



THE REGISTER

SREC Newsletter

March 2017

Executive Director/Registrar's Message

In this issue of *The Register*, we take the opportunity to address and explain several professional responsibilities which are often raised by registrants with the Commission. Please take this opportunity to familiarize and educate yourself with these items and topics.

At the Commission, we look to view the industry from both an internal and external perspective so we can better balance the needs of our industry professionals with our mandate to protect the public. In order to do so, we try to attend various conferences and events. At the ARELLO conference (Association of Real Estate License Law Officials) in Vancouver last September, Commission members and staff had the opportunity to work with other industry regulators in the furtherance of fair regulation and enhanced education and training. At the National Association of Realtors® Annual Conference and Expo in Orlando last October, members and staff had the opportunity to meet and discuss issues and common topics from an international perspective, and take in the expo and trade show to see the many products and services available to the real estate industry. In January, the Banff Western Connection was also a welcome opportunity for Commission staff and members to join with Canadian jurisdictions in reviewing a variety of topics of interest to industry professionals.

The Commission appreciates all opportunities to share ideas and insights in facing the current and future challenges of the real estate industry. If you have an event or meeting that you would like the Commission staff or members to attend as a guest or speaker, please do not hesitate to contact us. We would be pleased to attend.

The Commission would also like to take the time to note the Region 2 (Regina) election coming in April. We have three nominations for the two available positions: Michael Duggleby, Lori Patrick, and Bernie Weinbender. We have included brief biographies in this issue and will be distributing voting information in the coming weeks.

As always, please do not hesitate to contact us with any questions or concerns that you might have. We hope you enjoy this issue of *The Register*.

Aaron Tetu, Executive Director/Registrar, Saskatchewan Real Estate Commission



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Compliance. Regulations. Guidelines. As a regulated industry, we must be responsible for ensuring these aspects work together.

Commission Disciplinary Action

Complete Commission hearing 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 2012).

Paul Chavady (salesperson), Royal LePage Varsity

Jerry Hallgrimson (salesperson), Royal LePage Varsity

Date of Decision: January 11, 2017

Violation: Mr. Chavady and Mr. Hallgrimson were both charged with professional misconduct contrary to:

- section 57(1) of *The Real Estate Act* for failing to have an agency agreement executed in the presence of a witness;
- section 57(2)(a) of the *Act* for failing to have an expiry date on an agency agreement;
- section 57(2)(d) of the *Act* for failing to show the total amount of commission to be paid to the brokerage as a lump sum or as a percentage on an agency agreement;
- section 57(2)(e) of the *Act* for failing to immediately provide a true copy of the agency agreement to the seller who signed the agreement; and
- Commission Bylaw 702 by failing to protect and promote the interests of their client.

Details: Mr. Chavady and Mr. Hallgrimson represented the sellers of a property. Mr. Chavady and Mr. Hallgrimson prepared a document for Seller A to sign that would give Seller B legal authority to sign on Seller A's behalf in matters regarding the sale of the property. Seller A did not sign this document.

Seller A was not listed as a seller on the agency agreement. When Seller A signed the agency agreement, the contract did not contain the date on which the agreement became effective, nor did it contain an expiry date. The agency agreement specified that, in the event of a private sale, the commission payable would be \$2,000 plus tax, to be reduced by 25% if the buyer was also represented by the Seller's Brokerage. Seller A signed the agency agreement and returned it to Mr. Chavady and Mr. Hallgrimson. At this time, Mr. Chavady and Mr. Hallgrimson filled in the effective and expiry dates and someone signed as witness to Seller A's signature. Mr. Chavady and Mr. Hallgrimson did not provide a copy of the completed contract to Seller A. Seller B did not sign the agency agreement.

Other documents were completed that did not list Seller A as a seller. Seller A signed these documents, but Seller B did not.

An Amendment of a Seller's Brokerage Contract was completed reducing the asking price for the property. This document did not list Seller A as a seller, nor did she sign this document. The Amendment was signed by Seller B. Mr. Chavady and Mr. Hallgrimson did not speak to Seller A about reducing the asking price.

