



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 -

ARTHUR IRWIN

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

ORDER: Fine of \$3,000.00 payable to RECO on or before December 31, 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. At all material times, Arthur Irwin (“Irwin”) was employed as a salesperson with Brokerage A.

2. Irwin was a Listing Agent for a residential property located at 1-A Street, City A (“Property”) representing his seller clients (“Sellers”).
3. The Property was listed for sale on or about September 27, 2016 for \$749,000.00.
4. Representative A was a registered salesperson representing a potential buyer of the Property (“Client”).
5. The Property was a subject of four (4) multiple offers submitted on October 4, 2016.
6. Representative A submitted an initial offer of \$851,150.00 on behalf of the Client.
7. After presentation of all the offers for the Property, Irwin contacted the parties who had submitted offers and provided each with a chance to improve their initial offers.
8. The Client increased their offer to \$887,150.00. Representative A, who was not present at the Property, communicated the increased offer to Irwin by way of a text message containing a photograph of page 1 of the Agreement of Purchase and Sale with the increased amount.
9. The Sellers accepted an offer made by another party in the amount of \$858,000.00, which was less than the increased offer communicated to Irwin by Representative A.
10. Irwin has acknowledged that when he received the text from Representative A, he misread the increased offer as being in the amount of \$857,150.00 and, as a result, miscommunicated the amount of the Client’s offer to the Sellers.
11. At the time of the incident, Irwin took full responsibility for his inadvertent error in reading the Client’s increased offer. He immediately acknowledged that he made an unfortunate error, he apologized and, at the same time, made financial restitution to the Sellers that was satisfactory to them.

SUMMARY OF AGREEMENTS

It is agreed that:

1. Irwin failed to read and communicate the correct amount of the Client's increased offer resulting in the Sellers accepting another offer which was less, thereby breaching sections 4, 5 and 38, with respect to error only, of the Code of Ethics under the Act.

AGREED PENALTY

ARTHUR IRWIN, the Respondent, be ordered to pay a penalty of \$3,000.00 on or before December 31, 2018.

By initials below, I, ARTHUR IRWIN, 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, ARTHUR IRWIN, 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, ARTHUR IRWIN, 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 4, 5 and 38 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. ARTHUR IRWIN is Ordered a Fine of \$3,000.00 payable to RECO on or before December 31, 2018.

[Released: September 18, 2018]