



THE REGISTER

SREC Newsletter

August 2018

In This Issue...

In each issue of *The Register* we try to focus on trending issues in the real estate industry of Saskatchewan as well as offer educational moments and registrant-specific information and reminders. In this edition, we are following up on several items of importance to all registrants.

- 1) A quick look around the 2018/19 Commission table and some staff changes.
- 2) The Commission's AGM is in Regina this year...RSVP to hold your seat.
- 3) Do you know how to handle deposits with an Offer to Purchase?
- 4) The new guidelines within our English Language Proficiency Requirement (ELPR), will affect new students in 2019.
- 5) REIX announces a new CEO.
- 6) DOs and DON'Ts for unregistered real estate assistants.

As always, we enjoy hearing from our registrants. In addition to sending us requests for information you would like to see in upcoming issues of *The Register*, do not hesitate to contact us with any questions or concerns you might have.

We hope you enjoy this issue!



INSIDE...

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You must be the change you want to see in the world - Mahatma Gandhi

Your 2018/19 Commission

The Commission is no stranger to change. Our job as a regulator is to be responsive to the needs of the public and our registrants, which often necessitates change. For example, we recently began the process of changing some of our legislation. We also have recently changed education program providers. Commission member representation is designed to embrace change (for details about the makeup of the Commission, refer to *The Real Estate Act*, Section 6).



2018/19 Commission members:

Standing, left to right: Cliff Iverson, Lori Patrick, Doreen Heinbigner, Al Myers, Paul Jaspar, Vern McClelland (Chair), Anne Parker, David Chow, Aaron Tetu (ED/Registrar)
Seated: Carla Browne, Wayne Zuk, Bob Volk

Staffing:

We are pleased to welcome Bill Craik as our new Legal & Compliance Manager. Bill comes to us from the Human Rights Commission where he was the lead investigator and legal resource. With over 30 years of law and public service behind him, Bill is a stellar addition to our staff. Welcome Bill!

We are sad to say goodbye (for now) to our legal summer student, Amanda Kimpinski, who's last day is August 24. Luckily, Amanda has agreed to continue facilitating the work of the Compliance Department by joining our staff part-time over the winter months as she continues with her 3rd year Law studies at the U of S campus. Thank you Amanda!

Save the Date! SREC 2017/18 AGM

This year's meeting will be held in Regina, on **Thursday, October 11 at 11:30am** at the Delta Hotel Marriott, Regina. All registrants are welcome to attend. Our AGM will follow the format of a lunch presentation.

Please RSVP to info@srec.ca prior to 4pm, Thursday, October 5 with numbers of attendees from your brokerage. Space is limited, so only those who RSVP will have a guaranteed seat.

The Commission will be presenting its Annual Report and providing updates on various projects, specifically the new education program and proposed legislative changes. We welcome questions and discussion from industry members.



Dealing with Deposits on Offers to Purchase

In Section 1 of the Residential Contract of Purchase and Sale, the buyer sets out the price he or she is willing to pay for a property and how that purchase price will be paid. Section 1.2(b) of the offer sets out the deposit the buyer will pay to the buyer's brokerage to be held in trust pending the collapse or completion of the transaction. Section 1.2(b) of the offer states that the deposit has been received by the buyer's brokerage and will be deposited into trust within two business days of the seller's acceptance of the offer.

Commission Bylaw 701(a) prohibits a registrant from making a document required by The Real Estate Act, the Regulations or the bylaws that contains an untrue statement of a material fact. The amount of the deposit and whether or not the buyer's brokerage has collected the deposit at the time the offer is written are considered material facts. If, at the time an offer is written, the buyer's brokerage has not collected a deposit, it is not appropriate to include a deposit in paragraph 1.2(b) as this paragraph specifically states that the deposit has been received by the brokerage.

If a buyer intends to deliver a deposit to the brokerage at a later time, such as when the offer is accepted or conditions have been removed, the amount of the deposit should not be noted in paragraph 1.2(b). A condition or term should be added to the contract of purchase and sale indicating the amount of the deposit, when it will be paid and to whom. Noting the amount of the deposit in paragraph 1.2(b) and including a term or condition specifying when a deposit will be paid results in contradictory information in a contract that can give rise to a disagreement between a buyer and a seller as to when the deposit was supposed to be paid.