Mr. Chavady and Mr. Hallgrimson were contacted by Seller A who told them that she was not happy about lowering the asking price. The sellers could not agree on how to proceed with the listing and ultimately decided they wanted the listing removed from the market. The listing was cancelled.

Disposition: The Hearing Committee found Mr. Chavady and Mr. Hallgrimson guilty of the charges and ordered that each receive:

- an order of reprimand and a \$350 fine for the breach of s. 57(1) of the *Act*;
- an order of reprimand and a \$500 fine for the breach of s. 57(2)(a) of the *Act*;
- an order of reprimand and a \$500 fine for the breach of s. 57(2)(d) of the *Act*;
- an order of reprimand and a \$750 fine for the breach of s. 57(2)(e) of the *Act*; and
- an order of reprimand and a \$1,000 fine for the breach of Bylaw 702.

The entire written decision of the Saskatchewan Real Estate Commission in the Matter of Paul Chavady can be viewed on the Commission website at <http://www.srec.ca/pdf/2013-39.pdf>. The decision in the Matter of Jerry Hallgrimson can be viewed here <http://www.srec.ca/pdf/2013-39A.pdf>.

Crandell Estrada (formerly a salesperson with Century 21 Dome Realty)**Date of Decision:** January 11, 2017**Violation:** Mr. Estrada was charged with professional misconduct contrary to:

- section 39(1)(b) of *The Real Estate Act* for engaging in fraudulent conduct in preparing the Schedule “C” of his clients, A.S. and A.L.S.; and
- Commission Bylaw 701(a) by making a document required by the *Act*, its *Regulations* or the Bylaws, to wit the Schedule “C” of his clients, A.S. and A.L.S., that contains an untrue statement of a material fact.

Details: Mr. Estrada represented buyers who wrote an offer to purchase a property. The Seller accepted the offer and the Seller’s Agent requested that Mr. Estrada provide a copy of the Schedule “C”. Mr. Estrada sent a Schedule “C” to the Buyers to complete. The Buyers signed the document, but were not able to return it to Mr. Estrada as a PDF document. The Buyers took a picture of the signed Schedule “C” and sent the picture to Mr. Estrada as a text message.

As the document was not in PDF form, Mr. Estrada cut the Buyers’ signatures out of another document and pasted them onto the Schedule “C” form he had sent them to sign. Mr. Estrada sent this document to the Seller’s Agent. The Seller signed the Schedule “C” and the completed document was returned to Mr. Estrada. The transaction ultimately collapsed.

Disposition: The Hearing Committee found Mr. Estrada guilty of the charges and ordered that he receive:

- an order of reprimand, a \$2,500 fine and a suspension set to run for the period January 21, 2017 through February 20, 2017 inclusive for the breach of s. 39(1)(b) of the *Act*; and
- an order of reprimand and a \$2,500 fine for the breach of Bylaw 702.

The entire written decision of the Saskatchewan Real Estate Commission in the Matter of Crandell Estrada dated January 11, 2017 can be viewed on the Commission website at <http://www.srec.ca/pdf/2016-08.pdf>.

Important Note

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



Commission Disciplinary Action, Continued

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

Justin Morrison (salesperson), Coldwell Banker Signature (formerly a salesperson with Sutton Group – Norland Realty)

Date of Decision: January 11, 2017

Violation: Mr. Morrison was charged with professional misconduct contrary to:

- section 39(1)(a) of *The Real Estate Act* for improperly signing and witnessing an offer to purchase; and
- section 58(1)(b) of the *Act* for failing to show, prior to execution by the buyer, the names of both sellers on the offer to purchase.

Details: Mr. Morrison purchased a property owned by Seller A and Seller B. The property was listed on the Saskatchewan Matrix with a single owner, Seller A.

The offer to purchase named Seller A as the sole seller. Both Seller A and Seller B signed the contract as sellers. Despite the fact that Mr. Morrison was the buyer, he first signed the offer “As per agent” on the first buyer signature line and signed as a witness to both signature lines, even though the second buyer signature line was blank. Mr. Morrison then signed as a buyer on the second buyer signature line and his assistant signed as witness beside his witness signature for the second buyer line.

