



# Real Estate Council Of Ontario

Regulatory Digest



Issue 15: January-March 2017



RECO's legal library

*RECO's mission is excellence in the delivery of regulatory services that protect the public interest and enhance consumer confidence in the real estate profession.*

*RECO's vision is public trust and confidence in Ontario's real estate profession.*

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The Real Estate Council of Ontario (RECO) administers and enforces the *Real Estate and Business Brokers Act, 2002* (REBBA 2002) and its regulations on behalf of the Ontario government.

REBBA 2002 requires registered real estate professionals to conduct themselves and their businesses in a manner that protects consumers in real estate transactions. Failure to do so could lead to regulatory action. Further, with few exceptions, anyone who trades in real estate must be registered under REBBA 2002. Trading in real estate without the benefit of registration or an exemption could lead to prosecution under REBBA 2002.

RECO's enforcement of REBBA 2002 helps to ensure public trust and confidence in Ontario's real estate profession.

The ***Regulatory Digest*** is an online resource that summarizes RECO's regulatory actions involving:

- the Registrar issuing a Notice of Proposal to revoke, suspend, refuse to renew, or apply conditions to a registration;
- offences related to REBBA 2002 and its regulations resulting in prosecution in the Provincial Offences Courts;
- breaches of the Code of Ethics that are referred to a hearing in front of the Discipline Committee or Appeals Committee; and
- dispute resolution with an outcome agreeable to all parties.

Decisions are not published until the appeal period has expired or the appeal has been heard or abandoned. For the latest decisions, visit RECO's website ([www.reco.on.ca](http://www.reco.on.ca)).

# Licence Appeal Tribunal

A registrant may appeal a Registrar's proposal to the Licence Appeal Tribunal (LAT). LAT handles appeals under several statutes that deal with both licences and registrations. A registrant seeking an appeal must provide written notice within 15 days of the proposal.

NAME	LOCATION	DATE	REASON	TYPE	RESULT
<a href="#">Marina Bulman</a>	Toronto, ON	February 28, 2017	-Past Conduct	Revoke	Conditions. Currently under appeal at the Divisional Court.
<a href="#">Distinction Realty Ltd.</a>	Toronto, ON	February 28, 2017	-Past Conduct	Revoke	Conditions. Currently under appeal at the Divisional Court.

# Provincial Offences Act

Offences under REBBA 2002, other than violations of the Code of Ethics, may be prosecuted in the Ontario Provincial Offences Court. Individuals convicted of offences are subject to fines of up to \$50,000 and/or prison terms of up to two years less a day. Corporations are subject to fines of up to \$250,000. These fines are collected by the government. Convicted parties are also subject to a victim surcharge. The surcharge is collected by the Court for the Victims' Justice Fund.

NAME	REG. STATUS	LOCATION	CHARGE	DATE	RESULT
Cameron Richard Blake	Not Registered	Hamilton, ON	Trading in real estate while unregistered.	Convicted and Sentenced: January 9, 2017	Guilty. Fined \$2,500.
Kalra Varun	Not Registered	Burlington, ON	Holding himself out, directly or indirectly, as a salesperson while unregistered	Convicted and Sentenced: January 10, 2017	Guilty. Fined \$2,000.
Tyler Benjamin Andress, also known as Tyler Andress	Registered	Brockville, ON	Failing to comply with a written request for information in respect of a complaint filed against him	Convicted and Sentenced: January 25, 2017	Guilty. Fined \$2,000.
Citysites Realty Inc.	Registered	Vaughan, ON	Failing to prepare a trust account reconciliation statement for a trust account.	Convicted and sentenced: February 3, 2017	Guilty. Fined \$4,000.
Franco M. Gentile, also known as Frank Gentile	Registered	Vaughan, ON	Failing to ensure that the brokerage complied with the Act.	Convicted and sentenced: February 3, 2017	Guilty. Fined \$4,000.
Yan Zhu, also known as Julia Zhu	Registered	Markham, ON	Failing to notify the Registrar, in writing, within five days, of a change to the information previously reported in an application for	Convicted and sentenced: March 20, 2017	Guilty. Fined \$1,500.

			registration under the Act.		
Rick Anderson	Not Registered	London, ON	Trading in real estate while unregistered under the Act.	Convicted and sentenced: March 23, 2017	Guilty. Received a suspended sentence and placed on six months' probation.
Varinderjeet Singh Patheja, also known as Sunny Patheja	Terminated	Mississauga, ON	Receiving commission or remuneration from someone other than a brokerage, and failing to deliver copies of lease agreements to his brokerage.	Convicted and sentenced: March 28, 2017	Guilty. Fined \$6,000.
Victor Fishman	Terminated	Richmond Hill, ON	Failing to ensure that the brokerage complied with the Act.	Convicted and sentenced: March 31, 2017	Guilty. Fined \$30,000. Placed on probation for 2 years and told to complete 100 hours of community service. Ordered to pay restitution in the amount of \$64,156.14.
Homelife Victory Realty Inc.	Terminated	Richmond Hill, ON	Failing to prepare trust account reconciliation statements, failing to immediately deposit sufficient funds into a trust account to eliminate a shortfall, failing to disburse	Convicted and sentenced: March 31, 2017	Guilty. Fined \$250,000.

			trust money in accordance with the terms of the trust, failing to notify the Registrar, within five days, of a change to the information previously reported in an application for registration.		
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## Discipline Committee & Appeals Committee

Matters that involve alleged breaches of the Code of Ethics may be referred to the Discipline Committee for a hearing. Individuals found in violation may be ordered to take educational courses, pay a fine of up to \$25,000, and may be required to pay fixed or imposed costs.

