



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 -**

**DEEPAK VAID**

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**DISCIPLINE DECISION AND REASONS FOR DECISION**

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**APPEARANCES:**

**For the Registrant:**

Unrepresented

**For the Real Estate Council of Ontario:**

Dipak Parmar, Paralegal

**Heard in Toronto on:**

June 13, 2024

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**FINDINGS:**

In violation of Sections 3, 4, 5 and 38 of the Code of Ethics.

**ORDER:**

Counsel for the Registrar, *REBBA 2002* to deliver written submissions to the Panel and to the Respondent on the issue of penalty and costs within 15 days of the date on which the Panel's decision and reasons are delivered.

The Respondent shall deliver to the Panel and to Counsel for the Registrar, *REBBA 2002* its written submissions on penalty and costs in response to Counsel for the Registrar, *REBBA 2002*'s submissions within 15 days of the date on which Counsel for the Registrar, *REBBA 2002*'s submissions on penalty and costs are delivered to the Respondent.

Counsel for the Registrar, *REBBA 2002* shall deliver to the Panel and to the Respondent its reply to the written submission on penalty and costs of the Respondent within 5 days of the date on which the Respondent's submissions on penalty and costs are delivered to Counsel for the Registrar, *REBBA 2002*.

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Any inquiries relating to the delivery of the above-mentioned documents should be directed to the Manger, Discipline and Appeals Hearings.

**COSTS AND EXPENSES:** If appropriate, submissions to be made on costs and expenses with submissions on penalty.

**WRITTEN REASONS:**

### **REASONS FOR DECISION**

#### **INTRODUCTION**

This Hearing took place on June 13, 2024, in the presence of the Respondent Deepak Vaid (the “Respondent” and/or “Vaid”) and Dipak Parmar, counsel for the Real Estate Council of Ontario. The Panel was comprised of Filippo Sbrocchi, Alessandro Galea and Carey Smith. Nicolette Holovaci was present as independent legal counsel to the Discipline Panel.

#### **ALLEGATIONS BY THE REGISTRAR, REBBA 2002**

In its Allegation Statement the Registrar, *REBBA 2002* alleged that Vaid acted unprofessionally when:

- A. In having his buyers submit two offers and creating the risk of entering into two agreements of purchase and sale for two different properties, without ensuring that one offer was conditional upon another offer not proceeding, thereby exposing his buyers to liability, contrary to Sections 3, 4, 5, and 38 of the Code of Ethics.

The Registrar, *REBBA 2002* alleged that Vaid breached the following sections of the Code of Ethics:

#### **Fairness, honesty, etc.**

- 3. A registrant shall treat every person the registrant deals within the course of a trade in real estate fairly, honestly and with integrity.

Best interests

4. A registrant shall promote and protect the best interests of the registrant's client.

Conscientious and competent service, etc.

5. A registrant shall provide conscientious service to the registrant's clients and customers and shall demonstrate reasonable knowledge, skill, judgment and competence in providing those services.

Error, misrepresentation, fraud, etc.

38. A registrant shall use the registrant's best efforts to prevent error, misrepresentation, fraud or any unethical practice in respect of a trade in real estate.

**EVIDENCE OF THE PARTIES - EXHIBITS**

1. Allegation Statement dated September 24, 2023
2. Notice of Hearing dated May 3, 2023
3. RECO Book of Documents dated May 14, 2024
4. Vaid Book of Documents dated June 12, 2024

**WITNESSES FOR THE REGISTRAR, REBBA 2002**

1. Registrant A
2. Registrant B
- 3 Compliance Officer A

**WITNESSES FOR THE RESPONDENT**

1. Deepal Vaid

**PROSECUTION'S CASE**

**REGISTRANT A -DIRECT EXAMINATION:**

On behalf of the Prosecution, Registrant A testified as follows:

Registrant A said that he is a salesperson registered with Brokerage A and that he has been trading in real estate since 2008. He further confirmed his trading area to be primarily in City A. He confirmed he was the listing sales representative for 1-A Street (“the 1-A Street Property”) which was originally listed on September 27, 2021. That listing was terminated on December 1, 2021.

The 1-A Street Property was relisted on January 20, 2022, with an offer restriction date of January 27, 2022. Registrant A further testified that he received a pre-emptive offer from Vaid on January 22, 2022.

That first offer of January 22, 2022, expired as the seller did not want to accept it. In a follow up telephone discussion with Vaid, Registrant A suggested to Vaid that he either re-submit an new offer or wait until the set offer presentation date.

Registrant A’s testimony further indicated that on January 23, 2022, he received a call from Vaid to let him know that Vaid’s clients are submitting a new improved offer (“Offer #2”)(Page 80 Exhibit 3) and also during that phone call Registrant A was asked to pick up the offer at Vaid’s clients’ home.

Registrant A reiterated that when he picked up Offer #2 his only discussion with Vaid was about when Offer #2 would be presented, and that Registrant A would follow up with Vaid after the presentation.

Registrant A in his testimony was adamant that during that conversation with Vaid he did not discuss price or terms. Registrant A confirmed the irrevocable time of Offer #2 was 10:00 p.m. on January 23, 2022. Additionally, Registrant A testified that 2 offers were registered on the 1-A Street Property on January 23, 2022, and both sales representatives were informed of the multiple offers.

Registrant A testified that he reviewed both offers with the seller of the 1-A Street Property and the seller instructed him to try and get the offers improved. Registrant A

telephoned Vaid to ask if his clients wished to improve their offer and was only told by Vaid that his clients did not want to make any changes to Offer #2 and there was no further discussion.

Registrant A testified that Offer #2 was accepted by the seller on January 23, 2022, at 6:59 p.m. Registrant A went on to testify that he informed Vaid of the acceptance of Offer #2 via text message at 8:30 p.m. (Page 369, Exhibit 3) and via email at 8:34 p.m. on January 23, 2022 (Page 92, Exhibit 3).

Registrant A explained the delay in communicating about the acceptance of Offer #2 was due to Registrant A's practice of prayer time. Registrant A testified that Vaid did not respond to either the text message or email message and that he only heard from Vaid on the morning of January 24, 2022, when Vaid expressed that his clients would not be delivering the deposit for the accepted Offer #2.

Registrant A added that at 2:34 p.m. on January 24, 2022, he emailed Vaid to warn him of the consequences to Vaid's buyers (Page 434, Exhibit 3). Registrant A further testified that Vaid had sent him a Mutual Release on January 24, 2022 (Page 94-95 Exhibit 3) which the seller did not sign. Registrant A then notified all sales representatives that expressed an interest in the 1-A Street Property that it was available for sale again.

The seller ended up selling for a lower price and the seller is taking legal action against the buyers in a civil matter that is awaiting trial in the Courts. When asked by the Prosecution what steps Registrant A felt that Vaid should have taken to protect his clients, Registrant A responded that Vaid should have taken any of the three following steps, (a) get a written Acknowledgement from the seller that the seller has rejected the buyers' offer, or, (b) wait until the irrevocable period expires, or, (c) obtain a Mutual Release for the transaction from the seller.

**REGISTRANT A - CROSS EXAMINATION:**

During Vaid's cross examination of Registrant A, Vaid asked Registrant A in several different ways if, during any of their conversations, Registrant A discussed with Vaid a price that the seller would be willing to accept or if the seller was going to consider Offer #2.

Registrant A was adamant that at no time did he ever have any discussions with Vaid as to a price that would be acceptable to the seller and that at no time did, he ever have any discussion with Vaid that the seller would not entertain Offer #2 or that the seller was rejecting Offer #2.

**REGISTRANT A -DIRECT EXAMINATION:**

Registrant B testified that he is a salesperson and had been a salesperson since 2011 and is registered to trade with Brokerage B. He further confirmed he was the listing sales representative for 2-B Street ("the 2-B Street Property").

