



ScratchThat Podcast Episode 35: The Unbecoming Standard of Conduct

Emily: Hey, I'm Emily Chenevert, advocacy nerd, Peloton enthusiast, wife, and mama to two and CEO of the Austin Board of REALTORS®. Every day, real estate is changing. So we're taking it to the experts to unpack major topics that you need to know about to be successful in this business. Scratch what you think you know about this business, and listen up for a fresh take on an old industry. When it comes to recent changes to the NAR code of ethics, a lot of questions remain hanging about its enforcement and its application. One vocal critic of the changes has been Rob Hahn, the man behind notorious R O B and managing partner of 70 S associates. He's been in favor of NAR adopting something similar to the Canadian Real Estate Associations conduct unbecoming clause. So we invited our friend to the North, Tim Hudak CEO of the Ontario Real Estate Association to talk more about conduct unbecoming and how Canada enforces its members professionalism, listen up as we unpack recent examples that could put NAR code of ethics to the test. Rob, let's start with you.

Rob: Sure.

Emily: You have been somewhat vocal as you tend to be about the code of ethics, but really before the change that NAR was seeking last year. So give me kind of the headline on what your perspective has been around the code of ethics over the last several years, and then also kind of what your takeaway has been from the recent change.

Rob: Wow. Okay. So if we're going to go back to the beginning, I mean, the issue for me has always been the code of ethics is outdated, right? That we it's, we've been as victim of our own success. You know, like when you think about the code of ethics way and when it came about, it was in an era when there was no government regulation, there was no license law. Right. But after we got there and you and I have been talking about this for years, Emily, one of the issues that I've been pointing out for years is the fact that you can't like I've asked every local state, you know, leader, right. REALTOR® leaders, like what does the code require that the law does not? And the answer is not a whole lot. So, you know, we've, I've been trying to be like, Hey, can we, can we do something more

in the code? Right. Instead of just relying on the law. So that's kind of the background, you know, of the overall thing, because I believe that the code is, is what makes a realtor a REALTOR®. I'm a firm believer in the REALTOR® movement, but you know, the, to me, the twin pillars have always been government, advocacy and professionalism. Right? So in that context, like, yeah, there's aspects of professionalism that are super important and protecting the REALTOR® brand. So when the speech code came about, you know, my thing was, I knew, and I think I've been proven, right. That this was going to cause massive division within the REALTOR® ranks, just given the society we live in today. And I thought there was a better way of trying to get to what I think the committee and NAR wanted to get to, which was protect the REALTOR® brand and increase professionalism because it's certainly not professional for a REALTOR® to be going on social media or wherever and throwing out racial slurs and you know, like that's not professional. We get that. Right. But just given the environment we're in, I just thought this is going to create a lot of division. It's going to make half the REALTORS® feel like they're targeted. And you know what I put out there, you know, when very beginning was, There's a better way, which is the Canadian code of conduct, you know, the, uh, conduct unbecoming clause, which we've discussed, you know, the past when we were doing some of that. And, uh, yeah. And NAR didn't really adopt it. And I just thought it's time to, like, I know time was short and I didn't think it was going to go too far, but I really wanted leadership to at least take a look at that as an alternative to creating ten five and some of the changes that they did in fact do. And I thought it was simpler. I thought it was more elegant and I thought it was more effective. And the benefit was that we didn't have to speculate on how this was gonna work because CREA, you know, Canadian real estate association, our sisters to the North had this in place for years and years. So I felt like NAR could just reach out to them and say, how did this work for you guys? And then see about implementing that because I did feel a lot of the stuff that the ten five changes were trying to go after would have been covered on the Conduct Unbecoming, you know, without off half the REALTOR® population, by making them worry that if I'm a Christian, if I'm a Republican, if I'm a Trump supporter, suddenly I'm going to get targeted. It's like, no, none of that, his Conduct Unbecoming, but yeah, posting up the N word on Facebook is probably Conduct Unbecoming a REALTOR®. You know what I mean? There's not gonna be a whole lot at this agreement. Anyway, that's the background. That's why I was so vocal about it.

Emily: Fair to say that you think that ten five is polarizing because of the way that it was articulated and that the, the boundaries that it created, whereas it could have been broader and still accomplished similar outcomes with regard to the types of behavior at went to critique.

