

Education Update re: Articling Courses

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A number of individuals who are practicing under the old model of education are still subject to the successful completion of the *Principles of Real Estate Appraisal* and *Principles of Real Property Law* courses. These individuals were issued their renewal Certificates of Registration on July 1, 2008 with conditions specifically printed on the Certificate requiring the completion of these two course prior to June 30, 2009.

The Saskatchewan Real Estate Commission recently implemented the following policy:

“Individuals who fail to complete the articling courses pursuant to Bylaw 332 by June 30, 2009 will be required to take the new Phase I course after July 1, 2009. These individuals will be given six months (until December 31, 2009) to complete the Phase I course to retain registration. However, upon application to the Registrar, one-month extensions at \$300/month to complete the Phase I course may be granted at the discretion of the Registrar after December 31, 2009.”

Registrants subject to these requirements and their respective brokers are requested to take specific note of the Commission’s policy and to ensure successful completion of the two articling courses well in advance of the June 30, 2009 deadline.

Mission Statement

To protect the public interest by ensuring that registrants act within a professional framework that promotes ethical conduct and integrity and strengthens consumer trust and confidence.

Attention Individuals who complete the Commission's mandatory registration courses:

If you have comments and/or concerns during or after the completion of a mandatory registration course, the Saskatchewan Real Estate Commission welcomes receipt of your recommendations, etc. Please forward your suggestions and/or points of concern to our office at the address indicated below or send an e-mail to our Executive Director/Registrar, Al Jacobson at ajacobson@srec.ca.

We would appreciate your assistance in improving Saskatchewan's education program.

SREC Investigator



The Saskatchewan Real Estate Commission welcomes Christopher Mason to the Commission staff. Chris joined the investigation department on June 1, 2008.

Chris has over 15 years in the private sector bringing with him vast experience in corporate litigation support. Chris has conducted investigations and audits for some of the Saskatchewan's largest corporations, government agencies and various regulatory bodies. Chris has also travelled extensively throughout Alberta and British Columbia conducting security audits and investigations for various corporations and organizations.

The Saskatchewan Real Estate Commission will be closed on the following days:

September 1 - Labour Day

October 9 (afternoon) - SREC Annual Meeting

October 13 - Thanksgiving

November 11 - Remembrance Day

December 23, 2008 (afternoon) and December 24 - Christmas Holidays

December 31 (afternoon) and January 1 & 2, 2009 - New Year's Holidays

Agenda for SREC's 20th Anniversary Reception and Annual Meeting

The Saskatchewan Real Estate Commission will be celebrating its 20th anniversary October 9, 2008. The Annual Meeting, followed by a special reception, will be held in the Delta Concord at the Travelodge Hotel on Circle Drive in Saskatoon commencing at 1:00 p.m. We encourage registrants to join the Commission members and staff for this very special occasion. Please plan to join us.

The following is the proposed agenda for the Commission's 2007-2008 Annual Meeting and reception in celebration of its 20th Anniversary:

- 1:00 - 1:30 Update and Greetings from Saskatchewan Government
- 1:30 - 2:00 SREC Annual Meeting
- 2:00 - 3:15 Kit Grant (Motivational Speaker)
- 3:15 - 6:00 Wine & Cheese Reception

If you plan on attending our celebration, please RSVP to 306-374-5233 (ext. #1) or volfert@srec.ca prior to October 4, 2008.

SREC Brochure

In early July, the Saskatchewan Real Estate Commission sent copies of the Commission's new information brochure to all registrants. We would encourage you to share this pamphlet with your clients (buyers and sellers) to assist in educating the general public regarding the Commission's existence, function and mandate.

When you require additional copies, please contact the Commission office and additional copies will be provided to you free of charge.

Vision Statement: To have earned consumer confidence and be recognized as a highly professional, self-regulating organization that is effective and efficient in establishing and maintaining high standards of practice in the real estate profession.