The Prosecution led Registrant B through a series of documents from the RECO Book of Documents. Registrant B testified that Vaid had received a showing confirmation at 6:53 p.m. on January 23, 2022, to show the 2-B Street Property from 9:15 p.m. to 9:45 p.m. on that same date (Page 687 Exhibit 3). Additionally, Registrant B testified that Vaid submitted his buyers' offer for the 2-B Street Property on January 24, 2022 (Page 562 Exhibit 3), which was accepted by the seller of the 2-B Street Property at 2:45 p.m. on January 24, 2022.

THE DEFENCE DECLINED TO CROSS-EXAMINE REGISTRANT B

**COMPLIANCE OFFICER A – DIRECT EXAMINATION:**

Compliance Officer A testified she is a Compliance Officer for the Real Estate Council of Ontario and has been serving in that role since 2006. She confirmed her role is to review complaints against real estate agents. She testified that when she received the complaint, she contacted the parties and conducted an investigation. She further

testified that the Registrar decided to refer this matter to the Discipline Committee. She indicated that in terms of Registrant A, the complaint file remained open.

The Prosecution reviewed with Compliance Officer A a letter that was received from the Complainants' lawyer requesting a withdrawal of the Complaint against Vaid (Page 720 Exhibit 3). The Prosecution asked Compliance Officer A why RECO decided to proceed with sending the Complaint to the Discipline Committee in light of the letter that was received.

Compliance Officer A responded that the Complaint moved forward because Vaid exposed his clients to liability and RECO's goal is to protect the public.

Compliance Officer A was then asked by the Prosecution to explain what steps Vaid should have taken to protect his clients. In response Compliance Officer A suggested three steps: (a) explain to the clients the meaning of the irrevocable clause; (b) wait for confirmation in writing from the seller confirming that the seller allows the buyers to withdraw Offer #2; (c) advise the clients to seek legal advice on steps to take before submitting an offer on another property.

## DEFENCE CASE

### **WITNESSES FOR THE RESPONDENT**

The Respondent gave evidence in his defence, there were no other witnesses for the Respondent.

### **DEEPAK VAID- DIRECT EVIDENCE**

Vaid's testimony focused on his communication with Registrant A who was the listing sales representative for the 1-A Street Property. Vaid was emphatic that when Registrant A picked up the offer at Vaid's buyers' residence on the morning of January 23, 2022, that he and Registrant A had a discussion regarding price and terms.

Vaid said his clients were happy as they were elderly, and the 1-A Street Property was a suitable home for their needs Vaid reiterated that later that day, on January 23, 2022, at approximately 5:12 p.m. he had a telephone conversation with Registrant A while Vaid was in the car with his clients and that during that conversation Vaid was informed of another competing offer which upset his buyer clients who then told Vaid to withdraw Offer #2. Vaid was adamant that during that same telephone conversation he had told Registrant A that his clients were no longer interested in the 1-A Street Property and in so doing Vaid believed it was fine to proceed to find his clients another home to purchase.

Vaid testified that on January 24, 2022, he called Registrant A to express his anger over the seller having accepted Offer #2 and subsequently he sent Registrant A a Mutual Release however, the seller refused to sign it. He also said that he thought that the Mutual Release would be signed, and he was “relying on his colleague”. Vaid emotionally expressed during his testimony that his main concern was to look after his clients and do the very best for them.

Vaid also reviewed page 4 of his Book of Documents (Exhibit 4) and expressed how disappointed his clients were that RECO has proceeded with the case against him even though his clients had sent a letter to RECO seeking to withdraw the Complaint. Vaid expressed that in all his years in real estate he has been taught to treat all his clients fairly and honestly. He emotionally emphasized his disappointment in how RECO treated his clients, and he felt that RECO’s correspondence with his clients made his clients feel threatened.

He went on to say that he is “willing to accept the punishment if he did something wrong”. Vaid further expressed that as a RECO member for 20 years he has never asked RECO for advice and this is his first complaint.

He expected RECO to “teach, guide and protect” him and instead he feels he was treated without support and help and that RECO has held him out as a culprit. He

concluded by saying his clients still stand by him and his clients feel he has served their best interests.

**CROSS EXAMINATION:**

During the cross examination of Vaid by the Prosecution Vaid confirmed his registration status as a broker for 19 years and that he is registered to trade with Brokerage C. Vaid was asked by the Prosecution to explain how the irrevocable period works and Vaid responded by saying during the stated time of the irrevocable period the offer remains alive.

Vaid was also asked if he had any written confirmation from Registrant A confirming a price that would be acceptable by the seller to which Vaid said he did not and that he trusted Registrant A's word.

The Prosecution also asked Vaid if he had any written confirmation from the seller that the seller would no longer entertain Offer #2, to which Vaid replied that he did not.

Vaid was further asked by the Prosecution why did he not send a Mutual Release from his clients to Registrant A immediately following the telephone discussion of approximately 5:12 p.m. on January 23, 2022, to which Vaid responded he did not have time to do so.

When Vaid was asked by the Prosecution why he had not responded to the text and email message he received between 8:30 p.m. and 8:34 p.m. from Registrant A on January 23, 2022, informing him that Offer #2 had been accepted by the seller, Vaid responded that he did not see the messages until the morning of January 24, 2022.

Vaid was also asked by the Prosecution if he had shared the content of the text and email messages from Registrant A with his buyers' before he had them sign their offer on the 2-B Street Property in the afternoon of January 24, 2022, to which Vaid responded he did not.

The Prosecution questioned Vaid, if after receiving the email from Registrant B at 2:45 p.m. on January 24, 2022, he understood that his clients had purchased 2 properties. Vaid responded he felt that his clients had been verbally released from Offer #2.

Vaid confirmed that prior to putting in the offer on the 2-B Street Property he did not discuss Offer #2 with his clients, and he agreed that he did not at any time recommend that his clients obtain legal advice.

### **SUBMISSIONS FOR THE REGISTRAR, REBBA 2002**

The Prosecution submitted that Vaid was wrong to put his clients at risk of purchasing 2 homes. In order to protect his clients, Vaid should have explained the importance of the irrevocable period in Offer #2 to his clients.

Vaid could have informed the seller of the 1-A Street Property in writing of the buyers' intention to withdraw Offer #2 during the irrevocable period and waited for a written Acknowledgment and confirmation from the seller.

Vaid could have also suggested to his clients that they seek legal advice prior to putting in an offer on another property. Vaid could have waited until the expiry of Offer #2 before putting out the offer on the 2-B Street Property.

In conclusion the Prosecution asserted that Vaid failed to meet the standard of care and has violated the Code of Ethics.

### **SUBMISSIONS FOR THE RESPONDENT**

Vaid briefly concluded by expressing he was "old school" and work based on "faith and trust" and is "learning the hard way".

### **CODE OF ETHICS**

The Registrant is governed by the *Real Estate and Business Brokers Act, 2002*, S.O. 2002, c.30, Schedule C ("*REBBA 2002*").

This Discipline Committee is established to hear and determine these issues, in accordance with the prescribed Regulations. The Discipline Committee must determine if the Registrant has failed to comply with the Code of Ethics established by the Minister in accordance with Section 21 of the *REBBA 2002*.

Section 50 of the *REBBA 2002* provides that the Minister may make Regulations establishing a Code of Ethics for the purposes of subsection 21(1).

Ontario Regulation 580/05 is the Code of Ethics pursuant to the *REBBA 2002* and is the Code of Ethics that governs these proceedings.

