearances: Dominic Caron, Counsel for the Association
Sue Duguay, Student-at-Law, for the Association
Mrs. M, the Complainant
Bryan Hardy, the Respondent

The Chair noted persons attending the hearing:

Present: Ms. Bodart, Ms. MacMillan, Mr. Turner, Mr. Smith, Mrs. Stierle-MacNeill, Mr. Caron, Ms. Duguay, Mr. Hardy, Mr. Mitchell McLean (Registrar), Ms. Kathleen Starke (Committee Legal Counsel), the Complainant (present to testify only), and Mrs. Christine McLauchlan (Court Reporter).

Executive Summary

- [1] This Complaint relates to the activities of a REALTOR® who, while responsible for representing two individuals in the sale of a home and subsequent purchase of two separate homes, is alleged to have failed to protect and promote the interests of his client, failed to render skilled and conscientious service, failed to fairly represented the Complainant throughout the transactions and disparaged a fellow registrant (the “Allegations”).
- [2] The Discipline Committee (the “Committee”) held a hearing respecting the Allegations against the Respondent on May 13–14, 2025, and finds that the Respondent disparaged a fellow registrant and that this constitutes a breach of the REALTOR® Code of Ethics. The Committee finds that there is insufficient evidence to find that the Respondent unfairly represented the Complainant or that the Respondent failed to render skilled and conscientious service.

Introduction

- [3] The Complaint alleges that the Respondent, while representing the Complainant and the Complainant’s then husband, Mr. M, in the sale of their marital home and subsequent purchase of two separate homes; failed to protect and promote the interests of his client, the Complainant; failed to render skilled and conscientious service; failed to fairly represented the Complainant throughout the transactions; and disparaged a fellow registrant in procuring the Complainant and Mr. M as clients.
- [4] The Complaint was submitted to the Office of the Registrar by the Complainant, alleging that the Respondent’s actions violated the REALTOR® Code of Ethics.

- [5] The Complaints Committee reviewed all evidence presented by the Complainant and the Respondent and rendered a Decision on October 4, 2024. The matter was forwarded to the Committee pursuant to subsection 21(3)(a) of the *Act*.
- [6] The Respondent elected to proceed with a single hearing and have the Committee render a decision on the merits and penalty, if the Complaint was founded.

Jurisdiction

- [7] Under subsection 23(1)(a) of the *Act*, the Committee shall, when so directed by the Complaints Committee, hear and determine allegations of professional misconduct or incompetence against a member of the Association. On October 4, 2024, the Complaints Committee rendered its decision in complaint matter 2024-002 directing the Committee to commence such a proceeding.
- [8] The Respondent confirmed at the hearing that he had no objections to the composition and jurisdiction of the Committee.

Legal Test

- [9] The standard of proof required in a hearing before the Committee refers to the level of proof that must be met for the Committee to find a member guilty of an alleged offence. That level of proof, or threshold, is the civil standard of a “*balance of probabilities*” which is 51% or higher (i.e., is it more likely than not that the Respondent is guilty of one or more of the alleged offences). The Association has the onus of proving the allegations against the Respondent, on a balance of probabilities, through documentation and testimony given under oath or affirmation.
- [10] The Committee may find a member guilty of professional misconduct pursuant to subsection 23(2) based on the following criteria:

- a. the member has been convicted of an offence which, in the opinion of the Committee, is relevant to the member’s suitability to trade in real estate; or

- b. the member has been guilty, in the opinion of the Committee, of professional misconduct.

Issue

[11] The Committee is tasked with determining whether the Respondent's conduct was a breach of the REALTOR® Code of Ethics and, therefore, professional misconduct as outlined in the charges issued by the Association.

Charges

[12] Mr. Dominic Caron, representing the Association as the appointed prosecutor, presented the following charges against the Respondent:

Between October 26, 2023 and January 12, 2024, both dates inclusive, Bryan Hardy, being a member as defined by The Act to Incorporate the New Brunswick Real Estate Association, Chap. 115, S.N.B., 1994 (the Act):

- 1. Failing to protect and promote the interests of his client;*
- 2. Failing to render skilled and conscientious service; and*
- 3. Disparaging another registrant.*

All as set out in the complaint of Mrs. M dated January 12th, 2024, thereby allegedly committing acts of professional misconduct, in violation of, inter alia, Articles 3, 12, and 19 of the REALTOR® Code of Ethics and punishable under ss. 23(4) and 23(5) of the Act.

Background and Evidence

[13] During the hearing, the Committee received as evidence and carefully reviewed documents marked as Exhibits 1, 2, 3, 4 and 5, a list of which documents is attached to this Decision as Schedule “A”.

[14] The Committee heard the sworn testimony of the following witnesses:

- Mrs. M, Complainant;
- Mr. M, the Complainant’s then husband;
- Registrant TL;
- Registrant SS; and
- Bryan Hardy, Respondent.

[15] At the beginning of the hearing, Mr. Caron requested that witnesses be excluded from the hearing. Mr. Caron referenced the Discipline Committee Manual which provides that witnesses may be excluded from the hearing to ensure the integrity of their testimony.

[16] Mr. Hardy opposed the exclusion of witnesses as he did not want the witnesses to have to wait together in the hallway or lobby of the hearing location, particularly the Complainant’s current partner and the Complainant’s ex partner. Mr. Caron replied that the Complainant’s current partner would not be a witness and therefore did not need to be excluded. He reiterated that the Association wanted to exclude witnesses to ensure that each witnesses’ testimony was authentic.

[17] The Committee considered the arguments and granted the Association’s request and ordered that witnesses were excluded from the hearing until their testimony concluded.

Testimony of Mrs. M, Complainant

[18] The Complainant testified that she is an insurance broker and is from Kitchener, Ontario. She originally reached out to the Respondent in May or April of 2018 as she and her then husband, Mr. M, were considering moving to New Brunswick. The Complainant

testified that she reached out to the Respondent specifically because he had properties for sale and was ranked highly online as a REALTOR®. The Respondent assisted the Complainant and Mr. M in purchasing a home at 646 Victoria Road in Moncton, New Brunswick (“646 Victoria Road”).

