

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

Worona (*Re*), 2024 SKREC 4

Date: February 6, 2024
Commission File: 2023-54

**IN THE MATTER OF
THE REAL ESTATE ACT, C. R-1.3 AND
IN THE MATTER OF MICHAEL WORONA**

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

Jeffrey P. Reimer - Chairperson

Lori Patrick

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. Worona breached Commission Bylaw 702.1 by engaging in conduct that was disgraceful, unprofessional and unbecoming.

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. Worona’s Statement of Facts and Admissions, which includes the following relevant points:

[5] Mr. Worona has been registered as a salesperson under the provisions of *The Real Estate Act* in the Province of Saskatchewan with the Saskatchewan Real Estate Commission continuously from April 23, 2012.

[6] Mr. Worona 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. Worona has completed the continuing professional development seminars each registration year since 2012-2013.

[8] Mr. Worona is presently registered under the provisions of *The Real Estate Act* as a salesperson with Realtyone Real Estate Services Inc.

[9] On behalf of her mother, the Power of Attorney (the “Power of Attorney”) listed the property (the “Property”) for sale with Brokerage “A”.

[10] Registrant “A” and Registrant “B” acted as the sales agents.

[11] The Power of Attorney does not live in the same city as the Property and states that as the Property was vacant, she installed various monitoring systems including security cameras located both inside and outside.

[12] On August 24, 2023, the Power of Attorney received a phone call from a prospective buyer (the “Prospective Buyer”), who had previously viewed the Property. The Prospective Buyer had some questions and wished to view it a second time.

[13] The Power of Attorney notified Registrant “A” of the call and states that Registrant “A” then contacted Mr. Worona who had previously shown the Property to the Prospective Buyer.

[14] The Power of Attorney received a text from Registrant “B” advising her there would be a showing that evening at 6:30pm.

- [15] The Power of Attorney's camera notified her of a car arriving on the front driveway at approximately 7:55pm. Mr. Worona and the Prospective Buyer then entered the house and were inside for approximately 15-20 minutes, after which time the outside camera recorded the two men urinating on the Property, one on each side of the driveway.
- [16] The video shows Mr. Worona walking to the front steps. During this time the Prospective Buyer can be seen walking past the vehicle and then turning to the fence on the north side of the driveway and urinating. Mr. Worona walks back towards the vehicle and proceeds to a tree on the south side of the driveway and urinates. This is the front yard of the Property.
- [17] Mr. Worona wrote a letter of apology to the Power of Attorney.
- [18] Mr. Worona's Broker met with him and issued an internal reprimand and further charged Mr. Worona \$500, which Mr. Worona paid to a Charity.

REASONS:

Mitigating Factors

- [19] Mr. Worona cooperated in the investigation and admitted to his actions.
- [20] Mr. Worona provided a letter of apology to the complainant.
- [21] Mr. Worona has paid a fine of \$500 imposed by his Broker.
- [22] Mr. Worona has no sanction history.

Aggravating Factors

- [23] Mr. Worona has been continuously registered as a salesperson since April 2012.
- [24] Mr. Worona spent two years on the professional standards committee.

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. Worona took a client to view a property, after which both Mr. Worona and his client proceeded to urinate in the front yard of the property.

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

[28] Mr. Worona was the only registrant involved in the breach, however Mr. Worona is also responsible for his client's actions at a showing and his client participated in the same disrespectful action as well.

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

[29] There is no evidence to suggest that Mr. Worona enjoyed a benefit or suffered a loss as a result of the breach.

[30] Mr. Worona was issued a \$500 fine by his Broker.

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

[31] While there is no evidence of actual consumer harm, Mr. Worona's actions were sufficient to cause the complainant to believe it was not a realtor accessing the property and that his access was cause for concern. Further, the complainant was shocked, disgusted and very upset by the disrespectful actions of Mr. Worona and his client.

[32] Additionally, homeowners place a considerable amount of trust in registrants when they list their properties for sale. Registrant conduct that shows a lack of respect for a property runs the risk of leaving sellers feeling unsure of whether or not they can trust registrants to access their properties.

5. *The need for specific deterrence to protect the public.*
- [33] Specific deterrence is needed to make it clear to Mr. Worona that he is to uphold a professional standard of conduct that is at all times respectful of the properties he is accessing. Further, Mr. Worona needs to understand that he is responsible for ensuring that his clients are also at all times respectful of the properties they are gaining access to for viewing.
6. *The need for general deterrence to protect the public.*
- [34] General deterrence is needed to ensure that all registrants understand they are responsible not only for ensuring their own conduct is at all times professional and respectful of properties they access, but also that of their clients.
7. *The need to maintain the public's confidence in the integrity of the profession.*
- [35] Registrants hold a unique position of trust. They have unsupervised access to people's homes. Members of the public who list their properties for sale with registrants must be confident that their properties will be accessed in a professional manner and that those accessing their properties will treat the property with a high level of respect at all times.
8. *The degree to which the breaches are regarded as being outside the range of acceptable conduct.*
- [36] Mr. Worona's conduct falls below the standard expected of registrants and it was egregious because his conduct was not only disgraceful and unbecoming, but it was so far outside the realm of professional that it caused the homeowner to be concerned that someone other than a registrant had gained access to the property.
9. *The range of sanction in similar cases.*