### **FINDINGS BY THE PANEL**

Having carefully considered the testimony of the witnesses at the Hearing, and the documentary evidence, the Panel has arrived at the following conclusions:

It is the Panel's view that although Vaid felt he was doing the best for his clients, he failed to understand and appreciate the importance of the irrevocable period and was misguided in his belief that his clients could proceed to place an offer on another property without having taken steps to protect and release them from their obligations under the irrevocable period of Offer #2.

Vaid acknowledged in his testimony that he did not provide any written withdrawal of Offer #2 or in any way confirm that his clients' position was that they wanted to withdraw Offer #2. He said he relied on the phone call he had with the listing agent. He admitted that he did not discuss the irrevocability term in Offer #2 with his clients when he facilitated putting in the offer on the 2-B Street Property. He admitted that he did not at any time before putting in the offer on the 2-B Street Property recommend that his clients obtain legal advice.

The Panel has determined that the Prosecution has met its burden of proving violations of sections 4, 5 and 38 of the Code of Ethics on a balance of probabilities. The Panel

finds that it was soundly established by the irrefutable and uncontradicted facts from the sequence of events along the critical timeline from January 23, 2022, to January 24, 2022 that Vaid has violated Sections 4, 5 & 38 of the Code of Ethics. The majority of the Panel did not find Mr. Vaid in violation of Section 3 of the Code of Ethics.

Regarding s.4 of the Code of Ethics, by the conduct referred to above, and in particular by his failure to review and explain the irrevocability clause in Offer #2 to his clients, Vaid did not promote and protect the interests of his clients, and he is therefore in violation of this section.

Regarding s.5 of the Code of Ethics, Vaid violated this section as by the conduct described above, he did not provide conscientious service to his clients, and he did not demonstrate reasonable knowledge, skill, judgment and competence in providing his services.

Finally, s.38 of the Code of Ethics requires Registrants to use best efforts to prevent error and by his conduct as described above, Vaid failed to meet this obligation and breached this section.

#### **PARTIAL DISSENT REGARDING SECTION 3 – CHAIR:**

Regarding the allegation that Vaid breached section 3 of the Code of Ethics, the Chair is of the view that this allegation was also made out and there was a violation of section 3. In the opinion of the Chair, regardless of Vaid's intentions, he exposed his clients to liability by having them committed to two purchase transactions at the same time. His actions during the course of the two trades in real estate unfairly exposed his clients to legal jeopardy. It is the Chair's position that Vaid did not treat his clients fairly, contrary to section 3 of the Code of Ethics.

#### **PENALTY**

Counsel for the Registrar, *REBBA 2002* to deliver written submissions to the Panel and to the Respondent on the issue of penalty and costs within 15 days of the date on which the Panel's decision and reasons are delivered.

The Respondent shall deliver to the Panel and to Counsel for the Registrar, *REBBA 2002* its written submissions on penalty and costs in response to Counsel for the Registrar, *REBBA 2002*'s submissions within 15 days of the date on which Counsel for the Registrar, *REBBA 2002*'s submissions on penalty and costs are delivered to the Respondent.

Counsel for the Registrar, *REBBA 2002* shall deliver to the Panel and to the Respondent its reply to the written submission on penalty and costs of the Respondent within five (5) days of the date on which the Respondent's submissions on penalty and costs are delivered to Counsel for the Registrar, *REBBA 2002*.

If appropriate, submissions to be made on costs and expenses with submissions on penalty.

Any inquiries relating to the delivery of the above-mentioned documents should be directed to the Manager, Discipline and Appeals Hearings.

*[Released: September 20, 2024]*



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 -**

**DEEPAK VAID**

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**DISCIPLINE DECISION AND REASONS FOR DECISION**

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The Panel held a videoconference on December 13, 2024, to discuss the written submissions by all Parties with respect to Penalty and Costs. The Panel decided as follows:

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**ORDER:** Fine of \$20,000.00 payable to RECO within 180 days of RECO sending this decision.

Successful completion by the Registrant of RECO's Continuing Education Introduction to TRESA course within 180 days of RECO sending this decision.

**WRITTEN REASONS:**

**REASONS FOR DECISION**  
**PENALTY & COST**

**INTRODUCTION**

The Panel met by videoconference on December 13, 2024, to review the written Submissions of the parties on the issue of Penalty and Costs in relation to the Decision of this Panel finding that the Respondent Deepak Vaid (hereinafter "the Respondent" and/or "Vaid") had breached the Code of Ethics. Submissions were received from counsel for RECO and the Respondent.

## **SUBMISSION ON PENALTY BY THE PROSECUTION:**

The Prosecution presented various cases in support of its penalty request. The Prosecutor particularly relied upon the factors outlined in *Registrar v. Suzette Thompson, Appeals Committee of RECO, May 31, 2012 (the "Thompson case")* as guidance in determining the penalty.

With respect to the first factor for consideration under the Thompson case, the Prosecutor submitted that "The nature and gravity of the breaches of the Code of Ethics fall in toward the range of seriousness". In looking at the degree to which the breaches fall outside of the range of acceptable conduct, the Prosecution submitted that the misconduct in this case "falls towards the end of being most serious". The Prosecution pointed out that the Respondent's breaches involved consumer protection and ensuring fairness and transparency and the breaches go to the accuracy of information provided by a registrant to a consumer that a consumer relied upon.

The Prosecutor included in his Submissions that: "Vaid was the sole cause of the breaches". The Prosecution suggested that Vaid's conduct can be categorized more as negligent rather than active or deliberate. The Prosecutor pointed out that the Respondent benefitted from commissions on a transaction and due to his conduct and the Complainants suffered financial consequences and were exposed to liability. The Prosecutor's stance on penalty in respect of specific deterrence was that the penalty "must be more than just the cost of doing business" to deter the Respondent from repeating similar behavior and the penalty must also be significant enough to prevent further occurrence industry wide and, most importantly, it must safeguard the public's confidence in the real estate industry. In considering the amount of the penalty the Prosecutor expressed that a significant penalty is warranted in this case."

In terms of similar cases in support the penalty the Registrar is seeking, the Prosecutor relied upon the following RECO Decisions:

- *RECO v. Rustam Zeynalov, Discipline Decision, April 11, 2019*

*This case involved a registrant having his seller client sign back two offers at the same time. This occurred in 2018 and pursuant to an Agreed Statement of Facts and Penalty the registrant was found guilty of breaching sections 26(1),4, 5, and 38 of the Code of Ethics and was fined \$7,500.00.*

- *RECO v. Tahir L. Gilani, Discipline Decision, June 15, 2021*

*This case involved a registrant simultaneously facilitating a seller making two counter offers to two different purchasers. This case also proceeded by way of an Agreed Statement of Facts and Penalty and the registrant was ordered to pay a fine of \$11,000.00 and successfully complete the REIC 2280 Legal Issues in Real Estate course.*

The Prosecutor in this case sought an Order that the Respondent pay a fine within a range between \$15,000 and \$20,000.00 and an Order requiring the successful completion of RECO's Continuing Education Introduction to TRESA Course.

#### **SUBMISSION ON PENALTY BY THE RESPONDENT:**

The Respondent's written Submissions included the following: "I fully understand the importance of irrevocable period and my clients were made aware of this" and "My clients believe that Registrant A along with his sellers have conspired to cause them harm by exploiting the current Real Estate system...". He further stated that his clients have been working with him for 18 years and they refer all their friends and family to him. The Respondent stated, "I always treated my clients fairly, honestly and with integrity"; "I always protected the best interest of my clients"; "I always provided my clients conscientious and competent service." The Respondent asserted that RECO should have closed the case when his clients said they wanted to withdraw their Complaint, and he submitted that his only mistake was placing trust in the listing sales representative.

#### **PANEL'S DECISION ON PENALTY:**

The Submissions from the Parties, along with the Decision and Reasons for the Decision were reviewed and considered by the Panel in order to arrive at the Decision on Penalty.

