

**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 -

HASSAN P. LAKHANI (registered as, HASSAN LAKHANI)

DISCIPLINE DECISION AND REASONS FOR DECISION

Subject to Rule 4.02 of the Discipline and Appeals Committee Rules of Practice (*REBBA 2002*), I, the Chair of the Discipline Committee (*REBBA 2002*) have reviewed and considered the Agreed Statement of Facts and Penalty together with the Waiver of Hearing submitted by the Parties to this proceeding and provide the following Order:

FINDINGS: In violation of Sections 2(1), 4, 7(1)(2), 14, 21(1) and 38 of the *REBBA 2002* Code of Ethics.

ORDER: Fine of \$20,000.00 payable to RECO not later than 365 days after the date of the Decision of the Discipline Committee on this matter.

Successful completion of REIC 2600 Ethics in Business Practice course, not later than 90 days after the date of the Decision of the Discipline Committee on this matter and provide proof of completion to RECO within 60 days of completion of the courses.

WRITTEN REASONS:

REASONS FOR DECISION

INTRODUCTION

This matter proceeded on the basis of an Agreed Statement of Facts and Penalty and Waiver of Hearing, pursuant to Rule 4.02 of the Rules of Practice (*REBBA 2002*).

The Agreed Statement of Facts and Penalty read:

AGREED STATEMENT OF FACTS AND PENALTY

It is agreed as follows:

1. Lakhani is registered as a broker under the *Real Estate and Business Brokers Act*.
2. At all relevant times, Lakhani was employed at Brokerage A.
3. At all relevant times, Lakhani was the listing representative for Seller A in the sale of a luxury condominium unit located at #1 – 1-A Street, City A (“A Condo”).
4. Individual A is Seller A’s son and Individual B is Individual A’s spouse. Seller A, Individual A and Individual B are the complainants in this matter (*jointly referred to as “Complainants”*).
5. At all relevant times, Individual C was the owner of Corporation A and was introduced to the Complainants by Lakhani.
6. At all relevant times, Corporation B was the owner of land located at 1-B, 2-B and 3-B Street, in City A, and had entered into an Agreement of Purchase and Sale dated September 6, 2018, with Corporation A (*the “September 6, 2018 APS”*).
7. At all relevant times, Corporation A was represented by Brokerage B in the September 6, 2018 APS. The buyer representative was Representative A.
8. On or about August 16, 2018, Seller A entered into a Listing Agreement for A Condo with Brokerage A, with Lakhani as the Listing Sales Representative. The listing agreement was to end on November 30, 2018.
9. In or around early September of 2018, Lakhani approached Seller A about a real estate development investment opportunity at 1-B, 2-B and 3-B Street in City A (*the “Project”*) that required a \$2 million deposit as investment for the developer to purchase the land from Corporation B.
10. Lakhani advised Seller A that the buyer and developer was “Company A”.
11. At no time was the buyer and developer, Corporation A, a Company A Developer/or a Company A Group (“Company A”) corporation or subsidiary.
12. On or about September 17, 2018, Seller A and Individual A met Lakhani to discuss the Project. Lakhani advised that he had negotiated the deposit down to \$500,000 on their behalf and that it was the last day that they could be included in the Project.
13. On or about September 17, 2018, Lakhani accompanied Seller A to a bank and then accompanied the Complainants to Company A’s offices located in City B to meet Individual C and sign documents (*the “September 17, 2018 Meeting”*).

14. During The September 17, 2018 Meeting, Lakhani and Individual C, held Individual C out to be the Project Manager for Company A and Corporation A as a Company A corporation or subsidiary.
15. Lakhani and Individual C presented the Project's investment terms as being:
 - a) \$500,000 deposit returned with 7% interest by November 30, 2018;
 - b) The Complainants added as buyers to the September 6, 2018 APS;
 - c) 2.5% of the profits when the Project was completed and sold; and
 - d) Collateral from Individual C in the form of his shares of another Company A project located in City C.
16. The Complainants signed an Amendment to the Agreement of Purchase and Sale ("APS Amendment #1") to have Seller A and Individual B be added as buyers to the September 6, 2018 APS, a partnership agreement between themselves and Corporation A, and a Share Transfer Agreement, for collateral, with Individual C. The Complainants also provided bank drafts totaling \$500,000 payable to Corporation A. Lakhani signed APS Amendment #1 as a witness.
17. Representative A, Corporation A's representative, was not present at the September 17, 2018 Meeting with Lakhani, Individual C and the Complainants.
18. At no relevant time did Lakhani go over the clauses written in APS Amendment #1 with the Complainants, advise the Complainants to have a lawyer review the documents before signing, advise them to meet the sellers or their representatives, provide confirmation that Corporation A was a Company A corporation, or advise that they should review the APS which was sent to Lakhani by Individual C on or about September 13, 2018.
19. The Complainants did not notice a clause in APS Amendment #1 requiring a further \$250,000 deposit amount by October 30, 2018, or a notation that the deposit would be forfeited if the transaction was not completed. Lakhani told the Complainants that the documents were standard real estate forms used in Canada and urged them to sign.
20. Furthermore, the Complainants were unaware that the original terms for the investment were communicated to Lakhani as 10% interest on the deposit amount and 5% of the Project's profits at completion and sale, and that Lakhani had made a separate agreement with

Individual C to offer them 7% and 2.5% instead, to claim the difference as commission for bringing the Complainants into the Project.

