

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

*Woldu (Re), 2020 SKREC 6*

Date: September 25, 2020  
Commission File: 2020-03

**IN THE MATTER OF  
THE REAL ESTATE ACT, C. R-1.3 AND  
IN THE MATTER OF PAUL WOLDU**

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

David Chow- Chairperson  
Wayne Zuk  
Cliff Iverson

**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. Woldu breached Commission Bylaw 702 by failing to deal fairly with all parties to a transaction when he left the keys to a property and the alarm code unattended in the mailbox.

**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] Bylaw 702 states:

*“A registrant shall protect and promote the interests of his or her client. This primary obligation does not relieve the registrant from the obligation of dealing fairly with all other parties to the transaction.”*

## **FACTS:**

- [4] In accordance with subsection 9(4) of The Real Estate Regulations (“the Regulations”), the Hearing Committee accepts Mr. Woldu’s Statement of Facts and Admissions, which includes the following relevant points:
- [5] Mr. Woldu 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 December 7, 2011.
- [6] Mr. Woldu has taken the following real estate courses:
- Phase 1 – Real Estate as a Professional Career; and
  - Residential Real Estate as a Professional Career.
- [7] Mr. Woldu has completed the continuing professional development seminars each registration year since 2011-2012.
- [8] Mr. Woldu is presently registered under the provisions of *The Real Estate Act* as a salesperson with Regina Realty Sales Ltd. O/A Royal LePage Regina Realty.
- [9] In the winter of 2019, the Property was listed for sale by Registrant A.
- [10] The Property was vacant.
- [11] On November 14, 2019, the Buyer wrote an offer to purchase the Property. One of the conditions on the offer was a home inspection.
- [12] Mr. Woldu represented the Buyer.
- [13] The sellers signed acceptance of this offer the same day.
- [14] A home inspection was scheduled for November 22, 2019.
- [15] Mr. Woldu spoke to the home inspector that morning and he told Mr. Woldu that he was headed to the Property and would be there in 20 minutes. Believing the home inspector would be there shortly, Mr. Woldu decided to leave the keys,

alarm code and instructions for disarming the alarm system in the mailbox for the inspector.

- [16] At about 7:40 a.m. on November 22, 2019, one of the sellers went to the Property to disarm the alarm system for the home inspector. She found the keys to the house and instructions for the alarm, including the alarm code, in the mailbox. She contacted Registrant A.
- [17] Registrant A contacted Mr. Woldu and he advised her that the home inspector was going to be at the house at 8:00 that morning instead of 9:00, so he had decided to leave the keys and alarm instructions in the mailbox.
- [18] On November 26, 2019, the Buyers signed a Notice to Remove Conditions removing all conditions on the purchase of the Property.
- [19] Upon further reflection, Mr. Woldu acknowledged that he should not have left the keys and alarm code in the mailbox.

#### **REASONS:**

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

##### Mitigating Factors

- [21] Mr. Woldu was co-operative with the investigation.
- [22] Mr. Woldu has no previous sanction history.
- [23] Mr. Woldu acknowledged his error.

##### Aggravating Factors

- [24] The risks posed by an unauthorized person gaining access to the Property were increased because the house was vacant.

##### Prior Decisions & Other Considerations

- [25] 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.

- [26] 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.*
- [27] Mr. Woldu left the keys to the Property, the alarm code and instructions on how to deactivate the alarm system in the mailbox unattended so that a home inspector could access the Property.
2. *The role of the offending member in the breaches.*
- [28] Mr. Woldu was the only registrant involved in the breach.
3. *Whether the offending member suffered or gained as a result of the breaches.*
- [29] There is no evidence to show that Mr. Woldu gained any benefits or suffered any losses as a result of the breach.
4. *The impact of the breaches on complainants or others.*
- [30] There is no evidence of consumer harm arising out of Mr. Woldu's breach of the legislation, but the risks of harm resulting from a registrant leaving the means of accessing a property unattended are significant.
5. *The need for specific deterrence to protect the public.*
- [31] Mr. Woldu must be reminded of the important role registrants play in safeguarding the security of properties listed for sale. It must be made clear to Mr. Woldu that leaving the keys and alarm system information in the mailbox unattended is not acceptable in any circumstances.
6. *The need for general deterrence to protect the public.*
- [32] All registrants must be reminded of the important role they play in safeguarding the security of properties listed for sale. It must be made clear to registrants that leaving the means of accessing a property unattended in a mailbox or other publicly accessible location is not acceptable in any circumstances.

