



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 -

KATAYON LAVAEI (a.k.a. KATHY LAVAEI)

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, 5 and 39 of the *REBBA 2002* Code of Ethics.

ORDER: Fine of \$3,500.00 payable to RECO on or before August 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. Katayon Lavaei (aka Kathy Lavaei) ("Lavaei") is registered as a salesperson under the Real Estate and Business Brokers Act, 2002. Lavaei is employed at the brokerage Brokerage A.
2. Lavaei and Brokerage A represented the buyers Buyer A ("Buyers") on the purchase of a property located at 1-A Street, City A ("Property"). Included on Schedule A to the Agreement of Purchase and Sale ("APS") was a clause allowing the Buyers to make three further visits to the Property, before the closing date, in order to take furniture, window measurements, etc. The clause further specified that such visits must be conducted in the company of the buyer sales representative and not to exceed 60 minutes per visit ("Accompanied Visits").
3. Further to the Accompanied Visits clause, the Buyers scheduled a visit to the Property for 5:30 p.m. on July 30, 2017. At 5:20 p.m., Seller A, who was the seller of the Property (and also the "Complainant") was waiting across the street to make sure the Accompanied Visits clause was complied with. The Complainant observed the Buyers utilize the lock-box to enter the Property unaccompanied by Lavaei.
4. The Buyers confirmed that Lavaei gave them the lock-box code and that she arrived late to the appointment. The Buyers further confirmed that Lavaei did not expressly advise them that they were permitted or that they should enter the Property in her absence; rather, they mistakenly believed it would be fine since they had the lock-box code and that Lavaei was on her way to the Property.
5. Lavaei provided the lock-box code to the Buyers, albeit inadvertently, a couple of days prior to the July 30, 2017 scheduled visit of the Property, when she sent the Buyers the confirmation of appointment not realizing the code was in the content of same.

SUMMARY OF AGREEMENTS

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

6. Lavaei's conduct in this matter is in violation of sections 3, 5 and 39 of the Code of Ethics, such that she provided the Buyers with the lock-box code which resulted in them visiting the Property unaccompanied by herself, or another registrant. Lavaei did not treat everyone involved in this transaction fairly, with honesty and with integrity, which is contrary to section 3 of the Code of Ethics. Further, Lavaei's conduct failed to

demonstrate conscientious service to her clients and represents an act or omission that, with regards to all circumstances, is reasonably regarded as being unprofessional and unbecoming of a registrant. This conduct is in violation of section 39 of the Code of Ethics.

It is agreed that Lavaei 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.

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.

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

KATAYON LAVAEI (a.k.a. KATHY LAVAEI), the Respondent, be ordered to pay a penalty of \$3,500.00 on or before August 15, 2019.

By initials below, I, KATAYON LAVAEI (a.k.a. KATHY LAVAEI)], 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, KATAYON LAVAEI (a.k.a. KATHY LAVAEI), 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, KATAYON LAVAEI (a.k.a. KATHY LAVAEI), acknowledge that I exercised 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, 5 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. KATAYON LAVAEI (a.k.a. KATHY LAVAEI) is Ordered a Fine of \$3,500.00 payable to RECO on or before August 15, 2019.

[Released: May 14, 2019]