Rob: I think so.

Emily: And then, so Tim you're living with what Rob thinks might be awesome for us. Uh, is it awesome for you? What, what, how does the conduct Unbecoming work in Canada? To what extent is it actually leveraged?

Tim: Yeah, look probably is that in pieces and Emily, thanks for having me on the scratch side. It's great to see you. Thanks for your leadership and Rob, this is fun to talk about this

with you, because you were kind enough to invite me to a session you had in Austin. My first trip to Austin in 2017.

Emily: All the things happen here in Austin, Texas!

Tim: You kind of got your way a little bit, right. Issues. You're talking about three years ago and now on the radar. So, um, I'm a big fan of Rob's. He's been kind of speak at our conference. I enjoy his stuff and I know he's made the case of conduct Unbecoming here in Canada. So the, the caveat I've got for you is it's not really been tested out that much. So quick story. It actually was put into our, CREA or Canadian Real Estate Association. That's a Canadian NAR equivalent, uh, in 2015 and Canada is a beautiful country, lovely people. I love it. We tend to be a bit more dull than the Americans, so we didn't have the same sort of impetus you did back in 2015, there was a story about a REALTOR® who is throwing trash on the lawn of a competitor, and that offended us as Canadians, trying to be good neighbors and polite in all. So this was one of the reasons they got moving in 2015, uh, to impose in the code of ethics, this notion of conduct unbecoming. It was meant as a catchall, a, a general approach to issues that would take down the REALTOR® brand in the eyes of REALTORS® and the general public. More importantly, that was not related to business matters. So not as incendiary beginning, that's what was imposed. Here's the catches. Um, number one until this past year, CREA was not able to enforce it. It was in the REALTOR® code, but it was enforced, uh, locally, uh, instead, and truth be told about that too. It really has not been enforced very well at a local level, maybe the couple of exceptions in the Western part of our country. So while it's there it's meant as a, catchall, it really has not been tested that much.

Rob: Yup and you know, since you brought it up, Tim, I didn't want to, you know, I'm all about confidential. So I didn't want to talk about the three year ago meeting, but you know, when we were talking about it around that, it wasn't the, you know, obviously we weren't dealing with some of the political social divisions. And I remember what I was talking about was there've been a number of instances in the U S where a REALTOR® was caught having sex with some mistress or something. You know what I mean? So a paramour in an empty listing, it was like, it's not against the code. It's not precisely legal, but boy does that look bad? You know, and it was that I remember us talking about, you know.

Tim: We moved beyond the trash man, so there are some, so here's an example. There was a, a murdering REALTOR®. I don't know, I should be careful on how many people he actually was alleged to have murdered, but murdered. And before he go to trial, um, nothing could be done by the regulator. He had not broken, found guilty of any, uh, any lies, uh, and as such, you know, the board locally faced while can we actually get this guy out of our, uh, board and take away his ability to be REALTOR®. So there's an example of how it actually was utilized here in Canada, it's a good example.

Emily: But my question on that correlates back to do you have to leverage a code of conduct to assess who gets to be a part of the club and who doesn't right. Like at the end of the day, it's, it's really your decision who gets to be a member of the association and the terms of that membership that they have to adhere to what it, um, you know, some of the, some of the things that we've done in as an association are just to open our arms so

wide that everybody was welcome regardless of what they stood for. And maybe the question or the reckoning that we're having now is should that be the case? And do we have to use a code of conduct to make those decisions, or should we be having different, um, manners of establishing what membership should be? Where's the bar? How do we establish that? I don't know. It seems like there are other opportunities for a mechanism around this. If the goal is we only want the best and brightest, we don't want the murdering REALTORS®. We don't want the ones throwing trash on somebody's lawn. That seems pretty straightforward. That's not necessarily though Rob, the intent of the code changes that were made last year, which did directly correlate, not just to this massive conduct that might not look good to the public or damage the REALTOR® R, but very specifically issues of hate speech and racism in America. Yeah. So how do we do both is maybe the question for you guys, Tim, let me start with you. So conduct unbecoming, um, can be managed through the code of ethics, but how might we also manage that kind of conduct and other ways as associations?

