

# The Register



May 2010

## On-line Registration Renewal Process

### Inside this issue:

CPD Requirements	2
5 Day Notice to the Commission	2
Advertising: Mistaken or Otherwise	2
Misrepresentation of Condominium Units	2
IC & I Appointment to the Commission	3
Fraudulent Deposit Cheque Scheme	3
Use of Mandatory Residential Contract of Purchase and Sale form	4
Election Results	4
Initial Registration, Transfers/Re-instatements	4
Memo to all Registrants Re: Registration Renewal	5
Commission Disciplinary Action	7
Brokerage Contractual Relationships	10
Commission Members	10
Commission Staff	10
SREC Contact Info	10

## URGENT

Provided for you in the centre of this newsletter, is the Commission's memorandum to all registrants regarding the July 1, 2010 registration renewal process.

Registrants can individually renew their Certificate of Registration on-line 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, 2010. 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*

As part of the registration renewal on July 1, 2010 **all registrants** registered between July 1, 2009 and March 31, 2010 are required to attend and successfully complete the one-day Real Estate Update continuing professional development seminar for this fiscal year July 1, 2009 to June 30, 2010. New registrants who become registered after March 31, 2010 are exempt from this year's CPD requirement.

**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 for the month of June 2010; 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, 2010, the registrant's registration will be suspended until the education has been completed.

## *5 Day Notice to the Commission*

**Please ensure that you notify the Commission within five days of:**

- the opening or closing of a trust account;
- a change in the brokerage's business name;
- a change in the address of the brokerage office or branch office;
- commencement of proceedings pursuant to the *Criminal Code* against a registrant;
- commencement of civil proceedings against a registrant;
- a change in a registrant's name; and
- termination of a registrant's employment at a brokerage.

## *Advertising: Mistaken or Otherwise*

Advertising related issues account for more than 50% of complaints to the Saskatchewan Real Estate Commission. Registrants not proofing advertising done on their behalf for clients; registrants representing square footage at a property without having measured the square footage; registrants representing services at a property without independently verifying those services exist; registrants representing inaccurate information about a property on the MLS® and in feature sheets; the list goes on.

Registrants must ensure that they have verified the information before making a statement that ends up not being factual. The broker has a legislative obligation to verify and approve all advertising originating from the brokerage for trades in real estate.

## *Misrepresentation of Condominium Units*

In recent years many developers and builders purchased existing structures and converted them into condominium units. Registrants are reminded that notwithstanding that the law may recognize a converted structure as a new condominium; certainly the structure is older and the original hardware may be twenty to thirty years of age. In addition, the existence of an insufficient amount of funds in the reserve fund could have a substantial financial impact on a buyer. The onus is on the registrant to take reasonable steps to discover pertinent facts relating to the property.

## *IC & I Appointment to the Commission*

The Saskatchewan Real Estate Commission is pleased to announce the appointment of Trevor Koot, associate broker and owner of TriKoot Real Estate Services Ltd. as the IC & I representative to the Commission for a three year period. Mr. Koot's appointment commences July 1, 2010.



After winning the Vanier Cup with the 1996 U of S Huskie Football Team, Trevor Koot graduated from the University of Saskatchewan in 2001 with a Bachelor of Science Degree in Kinesiology.

Following a summer long bicycle trip from Vancouver to St. John's, Newfoundland and a short career in professional fundraising, Trevor settled in Swift Current with his wife, Jill and daughter Abby.

In 2006, Trevor launched TriKoot Investments, a private real estate holding company focused on long term holds as well as short term developments such as condominium conversion projects.

In 2007, Trevor bought Century 21 Professional Realty Ltd. in Swift Current, immediately launching a property management division. In 2008, the property management division was transferred to a standalone company called TriKoot Real Estate Services Ltd. and was focused on provincial growth. With the active growth of TriKoot Real Estate Services Ltd. and a management portfolio of approximately 1,000 units in 6 cities across the province, Century 21 was sold in January 2009.

Trevor is currently President and CEO of TriKoot Real Estate Services Ltd. overseeing the operation and management of approximately \$100 million of investment real estate throughout Saskatchewan.

Trevor is active in the community, having served as president of the Rotary Club of Swift Current, currently on the Board of Governors of Great Plains College and the Board of Directors of the Swift Current and District Chamber of Commerce.

