

**DECISION OF  
THE SASKATCHEWAN REAL ESTATE COMMISSION  
AND CONSENT ORDER**

*Valcourt (Re)*, 2019 SKREC 29

Date: July 30, 2019  
Commission File: 2019-23

**IN THE MATTER OF  
THE REAL ESTATE ACT, C. R-1.3 AND  
IN THE MATTER OF RICK VALCOURT**

Before: A Saskatchewan Real Estate Commission Hearing Committee  
comprised of the following:

David M. Chow - Chairperson  
Al Myers  
Dean Staff

**CHARGE and ADMISSION OF MISCONDUCT:**

[1] The registrant is charged with and is admitting to professional misconduct as follows:

**Count 1:**

That, contrary to section 39(1)(c) of *The Real Estate Act*, Mr. Valcourt breached Commission Bylaw 727 by advertising a property for sale without written authorization from the owner or the owner's lawful representative.

**Count 2:**

That, contrary to section 39(1)(b) of *The Real Estate Act*, Mr. Valcourt engaged in conduct that was fraudulent.

## LEGISLATION:

[2] Section 39(1) of *The Real Estate Act* states, in part:

*“Professional misconduct is a question of fact, but any matter, conduct or thing, whether or not disgraceful or dishonourable, is professional misconduct within the meaning of this Act, if:*

*...*

*(b) it is fraudulent;*

*(c) it is a breach of this Act, the regulations or the bylaws or any terms or restrictions to which the registration is subject;”*

[3] Bylaw 727 states, in part:

*“A registrant shall only advertise properties for sale or lease, or properties sold or leased when written authorization has been obtained from the owner or the owner’s lawful representative.”*

## FACTS:

[4] In accordance with subsection 9(4) of The Real Estate Regulations (“the Regulations”), the Hearing Committee accepts Mr. Valcourt’s Statement of Facts and Admissions, which includes the following relevant points:

[5] Mr. Valcourt was continuously registered as a salesperson under the provisions of *The Real Estate Act* in the Province of Saskatchewan with the Saskatchewan Real Estate Commission from March 4, 2004 until June 9, 2006.

[6] Mr. Valcourt has been continuously registered as an associate broker under the provisions of *The Real Estate Act* in the Province of Saskatchewan with the Saskatchewan Real Estate Commission since June 10, 2006.

[7] Mr. Valcourt has taken the following real estate courses:

- Fundamentals of Real Estate;
- Principles of Real Property Law;
- Principles of Real Estate Appraisal;
- Principles of Mortgage Financing;
- Working Within the Real Estate Act; and
- Real Estate Office Management.

[8] Mr. Valcourt has completed the continuing professional development seminars each registration year since 2003-2004.

[9] Mr. Valcourt is presently registered under the provisions of *The Real Estate Act* as an associate broker with K. Wouters Realty Ltd. O/A Century 21 Prestige Real Estate.

- [10] The Seller owned the Property.
- [11] Mr. Valcourt had known the Seller for 8 to 10 years. He sold the Property to the Seller in 2014.
- [12] In the spring of 2016, the Seller asked for Mr. Valcourt's help selling the Property. The Seller did not want to pay full commission, but wanted to market the Property as a combined effort between the two of them. Commission in the amount of \$5,000 was discussed. With the Seller's permission, Mr. Valcourt was authorized to market the Property and show it.
- [13] The Property was seasonal and the Seller wanted to put it on the MLS® in the off season to get more exposure.
- [14] Mr. Valcourt used electronic signature software to sign the Seller's name on listing contracts in September of 2016, September of 2017 and September of 2018. He believed that the Seller understood what he was doing and that he had the Seller's permission to do so.
- [15] The Seller did not sign any of these listing contracts.
- [16] The Seller called Mr. Valcourt on December 12, 2018 and explained that he wanted to move the Property and was going to change things up and list it for sale with another registrant. Mr. Valcourt told the Seller this would be no problem at all.
- [17] Mr. Valcourt used electronic signature software to sign the Seller's name on a cancellation form. Mr. Valcourt believed the Seller knew what he was doing and that he had the Seller's permission to do so.
- [18] The Seller did not sign this cancellation form.
- [19] Mr. Valcourt's listing of the Property was cancelled on December 13, 2018.