Disposition: The Hearing Committee found Mr. Morrison guilty of the charges and ordered that he receive:

- an order of reprimand and a \$750 fine for the breach of s. 39(1)(a) of the *Act*; and
- an order of reprimand and a \$750 fine for the breach of s. 58(1)(b) of the *Act*.

The entire written decision of the Saskatchewan Real Estate Commission in the Matter of Justin Morrison dated January 11, 2017 can be viewed on the Commission website at <http://www.srec.ca/pdf/2012-34.pdf>.

Ryan Topley (broker), Creative Realty Ltd. (formerly an associate broker with Century 21 Lloydminster Realty)

Date of Decision: January 11, 2017

Violation: Mr. Topley was charged with professional misconduct contrary to Commission Bylaw 702 for failing to protect and promote the interests of his client.

Details: Mr. Topley represented buyers who were interested in purchasing a lot in a new subdivision. The Buyers drove out to the subdivision to view the properties then contacted Mr. Topley to advise that they wanted to buy “the second one in on the south end of the road”. Mr. Topley understood this to mean that the Buyers wanted to purchase Lot 8 in Block 2, which was on the south side of the subdivision and is the second lot in from the main road. Lot 8 in Block 3 was also on the south side of the subdivision and was also the second lot in from the main road. Lot 8 Block 2 had a better well than Lot 8 Block 3, and Mr. Topley had understood that well production was important to the Buyers. Mr. Topley wrote an offer to purchase Lot 8 in Block 2 on behalf of the Buyers.

Sometime later, after conditions had been removed, Mr. Topley was informed that there had been an error and that the Buyers had, in fact, wanted to purchase Lot 8 in Block 3. Mr. Topley attended a meeting with the Buyers, his broker and a representative of the builder. Mr. Topley’s brokerage paid half of the legal costs and transfer fees for the Buyers to acquire Lot 8 in Block 3 as well as half the difference in price between the two lots.

Disposition: The Hearing Committee found Mr. Topley guilty of the charge and ordered that he receive a \$1,500 fine and an order of reprimand.

The entire written decision of the Saskatchewan Real Estate Commission in the Matter of Ryan Topley dated January 11, 2017 can be viewed on the Commission website at <http://www.srec.ca/pdf/2013-21.pdf>.

Professional Corporations & Permitting - Common Issues

Every year, the Registration Department at the Commission handles hundreds of professional corporation permit inquiries. Often registrants are confused about the regulations and responsibilities they have with respect to operating their Professional Corporation. We hope that the following FAQs will help address the most commonly occurring areas of confusion.

Q. As a registrant, can I have my brokerage pay any commissions I earn to my professional corporation?

A. Yes, provided that you have:

- i. a personal Professional Corporation (PC), registered with the Saskatchewan Corporate Registry that satisfies the requirements of the Commission bylaws and is in good standing
- ii. a valid permit issued by the Commission (annually, Jan – Dec)
- iii. provided a copy of your PC and annual permit to your broker.

Q. Why does the Commission need to know about my professional corporation?

A. According to Section 8 of *The Professional Corporations Act*, a professional association or body may issue an annual permit for use - in this case, the Commission issues permits for real estate professionals who also have professional corporations. Once you have incorporated your own PC, you must apply for a permit with the Commission. Without a permit, you are not allowed to conduct trades in real estate under the name of your PC, nor accept payment from your brokerage in the name of your PC.

Q. How do I renew my PC permit with the Commission?

A. Your professional corporation will have to file an annual return with the Corporate Registry. Once you file your annual return, you can obtain an updated corporate profile report.

In early October, the Commission will notify PC holders of the need to renew their permits. A request will be made to provide the updated corporate profile report to prove the corporation is active and in good standing with the Corporate Registry. Once we have acknowledged receipt of the corporate profile report, the information will be updated in our database. You will then be notified by email to proceed to the Commission's online registration system and **log into your personal page to renew your permit** for the professional corporation. (This is a step many people miss.)

