

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

Duggleby (*Re*), 2024 SKREC 8

Date: March 21, 2024  
Commission File: 2023-72

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

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

RANDAL C. TOUET- Chairperson  
CLIFF IVERSON  
ANNE PARKER

**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. Duggleby breached Bylaw 712(e), by failing to take reasonable steps to ensure a registrant under his supervision was in compliance with Bylaw 723.

**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 712(e) states:

*“A broker or branch manager shall be responsible for..... taking reasonable steps to ensure that the brokerage and its registrants are in compliance with the Act, the regulations and the bylaws.”*

**FACTS:**

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

[5] Mr. Duggleby has been registered as a broker under the provisions of *The Real Estate Act* in the Province of Saskatchewan with the Saskatchewan Real Estate Commission since June 3, 2005, and prior to that, registered as a salesperson since March 25, 2002.

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

- Fundamentals of Real Estate
- Principles of Real Property Law
- Principles of Mortgage Financing
- Principles of Real Estate Appraisal
- Working Within the Real Estate Act
- Real Estate Office Management

[7] Mr. Duggleby has completed the continuing professional development seminars each registration year since 2001-2002.

[8] Mr. Duggleby is registered as a broker at Regina Realty Sales Ltd., previously operating as Royal LePage Regina Realty.

[9] In or around April of 2021, a registrant under Mr. Duggleby’s supervision (the “Registrant”) initiated personal bankruptcy proceedings.

[10] The Registrant advised Mr. Duggleby of their personal bankruptcy proceedings.

[11] Mr. Duggleby did not advise the Registrant to notify the Commission, or of the notice requirements pursuant to Bylaw 723, nor did he notify the Commission on behalf of the Registrant.

[12] In 2023, Mr. Duggleby notified the Commission of his intention to close the Royal LePage Regina Realty brokerage, and open a new brokerage, Royal LePage

Next Level (“Next Level”), transferring most or all of Royal LePage Regina Realty’s registrants to the new brokerage.

- [13] Commission staff advised Mr. Duggleby of the processes involved, part of which included terminating each registrant from Royal LePage Regina Realty and then reinstating them at Next Level.
- [14] Registrants were required to provide the Commission with an executed New Application or Re-Instatement or Renewal form in order to be reinstated at Next Level.
- [15] Through this process, the Commission became aware of the previously undisclosed personal bankruptcy proceeding of the Registrant from April of 2021.
- [16] On December 18, 2023, Commission staff sent Mr. Duggleby an email asking whether the Registrant contacted Mr. Duggleby in or around April of 2021 to advise that they had declared personal bankruptcy and whether he advised them to report it to the Commission.
- [17] On December 18, 2023, Mr. Duggleby responded by email, stating:

“I do not recall the exact date, but yes [they] did. [The Registrant] was very distraught, and we discussed the circumstances. It was apparent that the financial failure was not related to [their] licensing with RLP Regina. I did not think to advise [them] to report to SREC.”

## **REASONS:**

### Mitigating Factors

- [18] Mr. Duggleby was cooperative.

### Aggravating Factors

- [19] Mr. Duggleby has been a registrant since 2002.
- [20] Mr. Duggleby has been registered as a broker since June 3, 2005. As the people responsible for ensuring that the registrants and employees of the brokerage are complying with the requirements set out in the legislation, brokers are held to a higher standard of conduct.
- [21] Mr. Duggleby, having been advised of a bankruptcy proceeding by one of the registrants under his supervision, failed to ensure the registrant notified the Commission pursuant to Bylaw 723.