7. *The need to maintain the public's confidence in the integrity of the profession.*
- [33] Registrants occupy a position of trust with the public. Members of the public must be assured that the trust they place in registrants to safeguard the security of their properties is not misplaced.
- [34] Any conduct that undermines this relationship of trust must be taken very seriously so as to avoid harming the public and their relationship with registrants and the real estate industry as a whole.
8. *The degree to which the breaches are regarded as being outside the range of acceptable conduct.*
- [35] Mr. Woldu'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. Woldu's breach of Bylaw 702?

- [36] In *Calaguian (Re)*, [2018 SKREC 23](#) (file #2018-10) ("Calaguian"), Eric Calaguian was issued an order of reprimand and a \$1,000 fine for improperly accessing a lockbox. Mr. Calaguian had an appointment to show a condominium to his buyer clients. On arrival, Mr. Calaguian opened the lockbox to obtain the key. The one key on the chain did not open the lobby door. Mr. Calaguian thought the key may not have been cut properly, so he decided to try one of the lobby keys in one of the other lockboxes present at the complex. Mr. Calaguian opened another registrant's lockbox to use the lobby key, but that key did not work on the lobby door either. Mr. Calaguian then noticed that the key in the other registrant's lockbox had the same fob as the key from the other unit's lockbox. Mr. Calaguian used the fob to open the lobby door and returned the key to the other registrant's lockbox.
- [37] Mr. Calaguian was co-operative with the investigation and had no previous sanction history. He signed a Consent Order acknowledging his error.
- [38] Mr. Woldu's breach of the bylaw is similarly serious to that of the registrant in *Calaguian*. While there is little similarity in the facts of these cases, both Mr. Woldu and Mr. Calaguian demonstrated a lack of understanding of the importance of maintaining the security of a property listed for sale. Mr. Calaguian accessed another registrant's lockbox without notice and without authorization because he was having trouble accessing the lobby of a condominium. Mr. Woldu left the means of accessing a vacant property in the mailbox unattended on the assumption that the home inspector would be there soon. Neither registrant had a previous sanction history and both registrants were cooperative and acknowledged their errors.
- [39] In *Blanchette (Re)*, [2017 SKREC 8](#) (file #2016-09) ("Blanchette"), Erlinda Blanchette was issued a reprimand and a \$1,500 fine for accessing a property on

the assumption that her buyer client had spoken with the listing agent and gained permission to view the Property. Ms. Blanchette assumed that that the details of the viewing had been cleared with her husband (another registrant) and her husband assumed the details of the viewing had been cleared with her. While inside the Property, Ms. Blanchette asked who had authorized the showing and was informed that one of the buyers had spoken to the seller's ex-boyfriend. At this point, Ms. Blanchette told her clients they needed to leave immediately. Ms. Blanchette attempted to call the listing agent, but there was no answer. Later that night, the listing agent called Ms. Blanchette about the unauthorized viewing and Ms. Blanchette apologized for the miscommunication with her clients.

- [40] Ms. Blanchette had no previous sanction history and she cooperated with the investigation, including signing a Statement of Facts and Admissions acknowledging her misconduct. Ms. Blanchette's clients implied to her that they had obtained permission from the listing agent to view the Property. Ms. Blanchette admitted her mistake when confronted by the listing agent.
- [41] The Hearing Committee noted that the lockbox system requires sellers to put great faith in registrants to follow the rules and obtain permission from the seller or listing agent before entering the property. The Committee stated that this case, therefore, presented the potential to damage the real estate industry as a whole.
- [42] The fact that another registrant was present with Ms. Blanchette when she showed the property did not relieve her of her obligation to ensure that she had the necessary permission to access a property. Registrants cannot rely on other registrants or their clients to fulfill their professional obligations. Sellers must be confident that registrants are not abusing the lockbox system. Registrants must be aware that it is never acceptable to access a property without first obtaining permission from the seller or the seller's agent.
- [43] Mr. Woldu's breach is less serious than that of the registrant in *Blanchette*. Ms. Blanchette and her clients accessed a property without having received authorization from the listing agent to do so. There is no evidence that any unauthorized person used the key and code Mr. Woldu left in the mailbox to access the Property. While Ms. Blanchette relied on her clients' implication that they had received permission from the listing agent to view the property, Mr. Woldu believed that the home inspector would be arriving at the Property shortly to begin the inspection.
- [44] In *West (Re)*, [2015 SKREC 13](#) (file #2014-18) ("West"), George West was issued an order of reprimand and a \$1,000 fine for showing a property without authorization. Mr. West was told that he would have to make an appointment to show a property that was conditionally sold. Mr. West considered the property sold and did not make an appointment to show it to his clients. However, the sellers subsequently arrived home to find Mr. West and his buyer leaving the Property. Mr. West apologized to the sellers, who accepted his apology, and to the listing agent.