The initial permit application fee is \$500.00. The fee must accompany your application. The annual renewal fee for the permit is \$200.00.

As always, if you have any questions, please contact the office of the Saskatchewan Real Estate Commission at info@srec.ca.

Brokerage Annual Financial Reports

Bylaw 606 states:

A brokerage shall complete and submit to the Commission, the “Annual Financial Report”, in respect of the trust account, prior to March 15th in the year immediately following the calendar year for which the report is due.

Brokers are reminded that the 2016 Annual Financial Report (AFR) must be submitted to the Commission office **no later than March 15, 2017**. After that date, a **\$1,500 late submission fee** will apply.

Your 2016 AFR can be completed by one of these two methods:

1. Visit our website, www.srec.ca. Click on the *Forms* tab (top right corner of your screen). A page will open containing links to several regularly used forms. The AFR link appears at the bottom of the page. When you click on the link, a PDF document will open, which can be printed and completed.



OR

Brokerage Audits

The Saskatchewan Real Estate Commission is tasked with ensuring public safety through industry regulation.

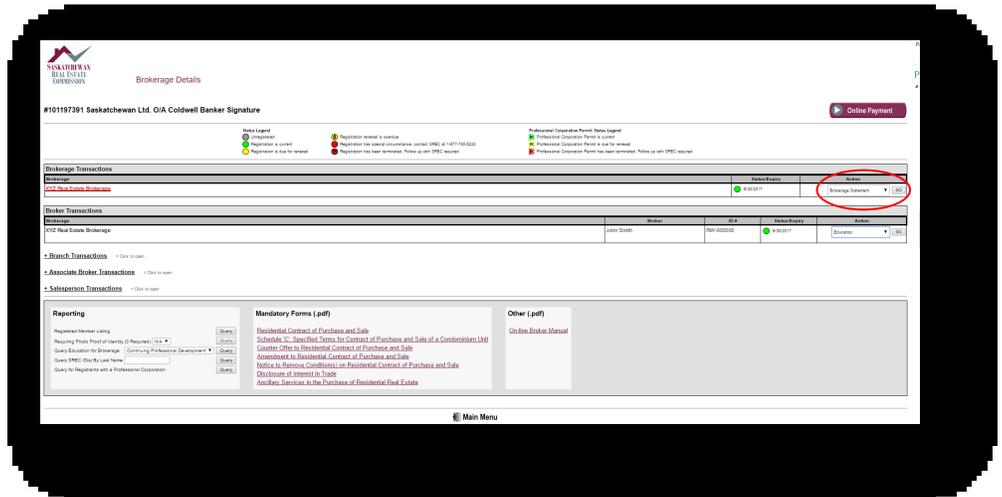
Part of the Commission's responsibility is oversight of industry practices.

The Commission has contracted an independent accounting firm, **EPR Saskatoon**, to perform financial audits on 50 randomly selected brokerages each year. EPR contacts the brokerage and requests documentation be sent directly to them in order to perform an initial "desk audit" of the trust accounting in order to ensure compliance.

EPR generates a report with any noted errors/deviations/violations, which is shared with both the brokerage and the Compliance Department.

The Compliance Department then initiates a more in-depth compliance audit, reviewing transaction documents, and creates a final report for the brokerage, including any recommended procedural changes.

2. Sign into your brokerage screen through the Commission's website where you normally conduct such transactions as adding salespersons. In the section marked, "Brokerage Transactions", click on the down drop menu for "Actions" (to the right). Select, "File AFR" and press the "GO" button. This will open the AFR in a web-based format. Fill it out and submit it online.



Both the paper and online reports request the same information. The paper version is only available for your 2016 AFR filing. **Commencing with the 2017 year, all brokerages must file their AFR online.**

All reports and supporting documents may be copied and mailed to the office of the Commission. Alternatively, we accept clearly scanned PDFs emailed to info@srec.ca. Please retain all originals with your file records.

Regardless of the method you use to file your AFR, your Report is not considered complete until the Commission receives all requested documentation.

Please don't forget:

All brokerages must submit their 2016 AFR **no later than March 15, 2017, or a \$1,500 late submission fee** will apply.