- [19] The Complainant and Mr. M resided at 646 Victoria Road as their marital home from 2018 until October 2023. During this time, the Complainant testified that she maintained a friendship with the Respondent – they would comment on each other’s pictures on social media and the Respondent would reach out to her with insurance related questions. The Complainant specifically recalled that the Respondent reached out to her in May 2023 with respect to insurance as he was buying a property.
- [20] In summer of 2023, the Complainant and Mr. M separated and determined that they would sell 646 Victoria Road. The Complainant stated that she reached out to the Respondent to obtain a “ballpark” estimate for the value of 646 Victoria Road. The Complainant testified that, at this time, she was looking at options for a real estate professional and was not retaining the Respondent as the listing salesperson. The Complainant indicated that she has a few friends that she made through work that are real estate professionals and was looking at her options.
- [21] The Complainant referred to the Facebook messages between herself and the Respondent on August 8, 2023, particularly the message at 9:10 am to the Respondent wherein she noted that Mr. M also wanted to obtain advice from more than one professional before signing with a listing agent, as the Complainant had maintained friendships with other real estate professionals. In response, the Respondent stated, “*No loyalty:(Does he think the number one agent will not give him the best of the best service :(*”. The Complainant testified that she rolled her eyes and thought “*it was Bryan being Bryan*” as the Respondent likes to remind people that he is “*number one*”.
- [22] The Respondent then sent a message which indicated, in part, that “*Yes I know your friends with Registrant ME but not in the same league work ethic or connections*”. The Complainant testified that this was in reference to Registrant ME, another registrant with whom she had maintained a connection. The Complainant recalled interpreting this message as the Respondent implying that he is better than Registrant ME.

- [23] The Complainant testified that three registrants came to view the house and provide estimates – the Respondent, Registrant ME, and Registrant TL, another registrant with Re/Max at the same agent as the Respondent. The Complainant stated that Registrant TL estimated the highest listing price (\$450,000) with a 4.5% commission rate; Registrant ME estimated the lowest listing price (\$375,000) with a 5% commission rate; and the Respondent had a mid-range estimated listing price (\$375,000 to \$400,000) with a 5% commission rate.
- [24] Throughout August 2023, although the Complainant continued to speak with the Respondent, the Complainant testified that she and Mr. M had not yet decided which registrant they wanted to engage as the listing salesperson for 646 Victoria Road. The Complainant had also not decided yet whether she would be using the Respondent as buyer's representative for the subsequent purchase of a home.
- [25] On August 14, 2023, the Respondent asked the Complainant for her email to set her up for auto-emails for listings and asked for her criteria for a new house. The Complainant communicated to the Respondent that she was stuck on the location and provided her with other criteria. The Complainant testified that she did not want to enter into a purchase agreement for a new house until 646 Victoria Road had an accepted offer. The Complainant, however, continued to communicate with the Respondent about the type of house she was looking for. For example, the Complainant sent a listing for a property on Kierstead Street and stated, *"wish I was ready"* and *"Don't have the down payment yet. Frig"*. On August 15, 2023, she then messaged the Respondent and stated that *"... Need a pre approval in place before I go further"*. On August 16, 2023, reiterated that *"I need to do a pre approval and then the question comes down to how long to get this ready and sell"* and that *"Cause I need condition on selling and financing at this stage which turns most away from you if its not even listed yet"*, confirming the Complainant's intention that she wanted 646 Victoria Road to sell before she put an offer on a new house.
- [26] The Complainant continued to reiterate to the Respondent in their Facebook messages that she needed pre-approval before she would be ready to purchase a new house

throughout August 2023. On August 30, 2023, the Respondent noted that *“Everyone has so many buyers for under 350k”* and the Complainant responded *“That’s what I was just approved for. Lol barf”*. On September 1, 2023, the Complainant sent the Respondent a message with another listing and a related message of *“I want that!”*. The Complainant testified that she was *“still dreaming”* and was not ready to purchase as her house was not on the market yet. Throughout this time, the Complainant was working to prepare 646 Victoria Road for listing for sale.

- [27] On September 18, 2023, the Complainant communicated to the Respondent that Mr. M *“wants to list with Registrant TL ad she gave a higher price”*. The Complainant testified that, since both she and Mr. M were on title for 646 Victoria Road, they agreed that they should both choose the listing agent. At this time, the Complainant stated that she and Mr. M both wanted to list with Registrant TL, in part because she estimated the highest listing price and because she indicated that she had a buyer lined up. The Complainant further testified that, in conversations with Registrant TL, Registrant TL indicated that she wanted to highlight the property, not only the house, and this was important to the Complainant. The Complainant stated that the Respondent did not appear to give the property the same importance as Registrant TL did.
- [28] After the Complainant communicated this to the Respondent, the Respondent responded that *“That’s non sense”* and *“I’ll list your house for whatever you want. I just show you what the market. Registrant TL is a one year old agent that list high and plays the price reduction game”*. The Respondent then stated *“She’s 11 at my office. I’m 1 you’re in good hands”*. The Complainant testified that she again thought that this was *“Bryan being Bryan”* and that her reaction was that the Respondent was more concerned about being the listing agent than how 646 Victoria Road was sold or it going to the best buyer. The Respondent then offered to provide the Complainant and Mr. M with *“as cheap as possible commission and help in any other way I can”*.
- [29] The Complainant then indicated to the Respondent that *“It’s not me that needs convincing its him”*, referring to the fact that it was Mr. M who required convincing to list with the Respondent. The Respondent then responded that, *“I’ll reach out to him”*

as listing with an inexperienced agent over the top agent doesn't make sense to me plus we are already a team" and "Registrant TL needs to take a hike lol". The Complainant testified that she felt that the Respondent was using her frustration to his advantage to obtain the sale of 646 Victoria Road and was attempting to convince her to list with him as he was "better" than Registrant TL.