July 2008 Registration Report

On-line Registration Renewal

The on-line registration renewal process went smoothly this year. Throughout the month of June, numerous enquiries were dealt with to assist registrants who had misplaced their log-in information and required assistance with the process. Only a small handful of registrants expressed concerns with use of a credit card via the Internet. As an option, registrants were permitted to send payment to the Commission office to be credited to their brokerage's account and subsequent processing of their renewal. We experienced only minor technical problems that were very quickly solved by our Systems Administrator, Jason Weiler. A big thank you to Jason for his expertise in maintaining our database.

By 4:30 p.m. on Friday, June 27th there were 105 individuals who had not yet logged onto the Internet to process their registration renewal for July 1st. Seventy one of those 105 individuals logged on and renewed their registration prior to midnight on June 30th. The Certificates of Registration for the remaining thirty-four expired at midnight on June 30, 2008.

Registration Statistics:

	<u>July 1, 2008</u>	<u>June 1, 2008</u>
Brokerages/Broker	223	228
Branch Managers	22	23
Associate Brokers	140	143
Salespeople	<u>1,085</u>	<u>1,094</u>
Total # of Registrants	1,470	1,488

A total of thirty-four individuals did not renew their registration effective July 1, 2008. There were sixteen new registrants on July 1, 2008 resulting in a total net loss of 18. However, by the end of July, the registration numbers had risen to 1,486.

CPD (Continuing Professional Development)

On March 18, 2008 the Commission sent an e-mail to all individuals who had not yet completed the Real Estate Update 2006-2008 course reminding them of the educational requirements pursuant to Bylaw 329.

After the last seminar on June 24/25, there were still thirty-eight registrants remaining who had not yet completed the 2006-2008 CPD requirements. The Association was prepared to offer an additional course

on July 15/16, 2008.

By June 30th, seventeen of the thirty-eight individuals had applied for a one-month extension, paid the \$300 extension fee and enrolled in the July seminar. The remaining 21 will be required to take the home study version prior to being granted reinstatement of their Certificates of Registration.

Procedure for On-line Examinations

Since March 2008, all examinations relating to registration coursework approved by the Saskatchewan Real Estate Commission and offered by the Association of Saskatchewan REALTORS® (ASR) are written on-line in regularly scheduled examination centres. Steps to the exam registration process are as follows:

1. Students receive an Examination Registration form with their course.
2. When a student is ready to write an exam, he/she must fill in the form (**with a current e-mail address**) and send the form to ASR a **minimum of seven days prior** to the exam date. Space is limited in all exam centres, so book early.
3. The student is then mailed an exam notification with the examination details (ie: place, time, room number, rules). An exam password is sent via e-mail. If the student does not have an e-mail address, the exam password is printed and sent with their notification.
4. Photo ID must be shown at the exam. The student then logs into the exam with his/her password. The student must pay the exam fee (\$100 plus tax) on-line with an accepted credit card or Pay Pal.
5. As stated in ASR's Policies and Procedures, students are NOT to attempt to use the computers in the lab for any other purpose other than writing the exam. There are consequences for inappropriate use of computers.
6. After completing and submitting the exam, the mark is immediately shown to the student. The Saskatchewan Real Estate Commission is notified the following business day of all students who have passed. Letters are also sent to all exam writers regarding their pass or fail as well as certificates to those who have passed.

Commission Disciplinary Action

Results of recent Mitigation and/or Formal Hearings conducted by the Commission.

The Saskatchewan Real Estate Commission's complete written hearing decisions are available on the website at www.srec.ca. Select the menu item "Decisions" in the menu bar at the top of the home page.

Reg Bernhardt, Sutton Group – Results Realty (Regina)

Date of Decision: March 6, 2008

Date of Written Decision: March 13, 2008

Disposition: Reg Bernhardt received an order of reprimand and an order to pay a \$3,000 fine for violating Section 58(3) (a) of *The Real Estate Act*. In addition, Reg Bernhardt received an order of reprimand; a \$1,500 fine; and was required to successfully complete the *Residential Real Estate as Professional Career* course prior to June 30, 2008 for violating Section 39(1)(a) of *The Real Estate Act*.