## *Fraudulent Deposit Cheque Scheme*

Within the last twelve months, Commission compliance became aware of at least a half dozen separate instances where buyers delivered forged or counterfeit cheques in consideration of or for the completion of a contract of purchase and sale. The certified and/or forged cheque scam has circled throughout North America for a number of years and varies depending on the intended recipient. Generally, what happens is that an out-of-province client pays or arranges to have paid into a brokerage's real estate trust account a forged certified cheque drawn against a major chartered bank. This cheque exceeds normal deposit amounts and may in fact be in excess of \$100,000. During the time that the registrant waits for the cheque to clear the banking system, an individual from the buyer's side makes a reasonable request for repayment of excess funds and the broker complies with the request. The brokerage ends up with a shortage in the trust account that becomes a compliance issue and the transaction collapses.

The broker should not be releasing funds when excess payments are made until verification has been received through the applicable financial institution that the funds have cleared.

Registrants and/or a brokerage's administrative staff are encouraged to report such instances to their local police department for investigation. For further information on scams of this nature, you may wish to visit [www.phonebusters.com](http://www.phonebusters.com).

## *Use of Mandatory Residential Contract of Purchase and Sale for Condominium Sales*

The Saskatchewan Real Estate Commission, pursuant to Bylaw 730, requires registrants to use the Commission's mandatory Residential Contract of Purchase and Sale form and the Schedule "C" relating to the re-sale of condominium units. Bylaw 730 goes on to say that these two mandatory forms **'DO NOT APPLY TO THE SALE OF NEW CONDOMINIUMS.'**

It is imperative for registrants to understand that the provincial statute dealing with condominiums is *The Condominium Property Act, 2001* and ensuing regulations and amendments. This *Act* deals with a different process for the sale requirements of new condominiums than is identified with the sale of a condominium by re-sale.

The Commission's mandatory forms dealing with condominiums do not address or conflict with the statutory contract requirements and timing of the production of documents found in *The Condominium Property Act, 2001*. The specific exceptions are found in Sections 26 and 28 of *The Condominium Property Act, 2001*.

The responsibility for the administration of *The Condominium Property Act, 2001* for developers and owners rests with the Saskatchewan government (Department of Justice) not with the Saskatchewan Real Estate Commission. Registrants need to be familiar with the provisions of the legislation to provide adequate services to the public in these types of transactions.

The Commission will be working diligently with the government and real estate industry to reach a workable solution that will provide protection to the public and guidance to registrants.

### *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.**

## *Election Results*

The Commission sent out notification in January to registrants in Region #1 (Saskatoon) requesting nominations for the two Commission positions that would become vacant July 1, 2010. The nominations were to be submitted by February 16, 2010. Three nominations were received for the two positions (Larry Gingerich of Realty Executives Saskatoon, Richard Jeanneau of Coldwell Banker City Side Realty and Anne Odishaw of Re/Max Saskatoon).

A total of 543 registrants were eligible to vote in Region #1 - Saskatoon. The Commission received a total of 214 ballots, two of which were spoiled because the registrants failed to complete the information on the back of the shipping envelope.

Pursuant to the bylaws, the ballots for this position were counted on April 8, 2010 and Larry Gingerich and Anne Odishaw were re-elected as members to the Commission commencing on July 1, 2010.

The Saskatchewan Real Estate Commission extends its thanks and appreciation to Norm Fisher and Jim Bridgeman of Royal LePage Saskatoon for volunteering their time to act as scrutineers in this process.

## *Initial Registration, Transfers or Reinstatements*

**The Commission no longer processes application forms.** Brokers should ensure that new applicants to the industry or registrants wishing to transfer or reinstate their registration properly complete the application form and submit it to you for on-line processing directly in your brokerage office. Once the application is processed, a copy should be kept in the brokerage office for review during a Commission audit. Applicants/applications do not need be sent to the Commission office.



## SASKATCHEWAN REAL ESTATE COMMISSION

237 Robin Crescent, Saskatoon, Saskatchewan S7L 6M8

Bus. (306)374-5233 \* Fax (306)373-2295 \* Toll Free 1-877-700-5233

# MEMO

Date: May 2010

To: All Registrants

From: Al Jacobson, Executive Director/Registrar

Re: Registration Renewal July 1, 2010

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, 2010.

On or after May 15, 2010 please access the Commission's website via the Internet at [www.srec.ca](http://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 SREC ID number and password. (Note: If you have forgotten your SREC ID 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 SREC ID 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 2010-2011 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 21, 2010.** By waiting till the last week, you risk encountering 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, 2010, 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](http://www.srec.ca). Select the menu item "Decisions" in the menu bar at the top of the home page.

### **Lynne Burton, Re/Max of the Battlefords**

**Date of Hearing:** April 16, 2009

**Disposition:** Lynne Burton received an order of reprimand and an order to pay a \$2,500 fine for violating Commission Bylaw 726(a).

