
**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 -

ZAMAL HOSSAIN

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), 3, 17, 25 and 39 of the *REBBA 2002* Code of Ethics.

ORDER: Fine of \$17,000.00 payable to RECO on or before August 16, 2023.

Successful completion of the "REIC 2600: Ethics and Business Practice" course provided by the Real Estate Institute of Canada on or before August 16, 2023, and to provide proof of completion to RECO within 60 days of completion of the course.

WRITTEN REASONS:

REASONS FOR DECISION

INTRODUCTION

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

The Agreed Statement of Facts and Penalty read:

AGREED STATEMENT OF FACTS AND PENALTY

It is agreed as follows:

1. Hossain Zamal (“Hossain”) is registered as a broker under the *Real Estate and Business Brokers Act, 2002* (“Act”).
2. At all relevant times, Hossain was employed at Brokerage A.
3. Seller A was the seller (the “Seller”) of a property located at 1-A Street, City A (the “Property.”)
4. The Seller retained the services of Brokerage A to list his property for sale on the multiple listing service (“MLS”). Registrant A and Hossain were the listing sales representatives.
5. The listing agreement (the “Listing Agreement”) commenced on January 26, 2021, and indicated as follows:
 - A list price of \$1,499,000.
 - Total commission payable of 3.5% - broken down into 1% for the seller’s brokerage and 2.5% for the buyer’s brokerage.
6. Registrant B is a sales representative with Brokerage B. Registrant B represented Buyer A and Buyer B, who were interested in purchasing the Property.
7. On January 27, 2021, Registrant B presented an offer (the “Offer”) on behalf of a buyer. The Offer had the following terms:
 - Offer price of \$1,511,000
 - Deposit of \$85,000
 - Closing date of February 26, 2021
 - Schedule A to the offer included a list of minor repairs that Registrant B’s buyer wanted to complete before taking possession of the property.
8. Registrant B’s buyer increased the Offer price to \$1,520,000. All other aspects of the Offer remained the same. The increased offer was also submitted on January 27, 2021.
9. Registrant C is a sales representative employed with Brokerage C. Brokerage C and Registrant C represented Buyer C and Buyer D, who were also interested in purchasing the Property.
10. At approximately 9:00 p.m., January 27, 2021, Registrant C submitted an offer on behalf of a buyer. The offer had the following terms:
 - Offer price \$1,540,100
 - Deposit of \$75,000
 - Closing date May 1, 2021
 - Conditional on Financing
11. Registrant C’s buyer had been approved for a mortgage but was waiting for final confirmation from the bank.
12. Hossain represented Buyer E and Buyer F in this transaction (the “Buyers”). On January 27, 2021, Hossain submitted the Buyers’ offer that had the following terms:

- Offer Price \$1,475,000
 - Deposit \$55,000
 - Closing March 27, 2021
 - A condition whereby the Seller would install a basic kitchen in the basement of the Property, with appliances not included. The maximum agreed-upon cost of the basement kitchen was agreed at \$5,000.
13. The Seller signed back the offer from Hossain's buyer offer at \$1,505,000, which was accepted by the Buyers the same day.
 14. Contrary to what was indicated in the Listing Agreement, the trade record sheet shows that the total commissions charged for this transaction was only 1% for the listing brokerage. The records indicate that no commissions were paid in respect of the buyer's brokerage offering.
 15. Neither Registrant A nor Hossain advised Registrant B or Registrant C that they had their own buyer offer.
 16. Neither Registrant A nor Hossain advised Registrant B or Registrant C that there was a commission reduction agreement, nor were they advised of the details of any such agreement.

SUMMARY OF AGREEMENTS

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

- A. Hossain failed to disclose in writing to all buyers who had made an offer that he had his own competing buyer who was submitting an offer in the transaction, contrary to sections 3 and 17 of the Code of Ethics.
- B. Hossain further failed to disclose to Registrant C and Registrant B that there was a commission reduction agreement, nor did he disclose to them the details of that agreement. This conduct is contrary to sections 2(1) in respect of section 25(1) of the Code of Ethics.
- C. This conduct, taken together, is contrary to section 39 of the Code of Ethics.

It is agreed that Hossain 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.

Fairness, honesty, etc.

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

Nature of relationships

17. If a registrant represents or provides services to more than one buyer or seller in respect of the same trade in real estate, the registrant shall, in writing, at the earliest practicable opportunity and before any offer is made, inform all buyers and sellers involved in that trade of the nature of the registrant's relationship to each buyer and seller.

Agreements relating to commission

25. (1) If a brokerage has a seller as a client and an agreement between the brokerage and the seller contains terms that relate to a commission or other remuneration and that may affect whether an offer to buy is accepted, the brokerage shall disclose the existence of and the details of those terms to any person who makes a written offer to buy, at the earliest practicable opportunity and before any offer is accepted.

(2) Subsection (1) applies, with necessary modifications, to a brokerage that has a seller as a customer if the brokerage and the seller have an agreement that provides for the brokerage to receive written offers to buy.

Unprofessional conduct, etc.

39. A registrant shall not, in the course of trading in real estate, engage in any act or omission that, having regard to all of the circumstances, would reasonably be regarded as disgraceful, dishonourable, unprofessional or unbecoming a registrant.

AGREED PENALTY

The Respondent understands and agrees to the following penalty:

To pay a fine of **\$17,000** on or before **August 16, 2023**.

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

Course Title (Provider)	Completion date
Ethics and Business Practice Course provided by the Real Estate Institute of Canada 2600 (REIC)	On or before August 16, 2023

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

Respondent acknowledgments:

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 waive 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), 3, 17, 25 and 39 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. ZAMAL HOSSAIN is ordered to pay a fine of \$17,000.00 payable to RECO on or before August 16, 2023.
2. ZAMAL HOSSAIN is ordered to successfully complete the REIC 2600: Ethics and Business Practice course on or before August 16, 2023, and to provide proof of completion to RECO within 60 days of completion of the course.

[Released: February 16, 2023]