The Panel gave careful consideration to the factors outlined in the *Thompson* case as that case is considered as the standard established for penalty determination. The factors are as follows:

- a) The nature and gravity of the breaches of the of the Code of Ethics
- b) The role of the offending member in the breaches
- c) Whether the offending member suffered or gained because of the breaches
- d) The impact of the breaches on the complainant and others
- e) The need for there to be specific deterrence to protect the public
- f) The need for there to be general deterrence to protect the public
- g) The need to maintain the public's confidence in the integrity of the profession
- h) The degree to which the breaches are regarded as being outside the range of acceptable conduct; and
- i) The range of sanctions in similar cases

The Panel will address each factor below.

**Nature and gravity of the breaches of the Code of Ethics:**

The Panel finds that the conduct of the Respondent was a very serious breach of the Code of Ethics. The Panel agrees with the Prosecution that the Respondent's breach falls into the most serious range of severity.

**Role of the offending member in the breaches:**

The Panel finds the Respondent was the sole offending member in the breaches.

**Whether the offending member suffered or gained because of the breaches:**

The Panel recognizes the Respondent gained financially by earning a commission.

**The impact of the breaches on the complainant and others:**

The Panel regards the impact of the breach as extremely significant as it extends beyond affecting the Complainant. Both parties to the transaction were subjected to financial loss and litigation.

**Need for there to be specific deterrence to protect the public:**

The Panel views the need for specific deterrence to be very important in its Penalty Decision. The Respondent neither accepted responsibility nor expressed any contrition for his action. The Panel is of the view that the penalty must serve as a specific deterrent to the Respondent to deter him from repeating a similar conduct.

**Need for a general deterrence to protect the public:**

The Panel finds the penalty imposed upon the Respondent must serve as a general deterrence by sending a clear message to fellow registrants that such conduct is unacceptable, and the amount of the penalty must be sufficient to deter other registrants from engaging in the same conduct.

**Need to maintain the public's confidence in the integrity of the profession:**

The Panel wishes to send an important message to the real estate industry that it considers to be of paramount importance, namely that breaches of the Code of Ethics will be dealt with seriously and that penalties imposed must act to restore the public's confidence in the integrity of the real estate profession. In this case, the Respondent's breaches extend to the public, beyond just the Complainant. Another consumer, the Seller, was impacted as well. The penalty in this case must send a clear signal to fellow registrants that the penalties for breaches of the Code of Ethics are not a cost of doing business and violators will incur serious financial consequences in the event they breach the Code of Ethics. Furthermore, Decisions are published and open for scrutiny by the public to assure the public that offending conduct is dealt with seriously and appropriately. The effectiveness of the real estate industry's system of self-discipline is extremely important and the penalty here must be significant in order to maintain the general public's confidence in the integrity of the profession.

**Degree to which the breaches are regarded as being outside the range of acceptable conduct:**

The Panel regards the Respondent's breaches as extensive and serious and well outside the range of acceptable conduct.

**Range of Sanctions of Similar Cases:**

The Prosecutor submitted the two cases referred to above for consideration by the Panel to assist in reaching its Penalty Decision. The Panel notes that both cases did not go to a Hearing but rather they were both settled by Agreed Statements of Facts and Penalty. In both cases, the registrants demonstrated they recognized and acknowledged their breaches. Neither of the cases were viewed by the Panel as having an extreme impact on consumers contrary to the situation in this case. Furthermore, in this case the Respondent denied wrongdoing, attempted to deflect, and accused the listing sales representative of being the source of the breach. He complained that RECO should not have pursued this case.

**PENALTY**

The Panel is mindful that the *Real Estate and Business Brokers Act, 2002* (REBBA 2002) and associated regulations are designed to protect the integrity of real estate transactions in Ontario and as such weighs in on protecting the public, clients, buyers and sellers and registrants alike.

The Panel has considered all the material with which it has been presented and has unanimously concluded that the following penalties are appropriate:

- i. The Respondent is hereby ordered to pay a fine of \$20,000.00 to be payable within 180 days of this Decision; and
- ii. The Respondent is hereby ordered to successfully complete RECO's Continuing Education Introduction to TRESA course within 180 days of this Decision.

*[Released: February 20, 2025]*



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**IN THE MATTER OF AN APPEALS HEARING HELD PURSUANT TO THE  
*REAL ESTATE AND BUSINESS BROKERS ACT, 2002***

**BETWEEN:**

**REAL ESTATE COUNCIL OF ONTARIO**

**- and -**

**DEEPAK VAID**

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**APPEALS DECISION AND REASONS FOR DECISION**

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**APPEARANCES:**

**For the Registrant:** Self-represented

**For the Real Estate Council of Ontario:** Dipak Parmar, paralegal

**Heard in Toronto:** August 22, 2025

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**FINDINGS:** The Appeal is dismissed

**ORDER:** The Discipline Committee decision, dated September 20, 2024, is upheld, but amended to clarify that the Appellant was only found to have breached sections 4, 5, and 38 of the Code. Further, the Discipline Committee decision on penalty, dated February 20, 2025, is upheld but amended concerning the payment date of the monetary penalty and the date by which the Appellant must successfully complete educational courses.

An Order shall be issued affirming the Order of the Discipline Committee with respect to its monetary penalty, dated February 20, 2025, that is, imposing a fine of \$20,000.00 payable to RECO within 180 days of RECO sending him this decision.

An Order shall be issued affirming the Order of the Discipline Committee, dated February 20, 2025, with respect to the requirement that the Registrant must successfully complete the RECO continuing education course – Introduction to TRESA, within 180 days of RECO sending him this decision.

However, if, owing to the unavailability or limited availability of the above-mentioned course, the Appellant is prevented from

complying with the Appeal Panel's Order, the Appellant may apply to the Panel in a timely manner, while providing an explanation of the circumstances, to request an extension of time to successfully complete the course.

**COSTS AND EXPENSES:** The Registrar shall have seven (7) days from the date of the release of this decision to advise the Manager, Discipline & Appeals Hearings at RECO (the "**Manager**") and the Registrant, whether the Registrar is seeking costs as a result of this proceeding.

If costs are being sought, the parties shall have fourteen (14) days from the release of this decision to attempt to reach agreement on the issue of costs and, if so, the Registrar shall advise the Manager of any agreement on costs.

If the parties are unable to agree on costs, the Registrar shall, within twenty-eight (28) days from the date of the release of this decision, serve on the Appellant and file with the Manager, written submissions relating to its purported entitlement to costs for the appeal as well as the quantum of requested costs. Such submissions shall not be greater than three pages in length, and shall include, on one additional page, the quantum of costs sought and the breakdown of the work comprising the quantum so sought.

The Appellant shall, in turn, have twenty-one (21) days from the date of service on the Appellant of the Registrar's submissions on costs to serve responding submissions on the Registrar and to file such submissions with the Manager. The Appellant's submissions shall not be greater than three pages in length but may include, if the Appellant so wishes, one additional page setting out the different (i.e. reduced) quantum, if any, that the Appellant submits should be awarded to the Registrar for the costs of this appeal.

## **WRITTEN REASONS:**

### **Reasons for Decision**

#### **Background**

1. This is an appeal to a Panel of the Appeals Committee (the "**Appeal Panel**" or this/the "**Panel**") from two decisions of the Discipline Committee (the "**Discipline Panel**") pursuant to the *Real Estate and Business Brokers Act, 2002* ("**REBBA**").