Therefore, if no deposit has been received at the time the offer is written, registrants can set out the amount of the deposit that is to be obtained from the buyer at a later date in section 1.2(e). The term or condition dealing with the deposit must be written clearly and accurately set out the parties' intentions with respect to the deposit.

The clause must specifically state that the money that is to be obtained from the buyer is a deposit. The clause must identify who will hold the deposit pending completion of the contract (e.g. the buyer's brokerage, the seller's lawyer) and where the money will be held. The clause should also indicate whether or not the deposit is intended to form part of the purchase price.

The deposit is a fundamental aspect of a real estate transaction. As such, the term or condition regarding the deposit should not be ambiguous or vague. It is critical that the term or condition regarding the deposit is drafted clearly and coherently and does not give rise to confusion between the parties. Where possible, it is always preferable for registrants to draft contracts in plain language so that buyers and sellers, who may or may not have any experience with real estate transactions, can read a contract and understand their rights and obligations under that contract. It must be also clear whether the clause is intended to operate as a term of the contract or as a condition precedent to the completion of the contract, as terms and conditions are different elements of a contract that have different legal effects.

Terms are portions of the contract that survive closing. They do not necessarily require actions to be performed within a specified time and they do not need to be met to allow a transaction to close. Failure to comply with a term of a contract is typically addressed by way of an action for damages.

The conditions typically seen on contracts of purchase and sale of real estate are conditions precedent. These are conditions that must be removed before the transaction can close. Conditions must include a date by which they must be removed. Failure to remove a condition before it is set to expire can result in the collapse of the transaction.

Changes to the English Language Proficiency Requirement in 2019

As of January 1, 2019, UBC's Sauder School of Business, Real Estate Division is providing all of the Commission's mandatory education. As we review and revise the contents of the education program, we are also reviewing and, where necessary, revising our education policies.

One such policy is our English Language Proficiency Requirement (ELPR). We have taken steps to simplify the ways in which students may demonstrate their proficiency in English.

Effective January 1, 2019, students will be required to satisfy the English Language Proficiency Requirement ("ELPR") in one of the following ways before they can register for an examination:

1. Provision of a Grade 12 diploma from a Canadian English-speaking high school*.
- OR**
2. Achieving a level 7 or higher on each of the four components (reading, writing, speaking, and listening) of the Canadian English Language Proficiency Index Program – General ("CELP-IP-G") test on the same test score report (scores from multiple test attempts cannot be combined).
- OR**
3. Graduation from a recognized university Bachelor's degree or higher degree program at an accredited university, college, or technical institute at which English is the primary language of instruction.
- OR**
4. Licensed for real estate services in another Canadian jurisdiction with English language standards and have satisfied that jurisdiction's English language requirements.

*Applicants may request the Registrar perform a review of their relevant experience in the absence of a high school diploma.

Please see our [webpage](#) for further details and answers to FAQs.



Save the DATE

2018

**Sept. 6 (Regina)
Dec. 6 (Saskatoon)**
Regular Commission meetings

September 15
IBTA interest remittance due

October 11
**Commission
AGM in Regina**

Oct. 15-Dec. 31
Professional Corporation permit renewals

2019

January 2
**New education
program launch
with UBC
Sauder**

May 31
CPD completion deadline for 2018/19

June 30
Registration renewals due

July 1
Registration year begins

New REIX CEO

The Real Estate Insurance Exchange (REIX) is pleased to announce the appointment of **Lisa Sabo as its new CEO**, replacing Harvey Gamble who is retiring November 15, 2018. Lisa will join REIX on September 4, 2018.

Lisa Sabo, is a lawyer with an extensive background in the insurance field, particularly professional errors and omissions insurance.

From 2003 to 2015, Lisa was the Director of Insurance of the Law Society of Alberta's lawyers' professional liability insurance program (ALIA). Since leaving ALIA in 2015, Lisa assumed the role of Regulatory Compliance Officer and governance consultant with REIX. In 2017, Lisa joined the Alberta Real Estate Association (AREA) as in-house Legal Counsel.

