



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 -**

**HOWARD HENRY ROSENBERG**

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**DISCIPLINE DECISION AND REASONS FOR DECISION**

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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:

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**FINDINGS:** In violation of Sections 3 and 39 of the *REBBA 2002* Code of Ethics.

**ORDER:** Fine of \$5,000.00 payable to RECO on or before March 5, 2020.

**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**

1. Rosenberg is registered as a salesperson under the Real Estate and Business Brokers Act, 2002. At all material times, Rosenberg was employed by Brokerage A, a brokerage registered under the Act.
2. Rosenberg represented Brokerage A 's potential buyer client.
3. At all material times, Representative A was employed by Brokerage B, a brokerage registered under the Act.
4. Representative A represented Brokerage B's listing for a property located at 1A Street, City A ("Property").
5. At all material times, Individual A was a tenant in the Property.
6. On or about March 16, 2018, Rosenberg obtained authority from Brokerage B to enter and show the Property on March 16, 2018 from 12:00 p.m. – 1:00 p.m.
7. The Brokerage B MLS listing for the Property clearly indicated the following:  
"Occup: Tenant" and under "Brkage Remks: 24 Hr Notice."
8. On March 16, 2018, Rosenberg attended at the Property at or around 10:15 a.m.
9. Rosenberg entered the Property via a lock box and proceeded to walk into a bedroom.
10. Individual A was in bed with her boyfriend at the time Rosenberg entered the bedroom.
11. Individual A, a 24-year-old female tenant, was surprised and "scared" by Rosenberg's presence in her bedroom, at the unscheduled time.
12. Rosenberg informed Individual A that the Property was supposed to be vacant.
13. Individual A demanded his business card and threatened to call the police if he did not leave and provide his business card.
14. On or about March 16, 2018, Individual A submitted a complaint to RECO, outlining her experience involving Rosenberg's unauthorized entry to the Property.
15. In response to Individual A 's complaint, Rosenberg admitted to being "a little early" for the showing at the Property, and states "It was a mistake".

### **SUMMARY OF AGREEMENTS**

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

1. Rosenberg failed to treat everyone in this transaction fairly, honestly or with integrity when he failed to obtain authority to access the Property at about 10:15 a.m. on March 16, 2018, before he entered the Property. Rosenberg knew or ought to have known, that a tenant occupied the Property, thereby creating an embarrassing encounter for Individual A, her boyfriend, his client and himself.
2. Rosenberg's conduct was an act, or omission that, having regard to all the circumstances, would reasonably be regarded as disgraceful, dishonourable, unprofessional or unbecoming of a registrant. Rosenberg could have prevented an embarrassing encounter for Individual A, her boyfriend, his client and himself, by complying with the authorized showing time of 12:00 p.m. – 1:00 p.m. or having obtained entrance authority for the earlier time of around 10:15 a.m., before he accessed the Property. Rosenberg knew, or ought to have known, that the Property was occupied by a tenant via the MLS listing.
3. In respect of the conduct outlined above, the totality of Rosenberg's conduct is a violation of Sections 3, and 39 of the Code.

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

**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.

**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**

HOWARD HENRY ROSENBERG, the Respondent, be ordered to pay a penalty of \$5,000.00 on or before March 5, 2020.

By initials below, I, HOWARD HENRY ROSENBERG, acknowledge that I have read and understand the penalty outlined herein and agree to the said terms and/or conditions.

*[Respondent's Initials]*

By initials below, I, HOWARD HENRY ROSENBERG, agree, understand, acknowledge and consent to waive the requirement for a hearing and to request an Order from the Chair of the Discipline Committee that includes this Agreed Statement of Facts and Penalty as a final settlement of this matter.

*[Respondent's Initials]*

By initials below, I, HOWARD HENRY ROSENBERG, acknowledge that I was aware of my right to be represented by Counsel or agent in this matter.

*[Respondent's Initials]*

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 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. HOWARD HENRY ROSENBERG is Ordered a Fine of \$5,000.00 payable to RECO on or before March 5, 2020.

*[Released: May 8, 2019]*