- [30] The conversation on September 18, 2023, continued and the Respondent then indicated that co-listing was a possibility, stating *"Or you have yours and he has his and Registrant TL and I will have to co list but commission was it would be cheaper to not"*. The Complainant testified that she briefly entertained this as a possibility but did not know what the implications of co-listing were, other than she believed it would be less money in her pocket at the end. However, the Respondent did not explain why it would be cheaper not to co-list, so she did not fully understand.
- [31] The Complainant then sent a message to the Respondent indicating that Registrant TL had quoted a 4.5% commission rate, and that Registrant TL had a buyer lined up but that this fell through. The Respondent responded that *"I'll do better" and "I don't need the money I just don't want to lose especially to a rookie lol"*.
- [32] The conversation then continued with discussions about convincing Mr. M to choose the Respondent as the listing salesperson and discussions around the Complainant's frustrations with Mr. M. The Complainant later asked the Respondent *"How would I approach Registrant TL for a co. I don't want a co... but he's still talking about her."* Rather than explaining what a co-listing was or how to approach Registrant TL, the Respondent responded that *"Sorry Registrant TL. We decided to go another route" and "That's all I would say"*.
- [33] A short time later, the Respondent then messaged the Complainant and stated that *"Mr. M says he's up for me selling"* and then asked *"Are you on board with me selling if so I can start in my end to help"*. After the Complainant confirmed and indicated that Registrant TL was *"mad"*, the Respondent stated, *"She shouldn't be messing around with my people in the first place. She's be fine and you'll be much better taken care of"*. After a few messages, the Complainant stated, *"You hustle hard and you've been top 10 longer than*

she's been licensed" and the Respondent responded that *"I've been number 1 longer than she's been in real estate haha"*.

- [34] The Respondent and the Complainant continued to message back and forth and agreed that the Respondent would attend the property on September 20, 2023, with a photographer to take pictures for the listing. The Complainant testified that the Respondent did attend the property on September 20, 2023. He attended early and brought pizza for the Complainant and her children and helped clean the house to get it ready for the photographer. The Complainant stated that the Respondent had her execute the listing agreement that evening and a single page document that she believed may have been a buyer's agency agreement but that she was not provided with a copy of either document. The Complainant recalled that it only took minutes to sign the documents with the Respondent, that she did not have time to read all the documents through, and that the Respondent did not explain the documents to her. The Respondent was at the house for under one hour in total. Mr. M was not able to attend the house at this time and the Respondent took the documents to have Mr. M sign at a later date. A copy was not left with the Complainant, and she could not recall if she received the signed copy as she could not find it in her emails. The listing agreement contained a handwritten signature of the Complainant and a DocuSign signature from Mr. M.
- [35] The Complainant testified that 646 Victoria Road was listed at a higher price than was estimated by the Respondent at the request of herself and Mr. M. After approximately a week, the Complainant alleged that Mr. M and the Respondent communicated and agreed to reduce the price as they had not yet received any offers. The Complainant testified that this discussion occurred behind her back.
- [36] On September 20, 2023, the Complainant also messaged the Respondent to ask about when she could start looking at houses. She testified that, at this time, she had her pre-approval, the separation agreement with Mr. M was almost complete, and the listing for 646 Victoria Road was already up so she was ready to start looking. The

following day, the Complainant again messaged the Respondent to indicate that she was ready to start looking at houses.

- [37] On October 4, 2023, the Complainant indicated that there was an accepted offer on 646 Victoria Road. The purchase and sale agreement for 646 Victoria Road was included in Exhibit 1 and indicated a closing day of October 26, 2023. The Complainant recalled that there was an initial offer that was rejected and some discussions about the inclusion of certain chattels in the sale but that, ultimately, she and Mr. M accepted an offer.
- [38] The Complainant was able to start looking at houses around this time but alleged that the Respondent was blocking her from seeing certain houses, including 27 Dolphin Drive, Moncton (“Dolphin Drive”), which she later learned had been purchased by Mr. M. However, she was able to make an offer on 167 Maple Street, Moncton (“Maple Street”), on October 5, 2023, that was accepted that same day and had a closing date of October 26, 2023. The Complainant further alleged that the Respondent chose an inspector for her and forced her to book that inspector, Buyer’s Choice.
- [39] The Complainant explained that there was subsequently an amendment to the purchase and sale agreement for Maple Street because, after the house inspection, it was determined that there was aluminum wiring in the house. As she was on vacation, the Respondent negotiated a reduction in the purchase price for her. Due to the aluminum wiring, the Complainant stated that she required a subsequent electrical inspection for insurance purposes, which occurred on October 20, 2023. This inspection revealed that there was more aluminum wiring than originally disclosed and there was suspected knob and tube wiring that was not disclosed. The Complainant testified that she and the Respondent discussed this, and the Respondent indicated that they would wait until the closing day to address this issue with the vendor. The Complainant stated that she “*had no fight left in me*” at this point and could wait to deal with the electrical later.
- [40] On October 12, 2023, the Respondent sent a Facebook message to the Complainant and Mr. M attaching a screenshot of a Notice to the Profession respecting a disciplinary decision regarding Registrant TL, which was sent to him on behalf of the Association. The

screenshot was sent with an accompanying message: *“Registrant TL got herself in trouble and has to pay fines and take courses”* and *“Glad you picked me lol”*.