Violations:

- (a) Section 58(3)(a) of *The Real Estate Act* states: "Where a registrant presents an offer mentioned in subsection (1) and the offer is accepted: (a) the acceptance is to be in writing, and to be dated and signed by the seller in the presence of a witness who shall also sign the acceptance."
- (b) Section 39(1)(a) 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 harmful to the best interests of the public, the registrants or the Commission."

Details: Reg Bernhardt entered into two separate sellers' brokerage contracts for properties located in Regina, Saskatchewan. The contracts were signed by the registered owner of the property. In April of 2007, Reg Bernhardt completed a Residential Contract of Purchase and Sale form with a buyer from Calgary, Alberta to purchase both properties. The contract was subject to financing, a property inspection and indicated a completion date of July 1, 2007. At this time, Mr. Bernhardt presented this offer to a business partner of the Owner. Mr. Bernhardt was instructed to deal with the partner in the absence of the Owner relating to the sale of the two properties. The Owner was away at this time and Mr. Bernhardt believed that the partner had authorization to sign documents pertaining to the properties sale. The partner signed a counter offer to the Residential Contract of Purchase and Sale.



In May of 2007, the Calgary buyer removed conditions on the Residential Contract of Purchase and Sale and proceeded to finalize the sale. When the Owner became aware of the offer and counter offer, he refused to complete the transaction. Reg Bernhardt had not received any legal documents from the Owner or the partner confirming any power of attorney or consent orders at that time. The Calgary buyer registered an interest against the property and made a formal complaint to the Saskatchewan Real Estate Commission.

The Hearing Panel, in considering the disciplinary action, considered Reg Bernhardt's lack of previous sanction history and the length of time he has been in the real estate industry.

It is clear that Mr. Bernhardt knew what he should do; obtain a Power of Attorney from the Owner to authorize the partner to sign the documentation. The whole situation would have been avoided had this simple step been taken. It is not appropriate to assume that such an authorizing document is in place. Registrants must obtain a copy of the authorization to protect themselves and the other parties to the transaction. The suggested confusion of who the beneficial owner of the property is and who Mr. Bernhardt should deal with, is not an excuse for his actions. In such a circumstance, it is important to ensure that the proper documentation is in place. The public is expecting the registrant to

make sure the paperwork is in order. If Mr. Bernhardt had obtained the Power of Attorney, this matter would never have been brought before the Hearing Committee.

The Hearing Committee, in reviewing the agreed facts and documents, noted that the general level of completion of the documents did not appear to be at an acceptable standard. It was hoped that this incident will provide Mr. Bernhardt the incentive to prepare proper documentation and will eliminate his appearance before the Commission.

The Hearing Committee noted that this is another situation where the registrant who is being investigated acted for both the buyer and the seller. It is imperative that all documentation is in proper condition. The registrant cannot assume matters between the parties and on behalf of the parties. There is no registrant acting for the other party to question matters. Therefore, the registrant acting for both parties must be diligent and careful in his/her paperwork.

The circumstances of this case are basic to a trade in real estate. Presentation of an offer, proper dates and signatures of the parties are the core elements in the transaction and are elements which the public are entitled to assume will be completed properly by the registrants. When they are not taken care of appropriately by the registrant, there can be significant consequences. Mr. Bernhardt should have been extra cautious to protect all the parties to the transaction.

The Hearing Committee accepted that Mr. Bernhardt did not intentionally harm the parties. The Committee accepted that he trusted the parties and felt like they took advantage of him. This is Mr. Bernhardt's first time before the Commission and he is clearly remorseful. Without these factors, the fines could have been higher.

Leah Brisdon, Century 21 Conexus Realty Ltd.
(Saskatoon)

Date of Decision: May 2, 2008

Date of Written Decision: May 27, 2008

Disposition: Leah Brisdon received an order of reprimand; an order to pay a \$1,000 fine; and an order to pay \$1,335 in hearing costs for violating Commission Bylaw 708.

