

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

*Campbell (Re)*, 2024 SKREC 14

Date: May 2, 2024  
Commission File: 2023-57

**IN THE MATTER OF  
THE REAL ESTATE ACT, C. R-1.3 AND  
IN THE MATTER OF ALYSSA CAMPBELL**

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

Jeffrey P. Reimer - Chairperson

Kayla McQueen

Tim Hammond

**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*, Ms. Campbell breached Commission Bylaw 714 failing to take reasonable steps to discover pertinent facts about a property.

**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 714 states:

*“A registrant shall take reasonable steps to discover facts pertaining to every property for which the registrant accepts an agency agreement that a prudent registrant would take in order to fulfil the obligation to avoid error, misrepresentation or concealment of pertinent facts.”*

**FACTS:**

- [4] In accordance with subsection 9(4) of The Real Estate Regulations (“the Regulations”), the Hearing Committee accepts Ms. Campbell’s Statement of Facts and Admissions, which includes the following relevant points:
- [5] Ms. Campbell 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 1, 2017.
- [6] Ms. Campbell 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
  - Commercial Real Estate as a Professional Career
- [7] Ms. Campbell has completed the continuing professional development seminars each registration year since 2017-2018.
- [8] Ms. Campbell is presently registered under the provisions of *The Real Estate Act* as a salesperson with Realty Executives Diversified Realty.
- [9] Ms. Campbell reported herself to the Commission.
- [10] Ms. Campbell represented both the Seller (the “Seller”), as well as the Buyers, (the “Buyers”) in the sale and purchase of the Property (the “Property”).
- [11] Ms. Campbell states that the Property had previously been listed in the Seller’s name alone a few times prior to Ms. Campbell’s involvement.
- [12] Ms. Campbell states she listed the Property without pulling title to verify information.
- [13] Ms. Campbell negotiated an agreement between the Seller and Buyers for the sale and purchase of the Property which set the possession date for May 12, 2023.

- [14] Ms. Campbell states that prior to possession, the Seller's lawyer informed her that the Seller's deceased husband's name was still on title to the Property and the Seller had not yet gone through the probate process.
- [15] Ms. Campbell states that a Tenancy at Will was prepared and the transaction proceeded.
- [16] On May 12, 2023, the Buyers took possession of the Property.
- [17] On August 10, 2023, title to the Property transferred to the Buyers.
- [18] Ms. Campbell states that at this time one of the Buyers, sent her his legal bill in the amount of \$3,104.55 requesting that she pay the bill in full or he would report her to the Commission.
- [19] Ms. Campbell states that she felt bad about the situation and offered to pay \$300, which she felt ought to cover the amount of having the Tenancy at Will prepared.
- [20] The Buyer refused her offer and demanded that Ms. Campbell pay their full legal bill, in the amount of \$2,860.90 or he would report her.
- [21] Confusion over the amount the Buyer was demanding was due to him providing Ms. Campbell with both the legal bill for the Purchase of the Property as well as a separate invoice for the Tenancy at Will and registering liens.

## **REASONS:**

### Mitigating Factors

- [22] Ms. Campbell has no previous sanction history.
- [23] Ms. Campbell reported herself.
- [24] Ms. Campbell was cooperative with the investigation.

### Aggravating Factors

- [25] Ms. Campbell has been continuously registered as a salesperson since April 1, 2017.
- [26] Ms. Campbell's breach occurred while she was representing both parties as a limited dual agent. Registrants in limited dual agency must be especially diligent in protecting and promoting the interests of their clients, as there is no other registrant involved in the transaction to notice or correct any errors; and

[27] There was actual consumer harm, as transfer of title to the Property was complicated by the discovery that the Seller's deceased husband's name remained on title and the Property had not yet gone through probate.

#### 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] When listing the Property for sale, Ms. Campbell failed to review title which would have made her aware that the Seller's deceased husband's name was still on title and that the Seller had not yet probated the Will. As a result of her failure, the parties were unaware of the complications with the title until the lawyer was preparing the documents, a Tenancy at Will had to be prepared for possession to occur on the possession date, and transfer of title to the Property was delayed.

