



Real Estate Council of Ontario

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**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 -**

**KEITH TUAN PHAN**

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**DISCIPLINE DECISION AND REASONS FOR DECISION**

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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:

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**FINDINGS:** In violation of Sections 3 and 39 of the *REBBA 2002* Code of Ethics.

**ORDER:** Fine of \$5,000.00 payable to RECO on or before February 18, 2019.

Successful completion of the Real Estate Institute of Canada (REIC) "REIC 2600: Ethics and Business Practice" course and provide RECO with confirmation of successful completion on or before February 18, 2019.

**WRITTEN REASONS:** *attached*

**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. Phan is registered as a salesperson under the Act. At all relevant times Phan was employed by and carried on business on behalf of Brokerage A.
2. Representative A is a salesperson registered under the Act. At all material times, Representative A was employed by and carried on business on behalf of Brokerage B.
3. At all material times Representative A, on behalf of Brokerage B, was the listing salesperson for 1-A Street, in City A (the "Property"). The Property was being sold by Seller A and Seller B (the "Sellers").
4. On or about November 11, 2016, Phan booked an appointment to show the Property to a client.
5. At the end of the day, the Sellers who had a security camera system installed in the Property viewed the footage to find that instead of showing the Property to a client, Phan and his client had used the scheduled appointment time to take photographs without the knowledge and consent of the Sellers to use the Property as a photoshoot backdrop for taking pictures of an item they brought into the Property.
6. Phan and the client who he brought to the Property for the photoshoot took pictures in the living room, dining room and even the bedroom of the Sellers.

### **SUMMARY OF AGREEMENTS**

It is agreed

1. Phan used his licence as a Real Estate salesperson to gain access to the Property to show the Property to a client but instead used the Property as a backdrop for pictures of a product they brought into the Property without the knowledge or consent of the Sellers thereby breaching Sections 3, and 39 of the Code of Ethics.

### **AGREED PENALTY**

KEITH TUAN PHAN, the Respondent, be ordered to pay a penalty of \$5,000.00 on or before February 18, 2019.

In addition to the above penalty, Respondent must enrol in the Ethics and Business Practice course provided by the Real Estate Institute of Canada (REIC), and provide proof of successful completion of the course on or before February 18, 2019

By initials below, I, KEITH TUAN PHAN, 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, KEITH TUAN PHAN, 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, KEITH TUAN PHAN, 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 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. KEITH TUAN PHAN is Ordered a Fine of \$5,000.00 payable to RECO on or before February 18, 2019.
2. KEITH TUAN PHAN is Ordered to successfully complete the Real Estate Institute of Canada (REIC) "REIC 2600: Ethics and Business Practice" course and provide RECO with confirmation of successful completion on or before February 18, 2019.

*[Released: February 23, 2018]*