Tim: Well, you can always raise educational standards. You can make it more difficult based on past behavior to qualify for license in the first place. You can make it more expensive to have a license. I'm sure there could be other mechanisms of self-censor and such, but I don't know, Emily. I just think you need to have a playbook here. I actually think that this is the right thing to do. We're facing it here in the province of Ontario, where we have a code of ethics in legislation, and we're renewing that. So we are looking at, uh, of the conduct unbecoming. It's not the right approach. We are looking at what the NAR is doing in our consultations with government done on that. But yeah, I think you actually, I, I can't think of a better mechanism than having a set of rules that are clear. There should be a high bar for this. So it's not used to, you know, grind axes and go after your competitor down the street. And obviously it should be a decision-making mechanism of people who are respecting the profession. But honest to God, I do think it's time that REALTORS® did a better job here in Canada. And you're on this in the States of self policing. You can't always slough it off to the regulator. Regulators too often. Don't know the business, certainly know the history and it's been too often a slap on the wrist for various reasons. And I can't imagine, you know, I think of an airline that says, um, that, you know, use that old, a few rotten apples mechanism. You know, we, our, our pilots are really good except for the guys that crash in the mountains from time to time. But the restaurant right now, you can't use that approach in the modern era. You gotta be angry and he got to give the boots, these people that had this egregious rule-breaking.

Emily: Let me understand what you're saying though, because you said both were working with legislators with regulators to determine how to manage licensees and their behavior, but also we should be self-sufficient on that front and creating accountability in our marketplaces as associations. Correct. So it's a yes. And...

Tim: So, uh, the situation, I try not to get too much into the weeds here. So our regulator cannot enforce anything that is conduct outside of the business of real estate transactions, right? So we are now moving towards giving that ability as well. And nationally CREA is looking for an enforcement mechanism, so we can self police much better right across this country.

Emily: Okay. And so tens bringing up a part of what the changes that resulted from last fall were that were so, so controversial for us, Rob in the States, to what extent does behavior of a REALTOR® apply when it's unrelated to a real estate transaction, we now know that there are aspects of the code that do apply outside of that. But that for some reason was very upsetting to many, many people, despite the number of leads, they've curated at soccer games on a Saturday. So help me understand where's the line between when we're doing business and when we're not in your opinion.

Rob: I don't think it's even that that's a, the problem, right? The problem is you can do whatever the hell you want as a REALTOR® association right now. Again, I don't know. I don't recall like the Canadian charter or anything like that, but fact is we can't have the licensing authorities here. Do any, anything with hate speech, right? Because the first amendment you can have NAR, which is a private organization, do whatever the hell it wants. Right. So, yeah, I mean, the issue though, there is the MLS. In other words, if you, if the MLS were completely separate from REALTOR® membership, so REALTORS® can say, you know, we don't need a code. We could just say, we don't like you. So get out, you can do that. I mean, there's nothing that prevents that. However, you can't do the same with the MLS because the MLS has been found over and over and over again, as a necessary utility to do business. So you're going to take away somebody's livelihood. Then you have, do have to meet some, some bar, right. It can't just be arbitrary, right? Otherwise you just get sued and then the DOJ will come in and all kinds of nasty things will happen. So the only way to do it, I think is through, like Tim said, real clear rules, right. Where people could say, Oh, if I do this, then I lose access to the MLS. If I do this, I lose access to MLS. And I think that's what we're kind of dealing with here. Right. And so we could even like the whole thing about private versus personal, I kind of feel like when it comes to private organizations like REALTORS®, yeah. You can do whatever you want. You know, I don't, I don't have an issue with that. And quite frankly, I don't know that the people who are really upset with the decisions necessarily have a problem with that either the problem is the multiple listing service, right? So we go down this path and I've already made this prediction. Right. You know, I, and I grant to all our predictions are guaranteed wrong or your money back. But, but I do think, you know, uh, and I've been talking to a lot of people, you know, since this passed around the country privately, cause they're all terrified. Right. I think there's a really good chance that we see a real schism, you know, within the REALTOR® movement sometime this year. And I think the schism will manifest via the MLS. Right. I mean, we already have the eighth circuits of the Thompson States. Right. And then we have California where you can't tie REALTOR® membership to MLS subscription, Texas is not one of those. However, given kind of the general social and political environment in Texas, if a REALTOR® were to bring a lawsuit in Texas court saying this is discrimination, this antitrust, you know, I'm, I think it's pretty likely that they win that. Right. Um, and I, I think, and this is my fear with all of this is, is that, that's what we're headed to. We're headed towards schism. I don't want to see the schism. I think there's so much value to kind of the REALTOR® movement as a whole, but it is what it is. And you know, so now it's a matter of can leaders really deal with this? And you know, like the Jenna Ryan situation you guys have in Dallas is going to be the first big test of how REALTOR® leadership deals with this.

