NBREA AAINB

OFFICE OF THE REGISTRAR / BUREAU DU REGISTRAIRE

COMPLAINT 2025-019

NBREA v. the Respondent

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, 1994, c. 115*. The decision is published and distributed by the Office of the Registrar under the direction of the Discipline Committee of NBREA.

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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 subsection 23(1) of *The New Brunswick Real Estate Association Act* (the "*Act*"):

BETWEEN

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

-and-

the "Respondent"

Date of Hearing:	July 13, 2026 at 9:30 a.m.
Place of Hearing:	Virtual
Members of Committee:	Jean LeBlond, Acting Chair Fanny Bodart Amy Vanbuskirk Chris Turner and Michele Morin, Public Appointee
Appearances:	Dominic Caron, Counsel for the Association the Respondent

The Chair noted the following persons attending the hearing:

Present: Mr. LeBlond, Mrs. Bodart, Ms. Vanbuskirk, Mr. Turner, Ms. Morin, Mr. Caron, the Respondent, Mr. McLean (Registrar), Mrs. Kathleen Starke (Committee Legal Counsel), Ms. Lauren Sorel (Committee Legal Counsel), and Ms. Sam Harquail Godin (Court Reporter).

Executive Summary

[1] This Complaint relates to the activities of a Registrant who is alleged to have engaged in professional misconduct.

[2] The Respondent is alleged to have failed to adhere to the Association's trust account inspections process and procedures, inclusive of deadlines (the "**Allegation**").

[3] On July 6, 2026, the Respondent was notified by the Association that the Discipline Committee (the "**Committee**") would commence a hearing respecting the Allegation on July 13, 2026 (the "**Notice of Hearing**").

[4] Prior to the hearing date, the Respondent and the Association, through its legal counsel, mutually agreed to present a joint submission to the Committee.

[5] Pursuant to the joint submission, the Respondent admitted guilt to the charge laid against him on behalf of the Association, amounting to one count of professional misconduct under the REALTOR® Code of Ethics.

[6] In accordance with the law relating to joint submissions before disciplinary bodies, the Committee accepted the Respondent's admission of guilt and found that the penalties in the joint submission were reasonable, considering the conduct of the Respondent in this matter and issued an order consistent with the joint submission.

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[7] In considering and accepting the joint submission, the Committee considered mitigating factors, including the Respondent's rectification of the deficiency, his admission of the Allegation, and his retirement from the profession. The requirement that the Respondent pay a fine and costs (representing a partial reimbursement of the actual costs of the discipline process), together with the direction that this Decision be published without the Respondent's name, was accepted as a reasonable and proportionate penalty in the circumstances.

Introduction

[8] The Association's position is that, under the REALTOR® Code of Ethics, the Allegation, if founded, constitutes an act of professional misconduct.

Jurisdiction

[9] 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

[10] 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).

[11] The Association has the onus of proving the Allegation against the Respondent, on a balance of probabilities, through documentation and testimony given under oath or affirmation.

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

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

[14] 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 promoting certainty in resolution discussions, to believe that the proper functioning of the justice system had broken down*."[2]

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

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[1] *R. v Anthony-Cook*, 2016 SCC 43 ("*Anthony-Cook*").

[2] *Ibid,* at para 34.

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

[16] 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 and may reject it only where the proposed sanctions are so unreasonable, or so unhinged from the circumstances of the misconduct and the Respondent, that their acceptance would be contrary to the public interest.

Issue

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

Charges

[18] Counsel for the Association, Mr. Caron, presented the following charge against the Respondent at the hearing:

> *Between March 12, 2025, and July 18, 2025, both dates inclusive, the Respondent, 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 adhere to the NBREA's trust account inspections process and procedures, inclusive of deadlines*
>
> *All as set out in the complaint of the Director of Finance and Inspections, thereby allegedly committing acts of professional misconduct, in violation of, inter alia,*

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

Para. 23(2)(b) of the Act, Articles 17 and 22 of the REALTOR® Code, sections 28 and 29 of the Real Estate Act and punishable under ss. 23(4) and 23(5) of the Act.

Background and Evidence

[19] During the hearing, the Committee received as evidence and carefully reviewed the Book of Documents. Attached to this Decision as Schedule "A" is a list of the evidence reviewed by the Committee.

[20] The Complainant is the Director of Finance and Inspections for the Association. The Complaint was initiated by the Complainant in response to the Respondent's failure to adhere to the Association's closing trust account inspection process and procedures, inclusive of deadlines.

[21] The Respondent was the principal of a brokerage that provided real estate services (the **"Brokerage"**). During the period material to the Complaint, the Respondent was retiring and had relocated outside New Brunswick, and the Brokerage was in the process of winding down its operations.

[22] Beginning on March 12, 2025, the Association's inspection team contacted the Respondent to arrange a closing inspection of the Brokerage, as required under subsection 27(1) of the *Real Estate Agents Act,* 2011 c. 215.

[23] Despite multiple communications from the Association's inspector and the Complainant, the Respondent failed to provide the required documentation or to otherwise cooperate with the closing trust account inspection process by the deadline of April 30, 2025.

[24] On May 12, 2025, the Complainant filed the Complaint with the Registrar, citing the Respondent's failure to comply with the closing inspection requirements.

[25] In June 2025, the Respondent provided the required trust account documentation to the Association. The documentation satisfied the inspection requirements and demonstrated that the Respondent had followed applicable trust accounting rules.

