



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 -**

**SALLY MAGLARIS**

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**DISCIPLINE DECISION AND REASONS FOR DECISION**

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**APPEARANCES:**

**For the Registrant:**

Sally Maglaris  
Karen Gerrard, Representative

**For the Real Estate Council of Ontario:** Tim Snell, Legal Counsel

**Heard in Toronto:** April 4, 2017

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**FINDINGS:** In violation of Sections 3, 4, and 5 of the Code of Ethics.

**ORDER:** Fine of \$3000.00 payable to RECO within six months of sending this decision.

**WRITTEN REASONS:**

**REASONS FOR DECISION**

**PENALTY & COST**

**INTRODUCTION**

The hearing with respect a penalty and cost was held on April 4, 2017 in the presence of the Respondent Sally Maglaris (the “Respondent” and/or “Ms. Maglaris”); Karen Gerrard for Ms. Maglaris; Tim Snell, counsel for the Registrar, *Real Estate and*

*Business Brokers Act 2002* (“REBBA 2002”); and independent legal counsel to the Discipline Panel.

Prior to the Panel determining whether the Registrant failed to comply with the Code of Ethics as alleged in the Allegation Statement, The Panel was advised that Ms. Maglaris and the Registrar entered into an Agreed Statement of Facts.

### **AGREED FACTS**

The Agreed Statement of Facts and Penalty read:

1. Ms. Maglaris is and was at all relevant times registered as a Salesperson.
2. On or about January 2016, the owners of residential property (the “Sellers”) known as 1-Street, City A (“the Property”) were offering it for lease. Access to the Property while it was offered for lease was via a lockbox.
3. On behalf of her client who was her son, Ms. Maglaris booked an appointment to view the Property (the “Appointment”) for Saturday, January 16, 2016, in the morning. The client is not a registrant and was not registered at any relevant time.
4. Ms. Maglaris did not attend the Appointment. She gave the code to the lockbox to her son, whom she trusted. This was contrary to Sections 3, 4 and 5 of the Code of Ethics to the Act.
5. The client attended the Appointment unaccompanied by Ms. Maglaris or a registrant, and took the key out of the lockbox. This also gave access to common areas of the house in which the Property is situated. The Seller was alone outside the Property at the time. The Property was vacant.

6. Ms. Maglaris was ill on the relevant date and time with a severe migraine headache.
7. Ms. Maglaris voluntarily accepted responsibility in her response to this complaint.
8. Ms. Maglaris apologized for her conduct to the listing agent, her client and RECO.

[The Agreed Statement was duly signed by the Parties.]

#### **EXHIBITS**

1. Notice of Hearing, dated February 13, 2017
2. Agreed Statement of Facts, dated January 20, 2017

#### **SUBMISSIONS REGARDING PENALTY**

At the outset, the Prosecutor indicated that RECO was confirming its suggested penalty of \$3,000.00, noting that the respondent had, by giving the combination to the lockbox on the Property to her son, condoned a trespass and exposed the brokerage and the Landlord to various unnecessary risks, including potential risks to property and persons.

The Prosecutor also submitted that despite the registrant's 35 year history with a clean disciplinary record, there was still a need for specific deterrence in this case.

On behalf of the registrant, Ms. Gerrard emphasized that Ms. Maglaris had experienced no previous problems or mishaps during her 35 years as a registrant, that her son had been desperate to find a place to live and therefore anxious to visit the Property on the scheduled date, and that Ms. Maglaris had been suffering from a severe migraine which prevented her from supervising the viewing.

Ms. Gerrard also pointed out that, shortly after the incident, Ms. Maglaris had called the other agent to apologize and that she had taken full responsibility for her conduct. Ms. Gerrard also said that the risks and inconvenience to anyone in the circumstances had been minimal because the rental unit at the Property was vacant when Ms. Maglaris' son attended to see the unit.

In making submissions, the Prosecutor quoted from the Suzanne Thompson case, and eight other RECO cases. He underscored that access to real property in proposed transactions is a fundamental right of licensed realtors and if members of the public are granted access to real property in the absence of registrants attending properties with them, public confidence in the profession will be adversely affected.

The Panel was reminded that the key from the lockbox that Ms. Maglaris' son had used to access the Property did not simply get him (and his friend) into a vacant rental unit but it also gave them access to common areas.

In her responding submissions, Ms. Gerrard pointed out that she believed that \$3,000.00 would be too steep a penalty in the circumstances, especially since Ms. Maglaris had taken full responsibility for her conduct and she had acknowledged that she had made a bad judgment call in giving her son the lockbox combination. It was submitted that a reprimand would be a more appropriate penalty in this case.

No reply submissions were offered by the Prosecutor.

### **CODE OF ETHICS**

The Registrant is governed by the *Real Estate and Business Brokers Act, 2002*, S.O. 2002, c.30, Schedule C ("*REBBA 2002*").

This Discipline Committee is established to hear and determine these issues, in accordance with the prescribed Regulations. The Discipline Committee must determine

if the Registrant has failed to comply with the Code of Ethics established by the Minister in accordance with Section 21 of the *REBBA 2002*.

Section 50 of the *REBBA 2002* provides that the Minister may make Regulations establishing a Code of Ethics for the purposes of subsection 21(1).

Ontario Regulation 580/05 is the Code of Ethics pursuant to the *REBBA 2002* and is the Code of Ethics that governs these proceedings.

### **FINDINGS BY THE PANEL**

Having carefully considered the Agreed Statement of Facts of the parties, the submissions on penalty made by counsel, and the principles outlined in the cases provided by the Prosecutor, the Panel has concluded that a fine of \$3,000.00 is appropriate in the circumstances of this case.

While the Panel acknowledges that the registrant accepted responsibility for her poor judgment and conduct shortly after it was discovered that her son had attended at the Property and gained entry using the combination to the lockbox, there was simply no justification for disclosing that information to him in the first place. Would-be vendors, lessors, and other persons wishing to conduct trades with their real estate have a legitimate right and expectation that access to their property will be restricted and duly supervised by licensed brokers and salespersons. Those rights and expectations are compromised when lockbox combinations are given to unauthorized individuals.

To be sure, Ms. Maglaris no doubt had considerable trust and confidence in her son to act responsibly but that fact is that her son had no more of a right to be given the lockbox combination than anyone else. Further, the illness which befell Ms. Maglaris on the day of the scheduled visit, which prevented her attendance at the Property, required her to do one of two things: (1) cancel and reschedule the visit to the Property or, alternatively, (2) arrange for another registrant from her office to attend at the Property

to supervise her son's visit and viewing. There was no third or "compromise" option available.

The Panel has concluded that specific deterrence, along with the decisions of other panels in similar cases, supports the penalty indicated below.

**PENALTY**

Accordingly, based on the reasons set forth herein, the following penalty is imposed:

Ms. Maglaris is ordered to pay a fine of \$3,000.00 payable to RECO within six months of RECO sending this decision to her.

[Released: May 25, 2017]