



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 -

JAHANGIR MIRZAKHANI

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 4, 5 and 38 of the *REBBA 2002* Code of Ethics.

ORDER: Fine of \$3,000.00 payable to RECO on or before March 31, 2020.

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. Jahangir Mirzakhani (“Mirzakhani”) 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, a registered brokerage under the Act.
2. On or about October 30, 2017, Representative A, registered broker under the Act and employed by Brokerage B, listed for sale a residential property located at 1-A Street, City A (“Property”) on behalf of his seller clients, for \$424,900.00.
3. On or about November 29, 2017, the Property was sold conditionally for \$423,000.00, with the purchasers having until December 10, 2017 to waive, or provide notice of fulfilment of, the conditions.
4. On December 4, 2017, Mirzakhani contacted Representative A using the messaging system to request a showing appointment for the Property.
5. On the same day, Representative A replied by the messaging system to inform Mirzakhani that the Property was sold conditionally, and he would be able to view the Property on December 12 if the conditions were not waived or fulfilled. Mirzakhani, through inadvertence, failed to read these messages because of the way messaging system was configured on his mobile phone. However, based on subsequent messages, he assumed that an appointment had been confirmed even though an appointment was never confirmed.
6. On December 5, 2017 at around 12:09 p.m., without a confirmed showing appointment, Mirzakhani retrieved a key for a lockbox installed at the Property, and entered and viewed the Property with a client. While no one was inside the Property, Mirzakhani’s entry was discovered when the sellers reviewed their video security surveillance footage.

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

7. He failed to ensure that a showing appointment had been confirmed before entering and viewing the Property using a key retrieved from a lockbox installed on the Property, contrary to sections 4, 5 and 38, with respect to error only, of the Code of Ethics.

AGREED PENALTY

JAHANGIR MIRZAKHANI, the Respondent, be ordered to pay a penalty of \$3,000.00 on or before March 31, 2020.

By initials below, I, **JAHANGIR MIRZAKHANI**, 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, **JAHANGIR MIRZAKHANI**, 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, **JAHANGIR MIRZAKHANI**, 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 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. **JAHANGIR MIRZAKHANI** is Ordered a Fine of \$3,000.00 payable to RECO on or before March 31, 2020.

[Released: October 31, 2019]