



# THE REGISTER

SREC Newsletter

August 2019

## In This Issue...

The Saskatchewan Real Estate Commission's mission is, "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." One of the methods the Commission uses to deliver our mission is that of regular industry communication.

In today's technology-laden world, it is often difficult to differentiate "junk" information from the real thing. In order to combat some of the "fake news" available everywhere, the Commission publishes only one quarterly newsletter and distributes only essential information to maintaining registration in the industry electronically to each registrant and brokerage. Such emails are rarely delivered more than once a month. Our newsletter focuses on issues of concern to the real estate industry in Saskatchewan and offers educational and registrant-specific information and reminders.

In this edition, we discuss several items of importance to all registrants.

- 1) A quick look around the 2019/20 Commission table.
- 2) The Commission's AGM is fast approaching. We encourage all registrants to attend.
- 3) REIX has made some changes to your E&O coverage.
- 4) Some important practice tips from the Compliance Department. **AND MORE!**

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: [info@srec.ca](mailto:info@srec.ca).

We hope you enjoy this issue!



### INSIDE...

- Your 2019/20 Commission p.2
- Commission AGM p.2
- Practice Tips from the Compliance Department p.3
- Unregistered Assistants p.4
- Fraud Alert p.5
- REIX Update p.6
- Taking a Leave of Absence p.7
- Discipline Decisions p. 8
- Electronic Signatures p.9
- Professional Corporation Permit Renewals p.10

**The 2019/20 fiscal year began July 1, 2019. See the changes to the Commission, inside this issue.**

## Your 2019/20 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. Commission member representation is designed to embrace change as a way to ensure that regulation is fair and representative. For details about the makeup of the Commission, refer to *The Real Estate Act*, Section 6.

### 2019/20 Commission Members:

#### Returning members:

- Vern McClelland (Chair), Lloydminster
- Doreen Heinbigner, Moose Jaw
- Cliff Iverson, Regina
- Anne Parker, Regina
- Lori Patrick, Regina
- Bill Preston, Saskatoon
- Dean Staff, Saskatoon
- Bob Volk, Regina
- Wayne Zuk, Saskatoon

#### End-of-Term members:

- Al Myers, Saskatoon
- Carla Browne (IC&I/PM), Regina

#### Newly elected members:

- Cam Bristow, Saskatoon
- Tara Faris-Peters (IC&I/PM), Saskatoon

### Staffing:

We are very pleased to welcome back past summer student, Amanda Kimpinski.

Amanda joins our staff as a student-at-law (articling student). She is learning about regulation of professionals, administrative law, and is assisting the Legal & Compliance Department with processing complaints, investigations and hearings. The Commission is “sharing” Principal duties with the law firm, McDougall Gauley LLP, who is adding to her repertoire of legal skills and experience.

Amanda is with the Commission until early December, 2019.

## Save the Date! Commission AGM

The Commission’s AGM will be held in Saskatoon on **Thursday, October 10 at 11:30am** at the Saskatoon Inn. All registrants are welcome to attend. Our AGM will follow the format of a lunch presentation.

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.

More details coming soon.

## Practice Tips from the Compliance Department

In each issue of *The Register*, the Commission's Legal & Compliance Department shares some valuable insights into common areas of concern in registrant practice. If you have questions concerning compliant practices in real estate transactions, please contact the Department at [compliance@srec.ca](mailto:compliance@srec.ca).

### Notations Such as “6/4/2” Are Not Sufficiently Clear Statements of Commission Payable on a Brokerage Contract:

Section 57(2)(d) of *The Real Estate Act* specifies that an agency agreement must show the total amount of commission, as a lump sum or as a percentage, to be paid to the brokerage. It is important that the commission payable be expressed in a manner that complies with this requirement and that is understood by the person signing the agency agreement. While notations such as “6/4/2” are common among registrants, the meaning may not be as clear to members of the public. It is the registrant's responsibility to ensure that the client understands how commission will be calculated and, in case there is disagreement about the commission owing, the registrant would be well-advised to make sure the contract is quite clear with respect to the calculation of commission. Other ways to clarify the commission payable include the use of a percentage sign (“%”) or a dollar sign (“\$”) to clarify whether the commission is a percentage of the sale price or a flat fee and including a conspicuous note that taxes will have to be added to the commission payable.