**REASONS:**

- [20] The Investigation Committee and Mr. Valcourt considered the following as relevant in agreeing to the within consent order:

Mitigating Factors

- [21] Mr. Valcourt has no previous sanction history.
- [22] Mr. Valcourt has been a registrant since 2004.
- [23] Mr. Valcourt was co-operative with the investigation.

[24] Mr. Valcourt believed that the seller understood and agreed with the manner in which Mr. Valcourt prepared the documentation.

### Aggravating Factors

[25] Mr. Valcourt's actions were deliberate.

[26] Mr. Valcourt advertised the Property for sale for several years without written authorization.

[27] Based on Mr. Valcourt's comments in his correspondence, he does not seem to think he has done anything wrong.

### Prior Decisions & Other Considerations

[28] In May of 2012, the Appeals Committee of the Real Estate Council of Ontario rendered a decision [\*In the Matter of Suzette Thompson\*](#) ("*Thompson*"). The Appeals Committee in *Thompson* set out a series of factors to be considered when determining the appropriate sanction for a registrant found in breach of the legislation. The factors are as follows:

1. The nature and gravity of the breaches of the Code of Ethics.
2. The role of the offending member in the breaches.
3. Whether the offending member suffered or gained as a result of the breaches.
4. The impact of the breaches on complainants or others.
5. The need for specific deterrence to protect the public.
6. The need for general deterrence to protect the public.
7. The need to maintain the public's confidence in the integrity of the profession.
8. The degree to which the breaches are regarded as being outside the range of acceptable conduct.
9. The range of sanction in similar cases.

[29] These factors are reasonable considerations and can offer guidance to members of a Hearing Committee tasked with crafting an appropriate sanction for a registrant found to have committed professional misconduct. These factors have been consistently applied in Saskatchewan Real Estate Commission consent orders since September 2016.

*1. The nature and gravity of the breaches of the Code of Ethics.*

[30] Mr. Valcourt advertised a property for sale on MLS® for several years without obtaining written authorization to do so from the owner.

[31] Mr. Valcourt used electronic signature software to forge the seller's signature on listing documents and a cancellation form based on his belief that the seller understood and agreed with what Mr. Valcourt would be doing.

*2. The role of the offending member in the breaches.*

[32] Mr. Valcourt is the only registrant involved in his breaches of the legislation.

*3. Whether the offending member suffered or gained as a result of the breaches.*

[33] There is no evidence to suggest that Mr. Valcourt enjoyed any benefits or suffered any losses as a result of his breaches of the legislation.

*4. The impact of the breaches on complainants or others.*

[34] There is no evidence of actual consumer harm arising out of Mr. Valcourt's breaches of the legislation, but the potential harm of a registrant manipulating documents is significant.

*5. The need for specific deterrence to protect the public.*

[35] Specific deterrence is needed to ensure that Mr. Valcourt understands that signing the seller's name on several documents was unacceptable and that this breach of the legislation is a serious matter.

[36] Mr. Valcourt must also be reminded that he requires written authorization from the owner of a property in order to advertise a property for sale.

*6. The need for general deterrence to protect the public.*

[37] General deterrence is needed to ensure that all registrants understand that signing a client's name on a document is unacceptable and that this constitutes a serious breach of the legislation.

[38] All registrants must be reminded that written authorization from the owner is required in order to advertise a property for sale.

*7. The need to maintain the public's confidence in the integrity of the profession.*

[39] The public must be reassured that the Commission does not tolerate registrants forging signatures on documents. Members of the public must be able to rely on the validity of documents they receive from registrants and to trust that a registrant they have engaged to assist them in a trade in real estate will not forge their signature on any documents generated in the course of a transaction.

[40] Members of the public must be confident that all advertisements created and published by registrants offering a property for sale have been properly authorized by the property owner.

*8. The degree to which the breaches are regarded as being outside the range of acceptable conduct.*

[41] Mr. Valcourt's actions were well outside the range of acceptable conduct. It is never appropriate to falsify a signature on a document, even if the registrant believes that his or her client agrees with the contents of the document and has consented to the registrant signing the document on the client's behalf.

