

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

*Chahil (Re)*, 2020 SKREC 5

Date: July 20, 2020  
Commission File: 2019-62

**IN THE MATTER OF  
THE REAL ESTATE ACT, C. R-1.3 AND  
IN THE MATTER OF NAV SINGH CHAHIL**

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

Jeffrey P. Reimer - Chairperson

Cam Bristow

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. Chahil breached ss. 53(2) of the *Act* by trading in real estate other than for or on behalf of his brokerage.

**Count 2:**

That, contrary to section 39(1)(c) of *The Real Estate Act*, Mr. Chahil breached Bylaw 730(f) by failing to use the mandatory Disclosure of Interest in Trade form.

## LEGISLATION:

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

*“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...it is a breach of this Act, the regulations or the bylaws or any terms or restrictions to which the registration is subject.”*

[3] Section 53(2) of the Act states:

*“No broker, branch manager, associate broker or salesperson shall trade in real estate other than for or on behalf of the brokerage stated on his or her certificate of registration.”*

[4] Bylaw 730 states, in part:

*“The following approved forms, provided by the Association of Saskatchewan REALTORS®, shall be mandatory:*

*...*

*(f) Disclosure of Interest in Trade.”*

## FACTS:

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

[6] Mr. Chahil has been continuously registered as a salesperson under the provisions of *The Real Estate Act* in the Province of Saskatchewan with the Saskatchewan Real Estate Commission since April 2, 2018.

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

- Phase 1 – Real Estate as a Professional Career;
- Residential Real Estate as a Professional Career;
- Commercial Real Estate as a Professional Career; and
- Farm Real Estate as a Professional Career.

[8] Mr. Chahil has completed the continuing professional development seminars each registration year since 2018-2019.

[9] Mr. Chahil is presently registered under the provisions of *The Real Estate Act* as a salesperson with Diversified Realty Inc. O/A Realty Executives Diversified Realty.

- [10] In November of 2018, the Corporation purchased the Property.
- [11] Mr. A and Mr. Chahil are the directors of the Corporation.
- [12] The purchase of the Property went through Mr. Chahil's brokerage.
- [13] Mr. Chahil completed a Disclosure of Interest in Trade form that was provided to the people from whom the Property was purchased.
- [14] Mr. A and Mr. Chahil were partners in the business, but Mr. A paid Mr. Chahil out his portion once the business was up and running and they were in the process of removing Mr. Chahil from his position as director of the Corporation.
- [15] In early September of 2019, Mr. Chahil began talking to Mr. B about the possibility of purchasing the Property. Mr. B did not want any registrants involved in the transaction, but he needed help putting things on paper.
- [16] Mr. Chahil met with Mr. A and Mr. B at Mr. B's home on September 21, 2019. At Mr. A and Mr. B's request, Mr. Chahil used his tablet to download a Contract of Purchase and Sale and filled it out.
- [17] The Contract of Purchase and Sale indicated that neither Mr. B nor the Corporation was represented by a registrant. The document stated that Mr. B would purchase the Property from the Corporation for \$80,000 and included a term regarding a vendor financing arrangement between the buyer and seller.
- [18] On September 21, 2019, Mr. B signed the Contract of Purchase and Sale.
- [19] As of September 21, 2019, Mr. Chahil was still a director of the Corporation.
- [20] Mr. Chahil did not provide Mr. B with a completed Disclosure of Interest in Trade form disclosing his status as a director of the Corporation.
- [21] Mr. Chahil did not believe he needed to provide Mr. B with a disclosure form because he did not represent Mr. A or Mr. B in the transaction.
- [22] Mr. Chahil believes that Mr. B knew from the beginning that Mr. Chahil was an owner of the business, but that his interest in the business had since been purchased by Mr. A.
- [23] On September 21, 2019, Mr. A signed the Contract of Purchase and Sale on behalf of the Corporation.
- [24] Mr. Chahil signed the Contract of Purchase and Sale as witness to the signatures of Mr. A and Mr. B.