Emily: To be clear about you guys. That's not my guys, as that's not my membership, we're based in Austin, Texas however.

Rob: You guys meaning, you know, like REALTORS®. All of us.

Emily: But you guys, as in friends and colleagues that are having to wrestle through the questions that are being raised by, by the conditions that we're in today. And those are fair questions. I think what you're really speaking to though is that we can't have it both ways in terms of association and MLS world, they are different entities. They have to be treated differently. And the un- the decoupling of the two is probably more important as it relates to this topic than any other. If we truly seek to hold accountable REALTORS®, capital R, with some level of standards that are in excess of everyone else, then it can't be an association for everybody, meaning we can't necessarily continue to tie access to the MLS as it relates directly to that. That will be an unpopular opinion, probably even among my own leadership potentially. But there is a, there's a direct concern there that if we want to be better than we can't be for all, and if we can't be for all, then we can't tie the utility to that anymore.

Rob: Correct. Correct.

Emily: And for me, that's really the big reckoning that is coming for us is how do we continue to decouple association from the operations of the MLS in a way that's successful for both?

Rob: Well, Emily, you know, you know, I've been writing papers, I've been talking about that for seven years. So that's not the topic for this topic.

Emily: Today. We'll look at how quickly it takes us back. I mean, it does, it speaks to the dysfunction of the way that we've been managing the too long time potentially. Yeah.

Rob: Yeah. And I think we're going to see everything come to a head sometime this year. I actually believe that.

Emily: Right. Right. So, so you spoke a little bit of, of a REALTOR® member to the North, Ms. Jenna, Ryan who participated in an activities at the Capitol that have been shocking to many of us, but Rob, I want, or Tim, I want to ask you this. Um, if that had happened in Canada and there had been insurrection in the way that we experienced it, and one of your members had participated in that with the conduct unbecoming apply in that circumstance.

Rob: Yeah. I, I would say yes. Uh, I can, I can clearly see that I'm taking place. I mean, Rob's recent column makes a good point that, you know, she crossed the line when it came to the hate speech, discriminatory speech. Does she insight, insurrection all that? There's luckily she actually said anything for the conduct itself. My guess, Emily, the mechanism we have that she could be called up on that mechanism. For sure.

Emily: Yeah. And so RoB, whereas you sort of said, I don't, you know, my, I, let me, let me try to recap a couple of things that you're saying, you're saying that the way that we've gone about what we did last fall will create schism. It will polarize because of the politics associated with hate speech, frankly, and racism at this point in the States. Um, and that if we were to approach this with conduct overall, we, our umbrella would be bigger and we might be able to manage even more wrongdoing that could negatively impact the public's perception of REALTORS®.

Rob: I think we, yeah, I think we would impact more of the conduct. Uh, we would, there might still be some disagreement. Right. But you know, it doesn't on its face. There's nothing objectionable about it. Right. So take the Jenna Ryan example. Right? Look, uh, if you showed up at a protest, waving a Trump flag that is not conduct unbecoming. If you then break the law and invade the Capitol, I think even the people on the right who are Trump fans might go, yeah, that's a, that's a step too far. That's, uh, that's where you cross the line. Do you know what I mean? Whereas with something like the speech code and keep in mind that we have to put this in the context of digital society as a whole, right? Every time that something like the, even the phrase hate speech comes up like in America right now that is a political topic, you know, that there's a disagreement to the left and the right on what hate speech is. Is there such a thing as hate speech? So it naturally makes half the REALTOR® population just go, Whoa, you know, this is targeted to me, that's the problem. And I think with the conduct unbecoming you remove that. You don't say to the conservative, you know, religious, whatever REALTOR®, you know, we're targeting, you know, we're targeting everybody who behaves in an unacceptable manner. And if the focus on behavior, not the content of your speech, whether it's about protected classes, whatever. So I guess in a simply put, if you, as a REALTOR®, go on social media and post a bunch of F-bombs and you know, whatever about a fellow REALTOR®, because of some business disagreement, I think most of us could look at that. That's not professional that's conduct on becoming, it has long too it's race, gender. It has an under the protected classes. It's just behavior that makes all of us look bad versus what we have.