2. The first decision of the Discipline Panel was released on September 20, 2024 (the “**Merits Decision**”). The Discipline Panel found that the Appellant, Deepak Vaid (the “**Appellant**” or “**Vaid**”), had breached Sections 4, 5, and 38 of the Code of Ethics under *REBBA* (the “**Code**”). The “Findings” section of the Merits Decision incorrectly included Section 3 of the Code amongst the violations, an administrative error all parties and this Panel acknowledge and correct.
3. The second decision of the Discipline Panel was released on February 20, 2025, and related to the penalty and costs (the “**Penalty Decision**”) to be imposed on the Appellant following the finding of breaches of the Code as aforementioned. The Discipline Panel ordered the Appellant to pay a fine of \$20,000 and to complete the RECO mandatory continuing education course – Introduction to TRESA.
4. The original hearings were held before the Discipline Panel on June 13, 2024 (merits) and, in writing, on December 13, 2024 (penalty) (together, the “**Discipline Hearing**”).
5. The Discipline Hearing was initiated by an Allegation Statement, dated September 24, 2023, issued to the Appellant by the Registrar pursuant to *REBBA* (the “**Registrar**”), which Statement was marked as an Exhibit at the Discipline Hearing. The Registrar filed a book of documents at the Discipline Hearing, and the self-represented Appellant also filed a book of documents. Each party made written submissions, which the Discipline Panel considered, in respect of penalty and costs.
6. The particulars in the Allegation Statement can be summarized as follows:
  - a. the Appellant is a member of the Real Estate Counsel of Ontario (“**RECO**”) and was a registered broker under *REBBA* at all material times;
  - b. on the morning of January 23, 2022, Vaid was representing buyer-clients in the purchase of a home (the/his “**Clients**”). Vaid, on behalf of the Clients, registered an offer on a property (“**Property 1**”) at 10:17 a.m. which was irrevocable until 10:00 p.m. that day. That offer was accepted at 6:59 p.m. on January 23, 2022 and notice of that acceptance was sent to Vaid by the selling agent of Property 1 (“**Selling Agent 1**”) both by text and email at 8:35 p.m.

- c. on January 24, 2022, Vaid, on behalf of his Clients, registered an offer on another property ("**Property 2**") at 10:34 a.m. which was irrevocable until 10:00 p.m. that day. The acceptance of that offer was communicated to Vaid at 2:45 p.m. by the selling agent of Property 2 ("**Selling Agent 2**");
  - d. the Clients had not intended to buy two properties, but Vaid simply assumed that the offer on Property 1 was not going to be accepted and/or had been rejected due to verbal communications that he claims he had with Selling Agent 1 around 5:00 p.m. on January 23; and,
  - e. once Vaid realized that the offer on Property 1 had been accepted, which he claims was only after the acceptance of the offer on Property 2, Vaid attempted to get the owners of Property 1 to release the Clients from the deal but to no avail.
7. The Discipline Hearing proceeded with testimony from Vaid, Selling Agent 1, Selling Agent 2, and the RECO Compliance Officer assigned to this case.
8. Following submissions by both parties, the Discipline Panel issued the Merits Decision. After further submissions in writing, the Discipline Panel issued the Penalty Decision.
9. In short, the Discipline Panel found that Vaid had failed to ensure that the offer on Property 1 was properly dispensed with, either by the passage of time, or in writing in advance of the expiry of the irrevocability period, and prior to his Clients placing an irrevocable offer on Property 2. Further, Vaid failed to inform the Clients of the risks of having the two offers remain active, at the same time, or to have them obtain legal advice on the status of the offer on Property 1. These failures, the Discipline Panel found, did not promote and protect the best interests of the Clients, they did not result in conscientious service to them, nor did they demonstrate reasonable knowledge, skill, judgment and competence in Vaid's provision of services. Vaid was also found to have failed to use his best efforts to prevent error. On the whole, these failures were found to constitute a breach of sections 4, 5, and 38 of the Code. The Discipline Panel declined to conclude that Vaid had failed to treat his Clients fairly, honestly, and with integrity.

10. Vaid filed a Notice of Appeal on March 19, 2025 and a Factum in support of his Appeal was delivered on May 18, 2025. Vaid remained self-represented in the Appeal proceeding.

### **Preliminary Matters**

11. To reiterate an issue referenced in paragraph two herein, the “Findings” section of the Merits Decision incorrectly included Section 3 of the Code amongst the violations Vaid was found to have committed. All parties and this Panel acknowledge and hereby correct that error.
12. The Panel had to address two substantive preliminary matters before considering and determining the merits of the Appeal. The first issue related to the Notice of Appeal and the issues to be determined on the Appeal. The second issue related to the standard of review to be applied by this Panel in reviewing the decisions of the Discipline Panel.

#### **A. Issues on the Appeal**

13. The Notice of Appeal set out five broad grounds of appeal from the Merits Decision and/or Penalty Decision, followed by eighteen sub-issues articulated under those grounds.
14. In his Factum, the Appellant altered his submissions for the appeal by abandoning some of the issues in the Notice of Appeal and by amending some, while identifying his reasons (which are paraphrased below) why the Merits Decision and/or Penalty Decision should be set aside:<sup>1</sup>
  - a. Procedural Unfairness: the hearing proceeded in the absence of his Clients, even though they had been summonsed by RECO to the merits hearing, and that RECO’s investigation had failed to obtain direct evidence from them or the seller of Property 1 in the form of interviews or sworn statements, which failures undermined the fairness and reliability of the process;

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<sup>1</sup> Factum of the Appellant at paragraph 3.

- b. Errors in Law: the Discipline Panel misapplied or failed to apply *REBBA*, the Code, contract law, and various “legal maxims” (such as “no action arises from a dishonourable/immoral/illegal cause” and “no action arises from fraud/deceit”);
  - c. Errors of Fact: the Discipline Panel made unsupported factual findings or relied on inaccurate facts, especially in not taking account of the facts in a parallel civil lawsuit (the “**Civil Suit**”) concerning the actions of Selling Agent 1, and an affidavit from one of the Clients (which was prepared and filed for the Civil Suit). Vaid had highlighted such evidence at the Merits Hearing, and it had been included in Vaid’s Book of Documents for the Merits Hearing;
  - d. Failure to Consider Relevant Penalty Factors: the Discipline Panel failed to consider the range of sanctions in similar cases, Vaid’s role in the circumstances surrounding the real estate transactions, certain personal circumstances which Vaid posits are mitigating factors in his favour, including his age, health, and financial hardship, and the unresolved status of the Civil Suit; and,
  - e. Unreasonable and Disproportionate Decision: the merits decision and penalty imposed were unreasonable and disproportionate in the circumstances.
15. The Registrar, in turn, responded to these issues in its factum and in oral submissions during the Appeal Hearing.
16. This Panel has proceeded on the basis that any other issues raised in the Notice of Appeal that were not addressed in subsequent written or oral submissions have been abandoned by the Appellant and, as such, they need not be considered for the purposes of its decision. Thus, nothing further will be said concerning the appeal grounds apart from the grounds that were the focus of the Appeal Hearing.

B. Standard of Review on this Appeal

17. As the Registrar correctly pointed out in its factum, the standard of review on an appeal to the Appeal Panel is generally that of reasonableness. This standard has long been applied by the Appeals Committee<sup>2</sup> and it was not materially altered by the Supreme

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<sup>2</sup> See *Van Dyk v. RECO*, March 26, 2014 at pages 18-19.