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

[31] Ms. Campbell was the only registrant involved in her breach, she represented both the Seller and the Buyers.

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

[32] There is no evidence to suggest that Ms. Campbell enjoyed any benefit or suffered any losses as a result of her breach of the legislation.

4. *The impact of the breaches on complainants or others.*
- [33] The transfer of title to the Property was complicated by the fact that the Seller's deceased husband's name was still on title and no one knew until the Seller's lawyer prepared the transfer documents. Transfer was further complicated by the fact that the Seller had not yet probated the Will. This necessitated preparation of a Tenancy at Will agreement in order for the Buyers to take possession of the property, and delayed the transfer of title.
5. *The need for specific deterrence to protect the public.*
- [34] Ms. Campbell must be reminded that, as a registrant, she is expected to have sufficient information about the title to the property she is listing to be able to properly address any concerns with title, recognize when she needs to seek further information, and advise her clients of any complications that may arise.
6. *The need for general deterrence to protect the public.*
- [35] Registrants must be reminded that they are expected to have sufficient information about the title to the property they are listing to be able to properly address any concerns with title, recognize when they need to seek further information, and advise clients of any complications that may arise.
7. *The need to maintain the public's confidence in the integrity of the profession.*
- [38] Members of the public must be confident that the registrants they engage to represent them in trades in real estate are knowledgeable about real estate in Saskatchewan and are taking all reasonable steps to gain sufficient knowledge of the properties they list, including any issues with title that may complicate transfer of title, to provide proper advice and assistance to their clients, or to recognize the information they do not have and seek it out. Clients should be reassured that they are getting all of the necessary information from their agents to understand the transaction and determine how they would like to proceed.
8. *The degree to which the breaches are regarded as being outside the range of acceptable conduct.*
- [39] Ms. Campbell'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 Alyssa Campbell's breach of Bylaw 714?**

- [40] In *Thiessen (Re)*, [2015 SKREC 5](#) (file #2012-10) ("*Thiessen*"), Corey Thiessen was issued an order of reprimand and a \$1,000 fine for failing to take reasonable steps to discover facts pertaining to a property for which he accepted an agency agreement. He did not take reasonable steps to ascertain whether or not the people he was dealing with were legally authorized to sell the property which formed part of their mother's estate.

- [41] Seller A contacted Mr. Thiessen about selling a property that formed part of his mother's estate. Mr. Thiessen took on the listing. The sellers were listed as Seller A and Seller B, however only Seller A signed the contract. Mr. Thiessen witnessed Seller A's signature on the contract, but no one signed as witness to Mr. Thiessen's signature. Mr. Thiessen did not obtain documentation confirming that either Seller A and/or Seller B were executors of their mother's will, personal representatives for her estate, or in any way responsible for and in a position to sell the Property. Mr. Thiessen obtained a handwritten note stating that Seller A authorized Seller B to act on his behalf for the sale of their mother's home. Thereafter, an amendment to the listing agreement was only signed by Seller A. The majority of Mr. Thiessen's dealings with respect to the property were verbal and with Seller A who, he understood, forwarded information along to Seller B.
- [42] Mr. Thiessen had no sanction history and he co-operated with the investigation, and there was no evidence of consumer harm.
- [43] The Hearing Committee, in its decision, stated as follows:
- Legal ownership of a property is an essential element of the information a registrant must obtain before having a client sign a Brokerage Contract. The registrant must know who owns the property and, in the case of multiple owners, whether the owners are joint owners or tenants in common. The identity of the property owner and his or her authority to dispose of the property is fundamental information a registrant must obtain before agreeing to list a property for sale. Failure to take reasonable steps to determine the identity of the individuals a registrant is dealing with and the legal authority of the individuals to dispose of the property can lead to incidents of mortgage and title fraud. The relative ease with which this information can be obtained compounds the seriousness of Mr. Thiessen's failure to obtain documentation proving that Sellers A and B were legally entitled to sell the property on behalf of their mother's estate.
- [44] Ms. Campbell's breach of the legislation was more serious than that of the registrant in *Thiessen*. While both Ms. Campbell and Mr. Thiessen failed to take basic steps to identify the property owner, there is evidence that Ms. Campbell's breach caused actual consumer harm while Mr. Thiessen's breach did not.
- [45] In *Humeniuk (Re)*, [2009 SKREC 11](#) (file #2008-64) ("*Humeniuk*"), Maureen Humeniuk was issued a letter of reprimand and a \$1,000 fine for failing to obtain a seller's brokerage contract signed by all persons named on title and failing to obtain a copy of the alleged Power of Attorney. After possession, Ms. Humeniuk learned that the family was going through the guardianship process and could not transfer title to the buyer immediately. Title did ultimately transfer to the buyer.
- [46] Ms. Humeniuk did not have a previous sanction history and she had only been in the real estate industry for about six years at the time of the transaction.