Keywords are provided for each summary to help readers locate similar Discipline and Appeals decisions using the search feature available on RECO's website under "Complaints & Enforcement."

NAME	LOCATION	DATE	RESULT	KEYWORDS
<a href="#">Minoo Malakzadeh</a>	Toronto, ON	February 9, 2017	Fined \$3,500.	Duty to Client, Conscientious and Competent Service, Misrepresentation (Negligence), Unprofessional Conduct
<a href="#">David Lyle Nicholls</a>	Barrie, ON	February 22, 2017	Fined \$5,000.	Duty to Client, Misrepresentation (Negligence), Unprofessional Conduct
<a href="#">Miton Kanti Parial, also known as Miton Parial</a>	Toronto, ON	March 8, 2017	Fined \$3,000 and ordered to complete one course.	Duty to Client, Conscientious and Competent Service, Misrepresentation (Negligence), Unprofessional Conduct
<a href="#">Yu Lan Cai (also known as Yolanda Cai)</a>	Markham, ON	March 13, 2017	Fined \$20,000 and ordered to complete two courses.	Representation Agreements, Disclosure - Offers, Record Keeping / Business Records, Duty to Client, Conscientious and Competent Service, Dealing with Registrants/ Third Parties, Services from Others / Outside Professional Advice, Disclosure - Personal Interest, Discovery of Facts, Procedural Issues, Financial Responsibility, Misrepresentation (negligence), Unprofessional Conduct
<a href="#">Chang Liu</a>	Toronto, ON	March 14,	Fined \$5,000	Duty to Client, Conscientious

<a href="#"><u>(also known as David Liu)</u></a>		2017	and ordered to complete one course.	and Competent Service, Financial Responsibility, Misrepresentation (Negligence), Unprofessional Conduct
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# Resolved Complaints

Under certain circumstances, the Registrar may attempt to resolve a complaint between the parties. RECO does not have the authority to impose a resolution to monetary or contractual disputes, or to assess or award damages. Any exchange of money mentioned in the following summaries was agreed upon voluntarily by the complainant and respondent.

**Complainant:** Co-operating Salesperson  
**Respondent:** Seller's Representative  
**Date of Release:** January 5, 2017

## Summary:

- The co-operating salesperson tried to submit an offer to the seller's representative but was not getting called back in a timely manner.
- The seller's representative had difficulty reaching the owner of the property, which was the source of the challenge.

## Agreement:

- The seller's representative apologized to the co-operating salesperson.

**Complainant:** Buyer  
**Respondent:** Buyer's Representative  
**Date of Release:** January 5, 2017

## Summary:

- The buyer wanted to terminate the buyer representation agreement.
- The buyer's representative told the buyer twice by email that they would grant the cancellation, but they did not do so.
- The buyer's representative had found some properties that they believed would be of interest to the buyer, and thought they might be able to retain the buyer as their client.

## Agreement:

- The salesperson released the buyer from the buyer representation agreement, through the brokerage.

**Complainant:** Homeowner  
**Respondent:** Salesperson  
**Date of Release:** January 10, 2017

**Summary:**

- The homeowner noticed that their property, which they purchased in 2015, showed up as an active listing on Kijiji.
- The salesperson investigated and found that the real estate board had accidentally re-activated the listing, which was then disseminated to other third-party internet sites.

**Agreement:**

- The salesperson removed the listing from all sites.

**Complainant:** Buyer  
**Respondent:** Buyer's Representative  
**Date of Release:** January 18, 2017

**Summary:**

- The buyer's representative offered to pay for the cost to obtain the status certificate if an offer for a specific condo unit was accepted by the seller. The cost was \$100.
- Following the completion of the sale, the buyer's representative failed to honour the promise.

**Agreement:**

- The buyer's representative paid the \$100 cost of obtaining the status certificate.
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**Complainant:** Seller  
**Respondent:** Buyer's Salesperson  
**Date of Release:** January 26, 2017

**Summary:**

- The buyers had booked a 2 hour visit of the property, which ended up being extended to 4-5 hours.
- The buyer's salesperson explained that contractors and other professionals went overtime performing estimates for the property.

**Agreement:**

- The buyer's salesperson formally apologized and sent the seller a bouquet of flowers.