Court of Canada decision in *Minister of Citizenship and Immigration v. Vavilov*, 2019 SCC 65.<sup>3</sup> However, the Registrar submits that the standard of review for the procedural fairness grounds of appeal is correctness.<sup>4</sup> Mr. Vaid broadly discussed the standard of review in two sections of his factum, stating at one point that the standard is correctness in respect of an interpretation of *REBBA* and the Code, while conceding that he would need to show that the decisions of the Discipline Panel demonstrated a misapprehension or misapplication of the statutory scheme.<sup>5</sup> This submission came without citation. Elsewhere in his factum, Vaid acknowledges (while citing cases) that “the standard for appellate intervention in penalty decisions is high; the penalty must be “clearly unfit,” “manifestly excessive,” or a substantial and marked departure from penalties in similar cases”.<sup>6</sup>

18. Concerning the standard of reasonableness, the Supreme Court of Canada has stated:

“A decision will be unreasonable only if there is no line of analysis within the given reasons that could reasonably lead the tribunal from the evidence before it to the conclusion at which it arrived. If any of the reasons that are sufficient to support the conclusion are tenable in the sense that they can stand up to a somewhat probing examination, then the decision will not be unreasonable, and a reviewing court must not interfere. This means that a decision may satisfy the reasonableness standard if it is supported by a tenable explanation even if this explanation is not one that the reviewing court finds compelling. This does not mean that every element of the reasoning given must independently pass a test for reasonableness. The question is rather whether the reasons, taken as a whole, are tenable as support for the decision. At all times, a court applying a standard of reasonableness must assess the basic adequacy of a reasoned decision remembering that the issue under review does not compel one specific result. Moreover, a reviewing court should not seize on one or more mistakes or elements of the decision which do not affect the decision as a whole.”<sup>7</sup>

19. Although this Panel was not given any authoritative case that the challenge to procedural fairness in this appeal should be properly adjudicated on a correctness standard rather than a reasonableness standard, out of an abundance of caution this Panel accepts that, per the submissions of both parties, the procedural fairness argument will be adjudicated using the correctness standard. With respect to the Penalty

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<sup>3</sup> See *Gogek v. RECO*, July 28, 2021 at pages 8-13.

<sup>4</sup> See the Factum of the Respondent at paragraph 42.

<sup>5</sup> See the Factum of the Appellant at paragraphs 20 and 21 in section D.

<sup>6</sup> *Ibid* at paragraph 49 in section F.

<sup>7</sup> See *Law Society (New Brunswick) v. Ryan*, [2003] S.C.J. No. 17, at paras 55-56.

Decision, Vaid fully acknowledged in his factum the high bar that he would need to surmount to justify the Appeal Panel revising (i.e. reducing) the penalty imposed on him. The Appeal Panel, therefore, has considered the other issues on this appeal (other than the procedural fairness submissions) by applying the review standard of reasonableness. That standard, by its very nature, affords the decision of the Discipline Panel considerable deference.

### **Submissions made at the Appeal Hearing**

20. The Appellant advanced a procedural fairness argument -- namely that the Discipline Hearing was not conducted fairly because the Clients were not ultimately called to testify by RECO, despite them having been summonsed by the Registrar, nor was any affidavit evidence from the Clients presented at the merits hearing. The Appellant presented a somewhat bald argument with two citations to support the general idea that hearings should be fair – a sentiment with which we can all agree.
21. However, it was never a requirement of the Registrar to call Vaid's Clients (or anyone else) to testify, or to obtain any affidavit evidence from them (or anyone else). A detailed complaint came into RECO from the Clients, and an independent investigation by RECO took place.<sup>8</sup> Further, the evidence that the Registrar sought to admit at the Discipline Hearing was put forward,<sup>9</sup> and the Discipline Panel weighed it and came to a decision. At the merits hearing, Vaid had the chance to challenge the Registrar's evidence, to tender his own evidence, and to call his own witnesses.<sup>10</sup> Therefore, he could have called the Clients to testify but he chose not to. Nor did Vaid object at the Discipline Hearing when he learned of RECO's decision not to have the Clients testify. It is inappropriate to base an appeal on an alleged procedural defect that was entirely within the power of the complaining party to prevent and/or remedy in the disciplinary hearing.<sup>11</sup>

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<sup>8</sup> See *Shuxin Liu vs. RECO*, Appeals Committee of the Real Estate Council of Ontario, March 21, 2025 at paragraphs 31-32.

<sup>9</sup> *Ibid* at paragraphs 45-46, which cites section 46 of the Code – only those documents that the Registrar intends to rely on at the hearing need to be produced.

<sup>10</sup> See Rule 8.01(1) of the RECO Discipline and Appeals Committees Rules of Practice.

<sup>11</sup> See *Sukhdeep Sandu vs. RECO*, Appeals Committee of the Real Estate Council of Ontario, October 18, 2023, at paragraph 29, which cited an example (in a more stringent criminal law context), *R. v. Cook*, [1997] 1 S.C.R. 1113 at paragraphs 37 and 65.

22. Thus, the Appeal Panel rejects Vaid's denial of procedural fairness argument and finds that the Discipline Hearing was conducted correctly such that none of his substantive procedural rights were limited, infringed, or denied.
23. Next, as noted above, the Appellant advanced several arguments as to why the Discipline Panel's findings of fact and legal determinations about breaches of the Code were unreasonable. However, Vaid's arguments were often general in nature, with little focus on the specific breaches of the Code determined by the Discipline Panel.
24. For instance, Vaid did not demonstrate how or why any findings of fact made by the Discipline Panel did not support the breaches of the Code determined by the Panel. Nor were there any cogent submissions -- with specific references to the factual findings of the Discipline Panel -- that the Discipline Panel had made palpable and overriding errors of fact such that conclusions about breaches of the Code had no evidentiary foundation.
25. As far as the Discipline Panel's reasoning was concerned, no specific arguments were made to demonstrate to the satisfaction of this Panel that the Discipline Panel's reasoning lacked reasonableness as that concept has been defined by the Supreme Court of Canada.
26. For the most part, the balance of the submissions of the Appellant were either (a) complaints that the Discipline Panel misapplied the law, or (b) that the Discipline Panel had the wrong/incomplete facts and/or had weighed the evidence improperly. The Appellant's factum provided quotes from numerous cases (of questionable relevance to the issues on appeal) and little attempt was made to tie these cases to the grounds of appeal. The result was that the Appellant's submissions frequently became an attempt to relitigate the merits of the issues that had been before the Discipline Panel by requesting the Appeal Panel to substitute a decision more favourable to him.
27. However, based on the record below, and the reasons in the Discipline Panel's Merits Decision, this Panel cannot accede to such a request, nor does it agree with the Appellant's assessment of alleged errors made by the Discipline Panel. The record does not indicate that the Discipline Panel failed to consider the full testimony of the

witnesses, nor did the Discipline Panel fail to give sufficient weight to conflicting evidence in making its determinations.

28. Reviewing the reasons of the Discipline Panel, one finds a logical and convincing narrative supporting the breaches of the Code that were found, as well as the Panel's rejection of certain allegations made by the Registrar<sup>12</sup>. Indeed, the Discipline Panel not only understood, but it also accepted the evidence of the Appellant on certain issues.<sup>13</sup> In short, the Discipline Panel arrived at its conclusions in a reasonable manner.
29. This case did not require the Discipline Panel having to make substantive credibility determinations to reach its legal conclusions. There was much consistent evidence before the Discipline Panel -- from Vaid himself -- confirming that Vaid did not ensure that the offer on Property 1 was firmly and legally terminated in writing prior to his Clients placing an offer on Property 2,<sup>14</sup> and there is evidence from Vaid of his failing to warn the Clients of the risks of (even potentially) having two offers open at once (and failing to suggest that they obtain legal advice relating to that issue).<sup>15</sup>
30. An appeal hearing is not an opportunity for an appellant – whether it be a registrant or the Registrar -- to relitigate a disciplinary hearing or request the Appeal Panel to take a fresh look at the merits and substitute different conclusions for those of the Discipline Panel.
31. RECO appeal hearings deal with alleged legal errors made by a discipline panel. An appeal is not a hearing *de novo* involving a complete re-hearing of the case, as if it were being heard for the first time, permitting the introduction of new evidence and arguments. RECO appeal hearings will scrutinize whether a discipline panel misinterpreted or misapplied the law, or whether it made palpable and overriding errors of fact such that its legal conclusions were not based on supporting evidence. As such, new evidence is not

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<sup>12</sup> See the Merits Decision at page 13.

