
**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 -

KAMALJEET KAUR GHOTRA

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, 4, 5, 12, 14, 23, 28(1), 30, 38 and 39 of the *REBBA 2002* Code of Ethics.

ORDER: Fine of \$ 33,000.00 payable to RECO not later than 275 days after the date of the Decision of the Discipline Committee on this matter.

Successful completion of the Real Estate Institute of Canada (REIC) "REIC 2600: Ethics in Business Practice" not later than 90 days after the date of the Decision of the Discipline Committee on this matter and provide RECO with confirmation of successful completion within 60 days of completion of the course.

WRITTEN REASONS: *attached*



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

REASONS FOR DECISION

INTRODUCTION

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

The Agreed Statement of Facts and Penalty read:

AGREED STATEMENT OF FACTS AND PENALTY

It is agreed as follows:

1. At all relevant times, Kamaljeet Ghotra ("**Ghotra**"), was registered as a salesperson under the *Real Estate and Business Brokers Act, 2002* ("**Act**").
2. At all relevant times, Ghotra was employed at the brokerage Century 21 People's Choice Realty Inc. ("**People's Choice**").
3. At all relevant times, Napinder Kaur ("**Kaur**") and Kaur's son, Akshak Kanda ("**Kanda**") (*jointly, the "Complainant's"*) were clients represented by Ghotra in the purchase and/or attempted sales of 7786 Spring Blossom Drive, Niagara Falls, ON ("**Property**").
4. At all relevant times, Sonia Kanda ("**Co-Buyer**"), was an unsuccessful co-buyer with Kanda for the Property and was represented by Ghotra.
5. In or around February of 2017, while holding a Canadian work visa, Kaur began looking for a suitable property to rent and/or purchase for her family to reside in and around the Niagara Falls region, with Ghotra acting as her representative.
6. In or around March of 2017, Ghotra showed Kaur the Property and advised that she would assist Kaur in acquiring the mortgage to purchase the Property as Kaur would not qualify to get a mortgage on her own.
7. On or about March 12, 2017, Kaur and Ghotra entered into an unconditional Agreement of Purchase and Sale ("**APS**") to purchase the Property with both included as joint buyers, People's Choice as the Buyer Brokerage, and Ghotra named as the salesperson. Other relevant terms included:

- a. A Purchase price of \$770,000.00;
 - b. Deposit of \$25,000.00;
 - c. Buyers' brokerage commission of 2.5%;
 - d. Completion date of May 15, 2017.
8. At no time did Ghotra reduce her buyer representation of Kaur to a written agreement.
9. On or about March 13, 2017, Kaur paid the \$25,000.00 deposit for the Property to the seller's brokerage.
10. On or about April 28, 2017, Ghotra signed an Amendment to Agreement of Purchase and Sale ("**APS Amendment**"), deleting Kaur as a buyer on the APS. Kaur did not sign the APS Amendment and was not aware of Ghotra removing her as a buyer.
11. At no time did Ghotra provide a copy of the APS Amendment to People's Choice.
12. In or around May of 2017, Kaur and Ghotra become aware that Kaur being listed on the mortgage would trigger a non-resident requirement of a 35% down payment and substantial international buyers' fees due to Kaur's immigration status.
13. In or around May of 2017, Kaur and Ghotra entered into an oral trust agreement whereby Ghotra would acquire a mortgage for the Property under her name alone, and Kaur would be responsible for all carrying costs of the Property including, but not limited to, all downpayment amounts, monthly mortgage payments, property taxes and utilities.
14. In or around May of 2017, Kaur was short 5% of the required 35% down payment for the mortgage and a further agreement was made for Ghotra to advance Kaur \$40,000.00 and a trust agreement be executed to that effect. Kaur paid the remaining \$150,643.00 downpayment amount towards the Property.
15. On or around May 13, 2017, Ghotra and Kaur executed a Trust Agreement ("**Trust Agreement**"), drafted by Ghotra's lawyer. Relevant terms included:

- a. Ghotra to hold 100% interest in the Property on behalf of Kaur for one (1) year;
 - b. Both parties indemnify and save harmless of each other from all debts, liabilities, and obligations for the Property;
 - c. Kaur to pay \$52,000.00 to Ghotra for the services rendered by her by the end of one (1) year.
16. At all relevant times, the term regarding Kaur paying \$52,000.00 to Ghotra was a repayment of the \$40,000.00 advance and \$12,000.00 in interest and/or a fee for the service of getting the mortgage under her name. The term for the \$12,000.00 interest/fee being included in the Trust Agreement only became known to Kaur at the time of signing.
17. At no time did Ghotra advise Kaur to seek legal advice prior to entering into the Trust Agreement.
18. At no time did Ghotra report or provide a copy of the Trust Agreement to People's Choice.
19. On or about May 30, 2017, after the completion of the transaction to purchase the Property on May 15, 2017, Ghotra was paid \$20,664.87 in commission as the buyer representative.
20. From May 15, 2017, and onwards, the Complainants and their family resided in and paid all carrying costs associated with the Property.
21. In or around January 2018, despite the year term of the Trust Agreement not having expired, Ghotra advised the Complainant's that she did not want to hold the Property in trust any longer. As the Complainant's were not yet able to acquire their own mortgage, they agreed to list the Property with Ghotra acting as their listing representative. The Property was listed nine times from January 5, 2018, to March 31, 2020, with no successful offers.
22. By June 15, 2018, Kaur paid \$50,000.00 to Ghotra as part of the fulfillment of the terms of the Trust Agreement and paid the remaining \$2,000.00 in cash to Ghotra shortly thereafter.

