

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

Zareh (Re), 2024 SKREC 12

Date: April 22, 2024  
Commission File: 2023-71

**IN THE MATTER OF  
THE REAL ESTATE ACT, C. R-1.3 AND  
IN THE MATTER OF SHAHEEN ZAREH**

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

Randal C. Touet - Chairperson

Lori Patrick

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. Zareh breached Commission Bylaw 723(e) by failing to notify the Commission of bankruptcy proceedings; and

**Count 2:**

- That, contrary to section 39(1)(c) of *The Real Estate Act*, Mr. Zareh breached Commission Bylaw 720 by making an affidavit that contains false information.

## 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] Commission Bylaw 723(e) states:

*“In addition to the requirements set out in section 33 of the Act and subsection 54(2) of the Act, and subject to Bylaw 724, a registrant shall notify the Commission in writing no later than five (5) days after the occurrence of any of the following:..... (e) the registrant, other than a broker or a brokerage: i. becomes insolvent within the meaning of the Bankruptcy and Insolvency Act (Canada); ii. makes an assignment or proposed assignment; iii. is the subject of a receiving order; or iv. makes a proposal; pursuant to the Bankruptcy and Insolvency Act (Canada);”*

[4] Commission Bylaw 720 states:

*“A registrant shall not make an affidavit that contains false information.”*

## FACTS:

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

[6] Mr. Zareh 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 4, 2008.

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

- Phase 1 – Real Estate as a Professional Career
- Residential Real Estate as a Professional Career
- Property Management as a Professional Career
- Commercial Real Estate as a Professional Career

[8] Mr. Zareh has completed the continuing professional development seminars each registration year since 2006-2008.

[9] Mr. Zareh is presently registered under the provisions of *The Real Estate Act* as a salesperson with Royal LePage Next Level.

- [10] Mr. Zareh was previously registered as a salesperson at Regina Realty Sales Ltd., previously operating as Royal LePage Regina Realty from April 4, 2008, to December 20, 2023.
- [11] On December 20, 2023, Mr. Zareh's registration was transferred to Royal LePage Next Level.
- [12] As part of the transfer process, Mr. Zareh filled out a New Application or Re-Instatement or Renewal form, which was sworn before a Notary Public on December 14, 2023, and subsequently submitted to the Commission (the "Form").
- [13] In the Personal Declaration and Applicant Affidavit section of the Form, Mr. Zareh answered "yes" to question 6 which asks:
- Have you or has any business you owned or participated in as a Director or Officer been in bankruptcy or the subject of any bankruptcy proceedings or a compromise with creditors?
- [14] In response to a request for further information, Mr. Zareh advised the Commission that he previously owned a company and that during the pandemic the company did not have sufficient cash flow to service its debts.
- [15] As a result, Mr. Zareh filed for personal bankruptcy on April 29, 2021, and subsequently received a discharge on January 31, 2022.
- [16] Mr. Zareh did not advise the Commission of his bankruptcy, until he submitted the Form to the Commission.
- [17] Mr. Zareh did not advise the Commission of his discharge from bankruptcy.
- [18] During Mr. Zareh's time at Regina Realty Sales Ltd., his broker, Michael Duggleby, had taken the responsibility to submit the registration forms for each salespersons every year. Mr. Zareh had advised Mr. Duggleby of his bankruptcy and discharge from bankruptcy promptly after these events occurred. He assumed that Mr. Duggleby would report his bankruptcy, and he had no intention of hiding this information.
- [19] Mr. Zareh answered "no" to Question 7 of the Personal Declaration and Applicant Affidavit section of the Form, which asks "Have you been found in violation of any Act, regulations or bylaws that required a license or registration?"
- [20] This is untrue. Mr. Zareh has previously been sanctioned for violations of *The Real Estate Act* and the bylaws in *Zareh (Re)*, [2018 SKREC 30](#).

[21] While answering Question 7, Mr. Zareh states that he did not read the question with care, and assumed it was in regard to criminal or other offences which did not pertain to The Real Estate Act. It was not his intention to deceive the Commission, particularly because he was aware that the Commission knew about his prior violations of *The Real Estate Act* and the bylaws.

[22] Mr. Zareh states that his prior discipline record as a registrant was also disclosed to his broker when he was convicted in 2018.

## **REASONS:**

### Mitigating Factors

[23] Mr. Zareh was cooperative when questioned by the registration department of the Commission.

