

NBREA AAINB
OFFICE OF THE REGISTRAR / BUREAU DU REGISTRAIRE

COMPLAINT 2024-030
NBREA v. LEANNE CARTER

DISCIPLINE DECISION

This 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 AND PENALTY

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-

Leanne Carter (the “Respondent”)

Date of Hearing: May 1, 2026

Place of Hearing: Virtual

Members of Committee: Gordon Breau, Chairperson
Chris Drysdale
Chris Turner
Mandy Barrieau
Andrea Stierle-MacNeill

Appearances: Dominic Caron, Counsel for the Association
Leanne Carter, Respondent
Andre Malenfant

The Chair noted persons attending the hearing:

Present: Gordon Breau, Chairperson, Chris Drysdale, Chris Turner, Mandy Barrieau, Andrea Stierle-MacNeill, Dominic Caron (Counsel for the Association), Leanne Carter (Respondent), Andre Malenfant Mr. Mitchell McLean (Registrar), NBREA), Ms. Brittany Trafford (Committee Legal Counsel), and Ms. Alicia Robichaud (Court Reporter)

Executive Summary

- [1] This Complaint concerns the actions of a REALTOR® who, while representing the purchaser of a house failed to disclose in writing their role to the clients and/or customers; failed to ensure that the seller fee agreement expressed the specific terms, conditions, obligations and commitments of the parties to the agreement; failed to ensure execution of the seller fee agreement and the buyer agency agreement; and failed to render skilled and conscientious service (collectively, the “Allegations”).
- [2] On April 29, 2026, the Respondent was notified by the Association that the Discipline Committee (the “Committee”) would commence a hearing respecting the Allegations on May 1, 2026 (the "Notice of Hearing").
- [3] Prior to the hearing date, the Respondent and the Association, through its legal counsel, mutually agreed to present a joint submission to the Committee.
- [4] Pursuant to the joint submission, the Respondent admitted guilt to the charges laid against her on behalf of the Association which amounted to a breach of the REALTOR® Code of Ethics and professional misconduct.
- [5] The Committee accepted the Respondent’s admission of guilt and considered the particular facts of the matter including mitigating factors along with the joint submission on penalty.

- [6] In accordance with the law relating to joint submissions before disciplinary bodies, the Committee accepted that the penalties in the joint submission were reasonable considering the conduct of the Respondent in this matter.
- [7] In this matter, the Respondent represented buyers who viewed the home of the Complainant who were not represented by a REALTOR®. The Respondent did not provide the sellers with a “Working with a REALTOR®” form. The Respondent negotiated a seller fee agreement with the sellers which was not signed by the Respondent. When the Respondent later agreed to amend the seller fee by text message, no amendment to the agreement was made and the form continued to be unsigned by the Respondent. The plan then changed to a buyer agency agreement with a buyer’s fee arrangement by exchange of correspondence but again, the agreement was not signed.
- [8] In considering and accepting the joint submission, the Committee considered the Respondent’s admission and the Respondent’s willingness to learn and adopt better practices as mitigating factors in this matter. The requirement that the Respondent complete the NBREA 2019 MCPD 1-11 3-hour training session as well being ordered to pay a fine and costs (representing a portion of the actual costs of the discipline process) and having the discipline decision published including the Respondent’s name was accepted as a reasonable penalty in the circumstances.

Introduction

[9] The Association's position is that, under the REALTOR® Code of Ethics, the Allegations, if founded, constitute acts of professional misconduct.

[10] The Complaints Committee reviewed all evidence presented by the Complainant and the Respondent and by decision dated April 1, 2025, referred the matter to the Committee pursuant to subsection 21(3)(a) of the Act.

Jurisdiction

[11] The Respondent and legal counsel for the Association confirmed at the hearing that they had no objection to the composition and jurisdiction of the Committee.

Legal Test

[12] 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).

[13] 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.