*9. The range of sanction in similar cases.*

#### **A. What is an appropriate sanction for Mr. Valcourt's breach of Bylaw 727?**

- [42] In *Kutsogiannis (Re)*, [2019 SKREC 23](#) (file #2018-54) ("*Kutsogiannis*"), Vasilios Kutsogiannis was issued an order of reprimand and a \$1,500 fine for advertising a property for sale for several weeks before he obtained a listing agreement from the seller. He also provided a copy of a brochure created with respect to the property to another registrant after the listing agreement with the seller had expired.
- [43] Mr. Kutsogiannis had no previous sanction history and had been a registrant since 2002. He was co-operative with the investigation.
- [44] Mr. Kutsogiannis was registered as a broker. As the people responsible for ensuring that the registrants and employees under their supervision are complying with the legislation, brokers are held to a higher standard of conduct.
- [45] Mr. Valcourt's breach of Bylaw 727 is more serious than that of the registrant in *Kutsogiannis*. Mr. Kutsogiannis was registered as a broker, but Mr. Valcourt knowingly advertised the Property for sale over several years without written authorization from the seller to do so.
- [46] In *Pylychaty (Re)*, [2016 SKREC 1](#) (file #2013-07) ("*Pylychaty*"), Lorna Pylychaty was issued an order of reprimand and a \$1,000 fine for advertising a property for sale without written authorization from one of the owners on title. Ms. Pylychaty's failure to have one of the sellers sign the agency agreement was an oversight.
- [47] Ms. Pylychaty had been registered since 1999 and had no previous sanction history. She was co-operative with the investigation, admitted her misconduct and signed a Statement of Facts and Admissions acknowledging her error. She discussed all forms with the seller, so he was aware of the documents and verbally consented.
- [48] Ms. Pylychaty was a broker at the time of her breaches of the legislation. As the person responsible for compliance with the legislation, she should have known better than to proceed without all the requisite signatures. The document the seller had not signed was integral to the agency relationship between the sellers and the brokerage.
- [49] Mr. Valcourt's breach of Bylaw 727 is more serious than that of the registrant in *Pylychaty*. While Ms. Pylychaty was registered as a broker, Mr. Valcourt knowingly advertised the Property for sale over several years without written permission from the seller to do so.
- [50] In *Baker (Re)*, [2005 SKREC 10](#) (file #2004-75) ("*Baker*"), Robert Baker was issued an order of reprimand and a \$500 fine for providing a feature sheet to a buyer client related to the marketing of a seller's property without having a listing agreement in place or any other written approval from the seller. Mr. Baker only had the seller's verbal permission to prepare the feature sheet and share it with his buyer client.

- [51] Mr. Baker received no commission for his involvement in the transaction. The Hearing Committee acknowledged Mr. Baker's difficult personal circumstances at the time and considered it to be a matter of "human frailty rather than malice". His personal circumstances and the remorse shown reduced the sanction from what it could have been.
- [52] The Committee also considered Mr. Baker's previous sanction history and his long experience in the industry. He should have known and followed the simple rules regarding advertising. The obligations a registrant owes to his or her client are the same whether or not the registrant is making money on the trade.
- [53] Mr. Valcourt's breach of Bylaw 727 is more serious than that of the registrant in *Baker*. Both registrants believed they had the seller's permission to advertise property for sale, but Mr. Baker was sanctioned for creating a single feature sheet which he provided to a single buyer client. Mr. Valcourt listed the Property for sale over the course of several years without obtaining written authorization from the seller to do so. There is no evidence to suggest that Mr. Valcourt was experiencing difficult personal circumstances at the time of his breach of the bylaw.
- [54] In *Lane (Re)*, [2002 SKREC 6](#) (file #2001-64) ("*Lane*"), Robert Lane was issued an order of reprimand and a \$2,000 fine for advertising a property for sale months after the brokerage contract had expired and the property had been listed for sale with another brokerage.
- [55] Mr. Lane was co-operative, admitted his mistake and showed remorse. He changed the brokerage's processes to monitor listings and expiry dates and amended the website to remove any expired listings.
- [56] This was Mr. Lane's third advertising violation in a short period of time. The Hearing Committee noted that, if Mr. Lane's violations had been more serious and involved consumer harm, suspension or cancellation of his certificate of registrant may have been warranted.
- [57] Mr. Valcourt's breach of Bylaw 727 is less serious than that of the registrant in *Lane*. Mr. Valcourt believed he had the seller's permission to list the property for sale and he does not have a previous sanction history. However, Mr. Valcourt's breach of the bylaw is made more serious by the fact that he advertised the Property for sale over several years without obtaining written authorization from the seller to do so.
- [58] In *Lypchuk (Re)*, [1998 SKREC 2](#) (file #1997-53) ("*Lypchuk*"), Ron Lypchuk was issued an order of reprimand and a \$500 fine for breaching Bylaw 727. Mr. Lypchuk forged the signature of one of his seller clients on a document, even after the seller informed Mr. Lypchuk that he did not intend to re-list the property until he had determined whether or not he was going to rent out the property instead.