Emily: Yeah. But so an extreme example like that I can understand, but I think even with the existing changes that were made, which are defined in federal code, you know, acts of hate speech are clearly defined and can be trained against to some degree.

Rob: No, I don't believe the hate speech cannot appear in federal code because the first amendment.

Emily: But the, well, the protected classes can be what its objective is defining. Is it hate speech or regular speech around those protected classes. But there's question there, even of how are we training the panels that will have to manage these, how, you know, are people really prepared to put the guard rails up around that. Tim, in Canada to what extent I mean, how are you training people to determine what's unbecoming? And what's not, that's even even more gray than the territory that we're in right now.

Tim: Yeah, it's true. And that this is our weakness. So we took the first step in 2015 to put this into the code, but it has been poorly managed since now. There are some new cases coming up. If you want for future podcast, I'd recommend Edmonton out of the

province of Alberta. They seem to be the leader in actually enforcing this aspect, but broadly and across our country is poor. But let me add a couple of thoughts to a well you'd Robert just discussing my understanding is that NAR did consult with CREA to see, uh, how we conduct, uh, becoming, um, was working as an ultimately a NAR though decided because of the nature it was happening in the States around speech and racism. They decided to, uh, act the need to act in that direction. But I, I do worry for ya . I think that is too narrow. Now here's another kind of soft Canadian example. It's not storming the Capitol, but very recently the province in Nova Scotia, it's like Canada's main. Uh, we had a REALTOR® who stole a dog. She thought he dog was being mistreated, uh, by, uh, by its owner. And she refused to get the dog back, um, was not a client. There's no real, real estate relationship. Um, but she did say that she knew some stuff about his listing and she would use that against him if he complained. So here's an example. Again, something that would not be caught up in speech, but that's embarrassing behavior. The regulator here did act in the province of Nova Scotia, but as a slap on the wrist. So ultra saying, what the hell, this is extremely embarrassing, threatening people. So are unbecoming will capture that, as where your speech code would not.

Emily: I, uh, I mean, if only our problems were so simple as to relate to stolen dogs, we would really, I envy the experiences you're having. Um, you know, we're so close yet, so far apart, really, but it is. It's interesting to think about how, how wide the umbrella could run, how, um, how significant even very small actions are when it comes to retaining the public's trust in the profession that we represent. Um, and the relationship that we share with the public, Tim and, and Rob to tell me, how do you think the public perceives the changes that are being made? You know, w what's the conversation like with a consumer at this point, should we be touting that we're doing this and we're proud of ourselves for doing it, or, um, what do you think their perception is of these changes?

Rob: Tim you wanna take a stab at that?

Tim: Yeah, so, uh, my, my usually I'll answer it a different way. My usual gut on this as a consumer will be widely, um, unaware. This is taking place and you can tell them all about it and why not, but it probably won't it usually the bad news travels, right? Bad news travels around the world before good news gets his pants on as the expression goes. But let me give you some contrary examples of risk of not of not doing this. So, you know, another example close to home. I had spent 21 years of public life as an elected representative here in Ontario, and we had a case of the dog punching vet. So local veterinarian was taped by his staff, physically abusing dogs and clipping punching in the face claimed that the country he came from that was common practice, which was ridiculous. Um, the disciplinary board went after him, gave him a slap on the wrist. And the veterinary association was nowhere to be seen. Uh, they didn't even do the few bad apples saying they just totally disappeared, which was outrageous, which made me suspicious of that professional together. And that was such a huge story, um, that, uh, that people then would lose faith in their ability to self-regulate even worse. We've had a series of stories in province of Ontario chiefly out of the Toronto area our Capitol, uh, where they have what's called the trash among teachers were teachers who had caused sexual abuse, uh, to their students would simply be passed on sight, unseen to a school, you know, down the road. And they were never brought up on charges by, by the union

or sadly effectively by the regulatory body, which absolutely undermines their ability. What does that mean? Well, the professions in disgrace, people will generalize that this is happening more often than not, and it will invite further government intervention into day-to-day business.

