



Real Estate Council of Ontario

DISCIPLINE DECISION

**IN THE MATTER OF A DISCIPLINE HEARING HELD PURSUANT TO
BY-LAW NO. 10 OF THE REAL ESTATE COUNCIL OF ONTARIO**

BETWEEN:

**MANAGER OF COMPLAINTS, COMPLIANCE AND DISCIPLINE
REAL ESTATE COUNCIL OF ONTARIO**

- AND -

DIONIS PADRON

DATE OF DECISION: March 19, 2008

FINDINGS: In violation of Rules 1(2), 5, 23, and 42 of the RECO Code of Ethics

PENALTY: Administrative Penalty of \$5,000.00 payable to RECO within 90 days of sending this decision.

COSTS AND EXPENSES: N/A

WRITTEN REASONS:

REASONS FOR DECISION

The hearing was held on March 19th 2008 and proceeded as an Agreed Statement of Facts and Joint Submission as to Penalty. The Agreed Statement and Joint Submission was submitted to the panel by RECO's Counsel. The Respondent did not attend. The Agreed Statement and Joint Submission read:

AGREED STATEMENT OF FACTS AND JOINT SUBMISSION AS TO PENALTY

1. Mr. Dionis Padron ("Mr. Padron") is a member of RECO and at all relevant times was a salesperson registered under the Real Estate and Business Brokers Act, R.S.O. 1990, chap. R. 4 (REBBA), and currently REBBA 2002, S.O. 2002 c. 30 Schedule C.

2. Brokerage A is a member of RECO and a Brokerage registered under the REBBA. At all material times, Mr. Padron was an employee of Brokerage A.
3. Seller A and Seller B (the "Complainants") listed a property located at 1-AB Street for sale with Brokerage A. The listing salesperson was one Seller Representative A.
4. 1-AB Street was listed for sale on or about July 11, 2005 at \$349,995.
5. On or about July 27, 2005, the Complainants reduced the asking price for 1-AB Street from \$349,995 to \$337,995.
6. Two days after the price reduction, an offer was received for 1-AB Street (the "First Offer"). The First Offer was presented by Mr. Padron under dual agency.
7. The buyer in the first offer was Buyer A, who is a relative of Mr. Padron. At no time did Mr. Padron provide the required disclosure under the REBBA and the RECO Code of Ethics, declaring his direct or indirect interest in the purchase of the property.
8. The price offered in the First Offer was \$323,000. The Complainants made some changes to the First Offer and signed the First Offer back at \$337,000.
9. The First Offer subsequently lapsed as the buyer did not accept the counter offer.
10. On or about August 16, 2005, another offer was presented by Mr. Padron on behalf of his relative, Buyer A (the "Second Offer").
11. The price offered in the Second Offer was \$328,000. The Second Offer was signed back by the Complainants at \$332,500. The Second Offer was accepted by the Buyers.

12. Even with the Second Offer, Mr. Padron did not provide the required disclosure under the REBBA and the RECO Code of Ethics, disclosing the nature of his interest in the purchase of 1-AB Street.
13. The Complainants only discovered the relationship between Mr. Padron and the buyer when the transaction was about to conclude.
14. Such and other particulars as may be disclosure by or on behalf of the Respondent are in anticipation of the hearing.

Summary and Allegations:

Accordingly, Mr. Padron acted unprofessionally when he failed on two occasions, to provide to the Complainants written statements and have the Complainants acknowledge in writing, his registration status and interest in the purchase of 1-AB Street.

Thereby breaching the following Rules of the RECO Code of Ethics:

Rule 1 – A Member shall:

- (2) endeavour to protect the public from fraud, misrepresentation or unethical practice in connection with real estate Transactions,

Rule 5 – Financial Disclosure:

A Member shall disclose the financial aspects of a Transaction and any personal interest of the Member in a matter to the Parties sufficient to enable them to make an informed decision.

Rule 23 – Obedience to Law:

A Member shall practice in accordance with all federal, territorial or provincial law or municipal by-law relevant to the Member fitness to practice.

Real Estate and Business Brokers Act, R.S.O. 1990, chap. R. 4

Statement where broker or salesperson purchases for resale

31. (1) No broker or salesperson shall purchase, lease, exchange or otherwise acquire for himself, herself or itself or make an offer to purchase, lease, exchange or otherwise acquire for himself, herself or itself either directly or indirectly, any interest in real estate for the purpose of resale unless the broker or salesperson first delivers to the vendor a written statement that he, she or it is a broker or salesperson, as the case may be, and the vendor has acknowledged in writing that the vendor has received the statement.

(2) Where real estate in respect of which a broker or salesperson is required to give a statement under subsection (1) is listed with the broker or, in the case of a salesperson, is listed with the broker by whom the salesperson is employed, appointed or authorized to trade in real estate, the statement shall include,

- (a) full disclosure of all facts within the broker's or salesperson's special knowledge that affect or will affect the resale value of the real estate; and
- (b) the particulars of any negotiations or agreement by or on behalf of the broker or salesperson for the sale, exchange, lease or other disposition of any interest in the real estate to any other person.

Rule 42 – Competence:

A Member shall render conscientious service with the knowledge, skill, judgement and competence, in conformity with this Code of Ethics and the standards which are reasonably expected of Members. When the Member is unable to render such a service, either alone or with the aid of other Members, the Member shall decline to act.

We also direct you to refer to the Guiding Principles of the RECO Code of Ethics. Please particularly refer to the Guiding Principles under Rules 1, 5, 23 and 42.

JOINT SUBMISSION AS TO PENALTY

Mr. Padron is Ordered to pay a penalty of \$5,000.00 within 90 days of the decision of the Discipline Committee.

The Undersigned parties consent that this matter is settled by way of this Agreed Statement of Facts and Joint Submission as to Penalty.

Accordingly, the Agreed Statement of Facts and Joint Submission as to Penalty will be heard at RECO Chambers on a date to be chosen by RECO.

Mr. Padron acknowledges that, should he wish to attend at RECO on the date that this Agreed Statement of Facts and Joint Submission as to Penalty is heard by the Discipline Committee, that he will advise RECO forthwith.

Mr. Padron acknowledges that he was advised prior to signing this Agreed Statement of Facts and Joint Submission as to Penalty that he has a right to be represented by legal counsel or an agent in this matter.

[The Agreed Statement was duly signed by the Parties.]

Decision of the Panel

Having reviewed and considered the Agreed Statement of Facts, the Panel concluded that the Respondent breached Rules # 1(2) Ethical Behaviour; #5 Financial Disclosure; #23 Obedience to Law and #42 Competence of RECO's Code of Ethics. The Panel is also in agreement with the Joint Submission of the parties as to penalty and accordingly makes the following order:

Penalty

Mr. Padron is Ordered to pay a Penalty of \$5,000.00 payable to RECO within 90 days of sending this decision of the Discipline Committee