<sup>13</sup> Ibid at page 12 – the Panel accepted and believed Vaid's contention that he felt he was acting in the best interest of his clients. In other words, they thought he was acting in good faith, as Vaid has contended many times in these proceedings.

<sup>14</sup> See the Transcript for the Discipline Hearing at page 97, line 18 to page 98, line 13 and page 107 lines 12-17 and page 110 line 20 to page 111 line 9 and page 111 lines 16-18 and page 112 lines 4-11 and page 116 lines 14-20.

<sup>15</sup> Ibid at page 104, lines 17-24.

ordinarily admitted in an appeal unless there is very good reason to do so, and the appeal panel decides to permit it.

32. It was up to the Appellant to argue how and why the findings, and supporting reasoning of the Discipline Panel, were unreasonable; that is a fairly high bar to overcome, which the Appellant acknowledged.<sup>16</sup> The Appellant did not make significant or convincing submissions to deal with that requirement. Instead, he emphasized the negative emotional impact which the disciplinary process had had on him.
33. Having reviewed the record of the proceeding below, and the written reasons of the Discipline Panel, the Appeal Panel finds that the Discipline Panel acted reasonably in its factual and legal findings, and it presented a reasonable and convincing analysis to justify those findings.
34. Vaid's primary submissions with respect to the Discipline Panel having committed factual errors was that the Panel had failed to recognize that Vaid's actions were in response to the alleged improper conduct of Selling Agent 1. Further, Vaid complained that the Discipline Panel failed to acknowledge the significance of the Civil Suit.
35. First, Vaid claimed that Selling Agent 1 had lied to him during their various conversations and that, had Selling Agent 1 been honest, his Clients would not have been prejudiced. While that may very well have been the case, it is not for the Appeal Panel to perform second-guessing and decide whether Selling Agent 1 was a liar, nor was it the task of the Discipline Panel in this particular case. The focus of the discipline hearing was on the conduct of Vaid, and its relationship to the Code. It was the role of the Discipline Panel to decide whether Vaid's actions appropriately protected the interests of his Clients or whether he fell below the requirements laid out in the Code.
36. Vaid acknowledged several times that he simply took Selling Agent 1 at his word and he did not get the alleged verbal commitments in writing.<sup>17</sup> The point of getting things in writing is to ensure that they will be binding and that a battle based on he-said/she-said assertions does not ensue (which is often costly to litigate). By proceeding on the word of another realtor, rather than getting a signed position or commitment in writing, Vaid put his Clients at risk. By failing to explain to his Clients the potential risk of having two

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<sup>16</sup> See above at paragraph 17.

<sup>17</sup> See above at note 14.

open offers at once (or to fail to obtain legal advice on that issue), Vaid not only put his Clients at risk, but he exposed them to civil litigation and himself to a disciplinary proceeding. The conduct of Vaid in all these circumstances fell below that which his Clients had a right to expect of him. The hearing of the evidence by the Discipline Panel resulted in a determination that Vaid had breached several sections of the Code. It was completely reasonable and logical for the Discipline Panel to make such findings and it would be up to a different panel to decide if Selling Agent 1 had acted improperly in the same transaction. The point of the Code is to ensure that realtors are protecting their clients' interests – including protecting them from improper conduct caused by other realtors in a transaction. Vaid failed to recognize, and continues to do so, that it was his job to ensure that when he encountered a realtor whom might be lying, he should have protected his Clients from the ramifications of any falsehoods – by getting any commitments and representations in writing, signed by the appropriate persons. Given the obligations to which Vaid was subject, the Appeal Panel has determined that these grounds of his appeal are without merit and, thus, they should be dismissed.

37. Vaid's second argument relating to the facts was that the Discipline Panel should have acknowledged the significance of the Civil Suit and scrutinized it more closely. However, at the time of the Discipline Hearing, there had been no disposition in the Civil Suit, and even if there had been, the determinations in that proceeding would not have been binding on the Discipline Panel.
38. Also, as noted above, Vaid provided enough direct evidence for the Discipline Panel to make its findings. Further, the Discipline Panel did acknowledge the Civil Suit in its analysis to determine the penalty in this case and, in the view of the Appeal Panel, that was a proper approach to take.<sup>18</sup> A review of the paragraphs Vaid pointed to in the affidavit filed in the Civil Suit by one of his Clients provided potential corroboration of points Vaid attempted to make about the conduct of Selling Agent 1, but it did not assist Vaid in avoiding the findings that the Discipline Panel made, based on his own testimony, of his own improper conduct.
39. Vaid's final ground of appeal was that the Discipline Panel failed to analyze and follow the law properly, including *REBBA* and the Code, various and sundry points of contract law, and certain Latin "legal maxims". As with his other grounds, many of Vaid's

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<sup>18</sup> See the Penalty Decision at page 5.

complaints focused on the actions of Selling Agent 1 – which as stated above,<sup>19</sup> are of absolutely no consequence to this case in the scrutiny of Vaid's own conduct. In his factum, Vaid presented at length his version of the contractual laws of counteroffers, rejection, rescission, termination, and the like. In doing so, he sought to show that the offer on Property 1 was technically dead before the offer on Property 2 was placed on behalf of his Clients. The Appeal Panel finds that this issue is not pertinent for several reasons. None of these submissions or issues were before the Discipline Panel for determination, and even if they had been, Vaid's direct testimony was that he was not totally convinced that the offer on Property 1 was dead before the offer on Property 2 was delivered.<sup>20</sup> Even in his factum, Vaid admits that he simply relied on the integrity of Selling Agent 1 that the offer on Property 1 was no longer operative and, according to Vaid, that the parties would ultimately enter into a mutual release.<sup>21</sup> The evidence clearly showed that none of these circumstances transpired. Far from the Seller of Property 1 being willing to treat the offer on Property 1 as having been withdrawn, null and void, or terminated -- it was accepted by the Seller. As a result, it was completely reasonable for the Discipline Panel to have determined that it was Vaid's duty in the situation to seek clarity for his Clients, and to protect them by getting, in writing, the alleged representations and commitments made by Selling Agent 1 to confirm that any alleged deal between Vaid's Clients and the Seller of Property 1 was dead. To do so, to obtain a mutual release, and to encourage his Clients to seek legal advice on that issue would have been appropriate and helpful. But Vaid failed to implement any protective measures for his Clients. Indeed, it was not surprising that Vaid's Clients were sued in respect of their offer on Property 1 because no protective measures had been taken by Vaid. Further, Vaid's conduct resulted in a disciplinary proceeding against him, and

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<sup>19</sup> See above at paragraph 35.

<sup>20</sup> See the Transcript of the Discipline Hearing at page 80 line 6 (why send a mutual release if you are convinced that the offer is dead, you don't send mutual releases every time a deal passes its exclusivity period?), and at page 80 line 12 (Vaid thinks it "should" be ok, not it is definitely ok), and at page 80 lines 22-23 (Vaid had an "impression" he was going to get a mutual release), and at page 94 lines 9-17 (Vaid's view at time of the Discipline Hearing, and at the time of the incident in question, about the law of irrevocability periods does not match what Vaid now says in this appeal), and at page 105 lines 23-24 (Vaid was "more worried"), and at page 107 lines 12-17 (Vaid's view at the Discipline Hearing does not match his view on appeal now), and at page 111 lines 16-18 (Vaid's view then does not match his view now).

<sup>21</sup> See the Factum of the Appellant at paragraph 35.

ultimately, the determinations of the Discipline Committee. In light of this reality, this ground of Vaid's appeal is also dismissed.

