



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 -

CHAIM SMILOVICI (a.k.a. HOWARD SMILOVICI)

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 Section 39 of the *REBBA 2002* Code of Ethics.

ORDER: Fine of \$8,500.00 payable to RECO on or before May 6, 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. Chaim Smilovici ("Smilovici") was at all relevant times employed at Brokerage A as a salesperson.

2. Representative A, was at all relevant times registered as a Broker of Record at Brokerage B.
3. Seller A, the Complainant, was the Seller and Owner of 1-A Street, City A.
4. On or about April 18, 2018, Representative A scheduled a showing for a property located 1-A Street, City A ("Property") on behalf of her buyer-clients. She was provided a showing time of 8:30 p.m. – 9:30 p.m. on the same day from the listing brokerage as well as the lock-box code for the Property as it was vacant.
5. Prior to attending the showing, Representative A contacted Smilovici, and asked if he would be able to attend her showing with her clients as she was unable to attend. Smilovici contacted the Listing Agent, Representative B and advised that he would be showing the Property on Representative A's behalf and that they work together.
6. Smilovici attended the Property with Representative A's clients during the scheduled showing. It was noted that Smilovici left the Property with Representative A's clients at approximately 9:45 p.m.
7. Later in the evening, at approximately 10:40 p.m., the neighbour, who is the Complainant's father, noticed that there was a car in the drive-way. He contacted the Complainant and was advised that there were no scheduled showings during that time.
8. The Complainant's father entered the Property using his key and found three men drinking alcohol and partying. The three men were advised that they were trespassing and that they would be required to leave, or the Police would be called. After approximately 20 minutes the three men left the Property.
9. At no material time was an offer received from Representative A's and/or Smilovici's clients for the Lease of the Property.
10. Following the departure of the three men, the Complainant's father did a walk-through of the Property and noted the following issues that were caused by the three men:
 - i. The home was left with dirty floors and washrooms;

- ii. Windows and doors were left open;
- iii. Window blind was broken.

11. Following RECO's investigation, it was discovered that the 3 men accessed the Property through a back door that was inadvertently left unlocked.

SUMMARY OF AGREEMENTS

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

1. Smilovic facilitated unauthorized access to the Property, contrary to section 39 of the Code of Ethics.

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

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

CHAIM SMILOVICI (a.k.a. HOWARD SMILOVICI), the Respondent, be ordered to pay a penalty of \$8,500.00 on or before May 6, 2020.

By initials below, I, CHAIM SMILOVICI (a.k.a. HOWARD SMILOVICI), 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, CHAIM SMILOVICI (a.k.a. HOWARD SMILOVICI), 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, CHAIM SMILOVICI (a.k.a. HOWARD SMILOVICI), 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 Section 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. CHAIM SMILOVICI (a.k.a. HOWARD SMILOVICI) is Ordered a Fine of \$8,500.00 payable to RECO on or before May 6, 2020.

[Released: September 13, 2019]