IN THE MATTER OF A DISCIPLINE HEARING HELD PURSUANT TO THE *REAL ESTATE AND BUSINESS BROKERS ACT, 2002*, S.O. 2002, c. 30, Sch. C

BETWEEN:

REAL ESTATE COUNCIL OF ONTARIO

- AND -

BEAU SPENCER

DISCIPLINE DECISION AND REASONS FOR DECISION

Subject to Rule 4.02 of the Discipline and Appeals Committee Rules of Practice (*REBBA 2002*), I, the Chair of the Discipline Committee (*REBBA 2002*) have reviewed and considered the Agreed Statement of Facts and Penalty together with the Waiver of Hearing submitted by the Parties to this proceeding and provide the following Order:

FINDINGS: In violation of Sections 3, 37(1) and 39 of the *REBBA 2002* Code of Ethics.

ORDER: Fine of $ 25,000.00 payable to RECO not later than 365 days after the date of the Decision of the Discipline Committee on this matter.

Successful completion of the Real Estate Institute of Canada (REIC) "REIC 2600: Ethics in Business Practice" not later than 90 days after the date of the Decision of the Discipline Committee on this matter and provide RECO with confirmation of successful completion within 60 days of completion of the course.

WRITTEN REASONS:

REASONS FOR DECISION

INTRODUCTION

This matter proceeded on the basis of an Agreed Statement of Facts and Penalty and Waiver of Hearing, pursuant to Rule 4.02 of the Rules of Practice (*REBBA 2002*).

The Agreed Statement of Facts and Penalty read:

AGREED STATEMENT OF FACTS AND PENALTY
It is agreed as follows:

1. At all relevant times, Beau Spencer was registered as a salesperson under the *Real Estate and Business Brokers Act, 2002* ("**Act**").

2. At all relevant times, Spencer was employed at Brokerage A.

3. At all relevant times, Spencer was both the seller and seller representative of a property located at 1-A Street, City A, Ontario (*the* **"Property**").

4. At all relevant times, Individual A *(the* "**Complainant**") was the eventual successful buyer of the Property and was represented by Representative A in the purchase.

5. On or about May 18, 2023, Spencer and his wife signed a seller representation agreement with Brokerage A that indicated Spencer would be the representative in the sale of the Property. The seller representation agreement provided for a listing price of $1,100,000, 4.5% total commission, with 2.5% going to the seller's brokerage.

6. On or about May 18, 2023, Spencer uploaded a listing for the Property onto the local board multiple listing service (*the* "**MLS Listing**"). The MLS Listing and the accompanying attached Performa document stated that the Property was a multi-residential 4-unit property, indicated a sale price of $1,100,000, and that the annual property tax levied for 2023 was $3,192.00.

7. At all relevant times, the actual property tax levied on the Property for 2023 was $6,301.04, nearly double the amount indicated on the MLS Listing.

8. At or around 6:48 p.m. on May 24, 2023, an offer from an unsuccessful buyer was submitted for the Property by their representative, Registrant A. The offer included a purchase price of $1,075,000, $40,000 deposit, conditions, and a June 28, 2023, completion date.

9. At or around 7:42 p.m. on May 24, 2023, Representative A submitted an offer for the Property from the Complainant ("**Complainant Offer 1**"). Complainant Offer 1 included a purchase price of $1,050,000, $50,000 deposit, conditions, and a July 24, 2023, completion date.

10. At or around 8:58 p.m. on May 24, 2023, Spencer received the following text messages from Registrant B, a representative of another potential buyer: “my clients want to make an offer. I’m in a board meeting. How much time do I have to write it up?”. Spencer responded: “1015?”.

11. At or shortly after 8:58 p.m. on May 24, 2023, Spencer advised Representative A via text message of the potential for a third offer being received for the Property and inquired if Representative A wanted time to improve on Complainant Offer 1. Representative A responded: “Board meeting at 9pm? Interesting. Pretty sure that’s our best. Let me check.”

12. Shortly thereafter, Representative A advised Spencer via text message: “Have a backup offer ready to go if needed. Just let me know if we need to improve and I will forward it.” Spencer responded: “Third offer received… please put best foot forward!”

13. At or shortly after 8:58 p.m. on May 24, 2023, Spencer also advised Registrant A via text message: “Third agent just confirmed offer on way. Would you like to improve or hold firm on current offer. There will be 3 total. Dealing with closer to 10pm”.

14. At no time was any offer on the Property received or submitted to Spencer from Registrant B’s clients or any other buyer, before or after advising Representative A and Registrant A of a third offer for the Property.