Dale Ripplinger, Advisory Board Chair of REIX:

"After a thorough and rigorous search process we are delighted that Lisa Sabo has agreed to join REIX as its CEO. Lisa has very significant insurance experience. She is a people and customer-centred individual with excellent business experience. We look forward to working with her over the next many years of her leadership."

Harvey Gamble, CEO of REIX:

"I am very proud of the progress and results that REIX has achieved during my time as CEO. I feel that our team has created and built a very strong and effective program. I am very pleased that Lisa Sabo is joining REIX as my successor to take REIX to its next stage. I wish Lisa, the Advisory Board and the REIX team my very best wishes for continued success."

Commenting on her new role, Lisa Sabo added:

"REIX is a very efficient and well-run business with a small but strong team of dedicated people. I am excited to have the opportunity to work with the team and Advisory Board as we lead REIX into the next stage of its strategic development. I am also looking forward to meeting the real estate professionals in Alberta and Saskatchewan whom REIX serves."



Commission Decision Summaries

Details of Commission decisions can be found on our website through the links provided at the end of each summary.

The Commission is also proud to promote our presence on CanLII, [here](#) (full coverage from Jan, 2004).

Jerry Hallgrimson (salesperson), Royal LePage Varsity

Date of Decision: July 26, 2018

Violation: Mr. Hallgrimson was charged with professional misconduct contrary to s. 39(1)(a) of *The Real Estate Act* for engaging in conduct that is harmful to the best interests of the public, the registrants or the Saskatchewan Real Estate Commission.

Details: On October 14, 2014, the Seller posted an advertisement on Kijiji listing her house for sale. The advertisement stated, "ABSOLUTELY NO AGENTS".

Mr. Hallgrimson sent the Seller a message on Kijiji identifying himself as a registrant and inviting her to list her home with his brokerage. The Seller replied, "Could you not read the 'NO AGENTS PLEASE' part of the ad???".

Later that same day, Mr. Hallgrimson sent another message to the Seller containing the same standard solicitation. The Seller contacted Mr. Hallgrimson and his broker and told them that she did not want to be contacted by either of them again.

Two days later, Mr. Hallgrimson sent a third message to the Seller containing the same standard solicitation. Mr. Hallgrimson did not realize that he was sending another message to the Seller.

The next day, the Seller responded to Mr. Hallgrimson's third message. She was very upset that she had received Mr. Hallgrimson's message three times when her advertisement clearly stated no agents. She noted that she was still being solicited even though she had contacted Mr. Hallgrimson to request he stop.

Later that day, Mr. Hallgrimson responded to the Seller with a message that stated, "Let's get it listed up".

Mr. Hallgrimson ultimately apologized to the Seller and has since made every effort to avoid contacting people who have specifically requested not to be contacted.

Disposition: The Hearing Committee agreed with the consent order filed by the parties, found Mr. Hallgrimson guilty of the charge and ordered that he receive an order of reprimand and a \$1,000 fine.

The entire written decision of the Saskatchewan Real Estate Commission in the Matter of Jerry Hallgrimson dated July 26, 2018 can be viewed on the Commission website at <http://www.srec.ca/pdf/2014-54.pdf>.

Commission Decision Summaries

Matt Dominguez (associate broker), Re/Max Crown Real Estate (formerly Better Homes and Gardens Real Estate Signature Service)

Date of Decision: August 17, 2018

Violations: Mr. Dominguez was charged with professional misconduct contrary to Saskatchewan Real Estate Bylaw 712(e) for failing to ensure that registrants of his brokerage were in compliance with the legislation.

Details: On January 30, 2013, Registrant 1 and Registrant 2, salespersons registered at Mr. Dominguez's branch office, sent a letter to the Owners of the Property. The Owners were privately selling the Property and the letter was a form letter advertising Registrant 1 and Registrant 2's services to owners of properties listed For Sale By Owner.