### Aggravating Factors

[24] Mr. Zareh has been a registrant since 2008; and

[25] Mr. Zareh has a previous sanction history. In *Zareh (Re)*, [2018 SKREC 30](#) ("*Zareh*"), Mr. Zareh was issued:

- a reprimand and \$1,500 fine for an advertising breach pursuant to section 55(2);
- a reprimand and \$3,000 fine for breaching section 39(1)(c) by trading in property management when his registration was limited to trades in residential real estate;
- a reprimand, \$1,000 fine and two-week suspension for breaching section 53(2) by trading in real estate other than for or on behalf of the brokerage stated on his certificate of registration; and
- a reprimand and \$5,000 fine for breaching bylaw 730(f) by failing to use a mandatory Disclosure of Interest in Trade Form.

### Prior Decisions & Other Considerations

[26] 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.

[27] 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.*

[28] Mr. Zareh filed for personal bankruptcy on April 29, 2021, and failed to notify the Commission.

[29] Mr. Zareh made an untrue statement in the Personal Declaration & Applicant Affidavit section of a New Application or Re-Instatement or Renewal form he submitted to the Commission.

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

[30] While Mr. Zareh is personally responsible for notifying the Commission, his broker, Michael Duggleby, was also involved in his breach of Bylaw 723. Please refer to Duggleby (Re) [2024 SKREC 8](#). Mr. Zareh advised Mr. Duggleby that he filed for personal bankruptcy and also advised Mr. Duggleby when he was discharged. Mr. Duggleby failed to ensure Mr. Zareh notified the Commission of his bankruptcy proceedings.

[31] Mr. Zareh was the only registrant involved in his breach of Bylaw 720.

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

[32] There is no evidence to suggest that Mr. Zareh suffered any losses or enjoyed any benefits as a result of his breaches.

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

[33] Mr. Zareh's false affidavit and failure to notify the Commission of his bankruptcy proceedings and subsequent discharge both challenge the Commission's ability to regulate the real estate industry which can, in turn, damage the public perception of the Commission's ability to ensure registrants are conducting themselves appropriately in the course of their practice.

5. *The need for specific deterrence to protect the public.*
- [34] Specific deterrence is needed to remind Mr. Zareh of his duty to report certain occurrences to the Commission pursuant to Bylaw 723 and that ignorance of his obligations under the legislation is neither acceptable, nor a defence to allegations of professional misconduct.
- [35] Mr. Zareh needs to understand that an executed Affidavit is a sworn legal document attesting to the truth of the statements contained within the document. Specific deterrence is needed to remind Mr. Zareh that submitting untrue statements to the Commission will not be tolerated. Pursuant to section 26(1)(c) of the *Act*, the Commission may refuse to reinstate an applicant's registration if the applicant has provided false or misleading information to the Commission in the course of applying for registration or renewal. The fact that the legislation specifically contemplates this as a reason to refuse registration gives significant weight to the level of seriousness with which such a violation must be disciplined.
6. *The need for general deterrence to protect the public.*
- [36] General deterrence is also needed to remind all registrants of the reporting requirements set out in Bylaw 723. These requirements are an important aspect of the Commission's ability to protect the public by ensuring registrants conduct themselves appropriately and with professional integrity in the course of their practice and must be adhered to by all registrants. Registrants must be reminded that they are responsible for ensuring they are aware of, and understand, the obligations placed upon them by the *Act*, *Regulations*, and the *Bylaws*.
- [37] All registrants need to understand the nature and gravitas of an Affidavit, and must be made aware that an executed Affidavit is a sworn legal document attesting to the truth of the statements contained within the document. It must be made clear to all registrants that submitting untrue statements to the Commission will not be tolerated and that pursuant to section 26(1)(c) of the *Act*, the Commission may refuse to reinstate an applicant's registration if the applicant has provided false or misleading information to the Commission in the course of applying for registration or renewal.
7. *The need to maintain the public's confidence in the integrity of the profession.*
- [38] The public must be confident that registrants they deal with are conducting themselves with honesty and integrity, and in compliance with the requirements set out in the legislation. The public must be reassured that the Commission is receiving the information it needs in order to properly regulate its registrants.
8. *The degree to which the breaches are regarded as being outside the range of acceptable conduct.*
- [39] Mr. Zareh's conduct falls below the standard expected of registrants and is egregious.

