

Kelly Ann Romphf
Registration No.: D26941
Niagara Falls, Ontario

HEARING DATE: September 24, 2015

MISCONDUCT: Ont. Reg. 991, ss. 14(1)(3) and 16(4-1)

PARTICULARS OF THE COMPLAINT:

Kelly Ann Romphf failed to submit premium payments of several clients for deposit to trust. She also failed to forward the homeowners application of a client to the insurance company for processing, resulting in a gap in coverage on the client's home.

DISCIPLINE COMMITTEE'S DISPOSITION:

Kelly Ann Romphf entered a plea of not guilty. The Panel heard evidence from counsel for RIBO and from Ms. Romphf.

The Panel noted that Ms. Romphf was without Counsel, despite repeated correspondence from RIBO encouraging her to seek Counsel to assist her in this matter.

The Panel also noted that Counsel for RIBO, at the outset of the Hearing, asked Ms. Romphf if she was prepared to proceed without Counsel despite her right to have Counsel, and despite RIBO's encouragement to retain Counsel. She indicated that she was prepared to proceed without Counsel.

The Panel also noted that Ms. Kelly Ann Romphf did not renew her license on or before September 30, 2014 and that RIBO accordingly de-registered her license effective September 30, 2014. The Panel retains jurisdiction to hear this matter as the events in question occurred during the time Kelly Ann Romphf was registered with RIBO.

Kelly Ann Romphf's former employer indicated that in reviewing the accounts receivable of the brokerage, a particular client was shown to have premiums owing the firm for auto coverage placed on June 17, 2013. He testified that this was unusual as, in his experience, the client always paid cash. When he reviewed this with Ms. Romphf, she indicated that the client intended to pay within a few months. After another month, Ms. Romphf's former employer followed up. It was not until September 2013 that the money was put into the trust account of the brokerage. He also testified that he determined the cash 'receipt book' showed no entry for June 17th, the day the cash was provided by the client to Ms. Romphf.

Ms. Romphf's former employer also testified about another one of Ms. Romphf's clients, who arranged for a homeowner's policy through Ms. Romphf. He testified that in December of 2013 he was advised by this client that she had not received a copy of the homeowner's policy, despite repeatedly asking Ms. Romphf for it. Upon looking into the matter, it was determined that no coverage had been placed for this client and Ms. Romphf's former employer took steps to remedy the situation. This client was without home coverage for several months.

The Panel found Mr. Romphf's former employer to be a credible witness with a clear recollection of the relevant events.

The Panel also heard and accepted the evidence and documentation proffered by the witness who did not have home coverage. She further went on to testify that she had sent a fax to Ms. Romphf setting out details for new home coverage and auto renewal dated April 2, 2012. The witness also testified that as of May 2012 based on discussions with Ms. Romphf she believed that she had new coverage and cancelled her existing coverage. On numerous occasions, she had asked for her policy documents and was told by Ms. Romphf that they will come in the mail. The client testified that she kept following up because no monies were being withdrawn from her account and was told by Ms. Romphf not to worry that they were just waiting for the paperwork. As at December 2013 the client still thought that she had coverage but had no policy documents. Eventually she got her policy documents for her auto renewal but nothing for her home insurance. The client met with Ms. Romphf's former employer who advised her that Ms. Romphf no longer worked for the brokerage. He confirmed that she had no home insurance. The client also testified that she was left for a few months with no home insurance coverage even though she believed that she had coverage.

The Panel found this witness to be very credible with a clear recollection of the events on which she testified.

The Panel also heard the evidence of Ms. Romphf who advised the Panel that, during the time in question, she had numerous and significant personal issues that weighed heavily upon her mind. She also testified that she had felt overwhelmed at the office where she typically worked by herself, with the occasional visit from her former employer. She testified that she repeatedly asked for help. When she received the help, it was training that lasted one week and was provided by an employee from the other office of the brokerage. She indicated that she received the cash from her client who is now deceased, but that it was misfiled in the confusion that surrounded a physical move of her office to another location. It was only in September 2013 that she came across the money and deposited it to the client's account. She indicated that she was embarrassed about having misplaced the money and so did not advise her former employer that it was missing. She denied advising her former employer that the client would pay in September 2013. She testified as well that when she went to enter the cash into the Receipt Book on

June 17th, she could not find the book but instead used a second book that is kept in the office supply cupboard.

With respect to her other client Ms. Romphf testified that she often handed homeowner policies to her former employer, the Principal Broker of the brokerage, as he had more time to do the requisite inspections. She indicated that she is almost positive that she handed the client's file to him. The Panel asked her why, when asked by the client where her policy was, she did not reply that she gave the file to him. The Panel also asked, given the frequent calls from the client, if she ever followed up on the internal system or with the insurance company, to determine if coverage was placed. She answered that she did not remember.

The Panel noted that none of Ms. Romphf's assertions were supported by any documentary evidence or by any corroborative witnesses. Given this, and based upon her own testimony that she could not remember much about the matters at issue, we find her evidence unconvincing.

Based on the above, the Discipline Committee found that Kelly Ann Romphf is guilty of misconduct as alleged in the Direction. The Discipline Committee ordered:

- (a) That a recommendation be made to the Qualification and Registration Committee and that they not consider any application for registration from Kelly Ann Romphf for not less than five (5) years from the date of this Order.