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**IN THE MATTER OF A DISCIPLINE PROCEEDING HELD PURSUANT TO THE
*TRUST IN REAL ESTATE SERVICES ACT, 2022***

BETWEEN:

REAL ESTATE COUNCIL OF ONTARIO

- AND -

MARIUS KERKHOFF

DISCIPLINE DECISION AND REASONS FOR DECISION

Subject to Rule 4.02 of the Discipline and Appeals Committee Rules of Practice (*TRESA 2002*), I, the Chair of the Discipline Committee (*TRESA 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 the *TRESA 2002* Code of Ethics Sections 5, 8, 9 and 11.

In violation of the General Regulations Section 22.1.

ORDER:

Fine of \$12,000.00 payable to RECO not later than 120 days after the Decision of the Discipline Committee on this matter: May 15, 2026.

Successful completion of the "Introduction to *TRESA*" course and provide proof of completion to RECO not later than 180 days after the date of the Decision of the Discipline Committee on this matter, and to provide proof of completion to RECO within 60 days of completion of the course.

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 (*TRESA 2002*).

The Agreed Statement of Facts and Penalty read:

AGREED STATEMENT OF FACTS AND PENALTY

It is agreed as follows:

1. At all relevant times, Kerkhoff was registered as a broker under the *Trust in Real Estate Services Act, 2002* (the “**Act**”), and was employed at Brokerage A.
2. Buyer A and Buyer B (collectively, the “**Buyers**”) were the Buyers of a residential property located in Norwich, Ontario (the “**Property**”).
3. Kerkhoff represented the Buyers in the purchase of the Property, as an agent of Brokerage A.
4. At all relevant times, the Buyers were foreign nationals and did not have permanent residency status in Ontario or any other Canadian province.
5. Non-resident Speculation Tax (“**NRST**”) is a one-time tax paid on certain purchases of residential property by foreign individuals and entities who are not Canadian citizens or permanent residents. As of October 2022, the NRST was set at 25% of the purchase price of certain Ontario properties.
6. Kerkhoff was aware of the existence of an NRST, but believed the tax was no longer in effect after January 2024.
7. Although Kerkhoff was aware that the Buyers were “international buyers,” he did not inform the Buyers of the existence of the NRST.
8. Kerkhoff did not advise the Buyers to seek legal advice prior to putting in an offer.
9. The Buyers were made aware of their NRST obligation by the vendor of the Property, approximately one week before the completion date of the Agreement of Purchase and Sale.

10. The Buyers were required to pay \$201,084.07 in addition to the total amount they expected to pay for the purchase of the Property. The Buyers would have taken the NRST into consideration prior to entering into an Agreement of Purchase and Sale had it been brought to their attention by Kerkhoff.

SUMMARY OF AGREEMENTS

It is agreed that Kerkhoff failed to comply with the Act and/or Regulations as follows:

- A. Kerkhoff failed to take reasonable steps to ascertain the applicability of the NRST to his clients, or in the alternative he failed to refer his clients to someone that could give accurate advice on the NRST, and therefore fell short of his duty to make them aware of such material facts, in a timely manner, contrary to section 22.1(1) of the General Regulation and contrary to section 11(1) of the Code of Ethics.
- B. Kerkhoff failed to make reasonable efforts to ensure that his clients understood the total amount they would be required to pay to complete the purchase of the Property. Although the purchase price was accurate, Kerkhoff failed to inform his clients of the additional cost of the NRST, and thereby misrepresented the total amount payable, contrary to section 5(a) of the Code of Ethics.
- C. Kerkhoff failed to act in his clients' best interests, failed to disclose their tax obligations, and failed to conduct due diligence to identify the material facts that would have affected their decision to purchase the Property, contrary to sections 8 and 9 of the Code of Ethics.

