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 -

ROCHAK BADHWAR (registered as ROCKY BADHWAR)

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 3, 35 and 39 of the *REBBA 2002* Code of Ethics.
ORDER:	Fine of $ 20,000.00 payable to RECO on or before March 12, 2025. Successful completion of the RECO CE: Introduction to TRESA course on or before March 12, 2025, and provide proof of completion to RECO on or before March 12, 2025.

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. At all relevant times, Rochak Badhwar, registered as Rocky Badhwar, ("Badhwar") who is registered as a salesperson under the *Real Estate and Business Brokers Act, 2002* ("Act").
2. At all relevant times, Badhwar was employed at Brokerage A. Badhwar is currently employed at Brokerage B.
3. Badhwar advertises on his website that he will pay his clients a 50% rebate ("Commission Rebate") of whatever commissions he is owed for that client's transaction. The specific amount of the Rebate varies depending on the terms of the commission arrangement for that transaction.
4. Buyer A was the buyer ("**Buyer A**") of a property located at 1-A Street, City A (the "Property A.")
5. Badhwar represented Buyer A in the transaction to purchase the Property A, on behalf of Brokerage A.
6. Badhwar verbally agreed to provide Buyer A with the 50% Commission Rebate at the outset of their relationship. In Buyer A's case, the Commission Rebate would be 1.25%.
7. The purchase details for the Property A were as follows:
    - Sale price: $980,000
    - Deposit: $49,000
    - Closing: May 21, 2020
8. In a text message sent to Buyer A on July 6, 2019, Badhwar explained the breakdown of the rebate as follows (the following is quoted from the text message):
    - "Sale price - $980,000 at 1.25%
        - Commission - $12,250
        - Minus legal fees - $565
        - Minus inspection - $500

    - Minus movers - $500
    - Minus Brokerage - $900 Total: $9785
- Total: $9785
- Minus taxes: $3914
- Profit: $5871
- Rocky total profit: $7840
    - $5871 Buy
    - $1969 Sell
    - Simon total $14,934
    - Cashback: $12,250
    - Buy: $1565
    - Sell: $1119”

9. Despite several requests, Badhwar never paid the promised rebate.
10. Buyer B and his wife Buyer C (collectively “the Buyer B family”) were the buyers of a property located at 1-B Street, City B (the “Property B”).
11. The Buyer B family had also chosen Badhwar and Brokerage A to represent them in the transaction, in part due to the Commission Rebate promotion shared by Badhwar in his marketing.
12. The Buyer B family had agreed to purchase the Property B for $1,065,000.
13. On or about December 1, 2020, an email from Badhwar explained that he would pay the Buyer B family their Commission Rebate as follows (the following is a quote from that email):
    - “Sale price: $1,065,000
    - 2.5% commissions: $26,625
        - 2.5% commissions: $26,625

- 15% brokerage fee: $3,993.75
- 40% income tax: $9,052.50
- Take home income: $13,575.75
- 50% cashback: $6789.38”

14. On or about December 2, 2020, Badhwar sent a further email to the Buyer B family, explaining that in addition to the above Commission Rebate, he would agree to pay $500 to cover the inspection fees and $500 to cover legal fees.
15. On or about December 4, 2020, the Buyer B family responded by pointing out that Badhwar’s website indicated that on a property purchase of $1,063,000, the promised rebate would be $13,291. Rather than the $6,789.38 set out in Badhwar’s December 1, 2020, email.
16. The Buyer B family sent a further email on or about March 23, 2021, to Badwhar requesting payment, however, Badhwar never provided the promised Commission Rebate to them.

SUMMARY OF AGREEMENTS

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

A. Badhwar failed to honour advertised Commission Rebates, which demonstrates a lack of integrity and honesty in dealing with buyers. This conduct is contrary to sections 3, 35, and 39 of the Code of Ethics.

B. Further, Badhwar entered into an agreement to provide Commission Rebates to two separate buyers and then failed to follow through on those obligations. This conduct, taken together, is contrary to sections 3, 35, and 39 of the Code of Ethics.

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

<u>Fairness, honesty, etc.</u>

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.

Financial responsibility

35. A registrant shall be financially responsible in the conduct of business

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:

1. To pay a fine of **$20,000.00** due on or before March 12, 2025.
2. To successfully complete the following courses or programs by the identified completion date:

Course Title (Provider)	Completion date
TRESA introduction course.	March 12, 2025

To provide proof of completion to RECO on or before March 12, 2025.

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 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 3, 35 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. ROCHAK BADHWAR (registered as ROCKY BADHWAR) is Ordered a Fine of $20,000.00 payable to RECO on or before March 12, 2025.

2. ROCHAK BADHWAR (registered as ROCKY BADHWAR) is Ordered to successfully complete RECO CE: 'Introduction to TRESA' course, on or before March 12, 2025, and to provide proof of completion to RECO on or before March 12, 2025.

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