



Real Estate Council of Ontario

**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 -

OTTAVIO SCHEMBRI (also known as TAV SCHEMBRI)

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, 17, 38 and 39 of the *REBBA 2002* Code of Ethics.

ORDER: Fine of \$15,000.00 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. Schembri is registered to trade in real estate under the Act and, at all material times, was employed by Brokerage A, a brokerage registered under the Act.
2. Schembri represented both the seller and buyer of a property located at 1-A Street, City A (the "Property"), on behalf of Brokerage A.
3. On or about January 10, 2016, a first offer was received by Schembri, from Buyer A ("Complainant"), via his representative, Representative A of Brokerage B.
4. On or about January 12, 2016, a second offer was received by Schembri, from the Complainant, via his representative, Representative A.
5. On or about January 12, 2016, an offer was received by Schembri, from Buyer B and Buyer C via their representative, Representative B of Brokerage C.
6. On or about January 19, 2016, a third offer was received by Schembri, from the Complainant, via his representative, Representative A.
7. On or about January 19, 2016, Schembri sent a text to Representative A informing that the Property was sold firm.
8. The MLS indicated that the Property sold firm on January 20, 2016, and that Schembri and Brokerage A represented both the buyer and the seller.

SUMMARY OF AGREEMENTS

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

1. Schembri failed to disclose in writing to all buyers and sellers involved in the trade that Brokerage A was representing or providing services to more than one buyer or seller, thereby breaching sections 3, 17, 38 and 39 of the Code of Ethics.

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

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.

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.
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.
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

OTTAVIO SCHEMBRI (also known as TAV SCHEMBRI), the Respondent, be ordered to pay a penalty of \$15,000.00 on or before March 5, 2020.

By initials below, I, OTTAVIO SCHEMBRI (also known as TAV SCHEMBRI), 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, OTTAVIO SCHEMBRI (also known as TAV SCHEMBRI), 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, OTTAVIO SCHEMBRI (also known as TAV SCHEMBRI), acknowledge that I exercised 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, 17, 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. OTTAVIO SCHEMBRI (also known as TAV SCHEMBRI) is Ordered a Fine of \$15,000.00 payable to RECO on or before March 5, 2020.

[Released: June 4, 2019]