

The Register



May 2009

On-line Registration Renewal Process

URGENT

Provided for you in the centre of this newsletter, is the Commission's memorandum to all registrants regarding the July 1, 2009 registration renewal process.

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Once again, registrants have the flexibility of individually renewing their Certificate of Registration on-line via the Internet or in some cases, brokerages have implemented a method whereby office administration handles the renewal of all registrants at the brokerage.

Registrants are reminded that it is their responsibility to ensure that they have renewed on-line prior to July 1, 2009. Failure to renew on time means that no further trades in real estate can be conducted by the individual without being in violation of Section 18 of *The Real Estate Act*.

Points of Clarification:

Q) I don't use credit cards. How do I pay?

A) For those who wish to pay using a cheque or cash be aware that payment must be received by the Commission before the renewal process can proceed. In these cases, the registrant's brokerage must process the renewal on-line.

Q) Why can't I fill out a renewal application form and send it to the Commission?

A) The Commission no longer processes paper renewal application forms. All registrants must use the on-line process.

Q) I prefer to have my brokerage prepare my renewal for me, is this permissible?

A) Yes, your brokerage can register you on-line provided that you have verified your registration information with the broker or broker's designate.

If you have any questions about this registration renewal process, please contact the Commission office at 306-374-5233 or toll free at 1-877-700-5233 (extension #1).

CPD Requirements

Please note that the two-day Agency Fundamentals seminar was a CPD requirement prior to June 30, 2008. As part of the registration renewal on June 30, 2009 **all registrants** are required to attend and successfully complete the one-day Real Estate Update continuing professional development seminar for this fiscal year July 1, 2008 to June 30, 2009.

Class sizes are approximately 40 participants per workshop. There are only approximately 22 seminars scheduled throughout the province between now and May 31st. This equates to 880 seats available. **There will be no seminars offered in June.** If you fail to attend a seminar prior to the end of May, you will be required to:

- i) file an application with the Commission requesting a one-month extension and paying the \$300 extension fee of for the month of June 2009; and
- ii) apply to the education provider to enroll in a special make-up home study course and to successfully complete the required assignment and return it to the education provider.

If a further time period is justified to complete the CPD course and examination, one final extension after renewal will be considered by the Registrar. If the educational requirement is not met prior to July 31, 2009, the registrant's registration will be suspended until the education has been completed.

Mission Statement

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

Course Fee Increases

The fee to purchase the **Real Estate Office Management and Brokerage**, Phase III, has increased from the current \$689 GST included plus shipping and handling to \$850 plus GST, shipping and handling.

The current courses, Real Estate Practice in Saskatchewan (REPIS) and Real Estate Broker Practice in Saskatchewan have been merged into the single course, **Real Estate Practice in Saskatchewan** (REPIS). The current courses are \$238.50 and \$291.50 respectively (both GST included plus shipping and handling). The cost of the new REPIS course, to be released shortly, will increase to \$399 plus GST, shipping and handling.

Both of these courses have undergone substantial revisions, and include the texts and associated study guides. All course exams are now online, the fee for each online exam is \$100 plus GST.

Please provide this information to those in your area who may be affected by these changes.

CPD Exemption

At the Saskatchewan Real Estate Commission's March 6, 2009 meeting, the members reviewed the recommendation to allow a new registrant an exemption to complete the CPD requirements in the latter part of each registration year. This policy became effective April 1, 2009.

"If an individual applies for initial registration between April 1 and June 30th in a registration year, he/she is exempt from the CPD requirements for that registration year."

If you have any questions regarding this new policy, please to not hesitate to contact our office.

Due Diligence

Recently, the Commission has received a number of inquiries from registrants that have received e-mail solicitations from “unknown” or “questionable” sources using an internet based, real estate specialized software. While there are substantial business opportunities to being “connected online”, there are also drawbacks as well. In one recent example, e-mail is being sent to registrants requesting to “have you as her overseas agent to protect and invest her funds into a real estate business.” Below is an excerpt of one such solicitation:

I am Mr. H writing to inform you of our desire to invest in your country on behalf of Princess X. Considering her very strategic and influential position; she would want the transaction to be as strictly confidential as possible. She further wants her identity to remain undisclosed at least for now, until the completion of the transaction. Hence her desire to have you as her overseas agent to protect and invest her funds into a real estate business. I am therefore directed to inquire if you would agree to act as her overseas agent in order to actualize this transaction. If you can handle this then you can get back to me via the email or telephone number 123-456-7890 for further briefing. Regards Mr. H.