[14] In the case of the Committee, it may find a member of the Association guilty of professional misconduct. Pursuant to subsections 23(2) and 23(3) of the *Act*, a finding of professional misconduct must meet the following criteria:

1. A member may be found guilty of professional misconduct if:
 - 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.

[15] Where the parties have presented a joint submission to the Committee and the Respondent has admitted guilt on the charges contained in the Notice of Hearing, the Committee has a duty to consider the joint submission.

[16] In the decision of *R. v. Anthony-Cook*,¹ the Supreme Court of Canada adopted a high standard for rejecting joint submissions, explaining that:

“rejection [of a joint submission] denotes a submission so unhinged from the circumstances of the offence and the offender that its acceptance would lead reasonable and informed persons, aware of all of the relevant circumstances, including the importance of

¹ *R. v. Anthony-Cook*, 2016 SCC 43 (“*Anthony-Cook*”).

promoting certainty in resolution discussions, to believe that the proper functioning of the justice system had broken down.”²

[17] The public interest test, as established in *Anthony-Cook*, is widely accepted and unequivocally applies to disciplinary bodies.³

[18] When considering the joint submission, the Committee must decide whether the mutual agreement with regard to sanctions is appropriate, reasonable and fitting, consistent with the range of sanctions imposed in similar circumstances and that the agreement is not contrary to the public interest.⁴ The Committee must approach the joint submission from a position of restraint but may refuse a joint submission should it be so unreasonable as to bring the administration of justice into disrepute or otherwise be contrary to the public interest.

Issue

[19] The issue to be determined by the Committee is whether it should accept the joint submission presented by the parties.

Charges

[20] Counsel for the Association presented the following charges against the Respondent at the hearing:

² *Ibid*, at para 34.

³ *Timothy Edward Bradley v. Ontario College of Teachers*, 2021 ONSC 2303, at para 14.

⁴ *Rault v. Law Society of Saskatchewan*, 2009 SKCA 81 (CanLII), at para 28.

Between May 23, 2024 and October 18, 2024, both dates inclusive, Leanne Carter, 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 disclose in writing her role to the clients and/or customers;

(ii) Failed to ensure that the seller fee agreement expressed the specific terms, conditions, obligations and commitments of the parties to the agreement;

(iii) Failed to ensure execution of the seller fee agreement and the buyer agency agreement; and

(iv) Failed to render skilled and conscientious service.

All as set out in the complaint thereby allegedly committing acts of professional misconduct, in violation of, inter alia, Para. 23(2)(b) of the Act, Articles 2, 5 and 12 of the REALTOR® Code and punishable under ss. 23(4) and 23(5) of the Act.

[21] It was noted that although an additional charge against the Respondent had been referred to the Committee, it had been dropped by the Association prior to the hearing.

Background and Evidence

[22] During the hearing, the Committee received as evidence and carefully reviewed the Book of Documents and a screen recording of messages. Attached to this Decision as Schedule “A” is a list of the evidence reviewed by the Committee and marked as exhibits.

[23] The Complainant in this matter had advertised their home on Facebook Marketplace and were not represented by a REALTOR®. The Respondent showed her clients the Complainants’ home on May 23, 2024. The Respondent contacted the Complainants to make an offer and discussed a commission fee.

[24] Initially, a flat commission fee was agreed to by the Respondent and a counteroffer to the first offer the Complainants had on the home was made by the Respondent on behalf of

her clients. After the first potential buyer matched the counteroffer, the Respondent made another offer on behalf of her clients. The Respondent indicated she was working on a proposal and would send to the Complainant but, later, when contacted by the Complainants the Respondent informed the Complainants that the Respondent's clients had decided to back out of the offer.

[25] The following day, the Respondent contacted the Complainants again and indicated that she would not take a commission and her clients would make another offer. The Complainant then contacted the Respondent's clients directly. The Respondent's clients indicated that they were willing to make an offer conditional on the sale of their home, and they had already agreed to pay the Respondent's commission. The Respondent's clients indicated to the Complainant that they were unaware that the Respondent was negotiating a commission with the Complainants.