- [41] Prior to closing day for 646 Victoria Road, Maple Street, and Mr. M’s house, the Complainant testified that there was an issue with documents not being sent to her lawyers for the closing that she dealt with, an issue she believed to be the Respondent’s duty to rectify. She had also noticed that Mr. M was short on financing for his new property. The Complainant stated that she then reached out to the mortgage broker that they were both working with and Mr. M’s lawyers to help fix this issue. The Complainant explained that, if Mr. M’s sale fell through, 646 Victoria Road would fall through, and her own sale would therefore fall through, resulting in many potential lawsuits. The issue was ultimately resolved and Mr. M’s property was set to also close on October 26, 2023.
- [42] On October 25, 2023, the day before closing day, the Complainant spoke to Mr. M and explained that she was contemplating filing a complaint against the Respondent because *“I don’t get paid to do Bryan’s job”*. The Complainant testified that she felt it was the Respondent’s job to ensure all required documents were provided to the lawyers for closing. She also felt that she did not get a fair transaction as compared to Mr. M and that the Respondent had treated Mr. M more favourably. The Complainant referred to messages from the Respondent to herself wherein the Respondent indicated that Mr. M’s feelings about the separation were valid and that *“kids need two parents”*.
- [43] On closing day, October 26, 2023, the Complainant testified that she had a final walk through scheduled with the Respondent for 9:00 am. Prior to this, the Complainant had attended Mr. M’s new house to wish him luck and, as she was driving away, the Respondent arrived at Mr. M’s house. The Complainant stated that she was waiting for the Respondent at Maple Street for the final walkthrough and that, sometime after 9:00 am, the Respondent called her and indicated that Mr. M had told him that the Complainant may be filing a complaint against him. The Complainant stated that they spoke for about 10 minutes and that the Respondent threatened not to show up for the

final walkthrough if she did not agree to not file a complaint against him. The Complainant provided her phone records which confirmed that she and the Respondent had spoken for approximately 10 minutes. The Respondent ultimately did complete the walk through.

- [44] At the end of the walk through of Maple Street, the Complainant testified that she and the Respondent had a conversation in the backyard during which the Respondent alleged that the Complainant was *“the reason Mr. M’s closing was going south”* and *“Mr. M’s life was ruined”*. The Respondent also stated that he told Mr. M to sue the Complainant. Later that day, the Complainant stated that she saw Mr. M at his lawyer’s office and therefore believed what the Respondent was stating was true.
- [45] At some point during the walk through or shortly thereafter, the Complainant stated that the Respondent advised her to email her lawyer and ask for a further price reduction on the purchase price due to the electrical issues. The Complainant referred to a draft email that the Respondent prepared for her to send to the lawyers. The Complainant stated that the vendors were upset that she was asking for a further price reduction and that she was stressed as well because she had movers lined up and nowhere else to stay. She ultimately received an extension on the closing and the house closed the following day with a reduction of \$4,000.
- [46] The Complainant testified that she was further upset when she saw that the Respondent had posted the various closings on Facebook and, with respect to Mr. M’s house, stated that Mr. M’s life was *“flipped upside down”* and that they were able to find a new house for him, but a similar statement was not made about the Complainant’s situation. The Complainant stated that her friend contacted the Respondent about the posts and the Respondent did take the posts down.
- [47] The Complainant testified that she ultimately filed the Complaint as she believed she was not treated fairly in the transactions as compared to Mr. M.

Testimony of Mr. M

- [48] Mr. M, the Complainant's former partner, testified that he believed that the Respondent did a good job as a registrant with respect to the purchase of 646 Victoria Road. Mr. M testified that, following this, the Respondent and the Complainant continued to communicate and, therefore, when they were selling 646 Victoria Road, Mr. M agreed that he wanted to interview other registrants to ensure he was being treated fairly in the transaction as well.
- [49] Mr. M stated that three registrants attended the property, and his preference was initially Registrant TL as she had indicated that she had more experience selling country homes than the Respondent and that she could sell 646 Victoria Road for as much as \$450,000. Mr. M testified that he was happy to hear this but eventually agreed to list with the Respondent after discussing a commission with the Respondent and discussing with the Complainant.
- [50] Mr. M testified that the Respondent did a great job with the sale of 646 Victoria Road and the subsequent purchase of Dolphin Drive and that he would refer others to the Respondent. He stated that the Respondent did not require him to sign a buyer's agency agreement for his purchase.
- [51] Mr. M speculated that the Complainant became unhappy with the Respondent once she became aware that Mr. M had purchased a home before her. He denied that the Respondent ever advised him to sue the Complainant.

Testimony of Mitch McLean

- [52] Mitch McLean, Registrar of the Association, testified that a staff member of the Association fulfills the administrative role of publishing decisions that Panels of the Discipline Committee order to be published and that not all decisions of the Discipline Committee are published. Mr. McLean acknowledged that decisions which are published on the Association website could be considered public knowledge.

Testimony of Registrant TL

- [53] Registrant TL, another registrant, testified that she has been a licensed salesperson since July 2021. Registrant TL denied making any comments about the Respondent to the Complainant or Mr. M when the Complainant and Mr. M were considering options for a salesperson for 646 Victoria Road. She stated that she did not know the Respondent was even involved with the Complainant and Mr. M until the Complainant informed her that the Respondent was engaged as the listing salesperson.
- [54] Registrant TL further testified in regard to details of a Re/Max Quality Real Estate Inc. group chat in which Registrant TL made references to the Respondent and the transaction for 646 Victoria Road.

Testimony of Registrant SS

- [55] Registrant SS is an administrative assistant working with Re/Max Quality Real Estate Inc. and is the assistant for the Respondent and one other person. She stated that she has 18 years of experience as an administrative assistant and has not met many agents that work as hard as the Respondent. Registrant SS also testified that she had never seen the Respondent obtain a buyer's agency agreement.

Testimony of Bryan Hardy, the Respondent

- [56] The Respondent testified that he has been a REALTOR® since 2016. The Respondent stated that he and the Complainant were friends for approximately six years prior to the Complaint being filed. When the Complainant reached out to him with respect to the sale of 646 Victoria Road, the Respondent stated that he understood from the Complainant that Mr. M wanted to explore other options for registrants because of the Respondent's friendship with the Complainant. The Respondent was understanding of this. However, at no time did the Complainant communicate that she herself wanted to explore other options as well so the Respondent understood that she wanted him to be

the listing agent for 646 Victoria Road and that she wanted him to be her salesperson for a subsequent purchase.