Rob: I think, um, my take on it is pretty straightforward. Um, depends on which consumer you're talking about. In other words, REALTORS®, aren't the only people that are divided, the people in the United States are divided. So take Texas, right? I mean, in the Dallas area, I I've seen these comments. Right. But you know, people on the left are saying, Jenna Ryan's a trader and you know, whatever, and we'll never do business with her. On the flip side, you've got half the country, Jenna Ryan is a Patriot. And you know, I'm going to make sure to do business with her. I it's. So when it comes to something like this, there was a story in, um, real clear investigations. I don't know if you saw it, but it's, it's essentially a center, right. You know, media source, right. That's talking about the NAR speech code and how this has means NAR gone woke as because social justice, uh, entity, half the country is going to look at REALTORS® and say, that's terrible. Right? The other half of the country is gonna look at them. That's wonderful. Like, NAR they're just doing the right thing. So in a real way, by going down this road, I think it's inevitable right there. There's no we're caught between a rock and a hard place REALTORS® can't at this point, I don't know how you get around that or until the mood of the consumers themselves change. So if we get to a point where 90% of consumers, you know, just everyday people go, yeah. You know what? We really need to stomp out hate speech and, you know, et cetera then. Yeah. I guess this is fine. But if it goes the other way, where 90% of the consumer is actually like, no, this is a infringement on freedom and this is too much and, you know, then we got a problem. So to me, very similar, if you want to do the analysis from that standpoint to kind of how the NBA handled black lives matters, right. When they went and did the jerseys and the kneeling and, and all of that, like yeah. Some part of the countries thought that was wonderful. It's such a great expression, but at the same time, we all recognize a bunch of the public just said, I'm never watching the NBA again. Right. So I feel like, yeah, maybe it's not going to get traction. And I kind of agree with Tim in the sense that most people aren't going to pay attention to this, except that the United States right now is so heavily politicized, so divided. And the two sides do not watch the same news. We don't follow the same media. And I'm constantly shocked because I'm, I am on the right. And I look at, I talked to my friends who are on the left. And so we don't like, I don't watch MSNBC. They don't watch Fox. You know what I mean? It's just, we don't follow the same news. So what some people might say, this is no big deal. It's not even, blipping the surface, the consumers I'm like, I don't know if that's true. If you watch this side of the media, it's very much in the consciousness of consumers there. So it's just a major concern, whichever side you're on. You know what I mean? At some point, when you look at it as REALTORS®, as a whole industry, as a whole, we don't deal with this division in some way. I don't, you know, schism seems like the only possible outcome.

Emily: But I think that's true even had we adopted a different even had we adopted conduct unbecoming it, I mean, there would still be the same kind of divide potentially around actions taken related to individual conduct that might be perceived as politicized as well. I don't, I mean, um, I would say this, I, I don't, I don't think we're here to criticize. What's been done as much as we're saying, what do we continue to do? And then even

as we continued to expand opportunities to increase professionalism, I think we run the risk of that schism again and again, because that's just where we are culturally right now.

Rob: Yeah. Like I said, I mean, we don't know because it's, it's been done. Right. But I guess from my standpoint, uh, it was by not having it facially like prima facia, you know, just on the surface, right. Seem one way or the other. Right. Which is why I really love the Canadian conduct unbecoming clause now you're right Emily. In certain cases, application of that rule in a certain market could become political. It could become all those things, but with something like conduct them becoming, you can point to actual conduct that's egregious, you know what I mean? So even if

Emily: Yes and no, I mean, I, you know, there are things that I think are very unbecoming that might not be perceived that way or things that are very unprofessional in my book that might not be unprofessional in years. I can't imagine the task of training against the grievance panels and the professional standard folks that would have to work to determine conduct at large, what is professional and what is not. I've seen some things in my time in this business. And it, you know, if we can't manage that at a human level, I'm not sure how we manage that through a professional standards process.

Tim: I actually think it's not as difficult to imagine that because again, the conduct unbecoming clause and CREA talks about egregious behavior.

Emily: Tim, how hard is it to define egregious?

