



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 -

MINOO MALAKZADEH

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, 5, 38 and 39 of the *REBBA 2002* Code of Ethics.

ORDER: Fine of \$3,500.00 payable to RECO on or before March 31, 2017.

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. Minoo Malakzadeh ("Malakzadeh") is and was, at all relevant times, registered as a salesperson under the Act with Brokerage A.
2. Registrant B is and was, at all relevant times, registered as a broker under the Act with Brokerage B.

3. On or about July 10, 2015, Registrant B, on behalf of Brokerage B representing the seller, listed for sale the residential property located at 1-A Street in City A (the "Property") on City A Real Estate Board's Multiple Listing Service®.
4. Malakzadeh booked an appointment to view the Property with her client, Buyer A, for July 17, 2015, from 3:00 p.m. to 4:00 p.m.
5. On July 17, 2015, Registrant B visited the Property to discover that the lockbox was open and the front door was unlocked with the key in it. Registrant B thereafter found Buyer A and his wife in the Property without Malakzadeh. Buyer A introduced himself as Malakzadeh's assistant and provided Registrant B with his driver's licence.
6. Malakzadeh, not being able to attend at the Property, provided the code to the lockbox to Buyer A who, thereafter, entered the Property without Malakzadeh.
7. Registrant B directed Buyer A and his wife to leave the Property. Registrant B, thereafter, installed a new lockbox at the Property.
8. On or about September 30, 2015, in response to a Notification of Complaint respecting the above events, Malakzadeh stated:

"I then realized I would not make it on time for 3:00 PM with the Buyers due to the traffic. [...]

Against my better judgement, I gave him the lockbox code, but strongly cautioned him to lock to [sic] door after they viewed the property and to remember to place the key back in the lockbox."

SUMMARY OF AGREEMENTS

It is agreed that Malakzadeh acted unprofessionally, including as follows:

Provided the lockbox code for the Property to an unauthorized individual and permitted unauthorized individuals to enter and view the Property unsupervised, contrary to sections 3, 5, 38 and 39 of the Code of Ethics under the Act (the "Code of Ethics").

It is agreed that Malakzadeh breached the following sections of the Code of Ethics:

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.

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.

Unprofessional Conduct, Etc.

39 A registrant shall not, in the course of trading in real estate, engage in any act or omission that, having regard to all of the circumstances, would reasonably be regarded as disgraceful, dishonourable, unprofessional or unbecoming a registrant.

AGREED PENALTY

MINOO MALAKZADEH, the Respondent, be ordered to pay a penalty of \$3,500.00 on or before March 31, 2017.

By initials below, I, MINOO MALAKZADEH, 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, MINOO MALAKZADEH, 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, MINOO MALAKZADEH, 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 3, 5, 38 and 39 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. MINOO MALAKZADEH is Ordered a Fine of \$3,500.00 payable to RECO on or before March 31, 2017.

[Released: February 9, 2017]