- [22] Mr. Duggleby has a previous sanction history, including sanctions for breach of notice requirements pursuant to section 33(1)(a) of the *Act* and Bylaw 723:
- In *Duggleby (Re)*, [2019 SKREC 19](#) (file #2019-03), Mr. Duggleby was issued an order of reprimand and a \$1,000 fine for breaching Bylaw 723(c) by failing to notify the Commission within five days of the commencement of civil proceedings against his brokerage with respect to a trade in real estate and of a settlement entered into as a result of those proceedings.
  - In *Royal LePage Regina Realty (Re)*, [2022 SKREC 6](#) (file #2021-69), Royal LePage Realty was issued an order of reprimand and \$2,500 fine for breach of section 33(1)(a) by failing to notify the Commission in writing within five days of a change in the address of the main office of the brokerage. Mr. Duggleby was the registered broker.
- [23] There is previous sanction history of registrants under Mr. Duggleby's supervision for breach of bylaw 723:
- In *Gill (Re)*, [2019 SKREC 22](#) (file #2018-11), Jaspreet Gill was issued an order of reprimand, a \$1,000 fine and ordered to successfully complete the broker course within 6 months for breach of bylaw 723(a) and (b);
  - In *Ackerman (Re)*, [2019 SKREC 20](#) (file #2019-04), Brett Ackerman was issued an order of reprimand and a \$1,000 fine for breach of bylaw 723(c).

#### Prior Decisions & Other Considerations

- [24] 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.
- [25] 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.*

[26] Mr. Duggleby was advised by a registrant of his brokerage that they commenced personal bankruptcy proceedings and Mr. Duggleby failed to advise the registrant to notify the Commission of those proceedings pursuant to the requirements of Bylaw 723.
2. *The role of the offending member in the breaches.*

[27] A registrant under Mr. Duggleby's supervision notified Mr. Duggleby of his personal bankruptcy proceedings but failed to notify the Commission. Mr. Duggleby failed to ensure the registrant notified the Commission.
3. *Whether the offending member suffered or gained as a result of the breaches.*

[28] There is no evidence to suggest that Mr. Duggleby suffered any losses or enjoyed any benefit as a result of his breach.
4. *The impact of the breaches on complainants or others.*

[29] Mr. Duggleby's failure to advise his registrant of his obligations to notify the Commission, and his failure to ensure the registrant was compliant with the legislation challenges 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 that registrants are conducting themselves appropriately in the course of their practice.
5. *The need for specific deterrence to protect the public.*

[30] Specific deterrence is needed to ensure Mr. Duggleby understands the importance of a broker's role in providing supervision and guidance to the registrants and employees of his brokerage. Specific deterrence is also required to remind Mr. Duggleby of his obligation as a broker to ensure the registrants under his supervision are compliant with the legislation, and specifically with Bylaw 723, as Mr. Duggleby's previous sanction history suggests that Mr. Duggleby believes compliance with Bylaw 723 is optional.
6. *The need for general deterrence to protect the public.*

[31] All brokers must be reminded of the importance of the role a broker plays in providing supervision and guidance to the registrants and employees of the brokerage, and of their obligation to ensure the registrants under their supervision are in compliance with the legislation.
7. *The need to maintain the public's confidence in the integrity of the profession.*

[32] Members of the public must be confident that the registrants they engage to represent them in trades in real estate are taking all the necessary steps to abide by the legislation. The public must be reassured that all registrants and employees of a brokerage that they deal with in the course of a trade in real estate are being appropriately supervised by the broker responsible for them.

8. *The degree to which the breaches are regarded as being outside the range of acceptable conduct.*

[33] Mr. Duggleby's conduct falls below the standard expected of registrants, and taking into account his previous sanction history, previous failures to report to the Commission as required pursuant to section 33(1)(a) and Bylaw 723, and previous history of 723 breaches by registrants under his supervision, his conduct and disregard for the legislation is egregious.

9. *The range of sanction in similar cases.*

**A. What is an appropriate sanction for Mr. Duggleby's breach of Bylaw 712(e)?**

[34] There are a number of previous sanctions under bylaw 712(e), the most relevant of which are as follows.

[35] In *Dickie (Re)* [2015 SKREC 3](#) (file #2014-01A) ("*Dickie*"), Ms. Dickie was issued an order of reprimand and ordered to pay a \$2,000 fine.

[36] In October of 2013, a registrant under Ms. Dickie's supervision, Mr. Travis Norheim was charged with fraud in relation to funds he collected from the Workers' Compensation Board after returning to work. Mr. Norheim advised Ms. Dickie of the charges, but did not report them to the Commission. In November of 2013, Mr. Norheim pled guilty to multiple counts of theft under \$5,000. He did not notify the Commission. In January of 2014, a third party advised the Commission of Mr. Norheim's conviction.