2017 Commission Elections

Pursuant to Section 6 of *The Real Estate Act* and Bylaw 216.2, the Commission is made up of 11 members, six of whom are elected by other industry members, representing each of three regions: Region 1 – Saskatoon, Region 2 – Regina, and Region 3 – all areas of the province outside of Saskatoon and Regina. Elected members serve a three-year term commencing July 1st following the election.

This Year's Election

Presently, Region 2 – Regina is represented by Bernie Weinbender and Michael Duggleby. The current term of office for both expires on June 30, 2017.

Election Process

Nomination forms were distributed in January to all registrants in Region 2 with an open call for nominations. Candidates had to be a registrant with a brokerage in Region 2 in order to qualify to be nominated for election in the region.

Three nominees have been submitted for the positions: Mike Duggleby, Lori Patrick, and Bernie Weinbender. An election will be called as per the Commission Bylaws, and all brokerages in the region will receive voting instructions at that time. Please review the biographies of our nominees, below.

Region 2 Nominee Biographies

Mike Duggleby is a long-standing registrant (2002), and has been a broker in Regina (Royal LePage Regina Realty), since 2004. In his time in the industry, Mike was the Director for the Association for Regina REALTORS® (7 years), including President in 2012. Mike is also a long-standing member of ASR and CREA, and has been a member of the Commission since 2014.

Mike has a keen interest in keeping the Saskatchewan real estate industry professional and well disciplined.



Lori Patrick is a 25-year veteran of the industry currently with Century 21 Dome Realty Inc. Lori is a member of CREA, ARR and ASR.

“ I have been wanting to get more involved in the governance of our industry for some time now, and the regulatory body that has always interested me the most is the Commission. I feel that as a very active agent with a large client base I interact one on one with the public more than any of my peers. In this capacity I think I could provide good insight on how SREC can better serve the clients of our industry and provide them with the protections they're entitled (to) as well as contribute to the regulation of registrants...” (continued on page 9)



(Lori Patrick, continued from page 8...)

“...I have been actively selling real estate for 25 years. The SREC is necessary for the industry though I feel it is time for a change and a new voice to emerge in its representation. I have vast experience in this profession and welcome the chance to serve and help guide the SREC, and us as registrants, towards the future.”

Bernie Weinbender has served the real estate industry in Saskatchewan for 30 years. He is currently the broker at Century 21 Dome Realty Inc. in Regina and is involved in many real estate industry associations in Saskatchewan and B.C. Bernie served as President, Past President and Director for the Swift Current Real Estate Association (1989-2003), and as a Director for the Association of Regina REALTORS® (2013/14), before becoming a member of the Commission (2014).



“I have always had an interest in working with the Real Estate Act. The real estate industry is facing changes more so now than ever before. This provides me with an opportunity to apply my experience and knowledge gained over the years as a Commission member sitting at the table. I intend to give the input needed to make decisions that are required to protect the public and improve the industry.”

The Commission extends our congratulations to the nominees and wishes everyone the best of luck in their campaigns.

For further information with respect to Commission makeup and the election process, please refer to Section 6 of [The Real Estate Act](#) and to Part 2 of the [Commission Bylaws](#).

Dates to Remember

- July 1—**
Registration year begins
- October 15-December 31—**
Professional Corporation permit renewals
- February 20**
April 14
May 22—
Commission office closures
- March 9—**
Commission meeting (Regina)
- March 15—**
Brokerage Annual Financial Reports due
- April —**
Region 2, Regina, Commission election
- May 16-June 30—**
Registration renewals
- May 31—**
CPD completion deadline

Advertising Requirements

The Commission's Compliance department frequently is asked about advertising rules and requirements. We have published several articles about this issue over the years and have compiled a list of our most frequently asked questions and concerns.

You **MUST** identify your brokerage

Section 55 of *The Real Estate Act* prohibits a registrant from advertising a trade in real estate unless the advertisement shows the name of the brokerage as set out on its certificate of registration. The name of the brokerage on behalf of which a registrant is authorized to trade is the only information that must be included in any advertising.