### **A. What is an appropriate sanction for Mr. Zareh's breach of Bylaw 723(e)?**

- [40] There are no previous sanctions specifically under Bylaw 723(e), however there are previous sanctions under other parts of Bylaw 723 which are applicable.
- [41] In *Gill (Re)*, [2019 SKREC 22](#) ("*Gill*"), Jaspreet Gill was issued an order of reprimand, \$1,000 fine and ordered to successfully complete the broker course within 6 months for his breaches of Bylaw 723(a) and (b).
- [42] On February 28, 2016, Mr. Gill was arrested and charged with offences under the *Criminal Code*. At the time of his arrest, Mr. Gill was at a property at his seller client's request to check the heat settings because the house was vacant. Mr. Gill did not notify the Commission that he had been charged with offences pursuant to the *Criminal Code*. Mr. Gill was ultimately convicted of impaired driving. Mr. Gill also failed to notify the Commission of his conviction.
- [43] Mr. Gill did not have a previous sanction history and was co-operative with the investigation.
- [44] Mr. Gill is registered as a branch manager and is responsible for supervising the actions of another registrant. Although Mr. Gill was not a branch manager at the time of the alleged breaches, it is important that strong emphasis be placed on the need to understand and adhere to the Commission's reporting requirements since he had become registered as a branch manager. Mr. Gill was trading in real estate while intoxicated. He did not reach out to his broker for advice about how to handle the criminal charges against him or his ultimate conviction.
- [45] Mr. Zareh's breach was similarly serious to that of the registrant in *Gill*. Both failed to notify the Commission pursuant to the requirements in Bylaw 723. However, Mr. Zareh has a previous sanction history, while Mr. Gill did not.
- [46] In *Ackerman (Re)* [2019 SKREC 20](#), Brett Ackerman was issued an order of reprimand and a \$1,000 fine for his breach of Bylaw 723(c).
- [47] On October 27, 2017, the Plaintiff filed an amended Statement of Claim against several defendants, including Mr. Ackerman, at the Provincial Court of Saskatchewan. The claim arose out of the Plaintiff's purchase of the Property, with respect to which Mr. Ackerman had acted as the listing agent. Mr. Ackerman did not notify the Commission of the Statement of Claim.
- [48] On February 8, 2018, Commission staff sent Mr. Ackerman an email advising that the Commission had learned of the Plaintiff's claim. Commission staff sent Mr. Ackerman another email that included a reminder that Bylaw 723 also requires a registrant to notify the Commission within five days of a claim settling, judgment being issued, or other termination of the claim.

- [49] On October 23, 2018, Mr. Ackerman entered into a settlement agreement with the Plaintiff. He did not notify the Commission of having entered into a settlement with the Plaintiff or the discontinuance of the Plaintiff's claim.
- [50] Mr. Ackerman was co-operative with the investigation.
- [51] Mr. Zareh's breach was similarly serious to that of the registrant in *Ackerman*. Both failed to notify the Commission pursuant to the requirements in Bylaw 723, although Mr. Ackerman was advised by the Commission of the requirement to also provide notice of settlement and failed to do so, and had been previously notified by the Commission of requirements pursuant to Bylaw 723. Both Mr. Zareh and Mr. Ackerman had previous sanction history.
- [52] In both *Gill* and *Ackerman*, it was noted that an article on the topic of a registrant's reporting obligations under bylaw 723 was published in the February 2015 Registrant, and a reminder was published in the November 2015 Register. A discipline decision against a registrant for failing to comply with Bylaw 723 and a decision against his broker for failing to ensure his compliance were published in the August 2015 Register. When information about a Bylaw is placed directly before registrants, it is not reasonable for a registrant to say they were not aware that such a Bylaw existed or what the Bylaw entails.
- [53] In May of 2020, the provincial legislature amended s. 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] In determining an appropriate sanction for Mr. Zareh, the Commission must take into account the fact that both *Gill* and *Ackerman* were decided prior to the legislation amendment.
- [55] An order of reprimand and a fine of \$3,000 are appropriate sanctions for Mr. Zareh's breach of Bylaw 723(e).