- [59] Mr. Lypchuk was remorseful and accepted responsibility for his actions. He apologized to the sellers for his errors and saw some repercussions in his personal and professional life once the incident came to light. The sellers were not harmed financially, although the potential for financial harm existed.
- [60] Mr. Lypchuk had full knowledge that he did not have authority from the owner to sign a listing agreement. Mr. Lypchuk witnessed his own forged signature and waited almost a week to advise the seller the contract had been extended.
- [61] Mr. Valcourt's breach of Bylaw 727 is less serious than that of the registrant in *Lypchuk*. While each registrant forged a seller's signature on a listing document and signed as witness to his own forged signature, Mr. Lypchuk's seller client had expressly indicated that he did not intend to re-list the property at that time.
- [62] The decisions in *Baker, Lane* and *Lypchuk* were rendered prior to a significant expansion of the real estate market that occurred in 2008. Property values increased substantially and, as a result, the commission registrants can expect to earn on trades in real estate increased as well. The impact this market expansion and general inflation have had on commissions must be considered when determining sanctions for a registrant's breach of the legislation or the Commission runs the risk of disciplinary action coming to be considered a "cost of doing business".
- [63] An order of reprimand and a \$1,500 fine are appropriate sanctions for Mr. Valcourt's breach of Bylaw 727.

**B. What is an appropriate sanction for Mr. Valcourt's breach of s. 39(1)(b) of the Act?**

- [64] In *Estrada (Re)*, [2017 SKREC 5](#) (file #2016-08) ("*Estrada*"), Crandell Estrada was issued an order of reprimand and a \$2,500 fine and his certificate of registration was suspended for 30 days for breaching s. 39(1)(b) of the *Act*. Mr. Estrada sent a Schedule "C" to his buyer clients to complete. The buyers signed the document, but were not able to return it to Mr. Estrada as a PDF document. Mr. Estrada physically cut the buyers' signatures out of another document and affixed them onto the Schedule "C" form he had sent them to sign. He sent this document to the seller's agent for signature. Another employee of his brokerage found a Schedule "C" on the photocopier with a cut-out signature lying loose on it. Mr. Estrada's employment with his brokerage was terminated as a result of his actions.
- [65] Mr. Estrada had no previous sanction history and he was co-operative with the investigation. His buyer clients did, in fact, sign the Schedule "C".
- [66] Mr. Estrada's actions were deliberate and, based on his correspondence, he did not seem to think he had done anything wrong.



