

The Register



November 2011

Saskatchewan Real Estate Commission's 23rd Annual Meeting

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Mandatory Form Changes & Implementation	3	Education Committee Chairperson, Wayne White provided information concerning the Commission's review of specialty education and the changes in educational requirements for registration as a broker, branch manager or associate broker. In addition, the Commission worked together with the Association of Saskatchewan REALTORS® to provide an on-line version option for the 2010-2011 CPD course. This option will also be available for the 2011-2012 registration period.
Upcoming Commission Election	3	Ron Skinner, Chairperson of the Legislative Committee provided insight into the Commission's review of real estate legislation and issues being address such as electronic storage of documents at a brokerage office, Internet best practice guidelines, changes to the investigation/hearing processes, private prosecutions, etc.
Continuing Professional Development	4	The Commission's external auditor, Colin Taylor from Evancic Perrault Robertson provided an overview of the Commission's financial statements, the financial operations, the Interest Bearing Trust Account Fund and the Real Estate Assurance Fund.
Criminal Record Check	4	Commission member, Phillip Mack provided a brief update of the Commission's three-year strategic plan and addressed the issues that the Commission will be facing.
Commission Disciplinary Action	5	Chairperson, Wayne White made special presentations to Donnett Elder (public appointee from Regina), Cheryl Elliott (public appointee from Prince Albert) and Terry Powell (public appointee from Saskatoon) who were each honoured for their service as Commission members. Sincere appreciation and thanks was extended to Donnett,
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Cheryl and Terry for their commitment and contribution to the real estate industry. John Puderak was unable to attend the meeting and will be presented with his plaque of appreciation in the near future.

On behalf of the Commission, Chairperson, Wayne White also honoured Larry Gingerich for his six years of service as Chairperson of the Saskatchewan Real Estate Commission. Mr. White expressed the Commission's heartfelt thanks to Mr. Gingerich for his dedication and participation in the real estate industry.

Thank you to everyone who took time out of their busy schedules to attend the luncheon and Commission Annual Meeting.

Brokerages' 2011 Annual Financial Reports

The Annual Financial Report is available to all brokerages in electronic format. If you would like to receive your copy in Microsoft Word format please e-mail volfert@srec.ca and the document will be sent to you. Please note that you will still be required to submit a **signed** hard copy of the document to our office. Those brokerages who do not request an electronic version will receive their copy of the report by mail in mid-December 2011. Please note that this report must be completed and returned to the Commission office prior to March 15, 2012. A \$300 late submission fee will be levied against a brokerage whose report is postmarked later than March 15, 2012.

Registration Demographics as of October 2011

Year of Birth	Number	Brokers	Associate Brokers Branch Managers	Salespeople	Male	Female
1910 - 1919	0	0	0	0	0	0
1920 - 1929	1	0	0	1	1	0
1930 - 1939	41	7	4	30	30	11
1940 - 1949	255	58	41	156	185	70
1950 - 1959	501	100	56	345	318	183
1960 - 1969	397	49	31	317	192	205
1970 - 1979	295	19	24	252	152	143
1980 - 1989	229	2	1	226	128	101
1990 - 1999	10	0	0	10	4	6
Totals	1,729	235	157	1337	1,010	719

Commission's Brokerage Auditor

The Saskatchewan Real Estate Commission is pleased to welcome Dayna Johnson to the role of Brokerage Auditor. Dayna started with the Commission on October 3, 2011 and will be a valuable addition to the Commission team.

Dayna holds a Bachelor of Commerce degree from the University of Saskatchewan and is a Certified Human Resource Professional (CHRP), as well as a designated Certified Management Accountant



(CMA). Dayna brings expertise in the areas of accounting, business process improvement, human resources, lean manufacturing and strategic planning. Prior to joining the Saskatchewan Real Estate Commission, Dayna worked with the University of Saskatchewan, as well as with companies in Saskatoon and Calgary in the areas of new home construction, oil and gas, steel distribution, logistics, engineering and consulting.

Dayna's focus in the newly defined position of Brokerage Auditor will be on brokerage compliance with legislation and proper accounting procedures, with an emphasis on trust account management and broker supervision. Through the course of her visits to brokerage offices, she will also be working with brokerages to support them in creating efficiencies through enhanced business processes.