Now it is possible that there exists substantial opportunities from various people and businesses from around the world, especially since our province is now more than ever being recognized on the world stage. We would however like to remind you, in your efforts to do business, please remember to “do your due diligence.”

In any effort to reduce risk and prevent loss, two principles stand as pillars to guide you:

1. Increase the threat of detection and
2. Reduce the opportunity for illicit behaviour to occur.

In the case cited above, some consideration may include proper due diligence, appropriate inquiries, and discussions with your broker. Try to have a plan on how you will deal with out-of-province, out-of-country and overseas inquiries.

Obligations to Clients and Customers

Commission Bylaw 702 states: “A registrant shall protect and promote the interest of his or her client. This primary obligation does not relieve the registrant from the obligation of dealing fairly with all other parties to the transaction.”

- A registrant has a fiduciary duty, professionally and at law, to endeavour to protect and promote the interest of the registrant’s client to the extent that he or she may ethically or legally do so. This relationship of trust means that the registrant never puts the registrant’s interest above those of the client.
- The fiduciary duties to a client do not relieve a registrant from treating other parties to the transaction fairly.
- A registrant shall exercise reasonable care and skill in disclosing to all parties to a transaction all material latent defects or deficiencies affecting the property of which the brokerage is aware.
- A registrant shall obey the lawful instructions of his or her client and disclose any conflicts of interest between the client’s interest and the brokerage and/or the other party to the transaction.
- A registrant shall not disclose confidential information about his or her client except with the informed consent of the client or as required or authorized by law. The duty of confidentiality continues after the professional relationship with the client has ended. A registrant may disclose confidential information without consent in order to assist authorities to prevent, investigate or prosecute an offence or to defend the registrant against an allegation by the client of negligent or improper conduct.

- A registrant must disclose in a timely manner to his or her client all relevant facts affecting the transaction of which the registrant's brokerage is aware.
- A registrant shall exercise reasonable care and skill in assisting his or her client in negotiating favourable terms and conditions on an offer to purchase and in preparing and complying with a legally binding agreement of purchase and sale for a property.
- A registrant, when dealing with a customer or another party to a transaction, should not mislead the customer as to any matters pertaining to the property or transaction.
- A registrant, when dealing with a customer, should exercise reasonable care and skill when answering enquiries or giving information so that the answers or information are complete and accurate but the registrant will not provide information that is not in the best interests of his or her client.
- A registrant shall not, when acting in a professional capacity, discriminate or participate in discrimination against any person.
- A registrant should provide timely service to clients and customers and should respond appropriately in a timely manner to all communications.

Annual Financial Reports

On an annual basis, brokerages are requested to submit an Annual Financial Report concerning the activities of the brokerage's interest bearing trust accounts for a specific calendar year. This report includes submission of information relating to real estate as well as property management activities, a

summary of funds deposited into the trust account for the calendar year, the balance and trust liability listing for monies held at the end of December.

Commission Bylaw 606 requires brokerages to submit the Annual Financial Report postmarked no later than March 15th each year. A total of 214 brokerages remitted their report as required pursuant to Bylaw 606; however, twelve brokerages failed to respond by the deadline date and were required to pay the \$300 late submission fee.

The results of the 2008 Annual Financial Reports are as follows: total # of Real Estate Transactions: 21,997; total # of Property Management Contracts: 1,803; total # of Residential Units Managed: 13,874; total # of Commercial Units Managed: 3,146; total amount of deposits made into trust accounts: \$359,613,012; and total amount of monies held in trust at December 31, 2008: \$ 19,646,938

In the submission of the 2008 report, it was noted that numerous brokerages had errors in the completion of their reports. These errors will be analyzed over the next several months and efforts will be made to ensure that brokers clearly understand their responsibility in ensuring the accuracy and proper completion of the report. Eleven of the twelve late filing brokerages have now filed their report.

Brokers are encouraged to contact the Saskatchewan Real Estate Commission Audit Department if they are having trouble in completing and submitting the report prior to the March 15, deadline. The Audit Department has been contacting and initiating audits on brokerages that submit late or incomplete financial reports. The Commission's Audit Department will be providing the Commission with a report on recommendations and changes to the annual financial reporting process. The review of the Annual Financial Report to the Commission is a very labour intensive task that has been hindered by error, misrepresentation and late reporting. Brokers are asked to submit written suggestions on improving the Annual Financial Reporting. We remind brokers that non-compliance could lead to disciplinary action.



