RECO
Real Estate Council of Ontario

File #2025070384

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 -

REALTRIUM REALTY LTD.

- AND -

SIVAKANTHAN SIVAGNANAM (registered as SIVA SIVAGNANAM)

DISCIPLINE DECISION AND REASONS FOR DECISION

Subject to Rule 4.02 of the Discipline 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:

REALTRIUM REALTY LTD.

FINDINGS: In violation of Section 15 of the General Regulation.

In violation of Section 13 of the Educational Requirements, Insurance, Records and Other Matters Regulations.

In violation of Sections 21.2(7), 21.2(10), 26, 27(1)(a) and 27(1)(d) of the Act.

ORDER: Fine of $10,000.00 payable to RECO on or before: March 31, 2027

SIVAGNANAM, Sivakanthan (registered as SIVAGNANAM, Siva)

FINDINGS: In violation of Section 30(1) of the General Regulation.

In violation of Section 13(3)(a)(b) of the Educational Requirements, Insurance, Records and Other Matters Regulations.

In violation of Sections 12(2), 21.2(7) and 21.2(10) of the Act.

ORDER: Fine of $10,000.00 payable to RECO on or before: March 31, 2027

Successful completion of the *"REIC 2280 - Legal Issues in Real Estate"* course, on or before March 31, 2027 and provide proof of completion to RECO within 60 days after the date of the Decision of the Discipline Committee on this matter.

WRITTEN REASONS: *attached*

Lucy Aita
Chair, Discipline Committee (*TRESA 2002*)

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, Realtrium Realty Ltd. ("Realtrium"), is registered as a brokerage under the *Trust in Real Estate Services Act, 2002* ("Act") and the respondent, Sivakanthan Sivagnanam ("Sivagnanam"), is registered as a broker under the Act,

2. At all relevant times Sivagnanam was and remains the owner and broker of record of Realtrium.

3. On or about May 13, 2024, RECO commenced an Inspection of Realtrium which revealed multiple deficiencies. These deficiencies Included, but are not limited to:

   a) Realtrium's failure to prepare monthly trust reconciliations in the proper format including a factual list of trust liability;

   b) Realtrium's deficient trust reconciliations were not signed and dated by the Broker of Record, Sivagnanam;

   c) Realtrium's failure to adhere to the requirements regarding unclaimed funds on deposit in its real estate trust account ("RETA"); and

   d) Realtrium's failure to properly designate an account as a RETA.

4. Realtrium's records indicated that the RETA reconciliations completed for the months of January, February and March in 2024 each contained deficiencies. particularized as follows:

   a) The January 2024 reconciliation statement was prepared in May 2024. This statement was not signed or reviewed by Sivagnanam.

   b) The February 2024 reconciliation statement was prepared in May 2024. This statement was not signed or reviewed by Sivagnanam.

   c) The March 2024 reconciliation statement was prepared in May 2024. This statement was not signed or reviewed by Sivagnanam.

5. Despite Sivagnanam, as the broker of record, signing and returning a notice outlining these deficiencies, he and Realtrium failed to rectify them.

6. On or about May 22, 2025, RECO commenced a second inspection of Realtrium which revealed many of the same deficiencies identified in the May 2024 inspection.

7. An Inspection Deficiency Notice ("IDN"), setting out the deficiencies found in the May 2025 inspection was subsequently issued by RECO and signed by Sivagnanam on June 30, 2025.

8. The IDN indicated that the inspection found that there were unclaimed trust monies In the RETA and required that this be addressed and proof thereof provided to RECO's inspector by July 7, 2025. As of this date, this deficiency has remained unaddressed.

9. The reconciliation statements for February, March and April 2025 each included numerous miscellaneous charges such as bank fees that were not immediately cleared and are not proper charges to a RETA. Consequently, the reconciliations were not accurate, and it would not be readily apparent that there are funds improperly held in the RETA, particularly, the unclaimed monies.

10. The IDN indicated that the inspection found the following deficiencies in the RETA reconciliation statements:

    a) The February 2025 reconciliation statement was not prepared until May 2025. Further, this reconciliation statement was not reviewed or signed and dated by the broker of record, Sivagnanam;

    b) The March 2025 reconciliation statement was not prepared until May 2025. Further, this reconciliation statement was not reviewed or signed and dated by the broker of record, Sivagnanam;

    c) The April 2025 reconciliation statement was not reviewed or signed and dated by the broker of record, Sivagnanam;

11. The IDN required Realtrium and Sivagnanam to deliver to the RECO inspector the RETA reconciliations for May, June and July 2025 no later than 4:30 p.m. on September 2, 2025. Despite repeated subsequent demands, Realtrium and Sivagnanam have not delivered these reconciliations to RECO.