- [57] When the Respondent heard that Registrant TL had provided an estimated sale price to the Complainant and Mr. M, the Respondent stated that he felt that Registrant TL was misleading his clients as her estimate was too high. The Respondent communicated to the Complainant that he was best suited and would work hard to help the Complainant and Mr. M.
- [58] The Respondent acknowledged making comments about Registrant TL and Registrant ME to the Complainant, referring to himself as “#1”, calling Registrant TL a rookie, and comparing himself to their work. The Respondent stated that these were not disparaging comments because the comments were “*factual*”. He testified that he understood that the Complainant had engaged him the first time because he was a top performer and therefore understood that was what the Complainant wanted to hear from him. The Respondent also referred to messages from the Complainant in which the Complainant made similar comments, such as referring to the fact that the Respondent was “#1” longer than Registrant TL had been a REALTOR®. The Respondent reiterated that these statements were factual, and he was making these comments because he knew what would “*impress*” the Complainant.
- [59] The Respondent also acknowledged that he sent the disciplinary decision about Registrant TL to the Complainant and Mr. M. He stated that he did so because he now knew how much time a complaint takes to respond to, and he was communicating that Registrant TL would not have had time to properly assist the Complainant and Mr. M.
- [60] The Respondent denied that he wanted to “*get the sale*” of 646 Victoria Road, stating that he did not require the money and only wanted to help his friends. He offered to reduce his commission rate and offer a \$500 cash incentive to help them get the sale.
- [61] The Respondent testified that, once he was engaged as the listing agent for 646 Victoria Road, he did the best he could for both the Complainant and Mr. M. He stated multiple times that he did a great job, selling 646 Victoria Road and assisting both the Complainant and Mr. M with finding new houses within a five (5) week period.

- [62] The Respondent stated that he and the Complainant agreed that he would attend 646 Victoria Road to execute the listing agreement for that property and for the photographer to take pictures. The Respondent stated that, on September 20, 2023, he arrived early at around 4:30 pm and brought pizza for the Complainant and her two kids. He assisted the Complainant with tidying and preparing the house for photographs. The Respondent then had the Complainant sign the listing agreement. He denied that he rushed the Complainant through the documents and denied that he had her execute a buyer's agency agreement, stating that he had never done so with any clients. The Respondent testified that Mr. M was not present to sign the listing agreement and so the Respondent took the original to scan and send to Mr. M for signing via DocuSign. The Respondent then sent the completed copy to both Mr. M and the Complainant.
- [63] The Respondent stated that he agreed to list 646 Victoria Road for \$425,000 at the request of the Complainant and Mr. M, although it was higher than his estimated sale price. The Respondent denied that he and Mr. M agreed to reduce the listing price behind the Complainant's back and testified that, rather, they discussed this with the Complainant in a Facebook Messenger group chat. The Respondent stated that this was a transparent conversation in which the Complainant gave consent for the price reduction. After the listing price was reduced, the Respondent testified that the Complainant and Mr. M ultimately accepted an offer on 646 Victoria Road.
- [64] The Respondent testified that, at all times, he treated the Complainant and Mr. M both equally and fairly and was listening to their instructions. He stated that the Complainant had indicated that she wanted to ensure that 646 Victoria Road was listed and she was pre-approved for a mortgage before looking at houses. The Respondent testified that he did not block the Complainant from seeing any houses but, rather, was respecting her instructions that she wanted to wait and did show her houses as soon as she indicated that she wanted to do so. It was not until October 2, 2023, that the Complainant first indicated via Facebook Messenger that she wanted to see houses

without any conditions. Shortly after this message, the Respondent started showing the Complainant houses.

- [65] In comparison, the Respondent testified that Mr. M expressed that he wanted to look at houses right away and not wait for pre-approval, so the Respondent was showing him houses sooner than to the Complainant. The Respondent confirmed that Mr. M made an offer on Dolphin Drive prior to the offer on 646 Victoria Road was accepted but indicated that Mr. M was *“willing to gamble”* on this. The Respondent acknowledged on cross-examination that he and Mr. M agreed not to inform the vendor’s representative that Mr. M’s purchase was, effectively, contingent on 646 Victoria Road selling but stated that the vendor’s agent did not need to know this.
- [66] The Respondent stated that he also respected his obligation to maintain the confidentiality of both of his clients and did not share the details of either the Complainant or Mr. M’s subsequent purchase plans with the other. Despite both the Complainant and Mr. M making comments about the other to the Respondent, the Respondent testified that he was supportive but respectful of each and did not share the details of either’s sale to the other. For example, the Respondent informed the Complainant that Dolphin Drive had an accepted offer but did not inform her that it was Mr. M’s offer.
- [67] On cross-examination, the Respondent was referred to text messages with Mr. M wherein he stated that Mr. M should *“keep it that way”* in regard to the Complainant not looking at houses because the Respondent *“told her we can’t put in offers until our house is sold”*. The Respondent explained that he did not want Mr. M and the Complainant talking to each other about their prospective purchases because he did not want that to cause more chaos. The Respondent was also referred to text messages with Mr. M wherein the Respondent stated, in reference to Dolphin Drive, that Mr. M’s offer was accepted and *“not sure if you want to tell Mrs. M just in case”*. When Mr. M responded, *“Just in case what?”*, the Respondent answered, *“In case she wants it and calls the listing agent and tells on us lol”*. The Respondent testified that he, again, wanted to ensure that he maintained confidentiality but that he did not

want the Complainant to be upset if she found out that Mr. M was able to see Dolphin Drive before her.

