



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 -**

**ALISA FULSHTINSKY**

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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 Section 38 of the *REBBA 2002* Code of Ethics, with respect to error only.

**ORDER:** Fine of \$2,000.00 payable to RECO on or before November 8, 2019.

**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. Alisa Fulshtinsky (“Fulshtinsky”) is and was, at all relevant times, registered as a salesperson under the *Real Estate and Business Brokers Act, 2002* (“Act”) and employed by Brokerage A.

2. Representative A o/a Representative A is and was, at all relevant times, registered as a salesperson under the Act, and employed by Brokerage B.
3. On or about March 14, 2016, Fulshinsky, as cooperating representative, and Representative A, as listing representative, negotiated an agreement of purchase and sale ("APS") for a residential property at 1-A Street, City A ("Property") on behalf of their respective clients.
4. The APS provided that the buyer, Fulshinsky's client, would be entitled to view the Property two times before a closing date of May 30, 2016.
5. Fulshinsky booked a viewing appointment ("Appointment") for May 6, 2016 from 6:00 p.m. to 7:00 p.m. The appointment was confirmed by Brokerage B.
6. However, Representative A because of an unfortunate error failed to inform the sellers of the Appointment.
7. On May 6, 2016 at around 6:00 p.m., Fulshinsky attended the Property with the Buyer, opened the lock box, but found no key in the lockbox.
8. Without the consent of the Representative A, Brokerage B or the sellers, Fulshinsky entered the Property with the buyer through the back door that was accidentally left unlocked by the sellers.
9. Fulshinsky acknowledged that the entry through the back door without authorization was an unfortunate and regrettable lapse of judgement.

### **SUMMARY OF AGREEMENTS**

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

Fulshinsky entered and viewed the Property with her client through an unauthorized entry point, *i.e.* the back door that was accidentally left unlocked, contrary to section 38, with respect to error only, of the Code of Ethics.

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

Error, misrepresentation, fraud, etc. *[With respect to error only]*

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.

### **AGREED PENALTY**

ALISA FULSHTINSKY, the Respondent, be ordered to pay a penalty of \$2,000.00 on or before November 8, 2019.

By initials below, I, ALISA FULSHTINSKY, 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, ALISA FULSHTINSKY, 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, ALISA FULSHTINSKY, 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 Section 38 of the *REBBA 2002* Code of Ethics (with respect to error only). 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. ALISA FULSHTINSKY is Ordered a Fine of \$2,000.00 payable to RECO on or before November 8, 2019.

*[Released: September 16, 2019]*