**Violation:** Commission Bylaw 726(a) 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 false."

#### **Details:**

In July 2007, Lynne Burton undertook to obtain an MLS Exclusive Seller's Brokerage contract on a property in North Battleford. Lynne Burton's background searches confirmed that the basement at the property was made of pressure treated plywood on a cement footing. In error, Lynne Burton represented the property as having concrete walls.

The sellers had completely finished the internal walls of the basement with gyproc and therefore; it was not readily apparent what the construction material of the basement walls was. The external walls had been covered with stucco and parging to give the effect of a concrete basement.

The transaction completed and only after the buyers undertook renovations and removed internal basement finishing did the buyers learn that the basement was constructed of pressure treated plywood.

In handing down its decision, the Hearing Panel acknowledged that Lynne Burton was a long-standing registrant and had no prior sanction history. The Hearing Panel felt that as a previous broker, Lynne Burton understood the need to oversee the work of other registrants and the importance of accurate listing information. Notwithstanding that the buyer could have obtained his own independent building inspection, the Hearing Panel found that the buyers did not receive what they believed they were going to receive.

On appeal to the Deputy Superintendent of Real Estate, the Commission's hearing decision was upheld. The Deputy Superintendent of Real Estate stated "the duty to ensure accuracy of information on a listing is the same for all registrants whether the listing is prepared by a broker, branch manager, associate broker or salesperson." The Deputy Superintendent of Real Estate further stated, "I find the Commission's decision making process was reasonable in that it reflected sufficient justification, transparency and intelligibility. I also found that the Commission's decision on quantum to be reasonable in the sense that it falls within the range of possible acceptable outcomes that are defensible in respect of the facts and law."

### **Carmen Cartier, Re/Max P.A. Realty (Prince Albert)**

**Date of Hearing:** September 17, 2009

**Disposition:** Carmen Cartier received an order of reprimand and an order to pay a \$2,000 fine for violating Commission Bylaw 715.

**Violation:** Commission Bylaw 715 states: "Prior to obtaining an offer to purchase on a property from a client, a

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



registrant shall take reasonable steps to discover facts pertaining to the property that a prudent registrant would take in order to fulfill the obligation to avoid error, misrepresentation or concealment of pertinent facts.”

**Details:** In this matter, the listing registrant represented the seller and advertised a property as having 716 square feet. The listing information came via historical MLS information and a City of Prince Albert Field Sheet rather than an actual measurement of the dimensions of the outside of the property. It was not until many months later that the buyer considered re-selling the property and discovered for the square footage discrepancy.

In its decision, the Commission’s hearing panel confirmed that registrants’ responsibilities include verifying all the facts relating to the property with which they are dealing. The hearing panel stated that “a difference of 200 square feet (716 to 516 square feet) is a major difference in the property being purchased. This was a situation which was easy to remedy.” The measurement of the outside of the property was the responsibility of both the buyer’s and the seller’s representative. The hearing panel went on to say “if a registrant relies on others to provide information, it does not take away the liability they have to their client. The registrant must check the information themselves.”

**Lou Doderai, Re/Max P.A. Realty (Prince Albert)**

**Date of Hearing:** September 17, 2009

**Disposition:** Lou Doderai received an order of reprimand and an order to pay a \$2,000 fine for violating Commission Bylaw 714.

**Violation:** Commission Bylaw 714 states: “A registrant shall take reasonable steps to discover facts pertaining to every property for which the registrant accepts an agency agreement that a prudent registrant would take in order to fulfill the obligation to avoid error, misrepresentation or concealment of pertinent facts.”

**Details:** In this matter, the listing registrant – Mr. Doderai represented the seller and advertised a property as having 716 square feet. The listing information came via historical MLS information and a City of Prince Albert Field Sheet rather than an actual measurement of the dimensions of the outside of the property. It was not until many months later that the buyer considered re-selling the property and discovered for the square footage discrepancy.

In its decision, the Commission’s hearing panel confirmed that registrants’ responsibilities include verifying all the facts relating to the property with which they are dealing. The hearing panel stated that “a difference of 200 square feet (716 to 516 square feet) is a major difference in the property being purchased. This was a situation which was easy to remedy.” The measurement of the outside of the property was the responsibility of both the buyer’s and the seller’s representative. The hearing panel went on to say “if a registrant relies on others to provide information, it does not take away the liability they have to their client. The registrant must check the information themselves.”

**Rick Miron, Re/Max Crown Real Estate Ltd.**

**Date of Hearing:** January 18, 2010

**Disposition:** Rick Miron received an order of reprimand and an order to pay a \$3,500 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.”