Dayna resides on an acreage in St. Denis with her husband, Mark, and their three family pets; Kona, Whiskey and Roo. Dayna is also a Registered Yoga Teacher and enjoys teaching yoga classes and spoiling her nieces and nephews in her spare time.

Mandatory Form Changes & Implementation

In the February 2011 and August 2011 issues of *The Register*, several changes to the mandatory forms - Section 730 of the Commission Bylaws were reported. In addition, the mandatory Disclosure of Interest in Trade form included the following changes:

1. Part A of the form was amended to add a line to identify the buyer or seller.
2. In the area "Brokerage Use Only", wording changed from the "name of managing broker" to "disclosing registrant's broker".

Please note that the mandatory forms as amended are to be implemented as soon as they are available in print form from the Association of Saskatchewan REALTORS®.

Upon receiving confirmation from ASR that the forms are available, the Commission will provide an e-mail to all brokerages requesting implementation of the amended forms.

Upcoming Commission Election

In January 2012, the Commission will be sending out a nomination form and a notice requesting the nomination of registrants for the upcoming election process. An election is required in Region #3 (Rural Saskatchewan) to fill two Commission member positions that will become vacant after June 30, 2012.

Serving as a Commission member is an excellent opportunity for registrants to contribute to the betterment of the real estate industry. We encourage you to participate in this very important process.

Continuing Professional Development

As part of registration renewal on June 30, 2012, all registrants are required to successfully complete the *Real Estate Update* course for the 2011-2012 registration year. The CPD course, *Real Estate Update* includes: legislative changes, compliance issues, legal updates, elements of risk reduction, professional standards and other current and timely issues. The workshops are being held in ten different locations around the province. The cost of the workshop is \$155.00/registrant. Class sizes are approximately 40 participants per workshop and will be filled on a first come, first served basis. Enrollment forms were sent to all brokerage offices in late July.

In addition, the CPD course is available on-line.

To enroll in the CPD course, please visit the Association of Saskatchewan REALTORS® website at: www.saskatchewanrealestate.com.

Please note that whether a registrant chooses to complete the CPD course by classroom workshop or on-line; the course must be completed by **May 31, 2012**. Failure to complete by the due date may evoke suspension of a registrant's Certificate of Registration in addition to any late completion fees imposed by the Commission.

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.

Criminal Record Check

It has come to the attention of the Commission that students applying for registration with the Commission are not obtaining a criminal record check by fingerprint comparison in a timely manner. This can cause delays in their application for registration and could result in the Saskatchewan Real Estate Commission refusing to grant a Certificate of Registration.

The Saskatchewan Real Estate Commission strongly recommends that in instances where brokerages are working with potential new applicants; every effort is made to encourage these students to obtain a criminal record check **immediately** after enrollment in the Phase I course.

The following organizations provide electronic fingerprinting service and results can be remitted directly to the Saskatchewan Real Estate Commission in as little as two weeks:

Commissionaires Offices:

Regina Office
122 Albert Street
Regina, SK S4R 2N2
306-757-0998

Saskatoon Office
1219 Idylwyld Drive North
Saskatoon, SK S7L 1A1
306-244-6588

FPS Fingerprint Pardon Services:

Regina Office:
Tkach Law Building
100B, 2500 - 13th Avenue
Regina, SK S4P 0W2
306-205-2532

Saskatoon Office:
#5 - 39 - 23rd Street East
Saskatoon, SK S7K 0H6
306-655-4030

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.

Tim Chicilo, Sutton Group Results Realty

Date of Commission Hearing: August 19, 2010

Appeal Hearing Date: April 4, 2011

Date of Subsequent Commission Hearing: June 16, 2011

Disposition: Tim Chicilo received an order of reprimand; an order to pay a \$2,000 fine; and an order to pay formal hearing costs at \$3,300 for violating Commission Bylaw 715.

Violation: Commission Bylaw 715 states: "Prior to obtaining an offer to purchase on a property from a client, a 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 early 2008, a developer purchased an old apartment building and thereafter undertook steps to register a new condominium plan and convert the individual suites into individual condominium units. The developer exclusively listed the project with a brokerage. Neither the developer, nor the listing registrant ever toured the apartment building during the term of the seller's brokerage contract. Interest for the as yet to be registered individual units remained high and the project sold out in a matter of days. The apartment block remained rented to tenants during the condominium conversion process.

