



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 -

FRANCIS JOSEPH

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 \$3,000.00 payable to RECO on or before October 4, 2018.

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. Francis Joseph ("Joseph") is registered as a salesperson to trade in real estate under the Act. At the relevant times, Joseph was employed by Brokerage A.

2. Registrant A is registered as a salesperson to trade in real estate under the Act. At the relevant times, Registrant A was employed by Brokerage B. Registrant A is also the listing salesperson of a house located at 1-A Street, City A ("Property").
3. Registrant B is registered as a broker to trade in real estate under the Act. At the relevant times, Registrant B was employed by Brokerage B.
4. Seller A is the seller of the Property.
5. On or about September 10, 2015 between 5:00 p.m. and 6:00 p.m., Joseph was scheduled to show his buyer clients the Property.
6. Registrant B was waiting to show the Property to her buyer clients when she observed two individuals wrestling with the lock box while talking on a cell phone. Registrant B immediately called Registrant A and confronted the two individuals inside the Property. Registrant B learned that neither of the two individuals were real estate agents and that Joseph, their agent provided the lock box code because he was stuck in traffic and could not make it to the showing. Registrant B requested the two individuals to leave the Property.
7. Registrant A and Seller A each filed a complaint with the Real Estate Council of Ontario.
8. Joseph provided his buyer clients with the lock box code, contrary to sections 3, 4, 5, 38 and 39 of the Code of Ethics under the Act.
9. Joseph permitted his clients to have unsupervised access to the Property, contrary to sections 3, 4, 5, 38 and 39 Code of Ethics under the Act.
10. Such further and other particulars as may be disclosed at or in anticipation of a hearing in this matter.

AGREED PENALTY

FRANCIS JOSEPH, the Respondent, be ordered to pay a penalty of \$3,000.00 on or before October 4, 2018.

By initials below, I, FRANCIS JOSEPH, 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, FRANCIS JOSEPH, 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, FRANCIS JOSEPH, 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, 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. FRANCIS JOSEPH is Ordered a Fine of \$3,000.00 payable to RECO on or before October 4, 2018`.

[Released: October 6, 2017]