- [45] Mr. West had no previous sanction history and admitted his wrongdoing immediately when contacted by the listing agent. As the seller's agent sent out an email to a number of registrants detailing his frustration with the situation, a significant number of registrants were made aware of Mr. West's error. Mr. West signed a Statement of Facts and Admissions acknowledging his error and stepped down from his position as a Commission member.
- [46] As Mr. West was a long-term registrant who knew what was expected of him when showing properties to clients, this was viewed as a serious lapse in judgement. The sellers returned home to find two unknown men leaving their house. They contacted the listing agent and expressed concern about break-ins, theft, and the fact that Mr. West had not left a business card. Mr. West's actions could have caused damage to the real estate industry as a whole.
- [47] Previous cases emphasize a seller's right to control access to their property. Mr. West's actions violated that right. Until a seller legally transfers ownership of the property to a buyer, the seller remains entitled to grant or refuse access to the property as he or she sees fit. Registrants are not permitted to substitute their judgment for the legal authorization of the seller.
- [48] Mr. Woldu's breach of the bylaw is similarly serious to that of the registrant in *West*. Mr. West showed a property to his client without making an appointment to do so. There is no evidence that any unauthorized person used the key and code Mr. Woldu left in the mailbox to access the Property, but there were more mitigating factors at play in *West*.
- [49] In *Chubb (Re)*, [2007 SKREC 8](#) (file #2007-22) ("Chubb"), Mr. Chubb was issued an order of reprimand and a \$3,500 fine for releasing keys to a property without authorization. Mr. Chubb was acting as the agent for the seller of a property in a rural community, while another registrant from the same brokerage was representing the buyer. Mr. Chubb turned over the keys to the property to the buyer's father, despite the fact that he had not received written instructions to do from the buyer, the seller, or their legal representatives. At the time keys were released, the buyer was out of the country and had not signed any of the documents required to confirm the purchase of the property.
- [50] The Hearing Committee was very concerned by the ease with which Mr. Chubb released the keys without having received authorization of any kind. The size of the community or knowledge of the parties to a transaction does not diminish the need for a registrant to fulfill his obligations as they are required. The granting of access to the property without the proper authorization created a situation where all parties were at risk, which is clearly not in line with the protection and promotion of the client's interests. A substantial fine was needed to ensure that Mr. Chubb understood the significance of his actions, while also assuring the public that registrants who fail to protect their clients will be dealt with seriously.

- [51] Mr. Woldu's breach of the bylaw is less serious than that of the registrant in *Chubb*. Mr. Woldu left the keys to the Property and the alarm code unattended in the mailbox for the home inspector, whereas Mr. Chubb released keys to a property without any authorization of any kind.
- [52] An order of reprimand and a \$1,000 fine are appropriate sanctions for Mr. Woldu's breach of Bylaw 702.
- [53] As Mr. Woldu has agreed to sign this consent order, there will be no order as to costs.

**CONSENT ORDER:**

- [54] In accordance with *The Real Estate Act*, its Regulations, and the Commission Bylaws, and with the consent of Mr. Woldu, and the Investigation Committee of the Saskatchewan Real Estate Commission, the Hearing Committee hereby orders:
  - [55] 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 702:
    - a. Mr. Woldu shall receive an order of reprimand for the violation of Bylaw 702;
    - b. Mr. Woldu 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 bylaw; and
    - c. Mr. Woldu's registration shall be terminated if he fails to make payment as set out above.
  - [56] There shall be no order as to costs.

Dated at Moose Jaw this 25<sup>th</sup> day of September, 2020.

"David Chow"  
David Chow, Chairperson