Buyers, represented by Tim Chicilo, purchased a yet to be registered basement level condominium unit, sight unseen by the buyers or Tim Chicilo. Some months after completion date and after the existing tenant vacated the basement unit; the buyers accessed the property for remodeling purposes only to discover a hump in the floor. Buyer examination of the hump revealed a four inch drop in the floor over a four foot span. The Hearing Committee found that this patent defect would have been obvious to any persons viewing the property before signing any contract. The extent of the repairs required remained unknown as at the hearing date.

Decision: In handing down its decision, the hearing panel stressed that notwithstanding the buyers' apparent happiness at purchasing the property sight unseen, a prudent registrant shall take reasonable steps to discover facts pertaining to a property. Reasonable steps in this case would have included viewing the property for any patent defects. Nothing prevented the registrant from asking the existing tenant for an opportunity to view the property.

The hearing panel also stressed that in all circumstances if a viewing remained impossible, registrants should have obtained some written release from their clients acknowledging the inherent risks of buying a property sight unseen.

On the appeal to the Deputy Superintendent of Real Estate (heard on April 4, 2011) of the original hearing (August 19, 2010), the Deputy's decision directed the Saskatchewan Real Estate Commission to hold a new hearing on the issue of hearing costs assessed.

Mr. Chicilo's appeal to the Superintendent's Office was based on his statement that he was not aware he could be assessed the costs of a hearing. At the original hearing, the estimated costs were presented for the Hearing Committee to consider as part of the decision. During the original hearing, Mr. Chicilo did not comment on or address the hearing costs that were assessed by the panel.

At the hearing to address costs, the Investigation Committee representative stated that to provide a specific amount for potential sanctions or hearing costs to a registrant was not possible as the type and amount of sanctions and assessment of costs is solely a decision of the hearing panel. During the hearing, the historic range of costs assessed (a low of \$500 to the high of \$8,000) was presented with the caution that each case is unique and the costs assessed relate only to that specific case.

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

The Hearing Committee noted that Mr. Chicilo had, prior to his original hearing, received documentation relating to the assessment of sanctions and hearing costs and that it appeared he chose not to take the matter seriously enough to respond and review the contents of the letter. Mr. Chicilo did not object to the actual amount of costs, but rather that he should not be required to pay costs for the hearing even though he was found in violation of the bylaw.

In the second hearing, the Hearing Committee confirmed the original hearing costs assessed were within the acceptable range of costs and were reasonable. The Committee's position was that costs should be awarded when the Hearing Committee determines that the position held by the registrant to defend his actions are not reasonable or the actions otherwise warrant the awarding of costs. The Committee noted that if the ability to assess costs is limited or removed, the hearing costs would be borne by all registrants, not only those found to be in violation of the legislation.

Lou Doderai (salesperson), Re/Max P.A. Realty

Date of Commission Hearing: March 17, 2011

Appeal Hearing Date: August 23, 2011

Disposition: Lou Doderai received a letter of reprimand and an order to pay a \$2,000 fine for violating Commission Bylaw 726(c).

Violation: Commission Bylaw 726(b) 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: (b) inaccurate."

Details: In early 2008, Mr. Doderai attended the property and learned, from his personal inspection, that the basement walls were constructed of preserved wood sitting on a concrete footing. Mr. Doderai provided information that resulted in the property being listed on MLS® as having a concrete basement, not preserved wood. When questioned by the Committee at the hearing Mr. Doderai indicated that he did not review the MLS® Data input form clause by clause with his clients, even though they signed off acknowledging they had read the entire form and confirmed its accuracy. The Committee suggested that had this been done, the error related to the basement construction should have been corrected before it was listed.

Open house fact sheets were created that included the inaccurate information related to the basement construction. This information was used by the complainant in the purchase decision of the property. The information was corrected in the MLS® system after the Offer to Purchase was signed but Mr. Doderai did not contact the buyers to notify them of the inaccuracy in the original fact sheet. The Commission did not believe that Mr. Doderai fully appreciated the serious harm such an error could cost an unsuspecting consumer. The Commission found that inaccuracy in the advertisement led to misleading the public and issued the fine of \$2,000.

Mr. Doderai appealed the decision to the Superintendent of Real Estate based on the amount of the fine, which he felt was unfair. The Deputy Superintendent reviewed the Commission decision and confirmed that the decision was reasonable and fell within a range of possible, acceptable outcomes which are defensible in respect of the facts and the law.