- [67] Mr. Valcourt's breach of s. 39(1)(b) of the *Act* is more serious than that of the registrant in *Estrada*. Mr. Estrada's buyer clients had signed the Schedule "C" while the property owner did not sign a listing agreement with Mr. Valcourt. Mr. Valcourt signed the seller's name on multiple documents over the course of several years.
- [68] In *Troesch (Re)*, [2004 SKREC 4](#) (file #2003-52) ("*Troesch*"), Georgette Troesch was issued an order of reprimand and a \$2,000 fine and her certificate of registration was suspended from July 15 to July 29, 2004 for signing the signature of a seller to a second brokerage contract without the knowledge or consent of the seller. When she was contacted by another registrant with whom the seller had listed the property after Ms. Troesch's listing expired, Ms. Troesch immediately removed the listing and sent an apology letter to the seller.
- [69] Ms. Troesch admitted her guilt, co-operated with the investigation and showed remorse. There was no evidence of consumer harm. At the time of the violation, she had been a registrant for just over a year, her brokerage had just lost its secretary and her broker was unavailable because he had recently undergone bypass surgery. Ms. Troesch understood her violation and was unlikely to reoffend.
- [70] The Hearing Committee found Ms. Troesch's breach to be a significant issue warranting a suspension of her certificate of registration.
- [71] Mr. Valcourt's breach of s. 39(1)(b) of the *Act* is more serious than that of the registrant in *Troesch*. Ms. Troesch was a new registrant whose brokerage was experiencing significant upheaval. She understood her violation and showed remorse. Mr. Valcourt is a long-time registrant and does not appear to understand the seriousness of his breach. Mr. Valcourt signed the signature of the seller to multiple documents over the course of several years.
- [72] Although it deals with a charge under a different section of the legislation, the decision in *Hincks (Re)*, [1999 SKREC 3](#) (file #1997-48) ("*Hincks*") bears some similarity to the case at hand.
- [73] In *Hincks*, Terry Hincks was issued an order of reprimand and a \$1,000 fine for breaching s. 2(l) of the *Act* by signing a principal's name to a document without the knowledge or consent of the principal.
- [74] Mr. Hincks had received all appropriate authorizations from the beneficial owners of the property with whom he had been dealing. He acknowledged his mistake and showed remorse. He did not have a previous sanction history.
- [75] Mr. Valcourt's breach is more serious than that of the registrant in *Hincks*. While Mr. Valcourt believed that he had permission from the seller, Mr. Valcourt signed the seller's name on multiple documents over the course of several years.

- [76] As the decisions in *Hincks* and *Troesch* were rendered prior to the 2008 market expansion, the sanctions ordered against the registrant must be considered in light of the impact market expansion and general inflation have had on commissions registrants can expect to earn on a trade in real estate.
- [77] An order of reprimand, a \$2,500 fine, and a 30-day suspension of his certificate of registration are appropriate sanctions for Mr. Valcourt's breach of s. 39(1)(b) of the *Act*.
- [78] As Mr. Valcourt has agreed to sign this consent order, there will be no order as to costs.

### CONSENT ORDER:

- [79] In accordance with *The Real Estate Act*, its Regulations, and the Commission Bylaws, and with the consent of Mr. Valcourt, and the Investigation Committee of the Saskatchewan Real Estate Commission, the Hearing Committee hereby orders:
- [80] **With respect to Count 1**, the charge of professional misconduct contrary to section 39(1)(c) of *The Real Estate Act* for breach of Bylaw 727:
1. Mr. Valcourt shall receive an order of reprimand for the violation of Bylaw 727;
  2. Mr. Valcourt shall, within 30 days of the date of this order, pay to the Saskatchewan Real Estate Commission a \$1,500.00 fine for the said violation of the bylaw; and
  3. Mr. Valcourt's registration shall be suspended if he fails to make payment as set out above.
- [81] **With respect to Count 2**, the charge of professional misconduct contrary to section 39(1)(b) of *The Real Estate Act*:
1. Mr. Valcourt shall receive an order of reprimand for the violation of s. 39(1)(b) of the *Act*;
  2. Mr. Valcourt shall, within 30 days of the date of this order, pay to the Saskatchewan Real Estate Commission a \$2,500.00 fine for the said violation of the *Act*;
  3. Mr. Valcourt's registration shall be suspended if he fails to make payment as set out above; and
  4. Mr. Valcourt's certificate of registration shall be suspended for a period of **30 days**, from **September 9, 2019** to **October 9, 2019** inclusive.
- [82] There shall be no order as to costs.

Dated at Moose Jaw, Saskatchewan this 30<sup>th</sup> day of July, 2019.

"David M. Chow",  
David M. Chow, Chairperson