Violation: Commission Bylaw 708 states: "A

registrant, at the time of signing an in-house exclusive written agreement, must have written notification from the Seller that the Seller requests the registrant's brokerage to co-operate or to not co-operate with other brokerages in the marketing of the Seller's property. If the Seller directs the brokerage not to co-operate with other brokerages, the brokerage shall state the implications of this agreement to the Seller in writing." Leah Brisdon was found not guilty of a charge under Section 39(1)(a) of *The Real Estate Act* for engaging in actions that are harmful to the best interests of the public, registrants or the Saskatchewan Real Estate Commission.

Details: At a formal hearing, the hearing panel heard from four witnesses: Mr. Seller, Mr. Seller's former girlfriend, an individual who contacted Leah Brisdon about buying the property and Leah Brisdon's Branch Manager. Mr. Seller and his wife moved to Canada a number of years ago and purchased a Saskatoon residential property. In the spring of 2006, Mr. Seller vacated the property due to a marriage break-up; Mrs. Seller and children remained at the property for about another year and then returned to England.

By the spring of 2007, due to delinquent mortgage payments, the bank commenced foreclosure proceedings and took possession of the property. In early March 2007, Leah Brisdon learned about the pending foreclosure, conducted basic research to determine the mortgage payout and penalty amounts and thereafter contacted Mr. and Mrs. Seller for the purpose of listing and purchasing the property. Leah Brisdon directed Mr. and Mrs. Seller into an exclusive non-co-operating seller's brokerage contract without providing the sellers with the limitations of such a contract as outlined in Commission Policy. That same day, Leah Brisdon wrote a Residential Contract of Purchase and Sale on behalf of himself purchasing the property for \$115,000 and the transaction completed within 30 days.

Evidence from Mr. Seller and his ex-girlfriend confirmed that Leah Brisdon spent a total of fifteen minutes at Mr. Seller's residence explaining all real estate records to complete the transaction.

The hearing panel found that Mr. Seller was not a sophisticated seller and remained confused about the status of the property. Mr. Seller confirmed his confusion with the transaction in that Mr. Seller referred a potential buyer to Leah Brisdon regarding the property within days of having already signed acceptance to Leah Brisdon's purchase contract. The hearing panel concluded that at the time the potential buyer contacted

Leah Brisdon to purchase the property, no listing existed and Leah Brisdon's unconditionally accepted Residential Contract of purchase and sale between Leah Brisdon remained the only contract awaiting completion; the property was no longer for sale.

The hearing panel reiterated that the Saskatchewan Real Estate Commission requires registrants, when involved in their own transactions, to take extreme care in presenting and explaining documents. The hearing panel found that for Leah Brisdon to have taken as short as fifteen minutes to explain five or six detailed documents to Mr. Seller was clearly not satisfactory; although Mr. Brisdon was not taken to task for that. The sanction imposed on Leah Brisdon, a second-time offender, remained consistent with a prior sanction of another registrant in similar circumstances.

Paul Ehmann, Broker , Countrywide Executive Realty Ltd. (Regina)

Date of Decision: March 28, 2008

Date of Written Decision: April 22, 2008

Disposition: Paul Ehmann received a letter of reprimand, an order to pay a \$3,500 fine and an order to successfully complete the *Real Estate Office Management and Brokerage* course for violating Section 58(1)(b)(iv) of *The Real Estate Act*. Paul Ehmann also received an order of reprimand and a \$1,500 fine for violating Commission Bylaw 717. In addition, Paul Ehmann received an order of reprimand and an order to pay a \$1,500 fine for violating Commission Bylaw 721. Paul Ehmann was also assessed \$1,200 in hearing costs.