### Offers Should Not Deal With Commission:

An agency agreement is a contract between a buyer or seller and a brokerage that, among other things, sets out the commission the buyer or seller agrees to pay to a brokerage and in what circumstances the commission will be paid. A contract of purchase and sale is an agreement between a buyer and seller. As the brokerage is not a party to the contract of purchase and sale, the contract of purchase and sale should not include terms or conditions regarding the payment of commission to a brokerage.

If a brokerage representing a buyer intends to collect commission from a seller who is not represented by a registrant, the brokerage must enter into a written agreement with the seller to that effect.

### Names and Addresses of the Buyer and the Seller Must be Included in an Offer to Purchase:

Section 58(1)(b)(ii) of *The Real Estate Act* specifies that an offer to purchase must clearly show the names and addresses of the buyer and the seller. This requirement is not optional. The Saskatchewan Real Estate Commission has previously, and will continue to, discipline for violation of this section.



## Unregistered Real Estate Assistants

There was a time when unregistered assistants almost exclusively worked in the brokerage offices, working daily under the direct supervision of the broker. However, in recent years more and more team and even 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 Saskatchewan Real Estate Commission ("Commission") has specifically interpreted *The Real Estate Act*, Commission Regulations and Bylaws to enumerate what an unregistered assistant can and cannot do.

### Role Disclosure

Assistants are often not registered 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 unregistered persons who, for example, act as personal assistants, clerical support staff, closing secretaries, etc.:

- 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
- Scheduling of appointments for registrants to show listed property
- Setting up and removing signs and lock boxes
- Contacting registrants for results on showings of listings
- Contacting solicitors on transactions
- Responding to advertising inquiries made by *registrants*
- Witnessing of documents already discussed and presented by a registrant
- Following up on financing commitments after a contract has been negotiated.

Activities that **CANNOT** be performed by unregistered persons include, but are not necessarily limited to:

- Host public open houses, kiosks, home show booths or fairs, or hand out materials at such functions
- Show 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.

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

## Fraud Notice! Be Aware

The Saskatchewan Real Estate Commission wants to remind all registrants and the public to be cautious when receiving communication from or viewing ads posted by registrants, especially online. The Commission has been made aware of an ongoing issue with people impersonating registrants in an attempt to gather information about transactions.

Here are some tips to help protect yourself against fraud:

**Trust Your Gut – Delete Suspicious Communication:** If you receive an email or other form of communication that you expect is fraudulent, the Saskatoon Police Service has stated that the best course of action is to delete it immediately rather than opening it, and under no circumstances should you reply or open any attached links. Further, it is important to notify the authorities and all parties involved.

**Be Vigilant:** It is important to be vigilant in all communications in the course of real estate transactions. Keep an eye out for inconsistencies in emails when compared to prior correspondence (i.e. change in the level of grammar, a new name that is not in the file, a foreign address, contact information that does not match your records, etc.).

**Be Pro-Active:** If a client or fellow registrant's email becomes hacked, cease to correspond with the individual via email until their email is confirmed to be secure. Share the details of any scam, inconsistency, or hacking with all co-workers and staff.

**Be Diligent With Money:** Be extremely diligent when paying funds from your trust (or general) bank accounts.

**Report to Police:** Whenever possible, you are urged to report fraudulent scams directly to the police agency responsible for your jurisdiction. This ensures that they are kept informed regarding criminal activity within their area of responsibility.

**Contact SREC:** If you feel that the issue is something that needs to be shared with other registrants and the public, please report the scam to the Commission as well.

**Contact REIX:** It may also be beneficial to contact the Real Estate Insurance Exchange as well to be informed as to what happens when this kind of fraud occurs.

For more information on the variety of frauds and scams that exist, and how to protect yourself and your business, please refer to the resources below:

### Saskatoon Police Service

<https://saskatoonpolice.ca/onlinereporting/fraud/>

### Regina Police Service

<http://reginapolice.ca/resources/crime/crime-prevention-tips/recognize-a-scam/>

### Royal Canadian Mounted Police

<http://www.rcmp-grc.gc.ca/scams-fraudes/index-eng.htm>

### Canadian Anti-Fraud Centre

<http://www.antifraudcentre-centreantifraude.ca>

### Visa Merchant Risk Management

[http://usa.visa.com/merchants/risk\\_management/card\\_not\\_present.html](http://usa.visa.com/merchants/risk_management/card_not_present.html)

### Global Visa Card-Not-Present Merchant Guide to Greater Fraud Control

<http://usa.visa.com/download/merchants/global-visa-card-not-present-merchant-guide-to-greater-fraud-control.pdf>

## REIX - Changes to E&O Policy

As the provider of all Errors and Omissions insurance for real estate professionals in Saskatchewan and Alberta, REIX evaluates its policies, exclusions, fees and limits every year to ensure registrants are aware and well covered by their insurance.