It is agreed that Kerkhoff failed to comply with the following sections of the General Regulation, O. Reg. 567/05:

Material facts

- 22.1 (1) A broker or salesperson who represents a client in respect of the acquisition or disposition of a particular interest in real estate shall,
 - (a) take reasonable steps to determine the material facts relating to the acquisition or disposition;
 - (b) disclose the material facts to the client as soon as possible after the determination; and
 - (c) advise the client to consider whether the material facts affect their decision to acquire or dispose of the interest.
- (2) The broker or salesperson shall make best efforts to obtain a written acknowledgement from the client indicating that the disclosure and advice mentioned in subsection (1) has been

received and, if the client makes the acknowledgement, provide them with a copy of it.

It is agreed that Kerkhoff failed to comply with the following sections of the Code of Ethics, O. Reg. 580/05:

Misrepresentation, etc.

5. In carrying on business, a registrant,
- (a) shall make best efforts to ensure that any representations are accurate and are not misleading; and
 - (b) shall not engage in or be a party to misrepresentation or any unethical practice.

Best interests

8. (1) A registrant that represents a client shall promote and protect the best interests of the registrant's clients.
- (2) If a registrant that represents a client believes that a client's ability to understand information or make decisions relevant to a trade in real estate may be impaired, the registrant shall make reasonable efforts to ensure that the client understands the information and appreciates the reasonably foreseeable consequences of the decision.

Conscientious and competent service, etc.

9. (1) A registrant shall provide conscientious, courteous and responsive service to clients and demonstrate reasonable knowledge, skill, judgment and competence in providing such service.
- (2) Subject to section 10, in carrying on business, a registrant shall demonstrate reasonable knowledge, skill, judgment and competence in providing opinions, advice, assistance or information to any person.

Services from others

11. (1) A registrant shall advise a person to obtain services from another person if the registrant is not able to provide the services with reasonable knowledge, skill, judgment and competence or is not authorized by law to provide the services.
- (2) A registrant shall not discourage a person from seeking a particular kind of service from another person if the registrant is not able to provide the service with reasonable knowledge, skill, judgment and competence or is not authorized by law to provide the service.

AGREED PENALTY

The Respondent, Kerkhoff, understands and agrees to the following penalty:

To pay a fine of **\$12,000.00 (twelve thousand dollars)** to RECO not later than 120 days after the date of the Decision of the Discipline Committee on this matter.

To successfully complete the following courses or programs by the identified completion date:

Course Title (Provider)	Completion date
Introduction to <i>TRESA</i> – RECO Course	Not later than 180 days after the date of the Decision of the Discipline Committee in this matter.

To provide proof of completion to RECO within 60 days of completion of the course.

Respondent acknowledgements:

1. I, **Marius Kerkhoff**, acknowledge that I have read and understand the penalty outlined herein and agree to the said terms and/or conditions.
2. I, **Marius Kerkhoff**, acknowledge my right to seek legal counsel in this matter before signing this agreement.
3. I, **Marius Kerkhoff**, agree, understand, acknowledge and consent to waiving my right to a hearing before the Discipline Committee.

Waiver of hearing before the Discipline Committee:

4. The parties consent to disposing of the matter without a hearing before the Discipline Committee and agree to the terms set out herein.

The parties request an Order from the Chair of the Discipline Committee that includes this Agreement of Facts and Penalty as a final settlement of this matter

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 Parties duly signed the Agreed Statement.]

DECISION OF THE CHAIR

Having reviewed and considered the Agreed Statement of Facts, the Chair of the Discipline Committee (*TRESA 2002*) concluded that the Respondent breached Sections 5, 8, 9 and 11 of the *TRESA 2002* Code of Ethics and Section 22.1 of the General Regulation. The Chair of the

Discipline Committee (*TRESA 2002*) is also in agreement with the joint submission of the Parties as to penalty and accordingly makes the following order:

1. KERKHOFF, Marius is ordered to pay a fine of \$12,000.00 (twelve thousand dollars), payable to RECO, not later than 120 days after the Decision of the Discipline Committee on this matter.
2. KERKHOFF, Marius is ordered to successfully complete the "Introduction to TRESA" not later than 180 days after the date of the Decision of the Discipline Committee in this matter, and to provide proof of completion to RECO within 60 days of completion of the course.

Released: January 16, 2026