12. The IDN noted that the inspector found an early disbursement from the RETA where funds were disbursed prior to the successful completion of the transaction related to a property identified as 278 Buchanan Drive, #721. The closing date was August 1, 2024; however, trust money was disbursed on July 31, 2024.

13. Despite Sivagnanam signing and returning a notice outlining these deficiencies, he and Realtrium failed to fully rectify them.

SUMMARY OF AGREEMENTS

<u>It is agreed that Realtrium failed to comply with the Act and/or Regulations as follows:</u>

A. Realtrium failed to produce records requested by an inspector, contrary to sections 21.2(7), and 21.2(10) of the Act.

B. Realtrium failed to comply with its record-keeping obligations, including properly preparing trust account reconciliations and ensuring its broker of record reviewed, signed and dated each reconciliation, contrary to section 26 of the Act and sections 13 of the Educational Requirements, Insurance, Records and Other Matters Regulation (0 Reg 579/05)

C. Realtrium failed to maintain an account designated as a real estate trust account contrary to section 27(1)(a) of the Act and section 15 of the General Regulation (0 Reg 567/05).

D. Realtrium disbursed trust monies before the successful completion of a transaction, contrary to section 27(1)(d) of the Act.

<u>It is agreed that Realtrium failed to comply with the following sections of the Act:</u>

<u>Obligation to produce and assist</u>

21.2 (7) If an inspector demands that a record or other thing be produced for inspection, the person having custody of the record or other thing shall produce it for the inspector within the time provided for in the demand, and shall, upon the inspector's demand,

(a) provide whatever assistance is reasonably necessary to produce a record or other thing in a readable form, including using any data storage, processing or retrieval device or system; and

(b) provide whatever assistance is reasonably necessary to interpret a record or other thing for the inspector.

No obstruction

(10) No person shall obstruct an inspector conducting an inspection or a person accompanying the inspector under subsection (3) or withhold from the inspector or other person or conceal, alter or destroy any record or other thing that is relevant to the inspection.

Duty of brokerage

26. A brokerage shall ensure that every salesperson and broker that the brokerage employs is carrying out their duties in compliance with this Act and the regulations.

Trust account

27.(1) Every brokerage shall,

a) maintain in Ontario an account designated as a trust account, in,

   i) a bank or authorized foreign bank as defined in section 2 of the Bank Act (Canada);

   ii) a loan or trust corporation; or

   iii) a credit union within the meaning of the Credit Unions and Caisses Populaires Act, 2020;

b) deposit into the account all money that comes into the brokerage's hands in trust for other persons in connection with the brokerage's business;

c) at all times keep the money separate and apart from money belonging to the brokerage; and

d) disburse the money only in accordance with the terms of the trust.

It is agreed that Realtrium failed to comply with the following sections of the General Regulation:

Real Estate Trust Account

15. A brokerage shall ensure that each account maintained under section 27 of the Act is designated as a Real Estate Trust Account.

It is agreed that Realtrium failed to comply with the following sections of the Educational Requirements, Insurance, Records and Other Matters Regulation:

Monthly reconciliation

13. (1) A brokerage shall prepare a trust account reconciliation statement in accordance with this section for each trust account maintained under section 27 of the Act not later than,

(a) in the case of a brokerage that receives a monthly account statement from the financial institution where the account is maintained, 30 days after the date the monthly account statement is received; and

(b) in any other case, 30 days after the last day of each month.

(2) The reconciliation statement shall,

(a) identify the differences, if any, between the brokerage's records and the records of the financial institution where the account is maintained, as of,

(i) the date of the account statement from the financial institution, if clause (1) (a) applies, and

(ii) the last day of the month to which the reconciliation statement relates, if clause (1) (b) applies; and

(b) identify the balances in the trust account that are owing to each person as of,

(i) the date of the account statement from the financial institution, if clause (1) (a) applies, and

(ii) the last day of the month to which the reconciliation statement relates if clause (1) (b) applies.

(3) The brokerage's broker of record shall, within the time referred to in subsection (1),

(a) review the reconciliation statement; and

(b) sign and date the reconciliation statement to indicate that he or she has reviewed it.

<u>It is agreed that Sivagnanam failed to comply with the Act and/or Regulations as follows:</u>

A. Sivagnanam failed to ensure that Realtrium properly prepared monthly trust account reconciliations and further failed to sign and date each reconciliation indicating he reviewed it, contrary to sections 12(2) of the Act, sections 30(1) of the General Regulation, sections 13(3)(a) and (b) of the Educational Requirements, Insurance, Records and Other Matters Regulation.

B. Sivagnanam failed to produce records requested by an inspector, contrary to sections 12(2), 21.2(7), and 21.2(10) of the Act.