15. Representative A responded to Spencer’s text message by sending the following text messages: “Sending”; “Sent”.

16. At or about 10:04 p.m., Representative A submitted an improved second offer on the Property from the Complainant (“**Complainant Offer 2**”). Complainant Offer 2 included a purchase price of $1,130,500, with all other terms unchanged from Complainant Offer 1.

17. Shortly after receiving Complainant Offer 2, Spencer sent Representative A the following text messages: “Thx reviewing now”; “Okay thanks for offer. Quick

question. Is your client willing to remove the conditional items? What about a quicker closing? You are in top 2 and I'm asking other agent same questions."

18. On or about May 25, 2023, a counteroffer to Complainant Offer 2 that included only a changed term of the completion date moved from July 24, 2023 to June 28, 2023, was accepted.

19. At no time did Spencer advise Representative A or Registrant A that the third buyers' offer had not been received for the Property.

20. On or around June 28, 2023, the transaction for the purchase of the Property completed. Thereafter, Spencer received approximately $28,137.50 in commission as the seller representative in the transaction.

21. In or around August 2023, the Complainant became aware that the annual property tax levied on the Property for 2023 was nearly double the amount indicated on the MLS Listing uploaded by Spencer.

22. On or around August 15, 2023, the Complainant notified Spencer of the incorrect annual property tax information included on the MLS Listing for the Property. The parties attempted to reach a settlement but were unable to come to agreeable terms.

SUMMARY OF AGREEMENTS

It is agreed that Spencer failed to comply with the Code of Ethics (O. Reg. 580/05) as follows:

A. Spencer included inaccurate information regarding the property tax amount in an MLS listing, contrary to sections 3 and 39 of the Code of Ethics.

B. Spencer knowingly made an inaccurate representation and/or misrepresentation to other buyer representatives that there were three competing offers when, in fact, there were only two, contrary to sections 3, 37(1) and 39 of the Code of Ethics.

It is agreed that Spencer failed to comply with the following sections of the Code of Ethics (O. Reg. 580/05):

Fairness, honesty, etc.
3. A registrant shall treat every person the registrant deals with in the course of a trade in real estate fairly, honestly and with integrity.

Inaccurate representations
37. (1) A registrant shall not knowingly make an inaccurate representation in respect of a trade in real estate.

Unprofessional conduct, etc.
39. A registrant shall not, in the course of trading in real estate, engage in any act or omission that, having regard to all of the circumstances, would reasonably be regarded as disgraceful, dishonourable, unprofessional or unbecoming a registrant.

AGREED PENALTY

The Respondent understands and agrees to the following penalty:

To pay a fine of **$25,000.00** not later than **365** days after the date of the Decision of the Discipline Committee on this matter.

To successfully complete the following courses or programs by the identified completion date:

Course Title (Provider)	Completion date
REIC 2600: Compliance in Business Ethics	Not later than **90** days after the date of the Decision of the Discipline Committee on this matter.

To provide proof of completion to RECO within **60** days of completion of the courses.

Respondent acknowledgements:

1. I acknowledge that I have read and understand the penalty outlined herein and agree to the said terms and/or conditions.
2. I acknowledge my right to seek legal counsel in this matter before signing this agreement.
3. I agree, understand, acknowledge and consent to waiving my right to a hearing before the Discipline Committee.

Waiver of hearing before the Discipline Committee:

4. The parties consent to disposing of the matter without a hearing before the Discipline Committee and agree to the terms set out herein.
5. The parties request an Order from the Chair of the Discipline Committee that includes this Agreement of Facts and Penalty as a final settlement of this matter.

By signature below the Parties agree, acknowledge, understand and consent to the final settlement of this matter by way of this Agreed Statement of Facts and Penalty.

[*The Agreed Statement was duly signed by the Parties*.]

DECISION OF THE CHAIR

Having reviewed and considered the Agreed Statement of Facts, the Chair of the Discipline Committee (*REBBA 2002*) concluded that the Respondent breached Sections 3, 37(1) and 39 of the *REBBA 2002* Code of Ethics. The Chair of the Discipline Committee (*REBBA 2002*) is also in agreement with the joint submission of the Parties as to penalty and accordingly makes the following order:

1. BEAU SPENCER is Ordered a Fine of $25,000.00 payable to RECO not later than 365 days after the date of the Decision of the Discipline Committee on this matter.

2. BEAU SPENCER is Ordered to successfully complete the Real Estate Institute of Canada (REIC) “REIC 2600: Ethics in Business Practice” course not later than 90

days after the date of the Decision of the Discipline Committee on this matter and to provide proof of completion to RECO within 60 days of completion of the course.

[Released: March 20, 2025]