The Owners did not sign an agency agreement with the brokerage, but they engaged Registrant 1 and 2 to conduct an Open House at the Property. On February 14, 2013, a link to a Kijiji advertisement regarding an open house at the Property was posted to a professional Facebook page that Registrant 1 and 2 operated together. This advertisement was not submitted to Mr. Dominguez for review prior to posting.

The brokerage's social media coordinator "liked" the post linking to the Kijiji advertisement using Mr. Dominguez's personal Facebook account. Mr. Dominguez did not advise Registrant 1 and 2 that they were required to submit all advertising for approval prior to publication on any social media platforms. The brokerage did not have a written policy regarding advertising through social media at the time.

On February 15, 2013, Registrant 1 and 2 posted a list of open houses scheduled in the Moose Jaw area to another professional Facebook page they operated.

The owners of the open house properties listed did not sign an agency agreement with the brokerage or provide written authorization for the brokerage to advertise the open house properties for sale. The open house lists were not submitted to Mr. Dominguez for review prior to posting.

Disposition: The Hearing Committee agreed with the consent order filed by the parties, found Mr. Dominguez guilty of the charge and ordered that he receive an order of reprimand and a \$1,000 fine.

The entire written decision of the Saskatchewan Real Estate Commission in the Matter of Matt Dominguez dated August 17, 2018 can be viewed on the Commission website at <http://www.srec.ca/pdf/2013-09B.pdf>.

Important Note

Questions? Contact the Commission's Legal & Compliance department at compliance@srec.ca, or call 306-374-5233.

Commission Decision Summaries

Jessica Betteridge (salesperson), Coldwell Banker Signature (formerly Century 21 Fusion)

Date of Decision: August 17, 2018

Violations: Ms. Betteridge was charged with professional misconduct contrary to:

- Commission Bylaw 702 for allowing her clients to enter into a conditional contract of purchase and sale with the complainant when the conditional sale of the Property to Buyer 1 had not been formally collapsed; and
- Commission Bylaw 730(f) for failing to use the mandatory Disclosure of Interest in Trade form.

Details: On September 19, 2014, the Seller Corporation listed the Property for sale. Ms. Betteridge and her husband were the listing agents representing the Seller. Ms. Betteridge's close family member was a director and shareholder of the Seller Corporation at the time.

Buyer 1 wrote an offer to purchase the Property. Ms. Betteridge represented Buyer 1 but did not provide Buyer 1 with a completed Disclosure of Interested in Trade form with respect to the Property.

The Seller Corporation accepted the offer. Buyer 1 was not sure about proceeding with the purchase of the Property and kept changing his mind about what he wanted to do.

The Complainant wrote an offer to purchase the Property. Ms. Betteridge did not provide the Complainant with a Completed Disclosure of Interest in Trade form with respect to the Property.

The Seller Corporation wrote a Counter Offer to the Complainant that was not accepted.

The Complainant wrote a second offer to purchase the Property. That same day, Buyer 1 verbally advised Ms. Betteridge that he would not be proceeding with his purchase of the Property.

The Seller Corporation wrote a Counter Offer to the Complaint that was accepted. The Counter Offer did not mention an existing accepted offer, nor was it made subject to Buyer 1's offer falling through.

A few days later, Buyer 1 signed a Notice to Remove Conditions. Ms. Betteridge sent a General Release for the Complainant to sign to release Ms. Betteridge and the Seller Corporation for all actions, causes of action, and contracts, but the Complainant did not sign it.

Both the Complainant and Buyer 1 registered Miscellaneous Interests against title to the Property. The Property was ultimately sold to Buyer 1.

Disposition: The Hearing Committee agreed with the consent order filed by the parties, found Ms. Betteridge guilty of the charges and ordered that she receive:

- an order of reprimand and a \$2,500 fine for her breach of Bylaw 702; and
- an order of reprimand and a \$1,500 fine for her breach of Bylaw 730(f).

The entire written decision of the Saskatchewan Real Estate Commission in the Matter of Jessica Betteridge dated August 17, 2018 can be viewed on the Commission website at <http://www.srec.ca/pdf/2014-65.pdf>.