A. What is an appropriate sanction for Mr. Worona's breach of Commission Bylaw 702.1?

- [37] There are no previous decisions under Bylaw 702.1 that bear any factual similarity to the case at hand. The following is the only case from which we can draw a parallel to disrespect for property.
- [38] In *Butler (Re)*, [2020 SKREC 8](#) (file #2020-22), Michelle Butler was issued an order of reprimand and a \$1,000 fine for showing a property without adhering to the owner's personal protective equipment (PPE) requirements.
- [39] Ms. Butler arranged to show a property to clients. Though she did not recall seeing it, she acknowledged that the seller had posted a sign on the door advising that people could only enter the property if they were wearing gloves, mask or scarf. Ms. Butler learned that her clients had not brought personal protective equipment ("PPE") with them. She checked the listing and noted that "face coverings" were acceptable. She and her clients agreed that the buyers

would use their jackets to cover their faces and that they would not touch anything in the home because they did not have gloves. Ms. Butler believed the showing had been conducted in a safe and responsible manner.

- [40] Ms. Butler did not have a previous sanction history and she was cooperative with the investigation. She requested that her clients cover their faces with their jackets and refrain from touching anything. The coronavirus pandemic has had a significant and largely negative impact on the real estate market. There were no aggravating factors.
- [41] Mr. Worona's breach was more serious than that of the registrant in *Butler*. While Ms. Butler failed to ensure that her clients and herself adhered to the PPE requirements of the sellers, she was respectful of their concerns and took steps she believed sufficient to ensure their safety. Mr. Worona stated the actions of himself and his client were an attempt to ensure no harm would come to the property in case the water was shut off or there was a plumbing leak as the property was vacant. However, there is no way to frame his actions as respectful to the seller or the property.
- [42] There is one further decision that bears mentioning, *Rose (Re)*, 2023 BCSRE 22. Although this is a British Columbia decision and as such does not carry weight in Saskatchewan, it is most similar in nature to the matter at hand and it illustrates the importance to the industry of maintaining high professional standards.
- [43] The registrant in *Rose* arrived at a showing prior to his clients and while waiting became thirsty so he helped himself to milk from the seller's fridge, drinking it straight out of the container then placing the container back in the fridge. Mr. Rose's actions were recorded by a surveillance camera and the sellers submitted the video footage to a media outlet.
- [44] Mr. Rose made a public apology and acknowledged that his conduct violated the trust granted to him by the sellers to access, view and show the property and undermined public confidence in the real estate industry.
- [45] Mr. Rose was found to have committed conduct unbecoming and consented to an order to pay a discipline penalty of \$20,000 and enforcement expenses of \$2,500.
- [46] Mr. Worona's breach is similar to that of the registrant in *Rose* in that his behaviour was entirely disrespectful of the Property and the Seller in such a way that it harms the integrity of the industry. Mr. Worona's behaviour, and that of his client, falls so far below the standard of professionalism expected of registrants that it caused the complainant to become alarmed and concerned that someone other than a registrant had been able to gain access to the Property.

- [47] Further, also similar to *Rose*, there is video footage of Mr. Worona's conduct. As this video footage belongs to the complainant, the Commission has no control over its dissemination and we know that the complainant has at the very least already shared it with the selling agent representing the Property. The video footage in *Rose* was shared with a media outlet and was widely spread. Should the video of Mr. Worona be shared publicly, his conduct will serve to undermine public confidence in the industry and bring the industry as a whole into disrepute.
- [48] While Mr. Worona's breach was similarly egregious to that of the registrant in *Rose*, we must remain mindful of the fact that housing values in British Columbia are higher than those in Saskatchewan.
- [49] We also need to consider the amendment to s. 38 of *The Real Estate Act* in May of 2020 which increased the maximum fines that can be ordered against registrants found guilty of professional misconduct or professional incompetence. The previous iteration of the legislation capped fines at \$5,000 for each finding up to a maximum of \$15,000 in the aggregate for all findings. The new maximum fine for each finding of professional misconduct or professional incompetence was increased to \$25,000 up to \$100,000 in the aggregate for all findings. While this legislative change does not invalidate the precedents to be found in previous hearing decisions, it must be taken as a strong signal from lawmakers that the fines ordered against registrants should be increased so as to ensure the protection of the public.
- [50] The decision in *Butler* would not have reflected this amendment. Further, Ms. Butler's breach was not sufficiently egregious as to undermine public confidence and cause harm to the integrity of the industry as a whole.
- [51] An order of reprimand and a fine of \$8,000.00 are appropriate sanctions for Mr. Worona's breach of Bylaw 702.1.
- [52] As Mr. Worona has agreed to sign this consent order, there will be no order as to costs.

CONSENT ORDER:

- [53] In accordance with *The Real Estate Act*, its Regulations, and the Commission Bylaws, and with the consent of Mr. Worona and the Investigation Committee of the Saskatchewan Real Estate Commission, the Hearing Committee hereby orders:
- [54] 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. Worona shall receive an order of reprimand for the violation of Bylaw 702.1;

- b. Mr. Worona shall, within 6 months of the date of this order, pay to the Saskatchewan Real Estate Commission a \$8,000.00 fine for the said violation of the *Act*; and
- c. Mr. Worona's registration shall be terminated if he fails to make payment as set out above.

[55] There shall be no order as to costs.

Dated at Regina, Saskatchewan, this 6th day of February, 2024.

Jeffrey P. Reimer
Hearing Committee Chairperson