[26] Dealing directly with the Respondent's client, a sale price and conditions were agreed, and the Respondent's clients agreed to pay the Respondent's commission separately. The Respondent completed the offer on behalf of her clients, but the Complainants decided to refuse the offer. The Respondent had indicated that she would prepare a revised contract but this was not received until two days later. Ultimately, the Complainants came to an agreement with the first potential buyer and not the Respondent's clients.

[27] While various agreements on the Respondent's commission had been negotiated, the seller fee agreement was not signed by the Respondent or amended to reflect changes in the agreement nor was any buyer agency fee executed.

[28] The Respondent did not provide information in writing on her role to the Complainant and did not provide the Complainants with the “Working with a REALTOR®” form.

Findings and Reasons

[29] After receiving the evidence and considering the submissions made at the hearing, the Committee finds that the joint submission is appropriate, reasonable, is sufficient to protect the public interest and is consistent with matters heard by prior Committees.

[30] The Committee finds that in admitting to the charges and coming to a joint submission including mandatory training, the Respondent acknowledged her wrongdoing and indicated a willingness to learn and change her practice to align with the REALTOR® Code.

Decision

[31] The Committee accepts the joint submission of the parties and finds that the Respondent is guilty of professional misconduct pursuant to section 23(2)(b) of the Act.

Order

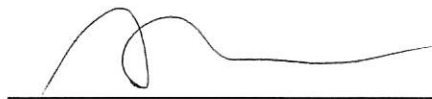
[32] The Committee hereby orders the following:

1. The Respondent take and successfully pass learning comprehension the NBREA 2019 MCPD 1-11 3-hour training session, at her own expense.
2. The Respondent will be hereby suspended if proof of completion of the NBREA 2019 MCPD 1-11 training is not furnished within six (6) months of the date of this decision and, until such time as the education in paragraph 1 has been completed and satisfactory evidence has been provided to the Registrar;

3. The Respondent pay a fine in the amount of \$1,400.00 CAD to the Association within thirty (30) days following the date of this Decision.
4. The Respondent pay costs in the amount of \$1,000.00 CAD to the Association as partial reimbursement for costs incurred in the processing of the Complaint, within thirty (30) days following the date of this Decision.
5. If payment outlined in paragraphs 3 and 4 is not made within thirty (30) days of the date of this Decision, the Registrar is directed to suspend the Respondent's membership in the Association until such time the payments are made.
6. Pursuant to subsection 23(4)(f) of the *Act*, that the Registrar publish this Decision, including the Respondent's name, on the Association's website.
7. Pursuant to subsection 23(4)(f) of the *Act*, that the Registrar distribute a summary of this Decision, including the Respondent's name and a website link to the Decision, to all members of the Association by way of email (Notice to the Profession).

[33] 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 18th day of June, 2026.



Gordon Breau, Acting Chair
on behalf of the Discipline Committee,
Complaint 2024-030

Schedule “A” – Documents reviewed by the Discipline Committee

<u>Exhibit</u>	<u>Description</u>
1.	<i>Book of Documents</i> consisting of a bound book of documents and materials including: • Complaint and enclosures, dated August 28, 2024 • Respondent’s Reply and enclosures, dated August 29, 2024 • Final Reply by the Complainant, dated October 2, 2024 • Final Reply by the Respondent, dated October 2, 2024 • Request for Additional Information to Respondent • Additional Information by the Respondent, dated January 30, 2025 • Decision of the Complaints Committee, dated April 1, 2025 • Notice of Discipline Hearing, dated April 29, 2026 • Notice of Panel Composition, dated September 10, 2025 • Membership Status, dated July 8, 2025 • Summons to Witness, dated September 11, 2025 • Outline of Procedure for Discipline Hearings • The REALTOR® Code, Effective April 2023
2.	Notice of Panel Composition, dated April 29, 2026