Commission Decision Summaries

Catherine Aldous (salesperson), Re/Max of the Battlefords

Date of Decision: August 17, 2018

Violations: Ms. Aldous was charged with professional misconduct contrary to:

- Section 57(1) of the *Real Estate Act* for creating an agency agreement that was not executed in the presence of a witness, in that neither party signed the agreement; and
- Commission Bylaw 701(a) for making or permitting to be made a document required by the Act, the regulations or the bylaws that contained an untrue statement of a material fact, in that she allowed her client to backdate his signature accepting an offer to purchase his property.

Details: An MLS® System Seller's Brokerage Contract was completed listing the Property for sale with Re/Max of the Battlefords. Ms. Aldous acted as the listing agent.

The Seller did not sign the Brokerage Contract. In the spaces left for the owner to sign and initial the document, Ms. Aldous noted, "As per Request" and signed beside this notation on the second page as a witness. No one signed the Brokerage Contract on behalf of the Seller's Brokerage.

The Buyers wrote an offer to purchase the Property that was open for acceptance until 10:00 p.m. on February 5, 2015. Ms. Aldous' client could not sign the contract until the next morning. The Buyers' agent suggested time stamping the offer to make it appear as though it had been signed by the Seller before the offer expired and Ms. Aldous agreed with this suggestion. The contract states that it was signed by the Seller at 9:55 p.m. on February 5, 2015 when, in fact, it was not signed by the Seller until February 6.

The transaction ultimately collapsed.

Disposition: The Hearing Committee agreed with the consent order filed by the parties, found Ms. Aldous guilty of the charges and ordered that she receive:

- an order of reprimand and a \$500 fine for her breach of s. 57(1); and
- an order of reprimand and a \$1,500 fine for her breach of Bylaw 701(a).

The entire written decision of the Saskatchewan Real Estate Commission in the Matter of Catherine Aldous dated August 17, 2018 can be viewed on the Commission website at <http://www.srec.ca/pdf/2016-19.pdf>.



Commission Decision Summaries

Will Amichand (salesperson), Platinum Realty Specialists Inc.

Date of Decision: August 17, 2018

Violations: Mr. Amichand was charged with professional misconduct contrary to:

- section 58(1)(a) of *The Real Estate Act* for failing to have the offer to purchase signed by the buyer in the presence of a witness;
- section 58(1)(b)(x) of the *Act* for failing to include the name, address, and telephone number of the brokerage in the offer to purchase;
- Commission Bylaw 730(d) for failing to use the mandatory Amendment to Residential Contract of Purchase and Sale; and
- Commission Bylaw 730(e) for failing to use the mandatory Notice to Remove Conditions on Residential Contract of Purchase and Sale.

Details: Mr. Amichand's buyer clients wrote an offer to purchase the Property. The offer to purchase did not include the name, address or telephone number of Mr. Amichand's brokerage. The Buyers' signatures on the offer to purchase were not witnessed.

Mr. Amichand did not use the mandatory Amendment to Residential Contract of Purchase and Sale form to make an amendment to the attached Schedule "B" to the offer.

Although the transaction completed and the Buyers took possession of the Property, Mr. Amichand did not have the Buyers complete the mandatory Notice to Remove Condition(s) on Residential Contract of Purchase and Sale form removing their financing condition.

Disposition: The Hearing Committee agreed with the consent order filed by the parties, found Mr. Amichand guilty of the charges and ordered that he receive:

- an order of reprimand and a \$1,000 fine for his breach of s. 58(1)(a);
- an order of reprimand and a \$750 fine for his breach of s. 58(1)(b)(x);
- an order of reprimand and a \$750 fine for his breach of Bylaw 730(d); and
- an order of reprimand and a \$2,000 fine for his breach of Bylaw 730(e).

The entire written decision of the Saskatchewan Real Estate Commission in the Matter of Will Amichand dated August 17, 2018 can be viewed on the Commission website at <http://www.srec.ca/pdf/2016-74.pdf>.

Commission Decision Summaries

D'arcy Nerland (salesperson), Global Direct Realty Inc.

Date of Decision: August 17, 2018

Violations: Ms. Nerland was charged with professional misconduct contrary to Commission Bylaw 702 for failing to protect and promote the interests of her client and failing to deal fairly with all other parties.