Violations:

- (a) Section 58(1)(b)(iv) of the Act states: "An Offer to Purchase obtained by a Registrant is to clearly show, prior to execution by the Buyer, the price offered by the Buyer and the terms and conditions of the Offer."
- (b) Commission Bylaw 717 states: "No broker, branch manager, associate broker or salesperson shall trade in real estate under any name other than the name on his or her Certificate of Registration."
- (c) Commission Bylaw 721 states: "In addition to Subsection 61 of *The Real Estate Act*, any Registrant who makes any promises, guarantees or undertakings to a Buyer or Seller must do so in writing."

Details: Paul Ehmann, the sole owner and director of Countrywide Executive Realty Ltd., originally met with a buyer and shortly thereafter helped her complete a Residential Offer of Purchase and Sale for the purchase of the property in Imperial, Saskatchewan. The buyer had placed a mortgage on her Regina property to obtain the funds required to purchase the Imperial property. The buyer eventually decided to sell her Regina property and contacted Paul Ehmann, who offered to purchase the property. Paul Ehmann indicated that he would be prepared to purchase it through his corporation, By Design Homes Ltd., a corporation of which he was the sole director and shareholder. The Residential Contract of Purchase and sale By Design Homes Ltd. and Paul Ehmann agreed to purchase the property from the seller for the sum of \$28,000. The form had "By Owner" at the top and no information under "Buyer's Brokerage" or "Seller's Brokerage." Within the body of the document, there were initials under Paragraph C regarding assumption of the existing mortgage, but no figures were placed therein. Under Paragraph 1(b) of the document, the phrase was written in "assuming the existing mortgage" with no further details given.

In the fall of 2003, the parties determined that Paul Ehmann would pay the seller the sum of \$500 per month, which would be applied against the mortgage and the balance of approximately \$160 would be applied to the cash to mortgage portion of the purchase price. These payments commenced in January of 2004 until September of 2005, at which time the parties met and tried to determine how much had been paid against the purchase price. At that time, Paul Ehmann had no records to review of the payments having been made, but indicated to the Complainant that he was not expecting any repayment and was content to accept the payments as having been made. In September of 2005, the parties went to Information Services Corporation in Regina to arrange for the transfer of the title into the name of Paul Ehmann's corporation. The seller continued to hold mortgage to the property but not title. The seller was eventually contacted by a Bank representative, who indicated to her that the bi-monthly payments were now in arrears. The seller made a formal complaint to the Saskatchewan Real Estate Commission regarding Paul Ehmann's actions. The mortgage was eventually transferred from the Complainant to Paul Ehmann's corporation and all funds agreed upon were paid between the parties.

The Hearing Committee determined that there were various discrepancies in the evidence between the parties;

however, the essential failings of Paul Ehmann in his actions based on the charges, of which he was found guilty, were very clear. It should be noted that the Complainant's evidence was both forthright and not self-serving. She was an unsophisticated person in dealing with real estate and was in a financial bind. Paul Ehmann's actions in this matter created a situation of risk both for the Complainant and for the Registrant. The significant lack of appropriate documentation was very troubling to the Hearing Committee.

The Hearing Committee felt that Paul Ehmann's actions showed a lack of professional completion of documentation. The Complainant and the general public have the right to rely upon a registrant to act in a professional manner. The documentation and circumstances surrounding a trade in real estate are matters in which the general public is not cognizant as to what steps must be taken. They are relying upon the trained and educated registrant to do what is best for them. The documentation in this matter was definitely not done in a professional manner. The lack of clarity in the documents, the failure to place the name of the Registrant and/or his brokerage on the Offers to Purchase prepared by Paul Ehmann is significant. The lack of clarity in the conditions, the manner of payment of the purchase price and the failure to record amendments to the Agreement are significant. This creates a situation of uncertainty and confusion as to what the actual agreement was between the parties.

The Hearing Committee especially wants to comment on the fact of initialing blank portions of the documents to be completed later. This is not a practice which is to be condoned or continued by this or any other registrant. As was apparent from the facts in this matter, the blanks were never completed and the circumstances were such that it created potentially serious problems between the parties.