- [25] Mr. Chahil did not deliver a copy of the Contract of Purchase and Sale to his brokerage.
- [26] On September 21, 2019, Ms. B wrote a cheque for \$5,000 to the Corporation. The memo line of the cheque states "Deposit".
- [27] The deposit cheque was given to Mr. A.
- [28] Mr. Chahil continued to correspond with Mr. B about his purchase of the Property. Mr. B made a couple of requests to see some of the Corporation's financials and business documents, but he had not included the provision of any of these documents as a condition on his offer to purchase the Property. To the best of Mr. Chahil's knowledge, Mr. B was never provided with the documents he had requested.
- [29] On or about September 26, 2019, Mr. B called Mr. Chahil to let him know that he would not be going ahead with the deal because of the advice he received from his accountant and his lawyer and because he had never been provided with any of the documentation he had requested.
- [30] Over the next few days, Mr. Chahil and Mr. B continued to correspond about the purchase of the Property.
- [31] On October 3, 2019, Mr. Chahil contacted Mr. B via text message to see if there was any update. Mr. Chahil told Mr. B that Mr. Chahil thought he might be able to get Mr. A to agree to reduce the purchase price to \$55,000.
- [32] Mr. B replied to say that he would see how much money he could access.
- [33] Mr. Chahil sent another text message advising that Mr. A had told Mr. Chahil that the \$5,000 cheque obtained from Mr. B's wife had bounced.
- [34] Mr. B replied that Mr. A had not told him that he would be depositing the cheque. He stated that Mr. Chahil had said it would be with Mr. A and that the cheque had come from his wife, who was not part of the business. He stated that Mr. A should have informed him before depositing the cheque.
- [35] On or about October 6, 2019, Mr. Chahil spoke to Mr. B on the phone and was told that Mr. B could not arrange for financing and would not be going ahead with the deal.
- [36] The Corporation started a small claims action against Mr. B and Ms. B.
- [37] Ultimately, the Corporation withdrew its claim against Mr. B and Ms. B. Mr. Chahil provided his phone number as the contact number for the Corporation on the document that was sent to the court advising of the plaintiff's withdrawal of its claim. Mr. Chahil had taken the initiative to settle things between Mr. A and Mr.

B, so he provided his phone number so he could make sure the claim had been withdrawn. Once Mr. Chahil received confirmation of the withdrawal, he called Mr. B to let him know.

- [38] Mr. B had very little direct contact with Mr. A. The majority of discussions regarding Mr. B's purchase of the Property were between Mr. B and Mr. Chahil.

#### **REASONS:**

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

#### Mitigating Factors

- [40] Mr. Chahil was co-operative with the investigation.
- [41] Mr. Chahil has no previous sanction history.
- [42] Mr. Chahil had been registered for just over a year at the time of the transaction.
- [43] The ongoing coronavirus pandemic has had a significant and largely negative impact on the real estate market and on registrants' incomes generally.

#### Aggravating Factors

- [44] As a director of the corporate seller, Mr. Chahil was personally involved in the transaction. When a registrant is personally involved in a transaction, he or she should take extreme care to ensure that the transaction is carried out properly.

#### Prior Decisions & Other Considerations

- [45] 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.

[46] 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.*

[47] Mr. Chahil is a director of the corporate owner. Mr. Chahil was involved in negotiations between the other director of the corporate owner and a mutual acquaintance who was interested in purchasing the property. Mr. Chahil drafted an offer to purchase the property on behalf of the purchaser and a deposit cheque was taken from the purchaser's wife. Mr. Chahil did not provide the purchaser with a Disclosure of Interest in Trade form and his brokerage was not involved.

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

[48] Mr. Chahil was the only registrant involved in this situation. He did not involve his broker or brokerage in any way.

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

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

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

[50] There is no evidence of actual consumer harm arising out of Mr. Chahil's breaches of the legislation, though the risk of harm arising out of a registrant trading outside of his brokerage and failing to provide proper disclosure to a member of the public is significant.