Details: The Landlord signed a Property Management Agreement with Global Direct Realty Inc. for property management services on the Property. Ms. Nerland provided the property management services on behalf of the brokerage.

The Potential Tenant made an appointment with Ms. Nerland to view the Property.

On October 23, 2016, the Potential Tenant and her husband filled out and signed the Residential Tenancy Agreement for the Property and sent one half of the damage deposit to Ms. Nerland by electronic transfer. Ms. Nerland deposited the Potential Tenant's e-transfer into her brokerage's account.

On October 25, 2016, Ms. Nerland informed the Potential Tenant that the Landlord had been approached by a potential buyer and was no longer interested in entering into a lease with anyone until he had time to follow up on the possible sale. The Potential Tenant stated that they had already signed a lease and she intended to follow through with it.

Ms. Nerland contacted the Office of Residential Tenancies and learned that, while no terms had been agreed upon by the parties, the Landlord was required to present his terms to the Potential Tenant because Ms. Nerland had accepted the deposit.

Ms. Nerland presented the Landlord's terms to the Potential Tenant, but the Potential Tenant did not accept them. Ms. Nerland returned the Potential Tenant's deposit.

Disposition: The Hearing Committee agreed with the consent order filed by the parties, found Ms. Nerland guilty of the charge and ordered that she receive an order of reprimand and a \$1,000 fine.

The entire written decision of the Saskatchewan Real Estate Commission in the Matter of D'Arcy Nerland dated August 17, 2018 can be viewed on the Commission website at <http://www.srec.ca/pdf/2016-69.pdf>.

Commission Decision Summaries

Matt Dominguez (associate broker), Re/Max Crown Real Estate (formerly Better Homes and Gardens Real Estate Signature Service)

Date of Decision: August 17, 2018

Violations: Mr. Dominguez was charged with professional misconduct contrary to:

- Commission Bylaw 712(c) for failing to ensure that the brokerage used only registered personnel to perform the duties of registrants on behalf of the brokerage; and
- Commission Bylaw 712(e) for failing to take reasonable steps to ensure that the brokerage was in compliance with the Act, the Regulations, and the Bylaws by permitting a salesperson registered with another brokerage to trade on behalf of his brokerage.

Details: At the outset of the transaction that gave rise to this complaint, Registrant A was registered as a salesperson with Mr. Dominguez's brokerage.

The Seller entered into a contract of purchase and sale with the Buyers. Registrant A represented both parties as a limited dual agent. Conditions were removed on April 9, 2013.

On April 16, 2013, Registrant A left the brokerage and became registered as a salesperson with a different brokerage. The Property transaction went to Mr. Dominguez to manage, as he was the branch manager at the time. Mr. Dominguez did not assign another salesperson to the transaction.

On May 3, 2013, one of the Buyers was going to view the Property again. Registrant A agreed to attend with the Seller, the Buyer, the Buyer's daughter, and a representative of Mr. Dominguez's brokerage.

Mr. Dominguez was not able to personally attend the May 3 meeting and was unable to find another salesperson from his brokerage to attend. Mr. Dominguez advised Registrant A that there would not be a representative of the brokerage present and asked her to handle the meeting. Registrant A asked Mr. Dominguez if it was okay for her to continue dealing with the transaction; he advised her that it was alright provided she had his permission.

On May 10, 2013, Mr. Dominguez received notice that the Buyers did not intend to complete their purchase of the property.

Following the fall-through of the transaction and the passing of the intended possession date, Mr. Dominguez did not, nor did he direct another of his salespeople to, contact the Seller to discuss whether or how to continue marketing the Property until the expiry of the Brokerage Contract. The Brokerage Contract expired on September 24, 2013.

Disposition: The Hearing Committee agreed with the consent order filed by the parties, found Mr. Dominguez guilty of the charge and ordered that he receive:

- an order of reprimand and a \$1,000 fine for his breach of Bylaw 712(c); and
- an order of reprimand and a \$1,500 fine for his breach of Bylaw 712(e).

