



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 -

JOSHUA JOHN WANNAMAKER known as JOSH WANNAMAKER

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, 4, 5, 38 and 39 of the *REBBA 2002* Code of Ethics.

ORDER: Fine of \$7,000.00 payable to RECO on or before January 7, 2019.

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. Joshua John Wannamaker a.k.a Josh Wannamaker is and was, at all relevant times, registered as a salesperson under the Act with the Brokerage A.

2. The Property located at 1-A Road, City A, Ontario (the “Property”), is approximately 45 acres in size, and consists of a marine scrap yard, hundreds of boats and a residence. The Property was also listed for sale.

I. Because of the inherent danger the Property presents, and therefore potential liability issues, the owner of the Property does not permit anyone to be on the Property unless accompanied. To that end, the Property is gated, (the “Entry Gate”) and has a sign (the “Sign”) posted on it advising, in essence, that:

- i) the Property is not open to the public;
- ii) entry is by appointment only;
- iii) trespassers will be prosecuted; and
- iv) there is a guard dog on site.

3. The Sign also provides a phone number which could be used to schedule an appointment.

II. SCHEDULED SHOWING

4. On or about Friday, June 9, 2016, Joshua Wannamaker made an appointment to show his client the Property (“Showing”).

III. SHOWING

5. Joshua Wannamaker then attended the Property on Monday, June 13, 2016, with his client for the purpose of showing it to him at that time.

6. Having left for the weekend, the owner of the Property was not in attendance, and with the Entry Gate closed and locked; Joshua Wannamaker proceeded to call the number provided on the Sign. He was able to speak with the owner, who denied Joshua Wannamaker’s request for permission to show the Property to his client.

7. Despite not having permission to show the Property to his client, Joshua Wannamaker and/or his client proceeded to then unhinge the Entry Gate, and trespass onto the Property.

8. Sometime thereafter, an employee of the owner arrived at the Property and discovered Joshua Wannamaker and his client touring it. After calling the police and informing Joshua

Wannamaker and his client that the authorities were on their way, Joshua Wannamaker and his client decided to leave the Property. Joshua Wannamaker attempted to re-hinge the Entry Gate before leaving.

9. The Entry Gate, however, was damaged by being unhinged and left to hang by Joshua Wannamaker and/or his client.

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

1. Disregarding the instructions of the owner not to enter the Property, contrary to sections 3, 38 and 39 of the Code of Ethics under the Act (“the Code of Ethics”).
2. Unhinging, assisting in the unhinging, or otherwise allowing for the unhinging of the Entry Gate, contrary to sections 3, 38 and 39 of the Code of Ethics.
3. Damaging, contributing to the damage, or otherwise allowing for the damaging of the Entry Gate, whether intentional or not, contrary to sections 3, 38 and 39 of the Code of Ethics.
4. Placing his client at risk, contrary to sections 4, 5, 38 and 39 of the Code of Ethics. Specifically, the Property was inherently dangerous, and may have been guarded by a dog, contrary to sections 4, 5, 38 and 39 of the Code of Ethics.
5. Trespassing onto the Property, contrary to sections 38 and 39 of the Code of Ethics.
6. Placing his client in a position whereby he too was trespassing on the Property, contrary to sections 4, 5, 38 and 39 of the Code of Ethics.
1. Being that the Property is an inherently dangerous place, Wannamaker exposed the owner to liability by trespassing with his client onto the Property, contrary to sections 3, 38 and 39 of the Code of Ethics.

SUMMARY OF AGREEMENTS

It is agreed that Wannamaker 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.

Best Interests

4. A registrant shall promote and protect the best interests of the registrant's clients.

Conscientious and Competent Service, Etc.

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

JOSHUA JOHN WANNAMAKER known as JOSH WANNAMAKER, the Respondent, be ordered to pay a penalty of \$7,000.00 on or before January 7, 2019.

By initials below, I, JOSHUA JOHN WANNAMAKER known as JOSH WANNAMAKER, 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, JOSHUA JOHN WANNAMAKER known as JOSH WANNAMAKER, 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, JOSHUA JOHN WANNAMAKER known as JOSH WANNAMAKER, 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, 4, 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. JOSHUA JOHN WANNAMAKER known as JOSH WANNAMAKER, is Ordered a Fine of \$7,000.00 payable to RECO on or before January 7, 2019.

[Released: July 24, 2017]