



Real Estate Council of Ontario

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**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 -**

**WU LAN**

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**DISCIPLINE DECISION AND REASONS FOR DECISION**

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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:

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**FINDINGS:** In violation of Sections 3, 4, 5 and 38 of the *REBBA 2002* Code of Ethics.

**ORDER:** Fine of \$10,000.00 payable to RECO not later than six (6) months after the date of the discipline committee on this matter.

**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. Wu Lan (“Lan”) is and was, at all relevant times, registered as a salesperson under the *Real Estate and Business Brokers Act, 2002* (“Act”), and employed by Brokerage A.

2. Lan, at all relevant times, employed an assistant, Individual A (“Assistant”), who is not and was not, at the relevant time, registered under the Act. As an unregistered assistant, Individual A was prohibited from engaging in any activity that constituted trading in real estate under the Act.
3. Representative A and Representative B (collectively “Listing Agents”), salespersons at Brokerage B, were the listing agents for a residential property located at 1-A Street, City A (“Property”) on the MLS®. They had listed the Property on the MLS® on January 6, 2017.
4. Representative A and her husband, Individual B (collectively “Sellers”) were the owners of the Property.
5. Buyer A (“Buyer”) was the buyer of the Property and had retained Lan to assist him in purchasing a residential property in or around December 2017.

#### Absence from Canada

6. From January 2, 2017 to January 22, 2017, inclusive, Lan was not in Canada.
7. Lan had the option to arrange for another registrant employed by Brokerage A to handle client concerns while she was away, but she failed to do so.

#### Showing Appointment

8. On January 9, 2017, the Assistant booked an appointment (“Appointment”) to view the Property on the same day from 1:00 p.m. to 2:00 p.m. under Lan’s name.
9. Given that Lan was not in the country, Lan instructed the Assistant to act as a translator for the Buyer but instead the Assistant attended the Appointment and showed the Property to the Buyer.

#### Offer and APS

10. On January 10, 2017, the Assistant registered an offer (“Offer”) to purchase the Property on behalf of the Buyer under Lan’s name.
11. A second offer was registered by another registrant, and the Listing Agents scheduled an offer presentation for 7:30 p.m. on January 10, 2017.
12. The Offer had been prepared by Lan. Given that she was out of the country, she instructed the Buyer to present the Offer to the Listing Agents and the Assistant was to act only as a translator for the Buyer.

13. The Assistant attended the offer presentation with the Buyer. However, the Assistant introduced herself as Lan and presented and discussed the Offer with the Listing Agents. The Offer was accepted by the Sellers (“APS”).

Closing and Commission Rebate

14. The transaction successfully closed on April 18, 2017 and Lan was paid a commission of approximately \$47,640.00 inclusive of HST. She rebated the majority of her commission to the Buyer.

**SUMMARY OF AGREEMENTS**

**It is agreed that Lan failed to comply with the Code of Ethics under the Act (“Code”) as follows:**

15. Failed to make arrangements for a registrant to deal with client concerns, including concerns from the Buyer, while she was out of the country, contrary to sections 3, 4, 5 and 38 of the Code.
16. Facilitated her unregistered assistant to arrange and show the Property to the Buyer, contrary to sections 3, 4, 5 and 38 of the Code.
17. Facilitated her unregistered assistant to negotiate an agreement to purchase the Property on behalf of the Buyer, contrary to sections 3, 4, 5 and 38 of the Code.
18. Failed to properly supervise her unregistered assistant with respect to her dealings with the Buyer, other consumers and other registrants, contrary to sections 3, 4, 5 and 38 of the Code.

**It is agreed that Lan failed to comply with the following sections of the Code of Ethics (“Code”):**

**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.

**Best interests**

4. A registrant shall promote and protect the best interests of the registrant’s clients.

**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.

**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**

WU LAN, the Respondent, be ordered to pay a penalty of \$10,000.00 not later than 6 months after the date of the Decision of the Discipline Committee on this matter.

By initials below, I, WU LAN, 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, WU LAN, 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, WU LAN, 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 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. WU LAN is Ordered a Fine of \$10,000.00 payable to RECO not later than six (6) months after the date of the Decision of the Discipline Committee on this matter.

*[Released: January 22, 2020]*