- [68] The Respondent testified that he was able to assist both the Complainant and Mr. M in purchasing houses in the area that they wanted and that met their criteria. He testified as to the details of both purchases. Regarding Mr. M's purchase of Dolphin Drive, the Respondent testified that they discovered issues with the electrical panels during the home inspection. He and Mr. M agreed to wait until closing to raise this with the vendors.
- [69] With respect to the Complainant's purchase of Maple Street, the Respondent denied that he forced the Complainant to use a particular inspector, pointing to messages where he had presented potential inspectors and indicated that it was the Complainant's choice. The Respondent further testified that, as with Mr. M's property, issues were discovered during the home inspection with the electrical panels – for Maple Street, the issue was aluminum wiring. However, rather than wait until closing day, he negotiated a price reduction on behalf of the Complainant. He indicated that, to his knowledge, this issue had been resolved and that he was surprised when he learned that the Complainant was attempting to negotiate a further price reduction on closing day, referring to her actions as *"unethical"*.
- [70] On closing day for the three properties, October 26, 2023, the Respondent testified that he had scheduled the final walkthrough for Mr. M at 8:30 am and for the Complainant at 9:00 am. When he arrived for Mr. M's walkthrough, the Complainant was present and the three chatted, delaying the start to the walkthrough. While completing the walkthrough, issues with the electrical panel were discovered which caused further delays before the Respondent was able to attend the Complainant's final walkthrough.
- [71] During the walkthrough with Mr. M, Mr. M informed the Respondent that the Complainant was going to file a complaint against him due to issues with the paperwork being delivered to the lawyers. After completing the walkthrough with Mr. M, the Respondent called the Complainant while driving and explained that he was

delayed and further raised the potential complaint, explaining to the Complainant that he is not responsible for sending paperwork to the lawyers or the mortgage broker, that is the responsibility of his office. The Respondent denied that he threatened not to complete the walkthrough and stated that this allegation does not make sense as, if the final walkthrough is not completed and the sale is not completed, he would not get paid. The Respondent testified that he did complete the final walkthrough with the Complainant and that the walkthrough was not rushed.

[72] After completing the walkthrough with the Complainant, the Respondent was advised by the vendor's representative that the Complainant had contacted the vendor's lawyers to try to negotiate an additional price reduction due to the knob and tube that was discovered during the electrical inspection, without the knowledge of the Respondent. The Respondent alleged that this was "*unethical*" as they had already negotiated a price reduction to account for the potential electrical issues discovered during the initial inspection. Despite this, the Respondent testified that he attempted to assist the Complainant by preparing a draft email for her to send to her lawyer to attempt to negotiate an additional reduction in the purchase price as the Complainant had already initiated these discussions.

[73] With respect to the Facebook posts regarding the sale and subsequent purchases of the houses by Mr. M and the Complainant, the Respondent stated that he always posts his clients' successes on Facebook and he posted in this case because he was proud of what they accomplished, i.e. selling a house and subsequently buying two houses in the areas that each wanted within a five (5) week period. The Respondent stated that he used the words "*world flipped upside down*" as this was a phrase that the Complainant had used to describe the situation. Although the Respondent was referred to Facebook messages with the Complainant wherein he used this phrase, the Respondent maintained that the Complainant used that phrase and that he did not mean for it to be offensive as it was true. However, after one of the Complainant's friends messaged him about the post, he took it down.

- [74] Ultimately, the Respondent testified that he treated the Complainant fairly and did not think he could have done anything differently to help the Complainant through this difficult and stressful time. The Respondent stated that, *“I never do a deal and not think I could do better”* but that, in this case, *“I did a phenomenal job and I accomplished a lot”* and *“What I did was amazing”*.
- [75] On cross-examination, the Respondent acknowledged that he had previously been disciplined by a Panel of the Discipline Committee for comments made about another registrant. The Respondent stated that he admitted the allegations against him in that matter and testified that he believed the circumstances were different than in this Complaint.

Findings and Reasons

- [76] The Committee considered all the evidence, and the submissions presented. The Committee considered the case law presented in this hearing before making its finding but notes that it is not bound by decisions from other jurisdictions or decisions from other regulated professions.
- [77] Having regard for the evidence and for the submissions made by Counsel for the Association and the Respondent, for the reasons below, the Committee finds that the Respondent committed acts of professional misconduct in breach of Article 19 of the REALTOR® Code of Ethics. The Committee finds that there is insufficient evidence to establish a breach of Article 3 or 12 of the REALTOR® Code of Ethics.

i) Articles 3 and 12 of the REALTOR® Code of Ethics

- [78] In closing arguments, Mr. Caron indicated that the allegations respecting Articles 3 and 12 of the REALTOR® Code of Ethics in the Notice of Discipline Hearing should be read together as, for the purposes of this matter, the allegations with respect to each are tied. The Committee therefore considered these allegations together.
- [79] Article 3 of the REALTOR® Code of Ethics provides that:

A REALTOR® shall protect and promote the interests of his or her Client. This primary obligation does not relieve the REALTOR® of the responsibility of dealing fairly with all parties to the transaction.

[80] Article 12 of the REALTOR® Code of Ethics provides that:

A REALTOR® shall render a skilled and conscientious service, in conformity with standards of competence which are reasonably expected in the specific real estate disciplines in which the REALTOR® engages. When a REALTOR® is unable to render such service, either alone or with the aid of other professionals, the REALTOR® shall not accept the assignment or otherwise provide assistance in connection with the transaction.

[81] Mr. Caron argued that there are several violations of these two Articles but referred the Committee to three specific subpoints:

- a. the allegation that the Complainant was rushed through signing the listing agreement, arguing that it is the registrant's responsibility to ensure that a client thoroughly understands the transactional documents, and that a copy was not left with the Complainant;
- b. the allegation that the Respondent did not treat the Complainant and Mr. M fairly in the transaction, deliberately letting the Complainant believe she could not view houses before there was an accepted offer on 646 Victoria Road; and
- c. the allegations respecting closing day and, in particular, that the Respondent threatened the Complainant not to do the final walkthrough and the Respondent convinced the Complainant to wait until closing day to raise the concerns about the electrical at Maple Street which was not promoting the interests of his client.