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

[51] Specific deterrence is needed to ensure that Mr. Chahil understands that the definition of a "trade" in real estate is very broad and that all activities that constitute a trade in real estate must be carried out through his brokerage.

[52] He must be reminded of the importance of providing the mandatory written disclosure whenever he is dealing with a property in which he has an interest.

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

[53] General deterrence is needed to ensure that all registrants understand that the definition of a "trade" in real estate is very broad and that all activities that constitute a trade in real estate must be carried out through the registrant's brokerage.

[54] All registrants must be reminded of the importance of providing the mandatory written disclosure whenever the registrant is dealing with a property in which he or she has an interest.

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

[55] Members of the public must be reassured that the registrants with whom they are dealing with respect to a trade in real estate are operating under the authority and supervision of the brokerage with which they are registered to trade.

[56] Members of the public must be confident that they are receiving the mandatory written disclosure when they are dealing with a registrant who has an interest in a property.

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

[57] Mr. Chahil's conduct falls below the standard expected of registrants, but it was not egregious.

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

**A. What is an appropriate sanction for Mr. Chahil's breach of ss. 53(2) of the Act?**

[58] There are seven previous decisions dealing with a breach of s. 53(2) of the *Act*, three of which deal with registrants who traded outside their brokerage with respect to real estate in which they had, or acquired, an interest.

[59] In *Elenko (Re)*, [2019 SKREC 2](#) (file #2016-34) ("*Elenko*"), Jayson Elenko was issued an order of reprimand and a \$1,250 fine for trading outside his brokerage. Mr. Elenko entered into a one-year lease with respect to a property and ultimately purchased the property with his wife. The offer did not go through Mr. Elenko's brokerage or any brokerage. There was no deposit to be held in trust and Mr. Elenko did the paperwork himself. Mr. Elenko believed that the sellers were aware that he was a registrant, but he did not provide the sellers with a Disclosure of Interest in Trade form.

[60] Mr. Elenko had no previous sanction history and was cooperative with the investigation. He signed a Consent Order acknowledging his errors.

[61] Mr. Elenko was personally involved in the transaction. A registrant's personal involvement in a transaction places a higher onus on that registrant to ensure that all necessary documents are properly completed.

[62] Mr. Chahil's breach of s. 53(2) of the *Act* is slightly less serious than that of the registrant in *Elenko*. Unlike Mr. Elenko, Mr. Chahil had only been registered a short time at the time of his alleged breach.

- [63] In *Wu (Re)*, [2018 SKREC 35](#) (file #2017-58) (“*Wu*”), Sky Wu was issued an order of reprimand and a \$1,750 fine for trading outside his brokerage. Mr. Wu was one of two owners of a property. The property had been listed for sale with Mr. Wu’s brokerage, but the listing had expired. Mr. Wu wrote an offer to purchase on behalf of the buyers; this offer did not indicate that either the buyers or sellers were represented by any brokerage. The offer did not go through Mr. Wu’s brokerage. Mr. Wu did not provide the buyers with a Disclosure of Interest in Trade form.
- [64] Mr. Wu had no previous sanction history and was cooperative with the investigation. He did not earn any commission on the transaction.
- [65] The agency relationship between members of the public and the brokerage that represent them is a fundamental component of the real estate industry. Registrant conduct that undermines this relationship is not acceptable. Mr. Wu was personally involved in the transaction and there were no other registrants involved in the transaction.
- [66] Mr. Chahil’s breach of s. 53(2) of the *Act* is similarly serious to that of the registrant in *Wu*. Both registrants traded in real estate in which they had an interest and failed to conduct the trade through the brokerages with which they were registered.
- [67] In *Zareh (Re)*, [2018 SKREC 30](#) (file #2013-61) (“*Zareh*”), Shaheen Zareh was issued an order of reprimand and a \$1,000 fine and his certificate of registration was suspended for a period of two weeks for trading outside his brokerage. Although he was registered with Royal LePage Regina Realty, Mr. Zareh was also employed by a property management company. Through this other company, Mr. Zareh provided property management services with respect to thirteen properties, most of which he owned or in which he had an interest. Mr. Zareh did not complete a Disclosure of Interest in Trade form with respect to any of the properties he owned or in which he had an interest.
- [68] Mr. Zareh had no previous sanction history and was cooperative with the investigation. He signed a Consent Order acknowledging his misconduct.
- [69] Mr. Zareh operated an extensive property management business, comprising over a dozen properties, outside his brokerage.
- [70] Mr. Chahil’s breach of s. 53(2) of the *Act* is less serious than that of the registrant in *Zareh*. Mr. Chahil traded outside his brokerage with respect to a single property.
- [71] The coronavirus pandemic began exerting significant pressure on the Canadian economy in March of 2020. As a result of large-scale layoffs in some industries and the general economic uncertainty, real estate markets are also experiencing declines. While sanctions are intended to serve as punishment for a breach of a