[37] Ms. Dickie was a long-term registrant with no prior sanction history. She was cooperative with the investigation. Mr. Norheim had spoken to his lawyer about his duty to report to the Commission and was erroneously advised that he did not need to report.

[38] Ms. Dickie failed to ensure that Mr. Norheim had reported to the Commission on two separate occasions.

[39] The Hearing Committee found that it is important that the integrity of the Commission as a regulatory body not be undermined by registrants failing to advise of criminal proceedings that have commenced against them and any resulting convictions. A salesperson under Ms. Dickie's supervision was convicted of a charge involving the theft of money from the WCB. This calls into question the honesty and integrity of the registrant and must be reported to the Commission so that it can determine whether or not further action is required to safeguard members of the public and the reputation of the industry as a whole.

[40] Mr. Duggleby's breach was more serious than that of the registrant in *Dickie*. While Mr. Duggleby and Ms. Dickie are both brokers and are both charged with the responsibility to ensure that registrants under their supervision are compliant

with the legislation, Ms. Dickie had no previous sanction history and the registrant under her supervision was advised by his lawyer not to notify the Commission. Mr. Duggleby has a previous sanction history, including breach of Bylaw 723 and was therefore well aware of the notification requirements.

- [41] In *Chiple* (*Re*), [2020 SKREC 1](#) (file #2019-49) ("*Chiple*"), Lynn Chiple was issued an order of reprimand and a \$2,000 fine for breaching Bylaw 712(e) by having knowledge that a registrant under her supervision had listed a property on the basis of authority set out in a Will that had not been probated.
- [42] The owner of a property passed away leaving a Will that identified the Executor and another person as executors. The Executor initially listed the property for sale with Registrant A and the listing transferred to Ms. Chiple's brokerage when Registrant A joined in 2017. Thereafter, the listing was cancelled and re-listed by Registrant B, another registrant of Ms. Chiple's brokerage. After the property was listed for sale, Registrant B showed Ms. Chiple a copy of the Will and Ms. Chiple authorized Registrant B to proceed with the listing. Ms. Chiple had been advised on previous occasions by local lawyers that registrants could list properties while the probate process was underway. The Executor accepted an offer to purchase the property, but that transaction fell through when one of the lawyers handling the file discovered that the Will had not been probated. The buyers initiated a civil action against the Executor and the estate; the Executor filed a third party claim against Ms. Chiple and the brokerage.
- [43] Ms. Chiple had no previous sanction history since becoming registered with the Commission in 1979. She was co-operative with the investigation and took responsibility for her actions. Ms. Chiple had been advised by lawyers that properties could be listed even though probate was not complete. Ms. Chiple subsequently implemented a brokerage policy regarding the handling of estates.
- [44] Ms. Chiple was a broker. As the people responsible for ensuring their registrants are in compliance with the legislation, brokers are held to a higher standard of conduct. The buyers sued the estate and the Executor for failing to complete the contract. This could have been avoided if representatives of Ms. Chiple's brokerage had known to raise the issue with the Executor and ask about the probate process.
- [45] Mr. Duggleby's breach was more serious than that of the registrant in *Chiple*. They are both brokers, and although Mr. Duggleby's breach did not cause consumer harm, he has a previous sanction history including breach of the bylaw with which he failed to ensure his registrant was compliant. Ms. Chiple had no previous sanction history and had previously been advised by lawyers that the practice was acceptable. Ms. Chiple took responsibility for her actions and put in place a brokerage policy to ensure the issue would not happen again.