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MEMO

Date: May 2009
To: All Registrants
From: Al Jacobson, Executive Director/Registrar
Re: Registration Renewal July 1, 2009

In 2007 the Saskatchewan Real Estate Commission introduced its new individual registrant on-line renewal process. Each individual registered through the Commission's database is automatically granted an access code and password thereby allowing you the ability to handle your own registration renewal via the Internet. The Commission's on-line registration system is designed to begin the registration renewal process on May 15, 2009.

On or after May 15, 2009 please access the Commission's website via the Internet at www.srec.ca. Move your mouse over **On-line Transactions** on the top left-hand side of your screen. Select the **Registration Transactions** sub-menu item. Enter your RW number and password. (Note: If you have forgotten your RW number and password select the line that reads "Forgot your login information? A second screen will ask you to provide your last name, first name and birth date after which your RW number and password will be e-mailed to you.)

- Restricted Access -

SREC ID

Password

[Forgot your login information?](#)

Username/Password Retrieval

Login information will be emailed to address on file

Last Name

First Name

Date of Birth

Once you are logged into the on-line registration system, simply follow the instructions provided in our manual that is available to you as a pdf document on your screen. The registration renewal

application is submitted electronically to the Commission office thereby eliminating the cost of paper, printing and postage.

Review the information contained on your renewal form and correct any errors (i.e. address, telephone numbers, e-mail address, etc.) **Please note that it is extremely important that you have an e-mail address on file with the Saskatchewan Real Estate Commission and that the e-mail address is correct.**

The 2009-2010 registration renewal fees are as follows:


- a) Registration Fee \$300.00
- b) Real Estate Assurance Fund Renewal Fee \$ 10.00
- c) REIX E & O Insurance Premium \$175.00

We recommend that you log-in and process your registration renewal prior to June 22, 2009. By waiting till the last week, you may encounter technical problems such as computer system difficulties or Internet accessibility issues. Please make every effort to process your renewal earlier rather than later.

If your registration renewal has not been processed on-line prior to July 1, 2009, you will no longer be eligible to trade in real estate. It is a violation to trade in real estate without being registered with the Commission.

If you have any questions about this registration renewal process, please contact our Director of Registration, Verna Olfert at 306-374-5233 (extension #1) or toll free at 1-877-700-5233.

Sincerely yours,


Al Jacobson
Executive Director/Registrar

AJ/vo

Commission Disciplinary Action

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

Katherine Berner, Regency Property Management (Regina)

Date of Decision: January 15, 2009

Date of Written Decision: February 5, 2009

Disposition: Katherine Berner received an order of reprimand and order to pay a \$2,000 fine for violating Section 39(1)(a) of *The Real Estate Act*.

Violation: Section 39(1)(a) of *The Real Estate Act* states: "Professional misconduct is a question of fact, but any matter, conduct or thing whether or not disgraceful or dishonourable is professional misconduct within the meaning of this *Act*, if it is harmful to the best interests of the public, the registrants or the Commission."

Details: In October 2003 Regency Property Management, a family run operation, became registered with the Saskatchewan Real Estate Commission with a broker as the sole registrant of the brokerage. The brokerage received a routine Commission audit in October 2004 along with written direction regarding the operation of the property management trust account.

In May 2008, a routine Saskatchewan Real Estate Commission audit at Regency Property Management identified process issues within the brokerage. Registrants of the brokerage were depositing into the property management trust account personal funds not connected to the property management operation; security deposits; using the property management trust account as an operating account to pay suppliers; and did not maintain security deposits in one specific security deposit account on behalf of owners and tenants.

The hearing panel accepted representations that Katherine Berner, the broker since February 2008, failed to use the property management interest bearing trust account as legislated. The hearing panel accepted that the result was more than a simple accounting issue; however, found that there was no intention to harm clients for personal advantage. The hearing panel would have assessed a higher sanction but for the many client testimonials received at the hearing and the fact that Katherine Berner voluntarily resigned her registration at the brokerage during the term of the investigation.

Leonard Eva, Regency Property Management (Regina)

Date of Decision: January 15, 2009

Date of Written Decision: February 5, 2009

Disposition: Leonard Eva received an order of reprimand and order to pay a \$3,000 fine for violating Section 39(1)(a) of *The Real Estate Act*.

Violation: Section 39(1)(a) of *The Real Estate Act* states: "Professional misconduct is a question of fact, but any matter, conduct or thing whether or not disgraceful or dishonourable is professional misconduct within the meaning of this *Act*, if it is harmful to the best interests of the public, the registrants or the Commission."

Details: In October 2003 Regency Property Management became registered with the Saskatchewan Real Estate Commission with Leonard Eva as the registered broker and sole registrant of the brokerage. Regency Property Management commenced operation as a family run business and received a routine Commission audit in October 2004 along with written direction regarding the operation of the property management trust account.