The evidence before the Hearing Committee was unsatisfactory and inconclusive in some matters. Paul Ehmann was of the opinion that he had been approved for mortgage assumption, although he had never received any documentation confirming this. Paul Ehmann's evidence was contradictory on the issue of whether he was acting as a property manager for the buyer, an agent for the buyer, or on his own behalf in renting out the property and making payments to the Complainant prior to September 2005. In the end, the circumstances did not affect the decision-making of the Hearing Committee, but the lack of clarity in these

matters is again reflective of the inadequate documentation prepared at the beginning of the transaction. It is essential for the trained and educated registrant to prepare documentation that is clear and not subject to various interpretations. This obligation, had it been followed by Paul Ehmann, would have avoided any issues in this matter.

Paul Ehmann's failure to place his brokerage name on the Offer to Purchase and the complete inability to determine the purchase price from the document created a dilemma for the parties which was not truly resolved for over two years.

In this matter, Paul Ehmann's lack of clarity in the documents may well have led to unforeseen consequences if he or the Complainant could not explain the transaction, because the documents did not provide an explanation. The failure to set forth the purchase price is a fundamental aspect of the transaction and therefore, the fine is significantly higher than in the prior cases.

The Hearing Committee was also concerned that this was a circumstance where Paul Ehmann was acting on his own behalf in purchasing property from the Complainant. In these circumstances, it is essential that the registrant make the documentation clear and unequivocal as to what is to take place. While this is necessary in every transaction, it is especially important that registrants in their own dealings for their own potential benefit do not leave the situation open to interpretation which could be detrimental to the Complainant. The general public must feel confident that the registrant is not taking advantage of their inside knowledge of the real estate industry in making a trade in real estate. In such circumstances it is even more important that the parties receive independent counsel. While the Hearing Committee did not find Paul Ehmann guilty of directing the Complainant away from her own legal counsel, it is suggested that he should have encouraged her to obtain legal counsel in this matter.

It was the position taken by Paul Ehmann and his counsel that he was taking these steps in order to be of assistance to a woman in need, the Complainant. Paul Ehmann indicated that he had not and would not take advantage of the Complainant and indeed would have transferred the property back to her had she requested it. The Hearing Committee made no comment on his position, neither confirming nor denying the position. However, even in such circumstances, it is imperative that the paperwork involving the trade in real estate be clear and properly completed. This, again, did not occur, leading to

confusion as to what the true transaction was to be. The purpose of the documentation is to clarify the trade in real estate, not to confuse it.

As to the matter of hearing costs, it is clear there was a mixed result. However, it was the position of the Hearing Committee that, notwithstanding total costs in the amount of approximately \$3,800, it is not the responsibility of the Registrant to cover all the costs. It was, however, recognized by the Committee that these charges were serious and the necessity of a hearing was created by the actions of Paul Ehmann. Therefore, a portion of the costs in the amount of \$1,200.00 was awarded against him.

The Committee also wanted to make it clear that they found no benefit to Paul Ehmann in this trade in real estate. This was a factor in not creating fines or sanctions more serious than those set forth above. Had the evidence shown Paul Ehmann to have taken advantage for personal gain in this matter, the sanctions would have been more serious than set forth above.

The Hearing Committee again reiterates the necessity of all registrants to ensure paperwork and documentation is completed in an appropriate and professional manner in every circumstance. The mandatory forms, the proper identification and qualifications and acting in a professional manner are important in every transaction and are especially important in circumstances involving the registrant being a party to a trade in real estate. The lack of professional approach to these transactions by Paul Ehmann is a detriment to both Paul Ehmann and to the real estate industry as a whole. The Saskatchewan Real Estate Commission is concerned that public confidence in the industry must be maintained. When documentation was done in a manner such as completed by Paul Ehmann, the entire profession is tainted by his actions. This fact as well is reflected in the sanctions set forth by the Hearing Committee.

