

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

*Petryshyn (Re)*, 2021 SKREC 10

Date: November 3, 2021  
Commission File: 2020-82

**IN THE MATTER OF  
THE REAL ESTATE ACT, C. R-1.3 AND  
IN THE MATTER OF PHILIP PETRYSHYN**

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

David M. Chow - Chairperson

Cliff Iverson

Robert Volk

**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. Petryshyn breached Commission Bylaw 702.1 by engaging in conduct that was unprofessional or unbecoming of a registrant in the course of his practice.

**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 702.1 states:

*“A registrant shall not engage in conduct that is disgraceful, unprofessional or unbecoming of a registrant in the course of his or her practice.”*

**FACTS:**

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

[5] Mr. Petryshyn 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 May 6, 2015.

[6] Mr. Petryshyn has taken the following real estate courses:

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

[7] Mr. Petryshyn has completed the continuing professional development seminars each registration year since 2015-2016.

[8] Mr. Petryshyn is presently registered under the provisions of *The Real Estate Act* as a salesperson with Shoreline Realty Ltd. O/A Re/Max Shoreline Realty.

[9] On March 20, 2018, 5 lots at the Development were listed for sale with Re/Max Shoreline Realty (“Shoreline”). The lots were owned by the Corporate Seller. The contracts were to become effective on March 31, 2018 and expire on October 31, 2018.

[10] Ms. X is a representative of the Corporate Seller.

[11] Shoreline had previously listed and sold properties at the Development.

[12] On May 26, 2018, Ms. X published a Facebook post regarding a property at the Development. The post states that the home is nearly complete and invites interested parties to call to arrange a tour.

[13] The property Ms. X referenced in her Facebook post related to a property that was supposed to have been listed by Shoreline in March/April and hadn’t and their agreement was to have exclusive listing rights.

- [14] Mr. Petryshyn and his broker (the “Broker”) decided to end the relationship with Ms. X as they felt it was one-sided and only benefitted Ms. X.
- [15] The Broker contacted Ms. X to say that she had seen the Facebook post and that the brokerage was cancelling all of its contracts with Ms. X and wished to be paid for all lots that had been sold to a particular builder.
- [16] Shortly thereafter, Mr. Petryshyn and the Broker went to the Development to remove furniture from one of the cabins listed for sale by the brokerage and their signs. Ms. X approached them outside the cabin and asked what was happening.
- [17] Mr. Petryshyn was upset about Ms. X’s Facebook post and her general handling of the relationship with the brokerage. The Broker said, “We are done. I’m not going to have it.” Mr. Petryshyn told Ms. X that this “is not how you run a fucking business.”
- [18] The Broker asked Ms. X to come into the cabin to discuss the situation. Ms. X backed away from Mr. Petryshyn. Ms. X told him that she would not go inside the cabin and she left.
- [19] Ms. X left. Mr. Petryshyn yelled after her: “Walk away!”.
- [20] Ms. X found Mr. Petryshyn’s behaviour upsetting and threatening. However, that was never Mr. Petryshyn’s intent.
- [21] Mr. Petryshyn and the Broker continued to remove their items from the cabin. Once they were finished, the Broker left the Development while Mr. Petryshyn stayed to wait for a neighbour to return a hitch receiver.
- [22] Shortly thereafter, the neighbour returned with the hitch receiver and Mr. Petryshyn left the Development.
- [23] On May 28, 2018, Ms. X signed a Cancellation of a Seller’s Brokerage Contract with respect to each of the 5 lots listed for sale with Shoreline.

#### **REASONS:**

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

#### Mitigating Factors

- [25] Mr. Petryshyn was co-operative with the investigation.
- [26] Mr. Petryshyn has no previous sanction history.

## Aggravating Factors

[27] There are no aggravating factors.

## 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] After the agency relationship between a client and the brokerage broke down, Mr. Petryshyn engaged in a verbal confrontation with the client and behaved in a manner that she found very aggressive and threatening.

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

[31] Mr. Petryshyn was the only registrant involved in his breach of the legislation, though his broker was also present for the confrontation.

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

[32] There is no evidence to suggest that Mr. Petryshyn enjoyed a benefit or suffered a loss as a result of his breach of the legislation.

