

**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 -

STAV ADIVI

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

ORDER: Fine of \$ 3,500.00 payable to RECO on or before January 13, 2022.

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

It is agreed as follows:

1. At all relevant times, Adivi was employed at Brokerage A.

2. Representative A is the Complainant in this matter and is also registered as a salesperson employed at Brokerage B. Representative A was the listing sales representative for the subject property in this matter, located at 1-A Street, City A (the "Property"). Representative A was retained by the landlord to lease the main level of the Property – the basement is currently tenanted.
3. Individual A is the landlord/owner of the Property.
4. On or about July 27, 2020, Representative A listed the Property for Lease on the multiple listing service ("MLS®").
5. On or about August 17, 2020, Adivi contacted Brokerage B to book a showing for prospective tenants to view the Property. Adivi was provided a confirmation for 2:00 p.m. – 2:30 p.m. COVID-19 questionnaire forms were also provided and asked to be returned by all individuals that would be attending the showing.
6. On or about August 17, 2020, at approximately 10:46 p.m., Representative A received a text message from Individual A who states he was contacted by the tenant who resided in the basement at the Property. The basement tenant advised that someone was upstairs inside the Property.
7. Given that the basement tenant was expressing concern, Individual A attended the Property where he found Adivi with two persons inside. Adivi advised Individual A that he was a real estate agent and provided the MLS® Listing for the Property where his name was on top.
8. Individual A advised that no showings were scheduled and that, specifically, the instructions regarding showings stated that no showings to be scheduled after 8:00 p.m., to respect the tenant that resides in the lower level of the Property.
9. Representative A contacted Adivi and was advised that Adivi believed that the Property was vacant and was not aware of the tenant in the basement. Adivi advised that he thought his assistant had scheduled him a showing to attend the Property later in the evening as his clients were not available during the day.
10. COVID-19 forms were not provided by Adivi for this "unscheduled visit" to the Property.

SUMMARY OF AGREEMENTS

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

- A. Adivi accessed the Property without authorization by attending the Property outside the scheduled and confirmed showing time, contrary to sections 3 and 39 of the Code of Ethics.
- B. Adivi failed to follow the COVID-19 protocols as requested in the appointment instructions and did not provide the completed forms for all attendees to ensure COVID-19 safety protocols were followed during the viewing, contrary to sections 3 and 39 of the Code of Ethics.

It is agreed that Adivi 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

STAV ADIVI, the Respondent, be ordered to pay a penalty of \$3,500.00 on or before January 13, 2022.

By initials below, I, STAV ADIVI, 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, STAV ADIVI, 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, STAV ADIVI, 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. STAV ADIVI is Ordered a Fine of \$3,500.00 payable to RECO on or before January 13, 2022.

[Released: January 4, 2022]