The entire written decision of the Saskatchewan Real Estate Commission in the Matter of Matt Dominguez dated August 17, 2018 can be viewed on the Commission website at <http://www.srec.ca/pdf/2013-52.pdf>.

Commission Decision Summaries

Christopher Molenaar (salesperson), Boyes Group Realty (formerly

Date of Decision: August 20, 2018

Violations: Mr. Molenaar was charged with professional misconduct contrary to:

- Section 57(1) of *The Real Estate Act* for signing as a witness to an agency agreement before the document was signed by either of the sellers; and
- Commission Bylaw 728 for putting up a “For Sale” sign on a property without the written consent of the owners of the property.

Details: The Owners of the Property (Seller A and Seller B) were separating and decided to sell the Property. Mr. Molenaar arranged to meet with Seller A to discuss listing the Property for sale.

Prior to sending the Seller’s MLS® Brokerage Contract to Seller A, Mr. Molenaar signed the document in the spaces meant for witness signatures, although there were no sellers’ signatures to witness.

When he met with Seller A, Mr. Molenaar was told that Seller A had authority to sign documents on Seller B’s behalf. Seller A did not provide copies of the documentation he said granted him authority to sign on behalf of Seller B. Seller A signed the Seller’s MLS® Brokerage Contract he had received from Mr. Molenaar and Mr. Molenaar put a “For Sale” sign on the lawn in front of the Property.

Sometime later, Seller B saw the “For Sale” sign on the front lawn and contacted Mr. Molenaar to request that it be taken down. Mr. Molenaar complied.

Mr. Molenaar later learned that the documents Seller A had signed did not grant Seller A sole authority to deal with the sale of the Property. Seller B did eventually sign a Power of Attorney granting Seller A authority to handle the sale of the Property on her behalf.

Disposition: The Hearing Committee agreed with the consent order filed by the parties, found Mr. Molenaar guilty of the charge and ordered that he receive:

- an order of reprimand and a \$750 fine for his breach of s. 57(1); and
- an order of reprimand and a \$1,000 fine for his breach of Bylaw 728.

The entire written decision of the Saskatchewan Real Estate Commission in the Matter of Christopher Molenaar dated August 20, 2018 can be viewed on the Commission website at <http://www.srec.ca/pdf/2016-42.pdf>.

Commission Decision Summaries

Kevin Wouters (broker), Century 21 Prestige Real Estate

Date of Decision: August 16, 2018

Violations: Mr. Wouters was charged with professional misconduct contrary to Commission Bylaw 727 for advertising a property for sale without the written authorization of both of the owners.

Details: Seller A signed two Seller's Brokerage Contracts listing the Property for sale with Century 21 Prestige Real Estate. Mr. Wouters acted as the listing agent.

Seller B was also on title as a joint owner of the Property. Seller A told Mr. Wouters that he would take the Seller's Brokerage Contracts to Seller B's lawyer to have them signed. However, Seller B did not sign either of the Seller's Brokerage Contracts and was not aware that the Property had been listed for sale until she saw the MLS® Listings online approximately two months later.

When Seller B contacted Mr. Wouters, he offered to cancel the listings. Seller B stated that she was not opposed to having the land listed for sale, she merely objected to the fact that it was done without her knowledge or consent. There was no separation agreement, power of attorney or any other document giving Seller A authority to dispose of the Property without Seller B's consent.

Disposition: The Hearing Committee agreed with the consent order filed by the parties, found Mr. Wouters guilty of the charge and ordered that he receive an order of reprimand and a \$2,500 fine.

The entire written decision of the Saskatchewan Real Estate Commission in the Matter of Kevin Wouters dated August 16, 2018 can be viewed on the Commission website at <http://www.srec.ca/pdf/2014-51.pdf>.



Unregistered Real Estate Assistants

There was a time when unlicensed assistants almost exclusively worked in the brokerage offices, working daily under the direct supervision of the broker. However, in recent years more and more teams and individual salespersons and associate brokers have their *own* assistants to help them carry out various tasks related to their real estate activity.