**Re/Max Crown Real Estate Ltd.**

**Date of Hearing:** January 18, 2010

**Disposition:** Re/Max Crown Real Estate Ltd. received an order of reprimand and an order to pay a \$4,000 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:** On May 5, 2009 the buyers, as represented by Rick Miron and the sellers represented by another registrant of the same brokerage, agreed to a conditionally accepted Residential Contract of Purchase and Sale that stated the brokerage had received a \$10,000 deposit cheque. This deposit cheque was never received by the brokerage. On May 12, 2009 the buyers and sellers amended the Residential Contract of Purchase and Sale extending mortgage financing to May 14, 2009 and acknowledging receipt of a \$50,000 deposit cheque. The buyers removed conditions and made every appearance of completing the contract as at June 1, 2009.

The financial institution returned the \$50,000 deposit cheque to the brokerage. The financial institution would not honour the cheque as changes on the cheque were not initialed. Between May 20 and 31, 2009 Rick Miron unsuccessfully attempted to secure a replacement deposit cheque or notify, in writing, the sellers or their representative.

The hearing panel found the failure to notify the sellers a serious situation. The decision in part stated: “Deposits are one of the most basic parts of the trade in real estate and every registrant, new or old, must ensure that the deposits are handled in the appropriate manner

and that all parties to the transaction know what is happening with them. If the deposit is non-existent, it is essential and fundamental that the seller knows of this immediately. .... Whatever is decided, it is for the seller to decide at that moment, not the buyer or the buyer’s agent.”

**Jane Smith, Re/Max P.A. Realty**

**Date of Hearing:** January 18, 2010

**Disposition:** Jane Smith received an order of reprimand and an 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 August 2008, Jane Smith represented a buyer and another registrant of the same brokerage represented the sellers in a conditionally accepted Residential Contract of Purchase and Sale. The buyer removed all subject to conditions on or before the required dates.

A couple of days prior to the proposed completion date, Jane Smith received the sellers’ keys from the seller’s agent with the undertaking that no release of keys could occur to the buyer until the seller’s lawyer confirmed that the keys could be released at noon on the Friday, September 26, 2008. Jane Smith did not receive notification from the seller’s lawyer as at 1:00 p.m. September 26, 2008. However, she had no reason to believe that the transaction would not complete that day. In anticipation of a successfully completed transaction, Jane Smith left the keys at the front desk of her brokerage in an envelope addressed to the buyer.

During the afternoon of September 26, 2008, the buyer’s lawyer verbalized to Jane Smith that he did not see any problem with releasing the keys. Jane Smith communicated the key location information to her buyer assuming that mortgage proceeds were to be received and insurance obtained on the property.

Moments after speaking to her buyer, Jane Smith received a call from the buyer's lawyer confirming that the seller's lawyer would not be granting possession or authorizing the release of keys as mortgage financing had not been received. Jane Smith unsuccessfully attempted to contact her buyer and sometime on the evening of September 26 and 27, 2008 the buyer occupied the property. Title transferred to the buyer October 1, 2008.

In its decision, the Commission's hearing panel stressed that the release of keys to a buyer is a responsibility of the seller and the seller's lawyer, not the buyer or the buyer's lawyer. The hearing panel stated in part, "It is important for all registrants to be aware that the giving up of possession of property must be done with the consent and direction of the seller of that property."

## *Brokerage Contractual Relationships*

In Saskatchewan, it is the brokerage that enters into an agency contract or service agreement with a client. Brokerages, not individual registrants, have the legal authority to enter into agency contracts with clients.

In addition, a broker, branch manager, associate broker or salesperson is deemed to be authorized by the brokerage specified in his/her Certificate of Registration to act for or on behalf of that brokerage.

## *SREC Contact Info*

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

Our fax number is: **1-306-373-2295**

Our telephone numbers are:

1-306-374-5233

1-877-700-5233 (Toll Free)

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

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

## *Commission Members*

Larry Gingerich (Saskatoon,) Chairperson  
Cheryl Elliott (Prince Albert), Vice Chairperson  
Donnett Elder, Regina  
Richard Jeanneau, Saskatoon  
Phillip Mack, Regina  
Anne Odishaw, Saskatoon  
Marion Piper, Lloydminster  
Terry Powell, Saskatoon  
John Puderak, Saskatoon  
Ron Skinner, Yorkton  
Wayne White, Regina

## *Commission Staff*

Al Jacobson, Executive Director/Registrar  
Ed Miller, Director of Investigations  
Verna Olfert, Director of Registration  
Jason Weiler, Systems Administrator  
Allan York, Director of Audits