Tyler Milnthorp, Century 21 Conexus Realty Ltd. (Saskatoon)

Date of Decision: February 26, 2008

Date of Written Decision: March 13, 2008

Disposition: Tyler Milnthorp received an order of reprimand and an order to pay a \$2,500 fine for violating Section 39(1)(b) of *The Real Estate Act*.

Violation: Section 39(1)(b) 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 fraudulent."

Details: On or about July, 2007 Tyler Milnthorp assisted an Ontario buyer to purchase a property sight unseen from a builder using the builder's Offer to Purchase. On or about November 2, 2007 Mr. Milnthorp entered into an Application/Lease Agreement as (Agent for the Landlord) with the tenant to rent the property in Saskatoon on behalf of the Ontario owner.

Mr. Milnthorp did not have a written property management agreement when he commenced property management services on behalf of the owner. Mr. Milnthorp received cash from the anticipated tenant for the security deposit and then continued his property management services by placing advertisements in the *Saskatoon Star Phoenix* under property management.

The terms on Mr. Milnthorp's Certificate of Registration indicate that he shall only trade in real estate on behalf of others in residential real estate. Upon learning of the requirements for conducting property management in the Province of Saskatchewan, Mr. Milnthorp ceased his activities as of November 9, 2007 returning any proceeds in his possession. He acknowledged that, in error, he advertised and commenced property management activities in the Province of Saskatchewan when he was not registered to do so.

In considering the disciplinary action, the Committee considered Tyler Milnthorp's lack of previous sanction history and the short length of time he has been in the real estate industry.

The Hearing Committee is very concerned that the registrants understand the terms of their registration and that they only provide services which they have the proper education to perform. The brokerage is responsible to ensure that its registrants know what they are entitled to do under the terms of their registration, whether that is residential, commercial, farm, property management or any other activity to which their registration is restricted. This is a significant problem as the public is relying on the registrants to be trained for the job they perform. Clearly, Mr. Milnthorp was not trained to be a property manager. He made a number of mistakes that could have been costly to the owner.

The Hearing Committee wants to make it clear to all registrants that the terms of their registration must be adhered to.

Colleen Ratcliffe, Re/Max Keystone Realty (Melfort)

Date of Decision: May 8, 2008

Date of Written Decision: June 10, 2008

Disposition: Colleen Ratcliffe received an order of reprimand and an order to pay a \$1,000 fine for violating Commission Bylaw 730(g).

Violation: Commission Bylaw 730(g) states: “The following approved forms, provided by the Association of Saskatchewan REALTORS® shall be mandatory: (g) Ancillary Services in the Purchase of Residential Real Estate (applies only to re-sale residential real estate).”

Details: In 1999 sellers of an acreage in the RM of Kinistino marketed the property through another brokerage on the multiple listing service. At that time, Rural Municipality records and tax records indicated that the buildings belonged to the property and taxation occurred accordingly.

In May 2005, sellers listed the acreage for sale with Re/Max Keystone Realty and Colleen Ratcliffe marketed the property on the MLS. The sellers did not disclose any significant issues to the property and Colleen Ratcliffe obtained Saskatchewan Assessment Management Agency records that indicated buildings and improvements existed within the legal land description.

In July 2005, Colleen Ratcliffe represented buyers and sellers in a successful Residential Contract of Purchase and Sale form for the acreage. In error, Colleen Ratcliffe neglected to have the buyers make use of the mandatory Ancillary Services in the Purchase of Residential Real Estate form. As a term of the contract, the sellers agreed to provide a surveyor’s certificate after the completion of the transaction. In 2006, and as part of the required survey of the property, the surveyor determined that the buildings and improvements did not exist within the legal land description of the property. In the interim, the buyers, the seller and the registrants continue to attempt to negotiate a re-defining of the legal boundaries of the brokerage.