Tim: You don't have to define it. That's why I say like, here's some interesting, America's want to define stuff like down to like, you know, we don't have to, like, we can actually learn the judgment of rational people without special training. Seriously. If I, if you had a, a committee of say five REALTORS®, right? Without any special training, we went to them and said, listen, uh, this REALTOR® was caught on camera having sex in an empty listing. Do you guys think this is conduct unbecoming? I think the answer's gonna be pretty clear. I mean,

Emily: How many actions are there? Were there circumstances that could be perceived as politically driven or politicized? And then how do we train against those actions point, Rob, you hear the news one way I might hear it a completely different way. The facts are not facts here sometimes.

Rob: Sure. But my point is I think most the vast majority of situations, Hey, this person broke windows at the Capitol and stormed in. Well, that seems like pretty reasonable to say, that's conduct unbecoming this person was waving a flag, put up a post on social media saying I support, you know, blue lives matter. That does not seem like conduct unbecoming, right? So the issue becomes local enforcement of local REALTORS® without any special training to say this conduct was no good. This conduct was good. Now are there those great cases in the middle where you might find, you know, say Austin super liberal, right? So, you know, your board might say, Hey, what you did over there, that's conduct on becoming for us, get out. And could that become an issue I guess, but you

know what, that's going to happen with this code, right? With this speech code. Cause you're going to have different local enforcement as Tim pointed out. One of the biggest issues is how do you enforce this?

Tim: I feel like, yeah, it's the same problem, greater vulnerability to be it being gamed in the States. No doubt was particularly, uh, around, um, religious beliefs and political beliefs. And the environment that you're in the experience in Canada has, has been as an op and triggered that much rubs, right? It does use the term egregious behavior, anything that is considered disgraceful, unprofessional or unbecoming, right. And it's egregious, you know, under the circumstances and you tend to have then, you know, respected members that sit on these panels who will adjudicate these matters. So the experience has been actually to have fewer than more. I think that speech policing will result in more the same types of using regulatory as going after your competition. I think you're far more vulnerable there. Then, then conduct unbecoming. The last thing I'll say on this too, is the experience in Canada so far has been, it tends to be an add on, there are usually other behaviors that would take place during real estate transactions. And this gets to be an add-on that, that tends to be the pattern of those cases that exist

Emily: Until, the dynamics in our countries shift in such a way that not everything is as politicized as it is today. I think we've got an uphill battle and a lot of this is going to remain money. What else can, and should we be doing to increase professionalism and the public's trust in our, in our profession, then what other options do we have if all of this is quite challenging?

Rob: I mean, you know, we've talked about this, I think three years ago. And one of the issues with professionalism and public trust is the REALTOR® associates are super secretive about ethics charges and even ethics punishment, right? Like, it's not like I could go on ABoR's website right now, click on blacklist. Right. And here is a list of REALTORS® have been disciplined by ABoR for an ethics violation. Right. There's nothing in the record, you know, it's not like I can say, you know, Hey, look, let's look up the better business Bureau for REALTORS® and see, you know, is this person have a clean record or not? We don't do that. So, right.

Emily: So transparency in the process would, would definitely provide for public trust.

Rob: I would think so. I mean, if that's our goal, like how do we not tell the public here's, you know, here's how we discipline our own. Right? Like we it's, we do it, but then it's all secrets all kind of inside baseball. Right.

Emily: Even though the regulatory agencies, that's the case, Tim, is that any different in Canada for you?

Tim: Yeah. I can't speak to the American experience. I'm sure it's different across the 50 States, but here in Ontario, our regular needs strengthening. There's no doubt about it. I happened to be the guy that brought that legislation through.

Emily: Yeah. You're the one for that.

Tim: This time in 2002, but a big charge we've led successfully with the current government is to get a greater ability to suspend revoke licenses. We've more than doubled defined. They can do proactive investigations now set a higher bar to get the profession, um, to have a small, uh, administrative penalties as well. So you don't spend as much resource to going after the bad apples as you could for simple tickets. Right. So we've, we've actually brought that forward, which I think has raised the level of esteem for REALTORS®, certainly with government decision makers and then those that follow, uh, in the public. I think Rob makes an excellent point about the secret nature. I mean, it's, it's hard even on a regulator to find who have had transactions or sorry at that transgressions, we can do that. Similarly. I think he had to hold brokers accountable to, we've all heard stories with a REALTOR® who gets in trouble and then she finds, you know, refuge at, uh, at some low life brokerage. Right. So shouldn't brokers also be responsible for the conduct of the Regents.