[26] The closing inspection was ultimately completed. The Respondent's trust account records were found to be in order.

The Association's Submissions

[27] Counsel for the Association, Mr. Caron, made submissions on behalf of the Association.

[28] Mr. Caron submitted that the parties had arrived at a joint submission. Pursuant to the joint submission, the Respondent admitted to the Allegation.

[29] Mr. Caron submitted that the Allegation concerns the Respondent's failure to adhere to the Association's closing trust account inspection process and procedures, inclusive of deadlines. Mr. Caron submitted that while the Allegation constitutes professional misconduct, it ranks at the lower end of the scale of severity.

[30] Mr. Caron further submitted that trust accounts are sacrosanct and must be managed with the utmost care. However, the applicable standard is not perfection and missing a deadline does not automatically constitute professional misconduct. In this matter, the Respondent's failure to respond to repeated communications over a period of approximately two months, despite having confirmed active contact information, warrants a disciplinary finding.

[31] Mr. Caron identified three mitigating factors in support of the joint submission. First, the Respondent ultimately provided the required trust account documentation and cooperated with the closing inspection, thereby rectifying the deficiency; second, the Respondent acknowledged his wrongdoing through the joint submission; and third, the Respondent is retired from the profession with no intention of returning to trading in real estate.

[32] On the question of sanctions, Mr. Caron submitted that the agreed penalties are proportionate to the conduct and consistent with those imposed in similar circumstances, drawing the Committee's attention to Complaint 2024-008, in which a fine of $500.00 and costs of $500.00 were ordered for a comparable failure to adhere to the closing trust account inspection process.

[33] With respect to publication, Mr. Caron submitted that while the Association's standard practice is to publish decisions with a respondent's name, anonymous publication is appropriate in this matter given the low severity of the Allegation and the Respondent's retired status. Mr. Caron submitted that the purpose of publication is in part educational, to remind the Association's membership that failures to comply with the closing trust account inspection process deadlines may attract disciplinary action and is not intended to be punitive. Mr. Caron submitted that, in this case, the anonymous publication achieves that goal without unnecessary reputational consequences.

[34] In conclusion, Mr. Caron submitted that the joint submission is reasonable, is in the public interest, and should be adopted by the Committee.

The Respondent's Submissions

[35] The Respondent appeared on his own behalf. The Respondent confirmed his acceptance of the joint submission and his admission to the Allegation as presented by Mr. Caron on behalf of the Association.

[36] The Respondent advised the Committee that he is retired from the real estate profession and does not intend to return to the profession.

Findings and Reasons

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

[38] The Committee notes that trust accounts are of fundamental importance in the real estate profession and must be managed with the utmost care. The Committee further notes the importance of the inspection process for trust accounts and the importance of adherence to those processes, including complying with required deadlines. While the failure to adhere to the closing trust account inspection process and its deadlines constitutes professional misconduct, the Committee accepts that this Allegation is less severe given the mitigating factors.

[39] The Committee finds that the agreed sanctions are proportionate to the conduct in question and consistent with the sanctions imposed in similar circumstances, including

Complaint 2024-008, in which comparable penalties were ordered for an analogous failure to adhere to the closing trust account inspection process.

[40] The Committee accepts that the publication of this Decision without the Respondent's name serves the goal of educating the membership of the importance of complying with the Association's closing trust account inspection process and deadlines, while appropriately reflecting the lower severity of the Allegation and the Respondent's retired status.

[41] The Committee finds that in admitting to the Allegation and participating in a joint submission, the Respondent acknowledged his wrongdoing.

[42] The Committee is satisfied that the agreed-upon penalties are not contrary to the public interest. The Committee further finds that the joint submission is neither unreasonable nor so unhinged from the circumstances of the misconduct and the Respondent that its acceptance would lead reasonable and informed persons, aware of all the relevant circumstances, to lose confidence in the integrity of the Association's disciplinary process.

Decision

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

Order

[44] In accordance with the joint submission, the Committee orders that:

a) Pursuant to paragraph 23(4)(d) of the *Act*, the Respondent pay a fine of $500.00 to the Association;

b) Pursuant to paragraph 23(4)(g) of the *Act*, the Respondent pay $500.00 in costs to the Association as partial 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 ninety (90) days of the date of this Decision;

d) Pursuant to paragraph 23(4)(f) of the *Act*, the Registrar shall distribute a Notice to the Profession of this Decision without the Respondent's name; and

e) Pursuant to paragraph 23(4)(f) of the *Act*, the Registrar shall publish this Decision on the website of the Association without the Respondent's name.

[45] 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 25th day of August, 2026.

// Original Signed by Acting Committee Chairperson //
Jean LeBlond, Acting Chair
on behalf of the Committee,
Complaint 2025-019

Schedule "A" – Documents reviewed by the Discipline Committee

Exhibit	Description
1.	Book of Documents consisting of a bound book of documents including: • Complaint and Enclosure, dated May 12, 2025 • Respondent's Response and Enclosures, dated June 10, 2025 • Reply by the Complainant, dated July 5, 2025 • Reply by the Respondent, dated July 18, 2025 • Final Reply by the Complainant, dated July 28, 2025 • Notice of Discipline Hearing, dated July 6, 2026 • Notice of Panel Composition, dated July 7, 2026 • Additional Information Regarding Membership Status, dated July 6, 2026 • The REALTOR® Code, Effective April 2023