Decision: The Deputy Superintendent stressed that registrants are doing more than filling out forms for their clients; they are creating legally binding contractual documents. As such the representation in the documents must be made with an appropriate level of due diligence and precision.

The appeal decision noted that "consumers ought to be able to rely on representations of



salespersons, without having to exercise additional due diligence to determine whether these representations are misleading.” The decision further suggests that the magnitude of the potential harm and the attitude of the registrant left the Commission no other option but to send a deterrent message.

Barb Heisler, Sutton Group – Norland Realty

Date of Commission Hearing: April 12, 2010

Appeal Hearing Date: September 23, 2010

Disposition: Barb Heisler received an order of reprimand and an order to pay a \$3,500 fine for violating Section 58(1)(b)(v) of *The Real Estate Act*.

Violation: Section 58(1)(b)(iv) of the *Act* states: “An offer to purchase obtained by a registrant: (b) is to clearly show, prior to execution by the buyer: (iv) the price offered by the buyer and the terms and conditions of the offer.”

Details: Ms. Barb Heisler appealed the amount of the penalty arguing that the Commission did not establish the elements for the breach of the section and that the amount of the sanction was not consistent with prior decisions. Ms. Heisler pleaded guilty via a Statement of Facts and Admissions and did not attend the mitigation hearing. In the appeal, she identified some concerns with the statement she had agreed to and signed.

Decision: The Deputy Superintendent determined, based on a review of relevant legal precedents, that the Commission did establish the elements to show the section was breached. The Commission’s decision was reviewed to determine if it was reasonable, if the process of articulating the reasons for the case were reasonable and if the decision was within a range of possible outcomes that are defensible in respect of the facts and the law. The Deputy Superintendent confirmed that the Commission’s decision did meet all of these tests and the original decision of the Commission was upheld.

The Deputy Superintendent stated in part, that when considering the amount of the fine, the deterrent effect on the registrant, specifically, and the industry as a whole must be sufficient. As the value of property has increased in the past decade, the amount of the fine could be increased to ensure the deterrent effect is appropriate. The original fine of \$3,500 was upheld.

Reg Kotlar, Sutton Group – Norland Realty

Date of Commission Hearing: April 12, 2010

Appeal Hearing Date: September 23, 2010

Disposition: Reg Kotlar received an order of

reprimand and an order to pay a \$2,500 fine for violating Commission Bylaw 711.

Violation: Commission Bylaw 711 states: “A broker or branch manager shall adequately supervise the activities of the registrants and other personnel for whom he or she is responsible. In determining the adequacy of the supervision, the Commission will consider the following factors, but will not be limited to making a determination on these factors alone:

- (a) whether the broker or branch manager was physically available to supervise;
- (b) whether the broker or branch manager had established written policies and procedures;
- (c) whether the broker or branch manager held regular staff meetings to determine that policies or procedures were properly implemented;
- (d) whether the broker or branch manager had undertaken all reasonable steps to ensure compliance by all salespersons and other personnel; and
- (e) whether the broker or branch manager took corrective and remedial action when a violation by a salesperson or other personnel was discovered.”

Details: Mr. Kotlar appealed on the basis that the charge was not substantiated by the Commission’s decision. Mr. Kotlar signed a Statement of Facts and Admissions but suggested he had done so believing that a formal hearing may have resulted in the assessment of hearing costs. Mr. Kotlar did not attend the mitigation hearing. Mr. Kotlar indicated that while he may have misinterpreted a clause in an agreement and missed unclear wording in the contract, there was no lack of supervision on his part.

A key element of the adequate supervision issue requires that a well laid out office policy and procedure manual should indicate what happens when transactions, documents and contracts are drafted, when they are reviewed, when issues are noted or not noted, when transactions fail to complete and what steps and actions out to be taken by the broker to ensure everything is done appropriately. Mr. Kotlar indicated that registrants in his brokerage have access to both ongoing training and an industry standard clauses and phrase book that may be used in drafting documents.

The question raised was; does the brokerage’s policies and procedures manual include the necessary information? The availability and usage of a standard book of contractual phrases does not remove the need for adequate supervision of registrants by a broker. Mr.

Kotlar indicated that he did not have specific policies and procedures in place respecting clear drafting of contracts.

Decision: The Deputy Superintendent upheld the Commission decision with respect to the fine of \$2,500. The Deputy Superintendent confirmed that the Commission's decision met the requirements of administrative law. The decision on the sanction amount and processes were also confirmed as reasonable and within the acceptable range permitted

under legislation.