- [46] In *Batty (Re)*, [2019 SKREC 12](#) (file #2017-19) ("*Batty*"), Gerald Batty was issued an order of reprimand and a \$1,000 fine for failing to ensure that registrants of his brokerage were in compliance with the legislation.
- [47] A registrant under Mr. Batty's supervision, Registrant A, represented the Buyer and the Seller of the Property as a limited dual agent. Mr. Batty provided Registrant A with assistance in drafting terms set out in a Schedule "A" to the Buyer's offer, which directed that \$3,700 of the deposit would be returned to the Buyer in the event the transaction collapsed. Registrant A received the deposit from the Buyer's ex-husband and signed a memorandum with the Buyer's ex-husband stating that the \$3,700 would be returned to him in the event the transaction collapsed. Mr. Batty became aware of Registrant A's agreement with the Buyer's ex-husband shortly after it was made.
- [48] Mr. Batty had no previous sanction history and had been a registrant since 1981. He was co-operative with the investigation.
- [49] Mr. Batty 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.
- [50] Mr. Duggleby's breach is more serious than that of the registrant in *Batty*. Mr. Duggleby and Mr. Batty are both brokers, however Mr. Batty had no previous sanction history. Mr. Batty was aware that a registrant under his supervision had drafted two documents that provided contradictory information about how a deposit was to be handled in the event that a transaction collapsed, but did not identify the drafting issue and did not ensure the registrant corrected the issue. Mr. Duggleby failed to ensure a registrant under his supervision notified the Commission about a personal bankruptcy proceeding and thereby hindered the Commission's ability to fulfill its regulatory responsibilities and ensure protection of the public interest.
- [51] 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.



- [52] In determining the sanction recommendation for Mr. Duggleby, the fact that all three of the above noted decisions were made prior to the change in legislation must be taken into account.
- [53] Although it is a decision under Bylaw 723, the Hearing Committee in their findings in *Hyde (Re) [2009 SKREC 8](#)* (file #2008-74) ("*Hyde*"), made comments that are directly relevant and applicable to the current matter.
- [54] The registrant in *Hyde* failed to notify the Commission that he received a summons that he was charged with an offense under the Criminal Code. The charge was subsequently withdrawn.
- [55] The charge from the RCMP stated that Mr. Hyde was under investigation for alleged theft of \$40 of gas and a mickey of rye whiskey from a gas station in Saskatchewan. Mr. Hyde indicated that while he lives close to the gas station and shops there regularly, he was shocked to learn that he was under investigation and that if any gasoline had been taken and not paid for, it was certainly not deliberate. He also denied ever shoplifting and stated that the lump under his right hip in the surveillance video was his cell phone.
- [56] Mr. Hyde stated he did not notify the Commission because he believed that the charges were totally without merit.
- [57] In it's decision, the Hearing Committee made the following statements:
- [58] "The Hearing Committee wishes to make it clear that it is not for the registrant to determine whether the seriousness of the charge is sufficient to warrant notice to the Commission. All charges must be reported immediately. This is for public protection and in order that a determination of further action can be made by the Commission. All registrants must be conscious of this section and it is important that the brokerages remind their agents of it from time to time."
- [59] "The laying of a criminal charge is traumatic and distracting to the registrants. The Hearing Committee stresses that it must be brought to the Commission immediately and without the discretion of the registrant. The public must have confidence that the Commission is aware of the existence of charges and will take the appropriate steps on behalf of the public if steps are warranted. It is not for registrants or brokers to make these determinations."
- [60] While Mr. Hyde was charged with a criminal offense, the statements of the Hearing Committee apply to all of Bylaw 723 and make it clear that it is not up to the registrant or broker to determine whether an occurrence under Bylaw 723 ought to be reported to the Commission. The Hearing Committee makes it clear that everything must be reported so a determination can be made by the Commission and that the reporting obligations are for the protection of the public.

[61] It was not up to Mr. Duggleby to determine that his registrant's bankruptcy proceeding was not relevant to report to the Commission. That determination rests solely with the Commission.

**CONSENT ORDER:**

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

[63] 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 712(e):

- a. Mr. Duggleby shall receive an order of reprimand for the violation of Bylaw 712(e);
- b. Mr. Duggleby 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*;
- c. Mr. Duggleby's registration shall be terminated if he fails to make payment as set out above; and
- d. Mr. Duggleby shall, within 6 months of the date of this order, complete the broker course, failing which he can no longer be registered as a broker.

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

Dated at Saskatoon, Saskatchewan, this 21<sup>st</sup> day of March, 2024.

Randal C. Touet  
Hearing Committee Chairperson