23. In or around the spring of 2021, the Complainants were ready to acquire a mortgage and requested Ghotra transfer title of the Property to Kanda. Ghotra refused to transfer the Property to Kanda, and instead offered to sell him the Property, under the condition of her acting as both seller and buyer representative to the transaction with a 5% total commission rate.
24. On or around April 6, 2021, Kanda and Ghotra entered into a conditional Agreement of Purchase and Sale ("**2021 APS**") for Kanda to purchase the Property for \$860,000.00, with a \$5,000.00 deposit and an April 30, 2021, completion date. Ghotra was included as the seller and buyer representative and the buyer brokerage's commission was indicated as 3%.
25. At no time did Ghotra reduce her buyer representation of Kanda and the Co-Buyer to writing.
26. At all relevant times, Ghotra required that her closing lawyer be solely responsible for the transaction for the sale and purchase of the Property.
27. On or around April 30, 2021, the Complainants requested that Ghotra sign and provide to her closing lawyer a direction that Kaur would receive the proceeds from the sale of the Property after legal fees and disbursements. Ghotra failed to provide such direction to her closing lawyer or respond to Kaur regarding the request.
28. On or around April 30, 2021, the transaction failed to complete, and Ghotra remained on title for the Property.
29. On or around May 3, 2021, Ghotra sent a Mutual Release for the failed transaction and advised Kanda and the Co-Buyer to sign. Kanda and the Co-Buyer declined to sign.
30. On or around August 3, 2021, Kaur initiated legal proceedings against Ghotra in the Ontario Superior Court of Justice seeking specific performance, actual, and punitive damages in relation to the Property.

31. In or around October 2021, Ghotra unilaterally closed the joint account that Kaur had been making mortgage payments for the Property from and began making mortgage payments on the Property herself.
32. On or around June 15, 2023, the Complainants paid into Ghotra's lawyers trust account all mortgage payment amounts Ghotra claimed she had paid after her closing the joint account.
33. Ghotra states that the Trust Agreement "expired" after the one-year period and that following its expiry, she is a 50% "partner" in the Property and is owed 50% of any proceeds in the sale of the Property plus a listing commission of 3% as agreed by the Complainants in the failed transaction.

SUMMARY OF AGREEMENTS

It is agreed that GHOTRA failed to comply with the Code of Ethics (O. Reg. 580/05) as follows:

- A. Ghotra failed to reduce two buyer representation agreements to writing, contrary to section 2(1) with respect to 14 and 4 of the Code of Ethics.
- B. Ghotra amended the APS, removing her buyer client(s) as buyers, without their knowledge or direction and failed to provide a copy of the amendment to their client, contrary to sections 2(1) with respect to 12, 23, 28(1) and 3, 4, 38, and 39 of the Code of Ethics.
- C. Ghotra advised her buyer client(s), to enter into agreements, drafted in her own interest, namely Agreement(s) of Purchase and Sale(s), a Trust Agreement, and a Mutual Release, contrary to sections 4, 5, 38 and 39 of the Code of Ethics.
- D. Ghotra for her own interest, failed to honour the terms of a Trust Agreement she entered into with a buyer client, contrary to sections 3, and 39 of the Code of Ethics.
- E. Ghotra, as a salesperson, failed to provide copies of documents relating to trades in real estate, including an Amendment to an Agreement of Purchase and Sale

and a Trust Agreement, to the brokerage that employs her, contrary to sections 2(1) with respect to 30 and 3, 4, and 39 of the Code of Ethics.

- F. As a result of actions of placing her interests above those of the clients as set out in paragraphs A to E above, Ghotra engaged in disgraceful, dishonourable, unprofessional and/or unbecoming conduct contrary to section 39 of the Code of Ethics.

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

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.

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.

Copies of written agreements

12. If a brokerage and one or more other persons enter into a written agreement in connection with a trade in real estate, the brokerage shall ensure that each of the other persons is immediately given a copy of 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.

Steps taken by registrant

23. A registrant shall inform a client of all significant steps that the registrant takes in the course of representing the client.

Copies of agreements

28. (1) If a registrant represents a client who enters into a written agreement that deals with the conveyance of an interest in real estate, the registrant shall use the registrant's best efforts to ensure that all parties to the agreement receive a copy of the agreement at the earliest practicable opportunity.

Business records

30. In addition to the records required by Ontario Regulation 579/05 (Educational Requirements, Insurance, Records and Other Matters) made under the Act, a brokerage shall make and keep such records as are reasonably required for the conduct of the brokerage's business of trading in real estate.

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.

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 **\$33,000.00** not later than **275** 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 in 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 Agreed Statement was duly signed by the Parties.]

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, 4, 5, 12, 14, 23, 28(1), 30, 38 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. KAMALJEET KAUR GHOTRA is Ordered a Fine of \$33,000.00 payable to RECO not later than 275 days after the date of the Decision of the Discipline Committee on this matter.
2. KAMALJEET KAUR GHOTRA is Ordered to successfully complete the Real Estate Institute of Canada (REIC) “REIC 2600: Ethics in Business Practice” course not later than 90 days after the date of the Decision of the Discipline Committee in this matter, and to provide proof of completion to RECO within 60 days of completion of the course.

[Released: August 15, 2024]