The Deputy Superintendent also addressed the issue of due process and the importance of this to both the Commission and the registrants in ensuring all parties understand their rights and obligations. In summary, the decision stated that the facts of the case did not support Mr. Kotlar's argument that the charge was not substantiated and that, during the appeal hearing, Mr. Kotlar corroborated the key facts to substantiate the violation.

Professional Corporation Update

On July 14, 2011, the Government of Saskatchewan passed regulations under *The Professional Corporations Act* to allow real estate professionals to practice their profession through a corporation. Real estate agents will now join other professionals, including lawyers, dentists, veterinarians and psychologists under the *Act*. These changes reflect the government's commitment to working with businesses and professional associations to remove barriers to economic growth and prosperity.

The Saskatchewan Real Estate Commission's website at www.srec.ca contains the information necessary for registrants to submit an application to obtain a Professional Corporation permit. On the home page of the Commission's website, please select **Registrant Information**. In the menu that appears, scroll over the title **Professional Corporation** and you will have access to an overview of the application process, the application forms and the legislation pertaining to Professional Corporations.

The following Q & A is provided to assist in this process:

Q: What are the steps to obtain a permit for a Professional Corporation?

A: STEP 1: Registrant applies to the Commission for approval of a name for the Prof. Corp.
STEP 2: The Commission will provide the Registrant and ISC written notice of name approved.
STEP 3: Registrant applies to Saskatchewan Justice – Corporate Registry for Articles of Incorporation.
STEP 4: Registrant forwards Incorporation documents, application and payment to the Commission.
STEP 5: Upon approval, the Commission forwards permit and receipt to Registrant.

Q: What are the criteria used by the Commission to determine an acceptable Prof. Corp. name?

A: The Prof. Corp. name must meet the following three requirements: 1) must contain the name of the Registrant as it appears on the Registrant's Certificate of Registration with the Commission (surname and a given name); 2) this is followed by the industry identifier, real estate or realty; 3) and finally the corporate identifier, Professional Corporation, Prof. Corp. or P.C. Inc or P.C. Ltd.

Q: Does the SREC allow more than one Registrant to trade in real estate using the name of a particular Prof. Corp?

A: No. The Commission allows only one Registrant for each Professional Corporation entity. The structure in place provides for less confusion to the general public, has a more uniform relationship to the real estate legislation and reduces the reporting requirements by Registrants when changes occur in the corporate entity.

Q: Who can be directors and hold the voting shares in a Prof Corp?

A: The Registrant authorized by the Commission is the only person that can hold Director Positions with the Prof. Corp. and must hold all voting shares issued. Section 6 of *The Professional Corporations Act* states only members (registrants) of the association (the Saskatchewan Real Estate Commission) can be directors or hold voting shares in the Prof. Corp. The Professional Corporation Bylaws require the Prof. Corp. name

to be comprised, in part, of the registrant's name under which a Certificate of Registration is issued. This would effectively restrict the permit to one registrant.

Q: Does the Prof. Corp. that is permitted to trade in real estate still need to advertise and carry out all trades in real estate through the Registrant's Brokerage?

A: Yes, the Registrant of the Prof. Corp. permitted to trade in real estate cannot use the Prof. Corp. instead of the brokerage. The Prof. Corp. is not registered pursuant to *The Real Estate Act* and therefore, cannot obtain a Brokerage Certificate of Registration from the Commission. This would mean that all contracts between the brokerage and its clients relating to trades in real estate must be executed by the Registrant's brokerage and not the Prof. Corp. The Prof. Corp. would be identified in advertising and on the contracts and agency agreements in the same way that Registrants are now allowed to be identified on behalf of the brokerage. It is not a legislative requirement to use the Prof. Corp. name on contracts; however, it may help to strengthen the argument for taxation purposes.

Q: What arrangements should the Registrant enter into with the Registrant's Brokerage for Commission or remuneration payments for trades in real estate to the Professional Corporation?

A: All Registrants should enter into an agreement with the Brokerage that clearly spells out the arrangement to pay commission or remuneration to the Prof. Corp. Payment can only be made to the Prof. Corp. for transactions that occur during the period a valid permit exists from the Commission.

Q: What is the cost to obtain a Prof. Corp. permit and to retain the permit?