40. Next, Vaid raised several times in his factum, and in oral argument on the appeal, that he had acted in good faith and fairly in the circumstances, and therefore, it was not proper to find him in breach of the Code. At the hearing on the merits, the Discipline Panel agreed with him by not finding liability under section 3 of the Code.<sup>22</sup> However, it does not follow that having good intentions and believing that one had the best interests of their clients at heart precludes findings of a breach of the Code. It is the nature and impact of one's conduct, and its relationship to prohibitions or requirements in the Code, that will be determinative. Indeed, Vaid was found to have committed oversights – failing to reduce commitments and representations to writing and to obtain an executed Mutual Release prior to having his Clients bid on Property 2 – were chief among the oversights. In failing to protect his Clients in that manner, which resulted in significant adverse consequences to his Clients, Vaid's claims that he acted with good intentions in the transaction were irrelevant.
41. The oversights of Vaid were adjudged to have fallen below the standards required of a realtor, and to have constituted breaches of the Code. The Discipline Panel was not required to find that there were improper intentions underlying Vaid's conduct, or that he had acted in bad faith, etc., to make findings that he had breached the Code. Vaid's obligation was to act in accordance with the Code to protect the rights and interests of his Clients. Thus, this ground of appeal, as raised by Vaid, is dismissed.
42. Despite his factum, in his brief oral submissions the Appellant asserted that he would accept the decision of the Discipline Panel if the Appeal Panel agreed with those findings. Still, Vaid's factum in many respects presented an alternative narrative relating to the facts in the transaction for Property 1 and Property 2, and the legal impact of dealings with his Clients, other agents, and the various property owners. Indeed, the Appellant appeared to believe that the principal point of his appeal was to convince the Appeal Panel that his view of the case should be adopted in place of the findings of the Discipline Panel, such that the Discipline Panel's decision, in its entirety, should be set aside. As already stated, that is not the purpose of an appeal in RECO proceedings. In

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<sup>22</sup> See above at note 13.

light of the foregoing, the Appeal Panel hereby dismisses all grounds of appeal relied on by Vaid to challenge the Merits Decision.

### **Penalty**

43. Having dismissed all grounds of appeal relating to the Merits Decision of the Discipline Panel, the Appeal Panel will now deal with the Appellant's submissions relating to the Penalty Decision.
44. Vaid submitted that, if he were successful on any of the grounds in his appeal, both the Merits and the Penalty Decisions should be set aside. Beyond this, Vaid contended that the Discipline Panel failed to consider the range of sanctions in similar cases, his role in the matter, and certain factors (the "**Special Factors**") relating to him (his age, health, financial hardship, and the unresolved Civil Suit) that he claimed should have mitigated his penalty.<sup>23</sup> Vaid also submitted that the penalty imposed on him was "unreasonable and disproportionate in the circumstances"<sup>24</sup> Vaid cited four prior RECO disciplinary decisions that he believes are similar to his circumstances but which resulted in lower fines than that which he received.<sup>25</sup>
45. By contrast, the Registrar made submissions in its factum<sup>26</sup> that the Penalty Decision was fair and reasonable based on an analysis of each of the factors in RECO's leading case relating to the determination and imposition of penalties -- *RECO v. Suzette Thompson* ("*Thompson*").<sup>27</sup>
46. The factors enumerated in *Thompson* expressly include the registrant's role in the fact pattern being analyzed. Thus, the Panel finds that Vaid is incorrect that the Discipline Panel did not take that factor into account; it considered his role and contribution to the circumstances that led to the complaint to RECO against him and the ensuing allegations that proceeded to discipline.<sup>28</sup> Furthermore, when asked, Vaid was unable to point the Panel to any case where the Special Factors were used to mitigate the penalty

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<sup>23</sup> See Factum of the Appellant at paragraph 3(d).

<sup>24</sup> Ibid at paragraph 3(e).

<sup>25</sup> Ibid at paragraphs 58-61.

<sup>26</sup> See Factum of the Respondent at paragraphs 81-97.

<sup>27</sup> *RECO v. Suzette Thompson*, Decision of the Appeals Committee, May 31, 2012.

<sup>28</sup> See the Penalty Decision at the top of page 5.

of a Registrant. This Panel notes that, as a matter of public policy, neither *REBBA* nor the Code provide for different factors to be applied to a wealthy realtor versus one who is less affluent; nor do the factors relevant to the assessment of penalty require that the age of a realtor who has transgressed the Code be ascertained and considered relevant. The relative health of a realtor who has been found in violation of the Code is also not a relevant factor in determining the appropriate penalty. Finally, whether a transaction results in the commencement of a civil lawsuit – where the realtor is either a plaintiff or a defendant -- is not a pertinent factor under the Code to consider in a penalty hearing. This Panel therefore rejects the submission by Vaid that the Special Factors he claims are evident in his case should be relied upon to reduce the penalty imposed by the Discipline Panel.

47. Having considered the matter, the Appeal Panel agrees that the Discipline Panel acted reasonably and that it provided narrative support for its decision on the appropriate penalty in this case. As such, that Penalty Decision should not be disturbed.
48. It is clear from the Penalty Decision that the Discipline Panel engaged in an analysis of whether a monetary penalty should be imposed on Vaid and, if so, the appropriate quantum. The Discipline Panel was given a range of cases by the Respondent to justify the quantum of the fine that ought to be imposed (Vaid chose not to provide any assistance to the Discipline Panel in this regard and only attempted to do so before the Appeal Panel, that is, after-the-fact, when the proper time and place to do so should have been at the Penalty Hearing). The Discipline Panel imposed a fine within the Registrar's suggested range.
49. By his own admission, Vaid acknowledges that one must surmount a very high bar to overturn the Penalty Decision.<sup>29</sup> As the Appeal Panel has found herein, the Discipline Panel acted reasonably in making its various findings in the Merits Decision, and in justifying its conclusions with detailed written reasons.
50. The Appeal Panel finds that the same observations apply to the Discipline Panel's findings relating to penalty – by applying the proper approach and imposing the \$20,000 fine and educational requirements. It is clear that the Discipline Panel took into account the broad circumstances of this case in a fair-minded and reasonable manner and, after

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<sup>29</sup> See above at paragraph 17.

doing so, assessed a penalty which the Appeal Panel can find no reason to set aside or vary. Therefore, the Appellant's appeal as it relates to the Penalty Decision is also dismissed. To be clear, there was nothing unreasonable or incorrect in the Discipline Panel's analysis and conclusions on the issue of penalty.

### **Disposition**

51. Given that the Appeal Panel has determined that the appeal in its entirety should be dismissed, this leaves the issue of the costs of the appeal.
52. Accordingly, the Registrar shall have seven (7) days from the date of the release of this decision to advise the Manager whether the Registrar is seeking costs for this proceeding.
53. If costs are being sought, the parties shall have fourteen (14) days from the date of the release of this decision to try to reach an agreement on the issue of costs and, if so, the Registrar shall advise the Manager as to their agreement.
54. If the parties are unable to agree on costs, the Registrar shall, within twenty-eight (28) days from the date of the release of the Appeal Panel's decision, serve on the Appellant and file with the Manager written submissions on its purported entitlement to costs for the appeal, including the quantum of requested costs. Such submissions shall not be greater than three pages in length, and shall include, on one additional page, the quantum of costs sought and the breakdown of the work comprising the quantum so sought.
55. The Appellant shall, in turn, have twenty-one (21) days from the date of service on the Appellant of the Registrar's submissions on costs to serve responding submissions on the Registrar and to file a copy of the submissions with the Manager. The Appellant's submissions shall not be greater than three pages in length but may include, if the Appellant so wishes, one additional page setting out the different (i.e. reduced) quantum, if any, that the Appellant submits should be awarded for the Registrar's costs of this appeal.