While there is no law prohibiting any registrant from hiring an assistant, it should be remembered that such **assistants cannot conduct activity requiring a real estate registration.**

The Commission has specifically interpreted *The Real Estate Act*, its Regulations and the Commission Bylaws to enumerate what an unlicensed assistant can and cannot do.

Role Disclosure

Assistants are often not licensed by the Commission and as such, are not part of our jurisdiction. However, *the Commission does hold a registrant responsible for an assistant's activities.*

Limited Responsibilities

Registrants cannot assign duties to an unregistered assistant that require a registered professional.

Activities that **CAN** be performed by unlicensed/unregistered persons (who, for example, act as personal assistants, clerical support staff, closing secretaries, etc.), are as follows:

- Answer the phone and forward calls to registrants
- Assemble documents for closings or for forwarding to solicitors
- Have keys made for company listings
- Secure documents such as public information from land title registry, utility and property tax service providers
- Record and deposit earnest money and other trust funds
- Monitor personnel files
- Order items of routine repair as directed by supervising broker and/or supervising registrant
- Act as courier service to deliver documents, pick up keys, etc
- Hand out objective written information on a listing other than at functions such as open houses, kiosks, home show booths or fairs
- Schedule appointments for registrants to show listed property
- Set up and remove signs and lock boxes
- Contact registrants for results on showings of listings
- Contact solicitors on transactions
- Respond to advertising inquiries made by **registrants**
- Witness documents already discussed and presented by a registrant following up on financing commitments after a contract has been negotiated.

Unregistered assistants **CANNOT** (including, but not limited to):

- Host public open houses, kiosks, home show booths or fairs, or hand out materials at such functions
- showing property
- Present, discuss, or explain to consumers any documentation dealing with a real estate transaction
- Solicit a contract to trade in real estate or telephone solicitations designed to procure buyers, listings, or appointments for listing presentations
- Advertise real estate
- Respond to seller inquiries on the results of registrant showings of the seller's property
- Respond to inquiries from consumers, including advertising inquiries
- Be paid on the basis of real estate activity, such as a lump sum or percentage of commission on a real estate transaction.

There are many real estate trade-related activities that cannot be performed by anyone who is not licensed to trade in real estate in Saskatchewan. If you are unsure whether or not an assistant can perform a function, please phone the Commission's Compliance Department or email us at info@srec.ca.

It is also important to note that consumers dealing with unlicensed/unregistered assistants conducting these types of activities are not protected by *The Real Estate Act*.



The office of the Commission will be **closed** for the following statutory holiday observances:

- **Monday, September 6** (Labour Day)
- **Monday, October 8** (Thanksgiving Day)
- **Monday, November 12** (Remembrance Day observed)

Regular Office Hours:

Monday-Friday, 8:30am-noon, 1pm-4:30pm
Closed weekends and holidays.

PROFESSIONAL CORPORATION PERMITS

As per *The Professional Corporations Act*, individuals who have incorporated through Saskatchewan Corporate Registry must hold a valid permit for a Professional Corporation with the Commission in order to benefit from the use of their professional corporation while trading in real estate. It is under this same *Act* which states all permits expire on December 31st of the issuing year.

As per Commission Bylaws pursuant to *The Professional Corporations Act*, the fees prescribed by the Commission (\$200), must be paid upon any renewal of the permit before December 1st for the following year.

A late payment fee of \$100 will be applied to any professional corporation failing to file the application for renewal by December 1 for the following year.

About mid-October renewal instructions will be sent via email to all individuals who hold a current permit for a Professional Corporation. The renewal process will also be published in the November issue of the newsletter. Previous editions of our newsletter are available on the Commission's website under the 'Publications' tab.

Contact Us

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Commission Members

Vern McClelland, Chair
Lloydminster, elected

Carla Browne, Saskatoon,
IC&I/PM appointee

David Chow, Moose Jaw, appointee

Doreen Heinbigner, Moose Jaw, elected

Cliff Iverson, Regina, elected

Paul Jaspar, Saskatoon, appointee

Al Myers, Saskatoon, elected

Anne Parker, Regina, appointee

Lori Patrick, Regina, elected

Bob Volk, Regina, appointee

Wayne Zuk, Saskatoon, elected