Effective January 1, 2019, two new policy exclusions came into effect: no coverage for lawsuits arising from transactions outside license specialty(s), or for those not submitted to and processed through your brokerage.

REIX has also just released the following notice particular to those registrants who trade in commercial real estate and who perform economical analysis projections.

Dear Subscribers,

### **Re: Additions to REIX Errors and Omissions Policy**

REIX strives to ensure our Subscribers, you, have Errors and Omission coverage that protects you in the event of a claim while educating on best practices to avoid practice pitfalls. At times, this means a change to your Errors and Omission coverage and we would like to announce the addition of a new clause to the Policy which affects commercial agents who perform economical analysis projections.

The Advisory Board of REIX approved the addition of the following to the REIX Errors and Omissions Policy:

#### *1.14.1 ECONOMIC RETURN LOSSES: Definition*

*Economic Return Losses are Damages that arise directly from analyses, estimates or forecasts by insured of profitability, return on capital or investment, income generation or economic return*

#### *2.4.1 ECONOMIC RETURN LIMIT: New Clause*

*Subject to clauses 2.3 and 2.4, the limit of Damages REIX will pay for Economic Return Losses is \$500,000.00.*

As you know, RECA (the Alberta Regulator) considers financial analysis part of providing competent service for commercial practitioners. This expectation was communicated by RECA and poses a potential financial risk to the program. The decision to include a sublimit clause on financial analysis claims was a measured approach by the Board to mitigate risk and exposure while still providing Subscribers with the coverage they have come to expect from REIX.

What this means is if you are subject to a claim pertaining to an alleged error when providing financial analysis, the maximum amount of coverage is \$500,000.00 compared to the \$1,000,000.00 provided for claims relating to other practices. Keep in mind, you are required to be authorized and educated as a commercial professional by the Regulator to perform economical return projections. If you are providing services for which you are not licensed, you will not be covered by the Policy.

If you have any questions about the revisions, please contact Dave de la Ronde or Lisa Sabo at (403) 228-2667 or by email [ddelaronde@reix.ca](mailto:ddelaronde@reix.ca) or [lsabo@reix.ca](mailto:lsabo@reix.ca). Thank you.

## Taking a Leave of Absence

### Planning to Leave

In Saskatchewan, registrants may request a leave of absence - time away from their career to take care of unusual circumstances and other life events. Typical reasons for leave requests include: pregnancy/maternity, parental responsibilities, family emergencies, illness, bereavement or to report for military duties.

Bylaw 725.1 states: "A salesperson or associate broker shall give written notice to the broker or branch manager in person or at the office of the brokerage when he/she is ceasing to represent the brokerage. This notice shall be given prior to termination and shall indicate the date that the salesperson or associate broker will cease to represent the brokerage." It is the responsibility of the supervising broker to terminate the registration on the Commission's Online Registration System of the individual taking the leave effective the date the leave is to commence.

Section 54(2)(b) of the *Act* states the brokerage shall, no later than five days after the broker, branch manager, associate broker or salesperson has ceased to represent the brokerage, give notice in writing to the Commission that the broker, branch manager, associate broker or salesperson has ceased to represent the brokerage together with the reasons.

The legislation referenced above is in place for all circumstances whereby a registrant plans to discontinue representing a brokerage, not just for leave of absences.

### While on Leave

While the registrant is on leave, they are exempt from mandatory deadlines of the Commission. For example, the registrant is not required to take the annual continuing professional development course by May 31st.

### Planning to Return

Commission Bylaw 308 (Re-Registration) states, in part, an applicant for registration as a salesperson, associate broker, branch manager or broker meets the applicable education requirements, if he/she has been registered within the preceding two years from the date of application to trade in an equivalent registration. Meeting the applicable education requirements includes completing all outstanding continuing professional development course(s) before they are eligible for reinstatement of their registration. The individual should contact the Commission in advance of their expected return date to confirm which course(s) need to be done and the staff will assist with providing the education link and any other information needed in order to complete the course(s).