registrant's professional obligations, the Commission should avoid penalties that are overly punitive. The current economic climate must be considered when crafting appropriating sanctions for a registrant's misconduct.

[72] An order of reprimand and a \$1,000 fine are appropriate sanctions for Mr. Chahil's breach of ss. 53(2) of the *Act*.

**B. What is an appropriate sanction for Mr. Chahil's breach of Bylaw 730(f)?**

[73] There are several decisions dealing with breaches of Bylaw 730(f), some of which bear some factual similarity to the case at hand.

[74] In *Zareh*, Mr. Zareh was also issued an order of reprimand and a \$5,000 fine for failing to use the mandatory Disclosure of Interest in Trade form.

[75] Mr. Zareh had no previous sanction history and was cooperative with the investigation. He signed a Consent Order acknowledging his misconduct.

[76] Mr. Zareh failed to complete the mandatory disclosure form with respect to any of the trades in real estate he carried out as part of his property management business that involved over a dozen properties.

[77] Mr. Chahil's breach of Bylaw 730(f) is less serious than that of the registrant in *Zareh*. Mr. Zareh failed to complete the mandatory disclosure form on multiple occasions, while Mr. Chahil failed to complete the form once.

[78] In *Sirois (Re)*, [2009 SKREC 14](#) (file #2008-68A) and *Sirois (Re)*, [2009 SKREC 13](#) (file #2008-68) (the "*Sirois Decisions*"), Laurent and Gaston Sirois were each issued an order of reprimand and a \$1,000 fine for failing to use the mandatory disclosure form. The registrants each owned a 25% share of a numbered company that entered into a contract of purchase and sale with potential buyers. Laurent Sirois verbally advised the buyers that he and Gaston Sirois each had an interest in the property through the involvement in the numbered company, but neither registrant completed the mandatory Disclosure of Interest in Trade form. The transaction ultimately collapsed.

[79] Gaston Sirois did not have a previous sanction history and he had only been in the real estate industry for a short time. Laurent Sirois did not have a previous sanction history and he had been registered since 1986.

[80] The fact that there was clearly no gain or profit by the registrants and that verbal communication of their status as registrants had taken place was a mitigating factor.

[81] The Hearing Committee stated that it is extremely important that mandatory forms be used. The forms must be used in all circumstances; it is not up to the registrants to determine when and where they should be used.