Emily: Yeah. That's an interesting one though. And sort of stemming from what Robin's saying as well. I've heard this from so many brokers that even they are not always aware when an agent parted ways with their previous firm under terms that were less than awesome. And so it's transparency in their recruiting process as well would be beneficial because they wouldn't pick up agents that maybe had acted in ways that they don't want in their firm or their are not conducive to their brand. So I think that there's plenty to be done in terms of how we, how we publish potentially, you know, the actions that are being taken and the records of the agents that we, that we work with and manage and highlight, frankly, those that are truly professional and are excelling. I mean, I would love us to find the carrot due for this and have the opportunity to really highlight the good work of so many members that we represent. And I would bet that Jim feels the same about his agents

Tim: And standing point to celebrate those successes. Those that are extraordinary, their charitable giving that are solving problems in their communities, set rise occasion and, you know, lead leading boards like, uh, like Austin's um, yeah, we just have operating from principle, um, that is just too far too easy to get in and far too hard to kick somebody out when they break the rules and we're making progress by sticking to that and going hard at decision makers on that principle.

Emily: I think that's a, that's a great place for us to kind of wrap up with, with the expression that, you know, we're in the mud, we're not going to get out of there very quickly. We've got a ways to go. I think that, um, all of us will continue this conversation in some manner as we continue and, and hope for less divisiveness in our future, that would be beneficial for everyone. I think it's safe to say, um, with that, I want us to wrap up with a few fun questions. If you're open to it, I usually do a seed round at the end of scratchthat these days. And I can think of

Tim: Definitely given the topic we're discussing, boy sounds fun.

Emily: We're going to go, we're going to do it. You, you never bring a little joy even to the, even to the mud. So, uh, Rob, let me start with you. What's your favorite podcast?

Tim: My favorite podcast, uh, Industry Relations.

Rob: Okay. Oh really? You had to promote your own podcast. Come on, Rob. There's no pitching here on,

Rob: After that, honestly it's gotta be, uh, Dan Carlin. Hardcore History.

Emily: Okay. All right. I'll take that one. What's your favorite city that you'll travel to after COVID or maybe during COVID if that's your choice,

Rob: Charleston, South Carolina.

Emily: Charleston. Get back to the South. And what book should everybody be reading right now?

Rob: Oh, I don't know. That's passed on passed to Tim and let me think about it. Get back to you. No, actually, no, I take that back. Everyone should be reading the Daily Stoic.

Emily: Okay. All right. Why?

Tim: I think we all need to embrace that a little bit more stoicism in our lives, you know, at the philosophy of stoicism, even

Emily: It is ironic coming from you, Rob Hahn, but I appreciate these days. Tim, What's your favorite?

Tim: I'm not a huge podcast guy. So I guess anything I'm a fan of The Ringer. So anything that comes out of the ringer, I love the sports culture and politics to that.

Emily: Okay. Love it. Um, what city do you want to travel to? When you can travel again.

Tim: So we would split. I mean, I love coming to States. We're actually we're in Charleston last year. I've enjoyed my trips to Austin. So I got three answers. I would choose Chicago. My wife would choose New York city. And if we had a compromise, so you have good friends in Vegas, plus Robin Sonny. So Vegas would be on the list.

Emily: Yeah. Vegas. Uh, and what books should everybody be reading right now?

Tim: I'm sorry. I'm reading Hillbilly Elegy. I I'm a fan of, uh, Tom Wolf and his past. So I'm trying to find somebody who helps capture, you know, what's going on in the culture. So that's Vance and Hillbilly Elegy would be my recommendation.

Emily: I love it. Um, you guys are awesome. I so appreciate you being willing to talk about a conversation that will go nowhere to some degree, because it's difficult to talk through, but I know that, uh, we'll, we'll get to the end of it at some point. And I really appreciate you taking time with me today. Thank you.

Tim: Great. See you again.

Emily:

Thanks for tuning in. Like what you hear, let's continue this conversation. Give us some love by leaving us a review on iTunes and let your friends know about this show by sharing this episode on social media. You can also follow along and tag me