Once the two year period has lapsed, a registrant is considered a new applicant and must complete the pre-licensing course and pass the applicable exam(s) to be eligible for registration.

## Save the DATE

### 2019

Regular Commission meetings

**Sept. 5 (Regina)**

**Dec. 5 (Saskatoon)**

**October 10**

**Commission AGM  
in Saskatoon**

Professional  
Corporation Permit  
renewals

**Oct. 15-Dec. 31**

### 2020

2019/20 CPD launch  
**January 2**

Brokerage Annual  
Financial Reports due  
**March 15**

CPD completion  
deadline for 2019/20  
**May 31**

Real Estate  
Regulators of Canada  
Conference  
**Quebec, June (TBD)**

Registration renewals  
due  
**June 30**

Registration year  
begins  
**July 1**

## Commission Decision Summaries

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

***The Commission is also proud to promote our presence on CanLII, [here](#) (full coverage from 1997).***

**[2017-47 Gurpreet Bhatia](#)**: On May 23, 2019, Mr. Bhatia was issued an order of reprimand and a \$1,250 fine for breaching Bylaw 702.1 by acting in an unprofessional manner or by acting in a manner unbecoming of a registrant by failing to ensure the buyer understood that Mr. Bhatia was not representing him in a transaction.

**[2015-12 Abraham Amirzadeh](#)**: On June 5, 2019, Mr. Amirzadeh was issued an order of reprimand and a \$1,000 fine for breaching s. 66(2) of the *Act* by creating an agreement that failed to express the commission payable to the brokerage as a lump sum or as a percentage of the sale price.

**[2017-42 Imperial Properties Corp.](#)**: On June 5, 2019, Imperial Properties Corp. was issued an order of reprimand and a \$1,500 fine for failing to make brokerage records available for inspection to the Commission or a person authorized by the Commission in a timely manner.

**[2015-12A Dale Anderson](#)**: On June 12, 2019, Mr. Anderson was issued an order of reprimand and a \$1,000 fine for breaching s. 66(2) of the *Act* by creating an agreement that failed to express the commission payable to the brokerage as a lump sum or as a percentage of the sale price.

**[2019-26 Darrel Stretch](#)**: On July 30, 2019, Mr. Stretch was issued an order of reprimand and a \$1,000 fine for breaching Bylaw 702.1 by engaging in conduct that is unprofessional or unbecoming of a registration in the course of his practice.

**[2019-23 Rick Valcourt](#)**: On July 30, 2019, Mr. Valcourt was issued an order of reprimand and:

- a \$1,500 fine for breaching Bylaw 727 by advertising a property for sale without written authorization from the owner or the owner's lawful representative; and
- a \$2,500 fine and his certificate of registration is to be suspended for a period of 30 days, from September 9, 2019 to October 9, 2019 inclusive, for breaching s. 39(1)(b) of the *Act* by engaging in conduct that was fraudulent.

## The Intricacies of Electronic Signatures

In many respects, electronic signatures, or “e-signatures”, are no different from regular signatures. Parties sign their names to an agreement in order to confirm that they have agreed to the terms set out in the document. Whether this is done with ink, or a stylus on a tablet, the requirements are the same. The Saskatchewan Real Estate Commission wants to remind all registrants and the public of the importance of ensuring that all signatures, electronic or otherwise, are executed in accordance with the legislative requirements.

Bylaw 625 sets out the specific requirements for a valid electronic signature. Bylaw 625 requires that an electronic signature be originally created by a handwritten signature. Therefore, the “stamp” signature option (i.e. when the user types his or her name and the software applies a cursive-style font to create a signature) is not appropriate and does not meet the requirements of Bylaw 625.

Generally, documents used by registrants require that the signatures of all parties be witnessed. The witness can be any person who is over the age of 18 and who does not lack mental capacity such that he or she is incapable of signing legal documents.

Section 57 and 58 of *The Real Estate Act* specifically state that agency agreements, offers, counter offers and amendments must be signed “in the presence of a witness”. This means that a person who signs these documents as a witness must be physically present at the time the document is signed by the buyer or seller. The same holds true when a client is signing documents electronically. The person signing as a witness must be physically present with the client when he or she affixes an electronic signature to the document.

