



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 -

SHAOJUN XIAO also known as MARK XIAO

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 3, 5, 27 (1), 34, 35, 37, 38 & 39 of the *REBBA 2002* Code of Ethics.

ORDER: Fine of \$6,000.00 payable to RECO on or before August 9, 2018.

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. Shaojun Xiao also known as Mark Xiao is registered to trade in real estate as a salesperson under the Act and is employed by Brokerage A; a brokerage under the Act.
2. On or about March 20, 2015; the Complainant entered into a Listing Agreement with Brokerage A with Shaojun Xiao as the Listing Agent for the sale of their property located at 1-A Road, City A (the "property").

3. At the time of signing the Listing Agreement, a total commission payable of 3.5% was agreed to. Brokerage A was to receive 1% with 2.5% to the cooperating brokerage. Shaojun Xiao also advised the Complainant that services provided by Brokerage A would include *“marketing services such as MLS®, home staging, open houses and regular advertising”*. There is no schedule attached to the Listing Agreement advising same.
4. The property was listed at \$499,000.00 and sold for \$620,000.00 on April 4, 2015.
5. After the completion of the sale of the property, the Complainant came to learn through the cooperating brokerage’s agent that the commission offered via MLS® was 2.25%. At no material time did the Complainant consent to the amendment of the Listing Agreement to reflect the commission being offered to the Cooperating Brokerage.
6. It was also discovered through the investigation commenced by RECO that current forms were not used throughout the trade in real estate.
7. Shaojun Xiao failed to properly document the change in commission to the cooperating brokerage and/or failed to obtain the consent of the Complainant to amend the Listing Agreement thereby breaching sections 3, 5, 27(1), 35, 37, 38 and 39 of the Code of Ethics.
8. Shaojun Xiao failed to ensure that forms used in the course of a trade in real estate were current thereby breaching section 34 of the Code of Ethics.
9. Such further and other particulars as may be disclosed by or on behalf of Shaojun Xiao at or in anticipation of a hearing in this matter.

AGREED PENALTY

SHAOJUN XIAO also known as MARK XIAO, the Respondent, be ordered to pay a penalty of \$6,000.00 on or before August 9, 2018.

By initials below, I, SHAOJUN XIAO also known as MARK XIAO, 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, SHAOJUN XIAO also known as MARK XIAO, 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, SHAOJUN XIAO also known as MARK XIAO, 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, 27(1), 34, 35, 37, 38 & 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. SHAOJUN XIAO also known as MARK XIAO is Ordered a Fine of \$6,000.00 payable to RECO on or before August 9, 2018.

[Released: August 15, 2017]