[82] With respect to the first subpoint, that the Complainant was rushed through signing the listing agreement, the Committee finds insufficient evidence to conclude that the Complainant was rushed and did not understand what she was signing. Both the Complainant and the Respondent testified that the Respondent was at 646 Victoria Road with the Complainant for about an hour and the listing agreement contains the Complainant's signature. Although the Complainant testified that she believed the

Respondent had her sign a buyer's agency agreement, the Committee finds it more likely than not that a buyer's agency agreement was not signed. The Committee accepts the evidence of Registrant SS, which corroborated the Respondent's evidence, that the Respondent does not obtain buyer's agency agreements. The situation, from both witnesses' perspective, was that the evening was a bit stressful, as the house needed to be prepared for photographs and the Complainant had her children at home as well. The Committee finds that, while the Respondent may not have taken a long time to review the listing agreement with the Complainant, this alone does not rise to the level of a breach of either Article 3 or 12 of the REALTOR® Code of Ethics.

- [83] With respect to the allegation that the Respondent did not treat the Complainant fairly, the Committee finds that there is insufficient evidence to find that the Complainant was treated unfairly in the transactions. The documents submitted and the evidence presented confirmed that the Respondent was working with two clients in a difficult situation and ensured that he was respecting the instructions of both clients. Although the Complainant and Mr. M chose different "*plans*", i.e. gave the Respondent different instructions in terms of when they wanted to start the process of purchasing a house, and the Respondent did not offer the same plan as Mr. M to the Complainant, the Respondent was not obliged to do so. The Committee further noted that many registrants do not show houses before a potential client has been pre- approved or their current property is listed. The Complainant was able to find a house that fit her criteria within a very short turnaround time, demonstrating that she did not receive lesser treatment compared to Mr. M. Further, although the Respondent made comments to Mr. M and vice versa about the Complainant, the negative comments were generally from Mr. M and not the Respondent. The Respondent's comments were, generally, either directly or impliedly ensuring that information about the Complainant and the Respondent's transactions were not shared with the other. The Committee therefore finds that the Respondent's conduct in this regard did not breach Article 3 or Article 12 of the REALTOR® Code of Ethics.

- [84] The Committee notes that the Respondent could have been more professional in his communications with both the Complainant and Mr. M. The Committee acknowledges and understands that the Respondent maintained a friendship with the Complainant and, to an extent, Mr. M, and therefore the tone of the conversations were often personal and friendly rather than strictly professional. However, during the transactions, the Respondent had an obligation to ensure that his communications were professional and in line with his professional obligations as a REALTOR®. The Committee, however, finds that the communications do not rise to a level which breached the Respondent's obligations under the REALTOR® Code of Ethics.
- [85] With respect to the allegations respecting closing day, the Committee finds that it is more likely than not that the Respondent did not threaten the Complainant that he would not complete the final walkthrough unless the Complainant agreed not to file a complaint against him. The Respondent and the Complainant's evidence was consistent that they spoke for about 10 minutes while the Respondent was driving to the Complainant's closing and that they spoke about her intention to file a complaint. The Committee found that, while both the Complainant and the Respondent were generally credible, both tended to change their version of events, and their version of events was not always consistent with their own evidence. Further, the Committee accepts the Respondent's evidence that, if he did not complete the final walkthrough, the closing of Maple Street would have fallen through and he would not have been paid, making it less likely that he would threaten the Complainant in this way. The Committee finds that, on a balance of probabilities, there is insufficient evidence to conclude that the Respondent threatened the Complainant not to complete the final walkthrough.
- [86] The Committee further finds that it is likely that the Respondent did encourage the Complainant to wait until closing day to raise the electrical issues discovered during the electrical inspection. Although the Respondent denied doing so, the Complainant was consistent in her testimony that this was the Respondent's advice and that the Respondent provided her with a draft email to send to the lawyers, a copy of which was provided to the Committee. Given that the Respondent admitted he advised Mr. M

to wait until closing day to raise issues with the vendor of Dolphin Street and saw no issues with doing so, the Committee finds it more likely than not that this occurred. However, the Committee finds that this does not breach the REALTOR® Code of Ethics. Although waiting until closing day to raise issues with a vendor is not always advisable, the Committee considered that this is not an uncommon practice and, in certain cases, like here, may result in further price reductions to the benefit of the purchaser.

- [87] The Committee finds that the Respondent did treat the Complainant fairly and rendered a skilled and conscientious service. This was, overall, a stressful and complicated situation but the Respondent was able to sell 646 Victoria Road and assist both the Complainant and Mr. M in finding homes that matched their criteria within a five (5) week period. Although the Respondent could have been more professional at times in his communications with both, the Committee ultimately finds that there is insufficient evidence to establish that the Respondent breached Article 3 or 12 of the REALTOR® Code of Ethics.

iii) Article 19 of the REALTOR® Code of Ethics

- [88] Article 19 of the REALTOR® Code of Ethics provides as follows:

The REALTOR® shall never publicly discredit any other Registrant. If the REALTOR®'s opinion is sought, it should be rendered with strict professional integrity and courtesy.

- [89] The Committee finds that the Respondent's comments to the Complainant and Mr. M respecting Registrant ME and Registrant TL violated Article 19 of the REALTOR® Code of Ethics.

- [90] While the Respondent testified that his statements about Registrant ME and Registrant TL were "*factual*", that he does work harder, is more experienced, and is "*#1*" and that Registrant TL is a "*rookie*", this does not detract from the disparaging nature of these comments. The Respondent's evidence that he made these statements to ensure his clients were not mislead also does not change that the comments were discrediting and were made to members of the public, being the Complainant and Mr. M. Further, while

some of the comments taken in isolation themselves may not have been disparaging or discrediting towards Registrant ME or Registrant TL, in the context of the conversations, the comments were discrediting, implying that Registrant ME and Registrant TL were not as good as the Respondent.

