

**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 -

DAE RONG KIM

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 18(1), 18(2) and 38 of the *REBBA 2002* Code of Ethics.

ORDER: Fine of \$ 4,500.00 payable to RECO on or before January 20, 2022.

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. Dae Rong Kim (“Kim”) is registered as a salesperson under the Real Estate and Business Brokers Act, 2002. Kim is employed at the Brokerage A.
2. Corporation A was the Seller of the Business located at 1-A Street, City A (the “Business”). The Business was known as “Business A” and the Business sale did not include any real property.
3. The Complainant was the owner of the Business.
4. Individual A was the Buyer of the Business (the “Buyer”). The Buyer was also the daughter of Kim.
5. On or about March 15, 2019, Kim entered into a Listing Agreement (“Listing Agreement”) with the Seller to list the Business on the MLS with an asking price of \$165,000.00.
6. On or about April 1, 2019, the Buyer through Kim, submitted an Agreement of Purchase and Sale (“APS”) to purchase the Business for a price of \$138,000.00.
7. On the same day, a Confirmation of Co-Operation and Representation (“CCR’) was executed. According to the CCR, the Seller and the Buyer were both represented by Brokerage A, with Kim acting as the sales representative for both parties.
8. On or about April 2, 2019, the APS was accepted, and the transaction was set to conclude on May 17, 2019.
9. At no time did Kim disclose in writing to the seller that the Buyer was in fact his daughter.

SUMMARY OF AGREEMENTS

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

1. Kim failed to disclose in writing to the Seller his relationship with the Buyer before representing both the parties in the transaction, thereby breaching sections 18 (1), 18(2), and 38 of the Code of Ethics.

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

Disclosure of interest

18. (1) A registrant shall, at the earliest practicable opportunity and before any offer is made in respect of the acquisition or disposition of an interest in real estate, disclose in writing the following matters to every client represented by the registrant in respect of the acquisition or disposition:

1. Any property interest that the registrant has in the real estate.
2. Any property interest that a person related to the registrant has in the real estate, if the registrant knows or ought to know of the interest.

18. (2) A brokerage shall, at the earliest practicable opportunity and before any offer is made in respect of the acquisition or disposition of an interest in real estate, disclose in writing the matters referred to in paragraphs 1 and 2 of subsection (1) to every customer with whom the brokerage has entered into an agreement in respect of the acquisition or disposition.

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

DAE RONG KIM, the Respondent, be ordered to pay a penalty of \$4,500.00 on or before January 20, 2022.

By initials below, I, DAE RONG KIM, 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, DAE RONG KIM, 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, DAE RONG KIM, 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 18 (1), 18 (2) 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. DAE RONG KIM is Ordered a Fine of \$4,500.00 payable to RECO on or before January 20, 2022.

[Released: February 12, 2021]