A witness’ signature is intended to provide a measure of security. By signing the document as a witness, the person is attesting to the fact that he or she was present to observe the party signing the document. This provides independent confirmation that the party named in the document was the one to sign it. It is, therefore, not appropriate to sign a document as a witness if you were not present to see the party sign the document. For example, a registrant who receives a document via fax that has been signed by his/her clients should not witness the clients’ signatures.

In keeping with these legislative requirements, it is unacceptable for a witness to sign a document prior to having it sent to the parties for signature. This would be in direct violation of the requirement that a witness be physically present at the time of the signature (electronic or otherwise).

Further, it should be noted that the Commission does not recognize the security certification provided by credible electronic signature providers as meeting the requirement that a document be signed “in the presence of a witness”. Many electronic signature programs provide the option of having a witness, who is physically present with the party, sign the document electronically.

As the legislation explicitly states this witness requirement, and the provincial legislature is the only one capable of amending this requirement, the Commission will continue to diligently enforce this requirement and sanction those who fail to follow.

If you have any questions about obtaining electronic witness signatures, you should contact your electronic signature system provider.

The office of the Commission will be **closed** on the following days:

- **Monday, September 2** (Labour Day)
- **Thursday, October 10** (Commission AGM)
- **Monday, October 14** (Thanksgiving Day)
- **Monday, November 11** (Remembrance Day)
- **12pm, Tues., Dec. 24 - Thurs., Jan. 2** (Christmas Holidays observed)

**Regular Office Hours:**

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



## **Questions?**

Answers to commonly asked questions can be found on the Commission's website under the tab related to the area of inquiry.

Compliance, education, registration, and consumer information all have FAQ sections dedicated to helping answer your questions.

Visit [www.srec.ca](http://www.srec.ca) or email us at [info@srec.ca](mailto:info@srec.ca) with your questions and we'll direct them to the appropriate department.

## **Contact Us**

### **Saskatchewan Real Estate Commission**

237 Robin Crescent  
Saskatoon, SK S7L 6M8

Phone: 1.306.374.5233  
Toll Free: 1.877.700.5233  
Fax: 1.306.373.2295

Website [www.srec.ca](http://www.srec.ca)



[@SREC\\_comm](https://twitter.com/SREC_comm)

## **Commission Staff**

**Aaron Tetu**, Executive Director/Registrar  
([atetu@srec.ca](mailto:atetu@srec.ca)), ext. 7

**Gail Armstrong**, Registration/Office Administrator  
([garmstrong@srec.ca](mailto:garmstrong@srec.ca), [info@srec.ca](mailto:info@srec.ca)), ext. 1

**Bill Craik**, Legal & Compliance Manager  
([bcraik@srec.ca](mailto:bcraik@srec.ca)), ext. 4

**Nina Criddle**, Compliance Officer  
([ncriddle@srec.ca](mailto:ncriddle@srec.ca)), ext. 3

**Darla Hufsmith**, Controller  
([dhufsmith@srec.ca](mailto:dhufsmith@srec.ca)), ext. 5

**Susan McCrae**, Education & Communications Coordinator  
([smccrae@srec.ca](mailto:smccrae@srec.ca)), ext. 6

**Laura Mychan**, Legal Assistant  
([lmychan@srec.ca](mailto:lmychan@srec.ca)), ext. 2

**Jason Weiler**, Systems Administrator  
([jweiler@srec.ca](mailto:jweiler@srec.ca)), ext. 8

**Bernie Weinbender**, Practice Advisor  
([practiceadvisor@srec.ca](mailto:practiceadvisor@srec.ca)), ext. 9

**Amanda Kimpinski**, Student-at-Law  
([student@srec.ca](mailto:student@srec.ca)), ext. \*

## **Commission Members**

**Vern McClelland**, Chair  
Lloydminster, elected

Tara Faris-Peters, IC&I/PM, Saskatoon, elected

Cam Bristow, Saskatoon, elected

Doreen Heinbigner, Moose Jaw, elected

Cliff Iverson, Regina, elected

Anne Parker, Regina, appointed

Lori Patrick, Regina, elected

Bill Preston, Saskatoon, appointed

Dean Staff, Saskatoon, appointed

Bob Volk, Regina, appointed

Wayne Zuk, Saskatoon, elected