21. On or around September 18, 2018, the Complainants, Lakhani, and Individual C met at the A Condo and Lakhani advised the Complainants that they had missed a signature on APS Amendment #1.
22. Lakhani did not advise the Complainants and they did not notice prior to signing, that the agreement was different than the day before and included a term that increased the purchase price of the Project from \$31.5 million to \$32 million and the deposit amount due on October 30, 2018, from \$250,000 to \$500,000 (“APS Amendment #2”).
23. On or around September 20, 2018, Individual C met with Seller A and Individual B to alter the Share Transfer Agreement, switching the collateral from the project in City C, Ontario, to one in City D, Ontario. There is no indication that this is an existing Company A project.
24. Shortly thereafter, communication from Lakhani to the Complainants became sporadic.
25. On or around October 30, 2018, Corporation A defaulted on the APS with Corporation B due failure to pay the final deposit amount and all deposits were forfeited.
26. At no time did Lakhani advise the Complainants that the APS had been defaulted on or that their funds had been forfeited to Corporation B as a result.
27. On or about November 15, 2018, Seller A cancelled the Listing Agreement for the A Condo with Brokerage A and Lakhani due to a lack of progress and a breakdown in trust with Lakhani.
28. To date, the Complainants have not had their funds returned.

SUMMARY OF AGREEMENTS

It is agreed that Lakhani failed to comply with the Code of Ethics as follows:

- A. As a buyer representative, by failing to reduce a buyer representation agreement to writing, contrary to section 14 by way of 2(1) of the Code of Ethics.
- B. As a buyer representative, by failing to take reasonable steps to determine the material facts regarding the parties and documents involved in a trade in real estate, in order to prevent

error, misrepresentation, fraud or any unethical practice and to advise and protect the best interests of their buyer client, contrary to sections 4, 21(1) and 38 of the Code of Ethics.

- C. As a representative, by dealing directly with Individual C and Corporation A in respect to a trade in real estate, who were a person and entity that they knew or ought to have known was represented by another registrant and brokerage, contrary to section 7 of the Code of Ethics.

It is agreed that Lakhani failed to comply with the following sections of the Code of Ethics:

Broker and salesperson.

2. (1) A broker or salesperson shall not do or omit to do anything that causes the brokerage that employs the broker or salesperson to contravene this Regulation.

(2) Subsection (1) does not apply to a contravention by the brokerage of section 32, 22 or 41.

Best interests

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

Dealings with other registrants.

7. (1) A registrant who knows or ought to know that a person is a client of another registrant shall communicate information to the person for the purpose of a trade in real estate only through the other registrant, unless the other registrant has consented in writing.

(2) If a broker or salesperson knows or ought to know that a buyer or seller is a party to an agreement in connection with a trade in real estate with a brokerage other than the brokerage that employs the broker or salesperson, the broker or salesperson shall not induce the buyer or seller to break the agreement.

Buyer representation agreements

14. If a brokerage enters into a buyer representation agreement with a buyer and the agreement is not in writing, the brokerage shall, before the buyer makes an offer, reduce the agreement to writing, have it signed on behalf of the brokerage and submit it to the buyer for signature.

Material facts

21. (1) A broker or salesperson who has a client in respect of the acquisition or disposition of a particular interest in real estate shall take reasonable steps to

determine the material facts relating to the acquisition or disposition and, at the earliest practicable opportunity, shall disclose the material facts to the client.

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.

AGREED PENALTY

The Respondent understands and agrees to the following penalty:

To pay a fine of **\$20,000.00** not later than 365 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
REIC 2600 Ethics in Business Practice	Not later than 90 days after the date of the Decision of the Discipline Committee on this matter.

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

Respondent acknowledgements:

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

Having reviewed and considered the Agreed Statement of Facts, the Chair of the Discipline Committee (*REBBA 2002*) concluded that the Respondent breached Sections 2(1), 4, 7(1)(2), 14, 21(1) and 38 of the *REBBA 2002* Code of Ethics. The Chair of the Discipline Committee (*REBBA 2002*) is also in agreement with the joint submission of the Parties as to penalty and accordingly makes the following order:

1. LAKHANI, Hassan P. (registered as LAKHANI, Hassan) is Ordered a Fine of \$20,000.00 payable to RECO, not later than 365 days after the date of the Decision of the Discipline Committee on this matter.
2. LAKHANI, Hassan P. (registered as LAKHANI, Hassan) is Ordered to successfully complete “REIC 2600 Ethics in Business Practice” course, not later than 90 days after the date of the Decision of the Discipline Committee on this matter and provide proof of completion to RECO within 60 days of completion of the courses.

[Released: September 11, 2023]