In May 2008, a routine Saskatchewan Real Estate Commission audit at Regency Property Management identified process issues within the brokerage. Registrants of the brokerage were depositing into the property management trust account personal funds not connected to the property management operation; using the property management trust account as an operating account to pay suppliers; security deposits; and did not maintain security deposits in one specific security deposit account on behalf of owners and tenants. A further analysis of the operation identified that Leonard Eva, during his tenure as broker, failed to take an active and supervisory role regarding the brokerage's operation.

The hearing panel accepted representations that the registrants of the brokerage failed to use the property management interest bearing trust account as intended and directed. The hearing panel agreed that the result was more than a simple

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

accounting issue; however, found that there was no intention to harm clients for personal advantage. The hearing panel would have assessed a higher sanction but for many client testimonials received at the hearing.

In handing down its decision, the hearing panel stressed the supervisory requirement of brokers to ensure that operations comply with Saskatchewan real estate legislation. The hearing panel recognized Leonard Eva's prior unblemished real estate career and would have assessed a higher fine had they found any element of intentional misbehaviour.

Al Fuchs, Formula 1 Real Estate Service

Date of Mitigation Hearing: February 19, 2009 **Date of Written Decision:** March 3, 2009

Disposition: Al Fuchs received an order of reprimand; an order to pay a \$500 fine for violating Commission Bylaw 709; and an order to pay a \$3,500 fine for violating Section 39(1)(a) of *The Real Estate Act*.

Violations:

- (a) Commission Bylaw 709 states: "Negotiations concerning exclusively listed property or negotiations with any party who is exclusively represented shall be carried on with the client's agent and not with the client directly, except with the consent of the client's agent."
- (b) Section 39(1)(a) of *The Real Estate Act* states: "Professional misconduct is a question of fact, but any matter, conduct or thing whether or not disgraceful or dishonourable is professional misconduct within the meaning of this *Act*, if it is harmful to the best interests of the public, the registrants or the Commission."

Details: On July 28, 2008 an out-of-province buyer represented by Al Fuchs and a seller, represented by another brokerage, agreed in writing to a Residential Contract of Purchase and Sale. The conditionally accepted contract called for the removal of all conditions on or before August 8, 2008 and an undertaking that the \$1,000 deposit was to be forwarded to Formula 1 Real Estate Service, via money order, upon acceptance of the offer.

The out-of-province buyer removed all conditions to the contract on August 8, 2008 and had not as yet provided the promised \$1,000 deposit via money order. On August 12, 2008, Al Fuchs delivered the brokerage's letter of instruction to the lawyer representing both the buyer and seller. Contained within the instruction letter Al Fuchs confirmed that the brokerage had not yet received the deposit. The deposit cheque never arrived at Al Fuchs' brokerage and at no time between July 28 and August 24, 2008, did Al Fuchs notify the listing brokerage of the non-deposit. The transaction collapsed and the seller and the listing brokerage complained to the Saskatchewan Real Estate Commission.

In handing down its decision, the hearing panel acknowledged the somewhat technical nature of the breach outlined in Commission Bylaw 709 in that Mr. Fuchs did not deal directly with the seller's brokerage. The hearing panel assessed the \$500 fine to ensure that registrants remember to only deal with contracted representatives of the other parties.

The hearing panel found that the failure to notify the listing brokerage of the non-deposit from July 28 to August 25, 2008, an action not to be condoned. The offer as written by Al Fuchs' buyer undertook to provide a deposit upon acceptance. Al Fuchs remained the only registrant aware that the buyer never provided the required deposit; Al Fuchs should have notified the listing brokerage. The hearing panel found that "the failure of the deposit is fundamental to a trade in real estate. The one learning of the failure is the buyer's agent and they and their brokerage must notify the seller's brokerage immediately when the deposit is not received at the time that it was due."



Maurice Hyde, Maurice Hyde Realty Inc.**Date of Mitigation Hearing:** February 19, 2009**Date of Written Decision:** March 3, 2009**Disposition:** Maurice Hyde received an order of reprimand and an order to pay a \$500 fine for violating Commission Bylaw 723(a).**Violation:** Commission Bylaw 723(a) states: "In addition to the requirements set out in section 33 of the *Act* and subsection 54(2) of the *Act*, and subject to Bylaw 724, a registrant shall notify the Commission in writing no later than five (5) days after the occurrence of any of the following: (a) commencement of proceedings pursuant to the *Criminal Code* against the registrant."**Details:** In the summer of 2007, Maurice Hyde learned that he was the subject of a criminal investigation and fully co-operated with the police. Notwithstanding Maurice Hyde's co-operation, the police charged Maurice Hyde with one count of theft under \$5,000 in December 2007. Maurice Hyde received personal service of a summons in January 2008 and neglected to ever notify the Commission of the criminal charge. At all times throughout the process, Maurice Hyde maintained his innocence.

