



Real Estate Council of Ontario

**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 -

HIVA AKHTARI

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, 4, 5, 24(1), 26(1) and 38 of the *REBBA 2002* Code of Ethics.

ORDER: Fine of \$10,000.00 payable to RECO on or before November 15, 2019.

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

1. Hiva Akhtari (“Akhtari”) is employed by Brokerage A, a brokerage registered under the Act. Akhari was formerly employed by Brokerage B, a brokerage registered under the Act and was employed at Brokerage B at the time of the alleged conduct below.
2. On or about July 29, 2017, Buyer A (“Complainant”) submitted an offer (“offer”) through his representative, Representative A who is employed with Brokerage B, to purchase a property located at 1-A Street, City A (“Property”).
3. The offer was submitted at approximately 7:30 a.m. via email to Akhari.
4. It was identified at approximately 10:00 a.m. that Akhari was having difficulties opening the email received from Representative A. A telephone conversation between Akhari and Representative A took place and it was discussed that a solution to getting the offer printed would be to get the office reception to print the offer.
5. Following this conversation, it was later confirmed by Representative A through a second telephone conversations, that Akhari was in receipt of the said offer and Akhari confirmed that she would discuss with her seller clients.
6. At approximately 3:30 p.m., Akhari and Representative A have another conversation regarding the roof repairs that are needed on the Property. Representative A inquired if Akhari had a chance to speak with her seller clients regarding the offer that was submitted by Representative A earlier in the morning. Akhari advised Representative A that she had not been able to set up a meeting with her seller clients.
7. After this conversation, Representative A sent requests around 7:20 p.m. for updates on the offer to Akhari. Akhari did not respond. The offer expired at 8:00 p.m.
8. At approximately 10:00 p.m., Representative A received a message from Akhari that the property was sold firm. No further responses were provided by Akhari.
9. At no material time did Akhari advise Representative A that there were any other offers registered and/or submitted on the Property.
10. It was confirmed by Brokerage B’s Broker of Record (“BOR”) that Akhari had received an offer at 4:30 p.m. from Representative B, who was the co-listing representative, before the expiration of the offer from Representative A.

11. It was also confirmed by Brokerage B's BOR that the Representative B's offer was for an amount less than the offer that was submitted by Representative A.

SUMMARY OF AGREEMENTS

It is agreed that Akhari failed to comply with the Code of Ethics as follows:

1. On or about July 29, 2017, Akhtari failed to advise Representative A of a competing offer received from Representative B on the Property, contrary to sections 3, 4, 5, 24(1), 26(1) and 38 of the Code of Ethics, Ontario Regulation 580/05.

It is agreed that Akhari failed to comply with the following sections of the Code of Ethics:

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. O. Reg. 580/05, s. 3.

Best interests

4. A registrant shall promote and protect the best interests of the registrant's clients. O. Reg. 580/05, s. 4.

Conscientious and competent service, etc.

5. A registrant shall provide conscientious service to the registrant's clients and customers and shall demonstrate reasonable knowledge, skill, judgment and competence in providing those services. O. Reg. 580/05, s. 5.

Conveying offers

24. (1) A registrant shall convey any written offer received by the registrant to the registrant's client at the earliest practicable opportunity. O. Reg. 580/05, s. 24 (1).

Competing offers

26. (1) If a brokerage that has a seller as a client receives a competing written offer, the brokerage shall disclose the number of competing written offers to every person who is making one of the competing offers, but shall not disclose the substance of the competing offers.

Error, misrepresentation, fraud, etc.

38. A registrant shall use the registrant's best efforts to prevent error, misrepresentation, fraud or any unethical practice in respect of a trade in real estate.

AGREED PENALTY

HIVA AKHTARI, the Respondent, be ordered to pay a penalty of \$10,000.00 on or before November 15, 2019.

By initials below, I, HIVA AKHTARI, acknowledge that I have read and understand the penalty outlined herein and agree to the said terms and/or conditions.

[Respondent's Initials]

By initials below, I, HIVA AKHTARI, agree, understand, acknowledge and consent to waive the requirement for a hearing and to request an Order from the Chair of the Discipline Committee that includes this Agreed Statement of Facts and Penalty as a final settlement of this matter.

[Respondent's Initials]

By initials below, I, HIVA AKHTARI, acknowledge that I was aware of my right to be represented by Counsel or agent in this matter.

[Respondent's Initials]

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, 4, 5, 24(1), 26(1) and 38 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. HIVA AKHTARI is Ordered a Fine of \$10,000.00 payable to RECO on or before November 15, 2019.

[Released: June 17, 2019]