You may **ONLY** use your registered name

Bylaw 717 prohibits a broker, branch manager, associate broker or salesperson from trading in real estate under any name other than the name on his or her certificate of registration. If you choose to use your name in an advertisement, it must be your name as it appears on your certificate of registration. If you have changed your name since you became registered or you have been trading under a nickname, you may want to log into the Commission's online system to ensure that your new name or nickname is present on your certificate of registration. If your name has changed for ANY reason, you must notify Commission Administration within five days.

If you have a validly registered professional corporation, you may use your professional corporation name in your advertising, provided that your professional corporation name includes your name as it appears on your certificate of registration and that you use the professional corporation name as it appears on your permit from the Commission.

You must follow regulated **STANDARDS** in your advertising

Bylaw 726 sets out the advertising standards registrants are expected to meet. The bylaw states:

Any advertisement or incentive or the offering of any incentive to the participation in an incentive program to the public as an inducement to trade in real estate undertaken or authorized by a registrant shall not be:

- *false;*
- *inaccurate;*
- *reasonably capable of misleading the recipient or intended recipient;*
- *in bad taste or offensive;*
- *harmful to the best interests of the public; or*
- *prohibited by law.*

All of the Commission's advertising rules apply equally to print, visual, audio and **social media formats**. If you have questions about advertising, please contact the Compliance Department.

Trust Accounts and Reporting

Bylaw 609 states:

Trust accounts shall be maintained in the brokerage's name followed by the words, "REAL ESTATE TRUST ACCOUNT" or "PROPERTY MANAGEMENT or P.M. TRUST ACCOUNT". A brokerage shall use this name only for trust accounts. This name shall appear on all trust account records including, but not limited to, deposit books and cheques.

The Commission has noticed recently on AFR submissions that some brokerages have identified the same account number as being both the real estate trust account and property management trust account. As per bylaw 609, such cannot be the case. Brokerages trading in real estate and property management must have separate accounts for "regular" real estate and property management, which must also be labelled accordingly.

Brokerages trading in Property Management are also required to have property management agreements in place between a brokerage and the landlord of the subject property. Bylaw 617 sets out the requirements to be covered in such an agreement and specifically identifies the use and conditions of property management trust accounts.

The Commission has also noticed a number of interest reports being submitted by various financial institutions are not showing the correct name on the trust account. For example, a corporation may be called 123456789 Saskatchewan Ltd., yet is registered to trade under the name, ABC Brokerage Accurate Realty. The correct name on the accompanying trust account should read, "ABC Brokerage Accurate Realty Real Estate Trust Account", or "ABC Brokerage Accurate Realty Property Management Trust Account". Financial reports should not be filed under the name of "Accurate" or "123456789".

Please contact your financial institution and ensure that the business name registered with the Commission (if different than the corporate name), appears on all trust account documentation and instruct them to report the same. If you encounter any difficulties with this process, please contact the Commission office.



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

- Friday, April 14
- Monday, May 22

Regular Office Hours:

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

**The annual deadline for
 CPD completion is
 May 31, 2017.**

**Registrants have 3 choices of courses to
 take to fulfill their CPD requirement:**

- **Industry Updates**
- **Commercial Course
 (Business Brokerage Practices)**
- **Broker/Brokerage Course
 (Leadership & Broker Management)**

Each registrant must **select ONE option** in order to fulfill the annual CPD requirement.

Industry Updates is offered in both an online and in-class format, while the other two options are **ONLY** offered online this year.

After March 23, 2017, there are no in-class workshops available.

Please visit
www.saskatchewanrealestate.com
 to register TODAY!

Contact Us

Saskatchewan Real Estate Commission

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Commission Members

Trevor Koot, Chair, Swift Current

Paul Jaspar, Vice Chair, Saskatoon

David Chow, Moose Jaw

Mike Duggleby, Regina

Dave Hepburn, Saskatoon

Murray Lang, Regina

Jeff Markewich, Moose Jaw

Vern McClelland, Lloydminster

Al Myers, Saskatoon

Tim Ward, Saskatoon

Bernie Weinbender, Regina