C. Sivagnanam failed to fulfil his duty as a broker of record to ensure that Realtrium complies with the Act and regulations, contrary to section 12(2) of the Act and section 30 of the General Regulation (0 Reg 567/05).

<u>It is agreed that Sivagnanam failed to comply with the following sections of the Act:</u>

<u>Broker of record</u>

12. (1) Every brokerage shall,

(a) designate a broker who is employed by the brokerage as the broker of record and notify the registrar of his or her identity; and

(b) notify the registrar if the broker of record changes, within five days of the change.

<u>Duties</u>

(2) The broker of record shall ensure that the brokerage complies with this Act and the regulations.

<u>Obligation to produce and assist</u>

21.2 (7) If an inspector demands that a record or other thing be produced for inspection, the person having custody of the record or other thing shall produce it for the inspector within the time provided for in the demand, and shall, upon the inspector's demand,

(a) provide whatever assistance is reasonably necessary to produce a record or other thing in a readable form, including using any data storage, processing or retrieval device or system; and

(b) provide whatever assistance is reasonably necessary to interpret a record or other thing for the inspector.

No obstruction

(10) No person shall obstruct an inspector conducting an inspection or a person accompanying the inspector under subsection (3) or withhold from the inspector or other person or conceal, alter or destroy any record or other thing that Is relevant to the inspection.

It is agreed that Sivagnanam failed to comply with the following sections of the General Regulation:

Broker of record

30. (1) A broker of record shall,

(a) actively participate in the management of the brokerage; ensure an adequate level of supervision for the brokers, salespersons and other persons employed by the brokerage; and

(b) take reasonable steps to deal with any failure to comply with the Act or the regulations by a broker, salesperson or other person employed by the brokerage.

It is agreed that Sivagnanam failed to comply with the following sections of the Educational Requirements, Insurance, Records and Other Matters Regulation:

Monthly reconciliation

13. (3) The brokerage's broker of record shall, within the time referred to in subsection (1),

(a) review the reconciliation statement; and

(b) sign and date the reconciliation statement to indicate that he or she has reviewed it.

AGREED PENALTY

The Respondent Realtrium understands and agrees to the following penalty:

To pay a fine of **$10,000.00** on or before **March 31, 2027.**

AGREED PENALTY

<u>The Respondent Sivagnanam understands and agrees to the following penalty:</u>

To pay a fine of **$10,000.00** on or before **March 31, 2027.**

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

Course Title (Provider)	Completion date
REIC 2280 – Legal Issues in Real Estate	on or before March 31, 2027.

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

<u>Respondent acknowledgements:</u>

1. I acknowledge that I have read and understand the penalty outlined herein and agree to the said terms and/or conditions. I acknowledge my right to seek legal counsel in this matter before signing this agreement.

2. I agree, understand, acknowledge and consent to waiving my right to a hearing before the Discipline Committee.

3. I, Sivakanthan Sivagnanam, acknowledge and agree that I am personally responsible for the penalty imposed on myself and Realtrium Realty Ltd. and that RECO may seek to suspend my registration under the Act if I fail to comply with the agreed penalty herein.

<u>Waiver of hearing before the Discipline Committee:</u>

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

5. 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 for REALTRIUM REALTY LTD.

Having reviewed and considered the Agreed Statement of Facts, the Chair of the Discipline Committee (*TRESA 2002*) concluded that the Respondent, REALTRIUM REALTY LTD., breached Section 15 of the General Regulation, Section 13 of the Educational Requirements, Insurance, Records and Other Matters Regulations, and Sections 21.2(7), 21.2(10), 26, 27(1)(a) and 27(1)(d) of the Act.

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. The Respondent, REALTRIUM REALTY LTD. is ordered to pay a fine in the amount of $10,000.00, payable to RECO, on or before March 31, 2027.

DECISION OF THE CHAIR for SIVAGNANAM, Sivakanthan

Having reviewed and considered the Agreed Statement of Facts, the Chair of the Discipline Committee (*TRESA 2002*) concluded that the Respondent, SIVAGNANAM, SIVAKANTHAN, breached Section 30(1) of the General Regulation, Section 13(3)(a)(b) of the Educational Requirements, Insurance, Records and Other Matters Regulations, and Sections 12.(2), 21.2(7) and 21.2(10) of the Act.

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. The Respondent, SIVAGNANAM, Sivagnanam, registered as SIVAGNANAM, Siva, is ordered to pay a fine in the amount of $10,000.00, payable to RECO, on or before March 31, 2027.

2. The Respondent, SIVAGNANAM, Sivagnanam, registered as SIVAGNANAM, Siva, is ordered to successfully complete the "REIC 2280 - Legal Issues in Real Estate" course on or before March 31, 2027 and to provide proof of completion to RECO within 60 days of completion of the course.

Released: August 20, 2026