In September 2008 the Commission confirmed in Provincial Court, the outstanding charge against Maurice Hyde. Sometime later in the fall of 2008 the crown prosecutor viewed the evidence against Maurice Hyde and withdrew the charge prior to a scheduled trial.

In its written decision, the hearing panel stressed that it remains "not for the registrant to determine whether the seriousness of the charge is sufficient to warrant notice to the Commission; all charges must be reported immediately." The hearing panel remained sympathetic to Maurice Hyde's plight given the delay in laying the charge and a further delay until the crown withdrew the charge.

Willard Larson, Century 21 Conexus Realty Ltd.**Date of Decision:** January 15, 2009**Date of Written Decision:** February 5, 2009**Disposition:** Willard Larson received an order of reprimand and order to pay a \$750 fine for violating Section 39(1) (a) of *The Real Estate Act*.**Violation:** Section 39(1)(a) of *The Real Estate Act* states: "Professional misconduct is a question of fact, but any matter, conduct or thing whether or not disgraceful or dishonourable is professional misconduct within the meaning of this *Act*, if it is harmful to the best interests of

the public, the registrants or the Commission."

Details: In this situation, two lots were being sold and on one of them was a house. The listing identified the house and one lot. In the narrative portion of the listing, it stated "*single garage, fenced yard and vacant lot to the south [2nd lot]... included in price, separate titles gives 50' foot frontage...*". On April 12, 2008 Willard Larson completed a Residential Contract of Purchase and Sale on behalf of the buyer; however, he failed to include the legal land description of both lots that encompassed what the buyer believed he was purchasing. Consequently, the transaction went through and the buyer only received the one lot identified in the offer.

The Investigation Committee stressed the importance of registrants paying attention to the details of the transaction that they are working on. The buyer was relying upon the registrant's expertise, which failed him in this purchase. Willard Larson stated that he normally takes the legal description off the listing [and not the narrative portion]. He admitted that he made a mistake but felt he was misled in the advertising.

The hearing panel "*believes this was a genuine mistake by Willard Larson....however, there was harm created by Willard Larson's lack of attention to detail and review on behalf of his client.*" Moreover "*it is not satisfactory that registrants simply rely on the information provided by the listing agent. They have a duty to look out for the interests of their client and to reasonably ensure that the facts are correct.*"

The primary points for all registrants and public at large are that:

- it is important that all registrants know that they must review all the information before them prior to completing an offer;
- registrants must pay attention to detail; and
- once it is signed, a contractual relationship has been created that may not always be corrected once the mistaken information is found.

Hazel Ursan, Sutton Group – Results Realty**Date of Mitigation Hearing:** February 19, 2009**Date of Written Decision:** March 3, 2009**Disposition:** Hazel Ursan received an order of reprimand and an order to pay a \$3,000 fine for violating Commission Bylaw 726(c).**Violation:** Commission Bylaw 726(c) states: "Any

advertisement or incentive or the offering of any incentive or 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 reasonably capable of misleading the recipient or intended recipient.”

Details: The Saskatchewan Real Estate Commission’s Investigation Committee, on its own motion, initiated a review of this matter as a result of a complaint initiated against Mr. Willard Larson. In this situation, two lots were being sold and on one of them was a house. The listing identified the house and one lot. Contained within the narrative portion of the listing, it stated “*single garage, fenced yard and vacant lot to the south [2nd lot] ... included in price, separate titles gives 50’ foot frontage...*” Consequently the legal land description written in the Residential Contract of Purchase and Sale only included that which was identified on the listing document and not the second lot (or additional legal land description) identified in the narrative portion. The result was that the buyer only received title to the one lot and the house and the seller retained the second lot which he

sold at a later date. The hearing panel determined that although “there was no malicious intent on Ms. Ursan’s part in creating the misleading advertisement,... as an experienced registrant, Ms. Ursan [and all registrants] must ensure the paperwork she creates in dealing with a trade in real estate is done properly, clearly and in the **best interests of all parties.**” The hearing panel felt it was important to communicate to all registrants that they heed the comment; “to take great caution to clearly set out what is being traded.”

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