## **B. What is an appropriate sanction for Mr. Zareh's breach of Bylaw 720?**

- [56] There are no previous decisions under Bylaw 720. The questions provided in the Personal Declaration & Applicant Affidavit section of the Commission's form for New Application or Re-Instatement or Renewal are designed to inform the Commission of issues that may require further inquiry or monitoring by the Commission in its regulatory functions in the same manner as the notice requirements pursuant to Bylaw 723. The decisions referred to above are equally applicable to Mr. Zareh's breach of Bylaw 720.
- [57] Guidance may also be taken from the following decision which was rendered under Bylaw 701.
- [58] In *Schmidt (Re)*, [2007 SKREC 7](#) ("*Schmidt*"), Andy Schmidt received a number of sanctions, including a \$5,000 fine and 90 day suspension of his certificate of registration for breaching Bylaw 701 by providing false information to a Review Officer of the Commission.
- [59] Mr. Schmidt and his common-law spouse, Traci Main (also a registrant), purchased the property in the fall of 2005 and listed the property for sale in the spring of 2006. In the MLS® descriptors, they stated that the property received new shingles in 2004. Mr. Schmidt did not own the property in 2004 and had no knowledge whether the owner of the property at that time had replaced the shingles. In May 2006, they accepted an offer on the property from a buyer represented by a different registrant. This offer was subject to a satisfactory building inspection and, as the condition was not removed, the offer collapsed and the listing was withdrawn.
- [60] In August 2006, Mr. Schmidt and Ms. Main provided the Review Officer of the Commission with written and verbal representations that claimed they had replaced the shingles in 2006. Mr. Schmidt was adamant that the shingles were new until he was confronted with clear evidence that they had not been replaced. Throughout the investigation, Mr. Schmidt was not co-operative, antagonistic, and at one point indicated to the Review Officer that he had done the shingles himself.
- [61] The sanctions imposed are significant, however, misleading and providing false information to the Review Officer cannot be tolerated. In addition, Mr. Schmidt had previously been sanctioned for a serious offence and this contributed to the amount of the fine. Potential purchasers should be able to have confidence that the information contained in the listing is correct and the investigations undertaken by the Commission must be taken seriously.

- [62] Mr. Zareh's breach was more serious than that of the registrant in *Schmidt*. While Mr. Schmidt provided false information to the Commission in the course of an investigation, which is significant, Mr. Zareh made a false statement in an affidavit, which is a sworn legal document attesting to the truthfulness of the statements contained within. Mr. Zareh then submitted this affidavit to the Commission as part of his application for registration at a new brokerage.
- [63] Both the Hearing Committee in *Schmidt* and law makers have given clear indication that providing false information to the Commission must not be tolerated. Section 26 of the *Act* provides, in part, as follows:
- 26(1)** Notwithstanding sections 20 to 24, the Commission may refuse to register an applicant pursuant to section 25 or may refuse to reinstate an applicant's registration pursuant to subsection (2) if, in the opinion of the Commission:
- ...
- (c) the applicant has provided false or misleading information to the Commission in the course of applying for registration or applying for a renewal of the applicant's registration;
- [64] In determining an appropriate sanction for Mr. Zareh's breach of Bylaw 720 and his subsequent submission of that false statement to the Commission in his application for registration at a new brokerage, deference must be given to the significance section 26(1)(c) of the *Act*.
- [65] The Commission must also take into account the fact that *Schmidt*, as well as both *Gill* and *Ackerman* above, were decided prior to the legislation amendment in May 2020, and must further take into account that the decision in *Schmidt* was rendered before 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 this decision was rendered.
- [66] An order of reprimand, a fine of \$8,000, and a 14-day suspension of his certificate of registration, to begin 2 weeks after the decision date in order to allow time to transition any current clients and listings to other registrants, are appropriate sanctions for Mr. Zareh's breach of Bylaw 720.

#### **CONSENT ORDER:**

- [67] In accordance with *The Real Estate Act*, its Regulations, and the Commission Bylaws, and with the consent of Mr. Zareh and the Investigation Committee of the Saskatchewan Real Estate Commission, the Hearing Committee hereby orders:

- [68] 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 723(e):
- a. Mr. Zareh shall receive an order of reprimand for the violation of Bylaw 723(e);
  - b. Mr. Zareh shall, within 60 days of the date of this order, pay to the Saskatchewan Real Estate Commission a \$3,000 fine for the said violation of the *Act*; and
  - c. Mr. Zareh's registration shall be terminated if he fails to make payment as set out above.
- [69] With respect to Count 2, the charge of professional misconduct contrary to section 39(1)(c) of *The Real Estate Act* for breach of Bylaw 720:
- a. Mr. Zareh shall receive an order of reprimand for the violation of Bylaw 720;
  - b. Mr. Zareh shall, within 2 weeks of the date of this order, receive a 14-day suspension of his certificate of registration;
  - c. Mr. Zareh shall, within 4 months of the date of this order, pay to the Saskatchewan Real Estate Commission a \$8,000 fine for the said violation of the *Act*; and
  - d. Mr. Zareh's registration shall be terminated if he fails to make payment as set out above.
- [70] There shall be no order as to costs.

Dated at Saskatoon, Saskatchewan, this 22<sup>nd</sup> day of April, 2024.

Randal C. Touet  
Hearing Committee Chairperson