



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 -**

**JUAN MANUEL ALVAREZ**

---

**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 and 38, with respect to error only, of the *REBBA 2002* Code of Ethics.

**ORDER:** Fine of \$5,000.00 payable to RECO not later than 270 days after the Decision of the Discipline Committee.

**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. Alvarez was, at all material times, a salesperson with the Brokerage A.

2. Seller A and Seller B (the “Sellers”) were the owner of a property 1-A Street, City A (the “Property”). The Sellers listed the Property with Brokerage A, with Alvarez being the salesperson.
3. Alvarez listed the Property on the MLS® (“Listing”) on or about March 3, 2018. Notably, the MLS listing indicated that there were 5 bedrooms that rent for \$560.00 per month and additional master bedroom that rented for \$600.00 per month rent. The Property was near to College A and was, or had been, rented to students.
4. As it turned out, student housing was not a lawful use of the Property. The Property was zoned single family, which does not include a student rooming house. In furtherance of the City A’s zoning by-law, the Property was not permitted to be a student rental in the College A area (which the Property was). Furthermore, the Property could not be used lawfully as a lodging/rooming/boarding house, as there was such a use in close proximity (at 2-B Street). Under the City A’s zoning by-law, a lodging/rooming/boarding house could not be established within 75 meters of another lodging/rooming/boarding house (which the Property would be).
5. Alvarez, through inadvertence and an incorrect appreciation of his obligations as a listing salesperson, was of the view that he was required to indicate the use of the Property, at the time, as part of his disclosure obligations in the Listing.
6. Furthermore, Alvarez, through inadvertence, failed to specify in the Listing that the use of the Property, at the time, was not lawful.

## SUMMARY OF AGREEMENTS

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

7. Alvarez failed to ensure that the Listing spoke in terms of lawfully permitted uses and by stipulating uses that were unlawful in the Listing, he acted contrary to sections 3 and 38, with respect to error only, of the Code of Ethics.

It is agreed that Alvarez 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 within the course of a trade in real estate fairly, honestly and with integrity. O. Reg. 580/05, s. 3.

**Error, misrepresentation, fraud, etc. (*respecting error only*)**

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

JUAN MANUEL ALVAREZ, the Respondent, be ordered to pay a penalty of \$5,000.00 not later than 270 days after the Decision of the Discipline Committee.

By initials below, I, JUAN MANUEL ALVAREZ, 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, JUAN MANUEL ALVAREZ, 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, JUAN MANUEL ALVAREZ, 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 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. JUAN MANUEL ALVAREZ is Ordered a Fine of \$5,000.00 payable to RECO not later than 270 days after the Decision of the Discipline Committee.

*[Released: December 4, 2019]*