- [47] The Hearing Committee was concerned that registrants understand their obligation to verify the facts as presented to them. Knowledge of the family is not an excuse not to fully perform your obligations as a registrant. The Hearing Committee noted that all registrants must know who they act for and that it was important for all registrants to know that their actions or inactions can have serious consequences for all parties to the transaction.
- [48] In *Tait (Re)*, [2008 SKREC 14](#) (file #2008-09) ("*Tait*"), Quinn Tait was issued a letter of reprimand and a \$1,000 fine for obtaining a brokerage contract from a person other than the seller named in the contract without obtaining a copy of the alleged Power of Attorney and failing to conduct an ISC title search that would have identified other owners on title. Mr. Tait dealt with the person he believed was the sole owner of a property and this person's daughter. He was advised that the owner's daughter had a Power of Attorney, but did not ask to see a copy, nor did he conduct a title search. After the property sold, Mr. Tait learned that a son and second daughter of the owner, both of whom were named on title, had refused to execute land transfers and the buyer commenced a court action to force the sale.
- [49] Mr. Tait did not have a previous sanction history and had only been in the real estate industry a short time. The Hearing Committee felt that the actions of the family may have given Mr. Tait some reason for his belief that any sibling could sign the documents.
- [50] The Hearing Committee was concerned that registrants understand they must verify the facts as presented to them. The Committee found that a review of the Power of Attorney would have made it clear that the owner's daughter did not have authority to sell the property and that a title search would have revealed the additional owners. Searching title, obtaining a copy of a Power of Attorney and confirming the agreement of the other siblings named on title are not onerous tasks to be performed, but basic elements of a sale transaction. The Committee noted that simple steps could have avoided the situation.
- [51] Ms. Cambell's breach of the legislation is similarly serious to those of the registrants in both *Humeniuk* and *Tait*. All three registrants failed to take steps, which the Hearing Committee noted to be basic elements of a sale transaction, to identify who was on title or had authority to sell the properties.
- [52] In determining an appropriate sanction for Ms. Campbell, it must be noted that the decision in *Tait* was rendered in 2008, and the decision in *Humeniuk* was rendered in 2009. 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 this decision was rendered.

- [53] Further, it must also be taken into account that all of the decisions referred to above were rendered prior to 2020. In May of 2020, the provincial legislature amended section 38 of *The Real Estate Act* to increase 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.
- [54] An order of reprimand a \$2,500.00 fine, this reduced amount taking into account the mitigating factor of self reporting, are appropriate sanctions for Alyssa Campbell's breach of Bylaw 714.
- [55] As Ms. Campbell 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 Ms. Campbell 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 714:
- a. Ms. Campbell shall receive an order of reprimand for the violation of Bylaw 714;
  - b. Ms. Campbell shall, within 60 days of the date of this order, pay to the Saskatchewan Real Estate Commission a \$2,500 fine for the said violation of the *Act*; and
  - c. Ms. Campbell's registration shall be terminated if she fails to make payment as set out above.



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

Dated at Regina, Saskatchewan, this 2<sup>nd</sup> day of May, 2024.

Jeffrey P. Reimer  
Hearing Committee Chairperson