**Complainant:** Buyer  
**Respondent:** Listing Salesperson  
**Date of Release:** January 27, 2017

**Summary:**

- The listing salesperson represented herself in the sale of her home.
- The buyers were represented by a co-operating brokerage.
- After taking possession of the property, the buyers noticed significant mould on the ceiling of the garage which had not been discovered during the home inspection.
- The home inspector had not been able to access the garage during the inspection because it was filled with boxes and other household items.

**Agreement:**

- The listing salesperson agreed to pay the buyers \$1,000.

**Complainant:** Seller's Representative  
**Respondent:** Salesperson  
**Date of Release:** February 9, 2017

**Summary:**

- The salesperson sent a letter of interest to a client of the seller's representative.
- The salesperson did not realize the property had been re-listed.

**Agreement:**

- The salesperson apologized for the mistake, and said they would be more diligent about checking the Multiple Listing Service (MLS) before sending any future letters.

**Complainant:** Buyer  
**Respondent:** Seller's Salesperson  
**Date of Release:** February 15, 2017

**Summary:**

- The buyer called the salesperson multiple times for information.
- The salesperson did not call the buyer back.
- The salesperson admitted they ignored the requests because they were too busy.

**Agreement:**

- The salesperson apologized.

**Complainant:** Seller  
**Respondent:** Buyer's Representative  
**Date of Release:** February 17, 2017

**Summary:**

- The seller was selling his home privately, and advertised his phone number on Kijiji.
- The buyer's representative sent text messages to the seller – not realizing it was a land line which couldn't receive text messages.
- The seller was receiving calls in the middle of the night as the calls continued until the phone was answered.
- The seller managed to trace the phone calls back to the buyer's representative, and filed a complaint with RECO.

**Agreement:**

- The buyer's representative cancelled the text messages.
- The calls to the seller stopped.

**Complainant:** Buyer  
**Respondent:** Seller's Representative  
**Date of Release:** February 27, 2017

**Summary:**

- The buyer did not believe that their offer was presented to the seller.
- The seller's representative said the offer was presented, but had no acknowledgement to prove it.

**Agreement:**

- The salesperson obtained written confirmation from the seller that they had seen and ultimately rejected the buyer's offer.

**Complainant:** Salesperson A  
**Respondent:** Salesperson B  
**Date of Release:** March 8, 2017

**Summary:**

- Salesperson B made a disparaging post on a Facebook business thread to Salesperson A.

**Agreement:**

- Salesperson B removed the post.

**Complainant:** Buyer  
**Respondent:** Buyer's Salesperson  
**Date of Release:** March 9, 2017

**Summary:**

- The buyer claimed that their salesperson did not make some necessary disclosures while leasing a property.
- The salesperson says there was a misunderstanding and this was merely a counter-complaint to another RECO matter.

**Agreement:**

- The buyer accepted that there was a miscommunication between parties and agreed that there was no further issue.

**Complainant:** Buyer's Salesperson  
**Respondent:** Seller's Salesperson  
**Date of Release:** March 14, 2017

**Summary:**

- The buyer's salesperson was upset because the seller's salesperson would not provide the names of the individual salespeople involved in the competing offer situation and further failed to disclose that the seller's salesperson had their own offer.
- The seller's salesperson did not disclose the identity of anyone who had other offers and did not disclose that they had their own offer because they knew it was not in contention (in terms of price).

**Agreement:**

- The buyer's salesperson now understands that in a multiple offer situation the seller cannot disclose the identity of representatives involved in the other offers.
- The seller's salesperson agreed to review offer handling information available on the RECO website and ensure they are making multiple representation disclosure at the earliest practicable opportunity.

**Complainant:** Buyer  
**Respondent:** Seller's Brokerage  
**Date of Release:** March 16, 2017

**Summary:**

- The buyer's purchase fell through when the home inspection revealed problems with the home, which were not satisfactory to the buyer.
- The seller's brokerage required that the buyer sign a mutual release consenting to the return of his deposit.
- The buyer refused to sign any documents related to the dissolution of the sale.

**Agreement:**

- The buyer and seller both agreed to sign a consent permitting the return of the deposit to the buyer.
- The seller's brokerage released the deposit to the buyer.

**Complainant:** Homeowner  
**Respondent:** Salesperson  
**Date of Release:** March 16, 2017

**Summary:**

- The homeowner discovered that their home was advertised for sale in the local newspaper.
- While the homeowner had discussed selling his home with the salesperson, he had not signed a listing agreement with the brokerage.

**Agreement:**

- The listing brokerage removed all advertising of the property.
- The salesperson apologized to the home owner for his actions.

**Complainant:** Buyer's Salesperson  
**Respondent:** Seller's Salesperson  
**Date of Release:** March 24, 2017

**Summary:**

- The buyer's salesperson showed a property to some clients.
- They wanted to submit an offer but learned that the property was already sold prior to the appointment.
- The seller's salesperson says the property sold during the showing.

**Agreement:**

- RECO confirmed that the property was in a counter-offer and did in fact sell during the appointment time.
- The buyer's salesperson accepted the explanation.