- [82] Mr. Chahil's breach of Bylaw 730(f) is more serious than that of the registrants in the *Sirois Decisions*. Laurent Sirois verbally advised the buyers of the interests he and Gaston Sirois had in the numbered company.
- [83] In *Jardine (Re)*, [2007 SKREC 3](#) (file #2006-49) ("*Jardine*"), Paul Jardine was issued an order of reprimand and a \$500 fine for failing to use the mandatory disclosure form. Mr. Jardine was a registrant and also had a material interest in a homebuilding company. Mr. Jardine represented both the buyer and the homebuilding company in an agreement to build a care home in Regina. During the new construction, verbal discussions ensued and, in error, Mr. Jardine believed that the buyer had agreed to pay \$50,000 over and above the agreed-upon contract price. The buyer disagreed with that interpretation and both parties ended up seeking remedies for alleged breaches of the contract through the court process. Mr. Jardine acknowledged having made errors in the process and that the documentation could have been clearer.
- [84] The Hearing Committee stated that a more significant sentence would have been issued except for the fact that Mr. Jardine's actions caused him to suffer a loss and that this was his first offense in a long career.
- [85] The Committee stressed that mandatory forms are mandatory and stated that registrants must use the forms. There is no discretion for registrants to decide when or whether to use them.
- [86] Mr. Chahil's breach of Bylaw 730(f) is more serious than that of the registrant in *Jardine*. There were more mitigating factors at play in *Jardine*.
- [87] In *Lewis (Re)*, [2005 SKREC 1](#) (file #2004-28) ("*Lewis*"), Marla Lewis was issued an order of reprimand and ordered to pay a \$1,500 fine and \$1,830.18 in costs for failing to provide the seller with the mandatory disclosure form. Ms. Lewis was a shareholder in the buyer corporation. Prior to taking possession of the property, Ms. Lewis hired a locksmith to change the lock on the property. Ms. Lewis did not provide a Statement of Disclosure to the seller or to the seller's brokerage. The seller testified that she was not aware that Ms. Lewis was a shareholder in the buyer corporation.
- [88] Ms. Lewis did not have a previous sanction history, but the Hearing Committee found that Ms. Lewis had not shown any remorse for her actions or understanding of the seriousness of her actions. The Committee found that Ms. Lewis had abused her position of authority in the transaction and had not accepted responsibility for her actions.
- [89] The Hearing Committee was of the opinion that the actions of a registrant who purchases real estate for his or her own account and fails to make a written disclosure in accordance with s. 65 of the *Act* through the use of the mandatory Statement of Disclosure form are a very serious issue. The Committee stated

that these types of actions may warrant suspension or cancellation of the registrant's certificate of registration. The Committee also reiterated that any violation of real estate legislation is compounded when the violation is by a registrant buying or selling his or her real estate.

- [90] The Hearing Committee stated that one of the foundations of consumer protection in real estate legislation is for a consumer to have full disclosure from a registrant that the registrant is the buyer or seller, as the case may be, and any material facts respecting the sale or purchase of which the registrant is aware.
- [91] Mr. Chahil's breach of Bylaw 730(f) is less serious than that of the registrant in *Lewis*. There is no evidence indicating that Mr. Chahil abused his position as a registrant.
- [92] The decisions in *Jardine* and *Lewis* were rendered prior to 2008. In 2008, the real estate market in Saskatchewan underwent significant change. Property values increased considerably and, as a result, the commission registrants can expect to earn on trades in real estate increased as well. Sanctions ordered against registrants must keep pace with these increases or the Commission runs the risk of fines becoming a "cost of doing business". Consideration must also be paid to the general inflation that has occurred in the years since these decisions were rendered.
- [93] That said, attention must also be paid to the impact the ongoing coronavirus pandemic has had on the Canadian economy in general and on real estate markets in particular.
- [94] An order of reprimand and a \$1,000 fine are appropriate sanctions for Mr. Chahil's breach of Bylaw 730(f).
- [95] As Mr. Chahil has agreed to sign this consent order, there will be no order as to costs.

#### **CONSENT ORDER:**

- [96] In accordance with *The Real Estate Act*, its Regulations, and the Commission Bylaws, and with the consent of Mr. Chahil, and the Investigation Committee of the Saskatchewan Real Estate Commission, the Hearing Committee hereby orders:
- [97] With respect to Count 1, the charge of professional misconduct contrary to section 39(1)(c) of *The Real Estate Act* for breach of ss. 53(2) of the *Act*:
- a. Mr. Chahil shall receive an order of reprimand for the violation of ss. 53(2) of the *Act*,
  - b. Mr. Chahil shall, within 30 days of the date of this order, pay to the Saskatchewan Real Estate Commission a \$1,000.00 fine for the said violation of the *Act*; and
  - c. Mr. Chahil's registration shall be terminated if he fails to make payment as set out above.