The hearing panel’s written decision emphasize the importance, for Colleen Ratcliffe (a first-time offender) and all registrants, that the failure to use the Commission’s mandatory forms can negatively impact on clients and registrants. The buyers remain in possession of the property. Had the Ancillary Services in the Purchase of Residential Real Estate form been used for the benefit and protection of the buyers and registrants, the sellers’ innocent misrepresentation would not have led to Colleen Ratcliffe appearing before the Commission’s hearing panel.

Jan Rayburn, Re/Max P.A. Realty (Prince Albert)

Date of Decision: February 26, 2008

Date of Written Decision: March 13, 2008

Disposition: Jan Rayburn received an order of reprimand and an order to pay a \$1,000 fine for violating Section 39(1)(b) of *The Real Estate Act*.

Violation: Section 39(1)(b) 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 fraudulent.”

Details: In May of 2007, a Saskatoon registrant entered into agreement to market a recreational property located at Murray Point with Sellers from Saskatoon. At this time, the MLS® Exclusive Seller’s Brokerage Contract indicated the Saskatoon registrant as the sales representative as well as his Saskatoon brokerage. The Saskatoon registrant also filled in the MLS® Data Input Form with the same representation.

During this time the Saskatoon registrant made arrangements with Jan Rayburn to consider listing the property out of the Prince Albert Real Estate Board office for better exposure. Upon agreement, the Saskatoon registrant gave Ms. Rayburn the keys to property and his listing agreement. Jan Rayburn amended the original MLS® Exclusive Seller’s Brokerage Contract form from the Saskatoon brokerage to her Re/Max P.A. Realty brokerage prior to receiving written authorization from the Sellers. Ms. Rayburn also left the Saskatoon registrant’s name as sales representative on the Seller’s Brokerage Contract, but Ms Rayburn amended the MLS® Data Input Form to indicate Re/Max P.A. Realty as the seller’s brokerage and herself as the salesperson. The amended documents Ms. Rayburn sent to the Prince

Albert Real Estate Board on or about May 4, 2007 did not contain the written authorization from the Sellers approving the listing with Re/Max P.A. Realty.

The Committee, in determining the disciplinary action, considered Ms. Rayburn's lack of previous sanction history and the short length of time she has been in the real estate industry.

The fact that Ms. Rayburn was misled by the brokerage and the Board as to proper behaviour is very troubling to the Commission. The fact that the documentation may not register does not give the registrants the right to prepare false documentation. The fact that the actions of Ms. Rayburn were not for her own benefit was another factor in keeping the fine as low as the Committee determined. In other circumstances, the Committee may well have provided more significant sanctions. This is a fraudulent act by the Registrant, which the Committee wants to make clear is not an acceptable manner in completing the documents and acting on behalf of your clients.

The actions of the Registrant in amending documents to provide false information cannot be condoned. If an agent says they are the listing agent, they must have in place the signed documentation to back it up. The

parties reading these forms must be able to rely on their truth. When the documents are based on oral representations, it is open for the parties to change their minds later, which can have serious ramifications. It should be noted that the sanction in this matter is based solely on the narrow charge that was before the Hearing Committee.

Are you receiving e-mail correspondence from the Saskatchewan Real Estate Commission?

If not, it may be due to the following:

- (a) *you do not have an e-mail address on file with the Commission;*
- (b) *your e-mail address is incorrect;*
- (c) *your e-mail provider is not recognizing the following e-mail address as a valid sender (mailer@srec.ca).*

Please make every effort to ensure that you are receiving the Commission's e-mail correspondence.

SREC Contact Info

Saskatchewan Real Estate Commission
237 Robin Crescent
 Saskatoon, SK
 S7L 6M8

Our fax number is: **1-306-373-2295**
 Our telephone numbers are:
 1-306-374-5233
 1-877-700-5233 (Toll Free)

Our website address is: **www.srec.ca** and we may be reached at the following e-mail addresses:

Al Jacobson	ajacobson@srec.ca
Chris Mason	cmason@srec.ca
Ed Miller	emiller@srec.ca
Verna Olfert	volfert@srec.ca
Jason Weiler	jweiler@srec.ca
Allan York	ayork@srec.ca

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