- [91] The Committee also finds that sharing the Notice to the Profession respecting Registrant TL with the Complainant and Mr. M was discrediting of Registrant TL. Although the decision may have been publicly available, the Respondent is obligated, pursuant to Article 19, not to publicly discredit any other Registrants and to ensure that any opinion given is “*rendered with strict professional integrity and courtesy*”. Sharing the Notice to the Profession was not courteous nor professional, regardless of the Respondent’s alleged intentions in sharing.

Decision

- [92] Having regard for the evidence and for the submissions made, the Committee finds that, on the balance of probabilities, the Respondent:
- a. Disparaged two other registrants in breach of Article 19 of the REALTOR® Code of Ethics.

Order

- [93] The Committee heard submissions from Mr. Caron on behalf of the Association and Mr. Hardy in regard to the appropriate penalty.
- [94] In determining the appropriate penalty, the Committee considered the following factors:
- a. The protection of the public;
 - b. The principles of general and specific deterrence;
 - c. The impact of the conduct on the overall reputation of the profession;
 - d. The Respondent has already been sanctioned by a Panel of the Discipline Committee for similar conduct;

- e. The Respondent failed to acknowledge or demonstrate any understanding of the seriousness of the allegations, particularly the seriousness of disparaging another registrant;
- f. The Respondent failed to demonstrate respect for the disciplinary process, making inappropriate comments about the Complainant during the hearing;
- g. The Respondent failed to take accountability for his conduct; and
- h. The Respondent demonstrated no remorse for his actions.

[95] Having regard to the foregoing and the submissions made, the Committee hereby orders that:

- a. Pursuant to paragraph 23(4)(d) of the *Act*, the Respondent shall pay a fine of \$2,000 to the Association;
- b. Pursuant to paragraph 23(4)(g) of the *Act*, the Respondent shall pay \$5,000 in costs to the Association as reimbursement of expenses incurred in these proceedings;
- c. The total amount of the fine and costs ordered under paragraphs (a) and (b) above must be paid within six (6) months of the date of this decision. If the fine and/or costs are not paid within the period prescribed, the Registrar is directed to suspend the Respondent from the Association until such time as the payments are made. The Respondent will be subject to a reinstatement fee upon reinstatement in the event of a suspension;
- d. The Respondent is directed to attend a three (3) hour Training Session delivered by the Director of Education of the Association to cover Modules 1–11 of the 2019 Mandatory Continued Professional Development (“MCPD”) curriculum. The Respondent must pass a learning comprehension assessment as directed by the Director of Education following the completion of the training session. The training session must be successfully completed within six (6) months of this decision and confirmation of successful completion of the training session must be provided to the Registrar. If confirmation of successful completion of the training session is not received by the Registrar by the deadline, the Registrar is authorized to suspend the Respondent from the Association until such time as confirmation of the successful

- completion of the training session is received by the Registrar. The Respondent will be subject to a reinstatement fee upon reinstatement in the event of a suspension;
- e. Pursuant to paragraph 23(4)(f) of the *Act*, the Registrar shall distribute a Notice to the Profession of this decision with the Respondent's name; and
 - f. Pursuant to paragraph 23(4)(f) of the *Act*, the Registrar shall publish the decision of the Discipline Committee on the website of the Association with the Respondent's name.

[96] In addition, the Committee makes the following non-binding recommendations:

- a. The Respondent ensure that, when communicating with clients, he ensures that his communications are professional and that he maintains clear boundaries between his friendships and his professional relationships; and
- b. The Respondent ensure that his documentation conforms with the obligations of a REALTOR®. The Committee noted that not all the documentation provided for the transactions was completed appropriately.

[97] In accordance with subsection 25(1) of the *Act*, the Respondent may appeal this decision within thirty (30) days from the date of the decision by application to the Court of King's Bench of New Brunswick.

Dated at Fredericton, New Brunswick, this 16th day of July 2025.

// Original Signed by Committee Chair //

Fanny Bodart, Acting Chair
on behalf of the Discipline Committee,
Complaint 2023-066

Schedule “A” – Documents reviewed by the Discipline Committee

Exhibit	Description
1.	<i>Book of Documents</i> consisting of a bound book of documents including: • Complaint by Mrs. M- January 12, 2024 • Acknowledgment of Receipt of Complaint - January 15, 2024 • Notice of Complaint - January 15, 2024 • Response to Complaint • Notice of Additional Docs to Complainant - February 5, 2024 • Complainant's Reply - February 22, 2024 • Complainant's Additional Reply - Messages - February 22, 2024 • Complainant's Additional Reply - Wiring - February 22, 2024 • Complainant's Additional Reply - Inspection and M's Mortgage - February 22, 2024 • Notice of Complainant's Reply to Member - February 27, 2024 • Member's Response to Complainant's Reply - February 27, 2024 • Member's Further Response to Complainant's Reply - March 3, 2024 • Notice of Response to Reply to Complainant - March 6, 2024 • Complainant's Response to Member's Response to Reply - March 12, 2024 • Complaints Committee Decision - October 4, 2024 • Notice of Discipline Hearing - May 2, 2025 • Summons to Witness - Mrs. M- April 22, 2025 • Summons to Witness - Mr. M - April 22, 2025 • Summons to Witness - Registrant SS - April 22, 2025 • Summons to Witness - Registrant TL - April 22, 2025 • Summons to Witness - Registrant PD - April 22, 2025 • Summons to Witness - Bryan Hardy - May 8, 2025 • Member's File Documents • Record of 646 Victoria Road Chat - July 31, 2023-November 6, 2023 • Record of Chats between Bryan and Mrs. M - July 31, 2023-November 6, 2023 • Re/Max Chat Records - October 2024 • Complaints Committee Decision re Complaint 2022-015 (Registrant TL) - October 4, 2023 • CREA - The Realtor Code
2.	Complainant's Call Logs for October 26, 2023
3.	Text Messages between the Respondent and Registrant TL for September 19–21, 2023
4.	Facebook Posts made by the Complainant dated October 2018 to August 2020
5.	Text Messages between the Respondent and Mr. M dated August 2023 to October 2023