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

[33] There is no evidence of actual consumer harm arising out of Mr. Petryshyn’s breach of the legislation, though the former client was very upset by his behaviour.

5. *The need for specific deterrence to protect the public.*
- [34] Specific deterrence is needed to remind Mr. Petryshyn that registrants must behave professionally and appropriately in all aspects of their real estate practice.
6. *The need for general deterrence to protect the public.*
- [35] General deterrence is needed to remind all registrants that they are expected to conduct themselves in a professional and appropriate manner at all times in the course of their real estate practice.
7. *The need to maintain the public's confidence in the integrity of the profession.*
- [36] Registrant conduct that diminishes public confidence in the professionalism and competence of industry members is not acceptable.
8. *The degree to which the breaches are regarded as being outside the range of acceptable conduct.*
- [37] Mr. Petryshyn'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. Petryshyn's breach of Bylaw 702.1?**

- [38] In *Stretch (Re)*, [2019 SKREC 30](#) (file #2019-26) ("*Stretch*"), Darrel Stretch was issued an order of reprimand and a \$1,000 fine for his breach of Bylaw 702.1. Upon arriving at a property for a showing, Mr. Stretch discovered that the gas had been left on. He sent a text message to the listing agent accusing her seller clients of almost killing him and his clients by leaving the burners on the gas stove on. When the listing agent had difficulty getting in touch with Mr. Stretch, she sent him a text message telling him that he should have the balls to answer his phone. Mr. Stretch called the listing agent and, after some comments from her, Mr. Stretch responded by saying, "Go f\*\*\* yourself, you f\*\*\*ing c\*\*\*. I have the f\*\*\*ing balls to answer my phone."
- [39] Mr. Stretch had been a registrant since 1986 and he did not have a previous sanction history. He was cooperative with the investigation and sent a message to the listing agent to apologize for his comments.
- [40] The comments Mr. Stretch made to the listing agent were extremely inappropriate.
- [41] Mr. Petryshyn's breach of Bylaw 702.1 is more serious than that of the registrant in *Stretch*. While Mr. Stretch's comments were extremely inappropriate, Mr. Petryshyn's conduct involved a member of the public. Additionally, Mr. Stretch was a long-time registrant and he apologized to his colleague for his comments.

- [42] In *Irwin (Re)*, [2018 SKREC 32](#) (file #2017-72) ("*Irwin*"), Scott Irwin was issued an order of reprimand and a \$1,250 fine for his breach of Bylaw 702.1. Mr. Irwin represented the buyer of a property. After taking possession of the property, the buyer contacted Mr. Irwin several times regarding issues she was having with the property and questions she wanted him to ask the previous owners. Mr. Irwin advised the buyer that the sellers were done with the deal and that she could not keep asking them questions. The buyer texted Mr. Irwin again about an issue with the heat vents in the bedrooms. He told her to call a professional and stated, "Stupidly don't call or text me anymore about your home." The buyer told him that she would be calling her lawyer. He told the buyer to "go for it" and that she "should have bought a new house if she wanted everything to be perfect." He went on to say that the buyer "needed to give her head a shake and stop blaming [him] for things". He noted that, if she was unhappy, she should "go after the home inspector or [blame herself] for being so cheap."
- [43] Mr. Irwin was cooperative with the investigation and had no previous sanction history.
- [44] Mr. Petryshyn's breach of Bylaw 702.1 is more serious than that of the registrant in *Irwin*. While Mr. Irwin's comments undoubtedly upset the buyer, Mr. Petryshyn's behaviour was more aggressive, the confrontation happened in person rather than via text message, and the former client was left feeling threatened.
- [45] In *Berner (Re)*, [2018 SKREC 19](#) (file #2017-15) ("*Berner*"), Katherine Berner was issued an order of reprimand for her breach of Bylaw 702.1. Ms. Berner's brokerage had entered into a property management agreement with the owner of a property. The owner had decided to sell the property and requested that Ms. Berner's brokerage contact the recently placed tenants to cancel the lease agreement. A lawyer representing the owner advised Ms. Berner that brokerage staff were no longer allowed onto the property and requested that the brokerage take all reasonable steps to offer the tenants alternative lease options and send an executed copy of the agreement to the lawyer. Ms. Berner responded to the lawyer to say that the brokerage was not assisting the tenants in finding alternative rental arrangements because of the tenants' rights under the *Residential Tenancies Act*. She stated that the lawyer was wasting his client's money trying to bully the brokerage into breaking the law. She stated that general practice lawyers are not well-versed in the applicable laws and that most lawyers do not understand tenant/landlord laws. She recommended that the owner seek proper counsel before wasting more of her time and money with incorrect legal advice. She noted that she found the lawyer's letter amusing because he was acting completely outside the letter of the law. The letter was copied to several people.
- [46] Ms. Berner was cooperative with the investigation and signed a Consent Order acknowledging her error.

- [47] Ms. Berner had a previous sanction history, and she 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. There is evidence of consumer harm as the property owner was very upset.
- [48] Mr. Petryshyn's breach of Bylaw 702.1 is more serious than that of the registrant in *Berner*. Although Ms. Berner was registered as a broker and had a previous sanction history, the seriousness of Mr. Petryshyn's breach of the bylaw is exacerbated by the fact that his actions and comments were directed at a member of the public, that the confrontation took place in person, and that the target of his aggression was left feeling threatened by his conduct.
- [49] There is another decision that involves similar facts to the case at hand, though it involves a charge under a different provision in the legislation.
- [50] In *Hastings (Re)*, [2002 SKREC 3](#) (file #2001-46) ("*Hastings*"), John Hastings was issued an order of reprimand and a \$1,000 fine for breaching s. 39(1)(a) of the *Act* by entering into a verbal altercation with, and making inappropriate comments to, the seller of a property after a showing. During the showing, Mr. Hastings had used the washroom and his client continued to view the property on his own. The owner returned during the showing, objected to Mr. Hastings' use of the washroom and the client being in the home unattended, and asked that they leave the premises. The conversation continued outside the home, with both parties making regrettable comments. Mr. Hastings stated words to the effect of, "If you like, I'll drive home and pick up one of my boys and bring him back and kick the s\*\*\*out of you."
- [51] Mr. Hastings had been registered for approximately 14 years at the time of the breach and he did not have a previous sanction history. He was cooperative with the investigation, acknowledged his mistake, and showed remorse for his actions. The Hearing Committee considered that the seller was allegedly very difficult to work with and had provoked Mr. Hastings past normal working limits.
- [52] Mr. Petryshyn's breach of Bylaw 702.1 is similarly serious to that of the registrant in *Hastings*. Although Mr. Hastings' comments were more overtly threatening, there were more mitigating factors at play in that decision and Mr. Petryshyn's comments were made to a member of the public with whom Mr. Petryshyn was, or had very recently been, in an agency relationship.
- [53] The decision in *Hastings* was rendered prior to an expansion of the real estate market in 2008 that saw significant increases in property values. As property values rise, so do the commissions registrants can expect to earn on trades in real estate. When using older decisions as precedent, the impact general inflation and rising property values have had on commission payable to registrants on trades in real estate must be considered. Failure to account for

these factors could lead to disciplinary action by the Commission coming to be seen as a “cost of doing business”.

- [54] An order of reprimand and a fine of approximately \$1,500 are appropriate sanctions for Mr. Petryshyn’s breach of Bylaw 702.1.
- [55] As Mr. Petryshyn has agreed to sign this consent order, there will be no order as to costs.

**CONSENT ORDER:**

- [56] In accordance with *The Real Estate Act*, its Regulations, and the Commission Bylaws, and with the consent of Mr. Petryshyn, and the Investigation Committee of the Saskatchewan Real Estate Commission, the Hearing Committee hereby orders:
- [57] 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 702.1:
- a. Mr. Petryshyn shall receive an order of reprimand for the violation of Bylaw 702.1;
  - b. Mr. Petryshyn 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
  - c. Mr. Petryshyn’s registration shall be terminated if he fails to make payment as set out above.
- [58] There shall be no order as to costs.

Dated at Regina in the Province of Saskatchewan this 3<sup>rd</sup> day of November 2021.

“David M. Chow”  
Hearing Committee Chairperson