A: The initial permit fee is \$500.00 per Prof. Corp. and an annual renewal fee thereafter of \$200.00. The permit fees form part of *The Professional Corporations Act* through the associated Bylaws. The Commission was not opposed to the amendments to *The Professional Corporations Act* that allowed for the real estate registrants to practice their profession through a corporation. The Commission wanted to ensure that the associated costs to implement and maintain this process was not an additional financial burden for those in the industry that did not want to participate. The Commission projected that approximately 3%-6% (50-100) of our Registrants would form a Prof. Corp. To date less than 2% of all registrants have applied for permits. The development costs including bylaw development, application documentation development, technology programming for an on-line tracking and monitoring system, meetings, seminars, reviewing corporate documentation and fielding enquiries will gradually be recovered over the next few years. The Commission is optimistic that the annual \$200 renewal fee should be sufficient to sustain the permitting process.

Q: Is there any prorating of the permit fees?

A: Not at this time. All permits expire on December 31st of each calendar year and all permits must be renewed prior to December 1st of the expiring year for the next calendar year.

Please note that in the August 2011 issue of *The Register*, a Prof. Corp. bylaw was stated as referring to 51% of the voting shares of a P.C. This was incorrect; the reference should have stated, "A real estate agent must own more than 51% of the COMMON SHARES of the professional corporation."



At the close of another year, we gratefully pause to wish you a warm and happy Holiday Season and a peaceful and prosperous New Year.

Just a reminder that our office will close commencing at 4:30 p.m. on Friday, December 23, 2011 and re-open at 8:30 a.m. on Monday, January 2, 2012.

Broker/Branch Manager/Association Broker Educational Requirements



Deposit Insurance on Trust Accounts - Who is covered and for how much?

Brokerages may have received requests over the past 6 months from their chartered banks asking them to disclose the beneficiaries of their trust accounts as at April 30. This is a new requirement from the CDIC (Canadian Deposit Insurance Corporation) that requires banks to report the specifics of their clients' trust funds that contain multiple beneficiaries and amounts on an annual basis. This allows CDIC to track the deposit liability of the banking institutions. Credit unions in Saskatchewan are covered by a separate provincial program through CUDGC (Credit Union Deposit Guarantee Corporation), and their reporting requirements differ slightly. This article will look at both sets of requirements and provide some guidance on how to maintain compliance with your banking institution and its associated deposit insurance provider. The goal of sharing this information is to make sure that the funds in a brokerage trust account will be covered in the event of a bank failure, in order to protect the public's funds that are held in the brokerage trust accounts.

Firstly, you will need to determine if your financial institution's deposits are covered by an insurance program. Most Canadian chartered banks are CDIC members, as are most Canadian loan companies and trust companies that take deposits. Credit Unions in Saskatchewan are covered by CUDGC. However, some Canadian branches of foreign banks, and some Canadian chartered banks are not covered by CDIC. Those that are not CDIC members are required by law to inform you as such, and inform you that your savings at such banks are not insured. If this is the case, you may wish to transfer your brokerage business to a bank that does insure your deposits in order to protect the funds entrusted to your brokerage by members of the public.

Secondly, your bank needs to have clear communication from you that your trust account is designated as a trust account for funds held in trust on behalf of a beneficiary, or on behalf of multiple beneficiaries. A discussion should be had confirming with your banking professional that your brokerage trust account(s) meet their requirements.

Another important element to identifying the brokerage trust account for insurance coverage is the correct naming of the brokerage trust account under the Real Estate Act, Section 71(1), Bylaw 609. The legislation states that brokerage trust accounts shall be maintained in the brokerage's name followed by the words, "REAL ESTATE TRUST ACCOUNT" or "PROPERTY MANAGEMENT TRUST ACCOUNT" or "P.M. TRUST ACCOUNT", whichever applies to the brokerage. This naming is to be used only for brokerage trust accounts, and proper identification of the brokerage trust account will safeguard the deposits held within, as well as ensure ongoing compliance with the Real Estate legislation.

CDIC

The reporting requirement for chartered banks covered by CDIC states that for a trust account to be covered by CDIC deposit insurance, any trust account holder with multiple beneficiaries in that trust account must report the names, addresses and amounts held for each beneficiary to their bank annually as at April 30th. It was only as of last year that financial institutions were required to remind their trust account holders of this requirement, but the annual reporting requirement for trust accounts has been in place since 1996.

When reporting to your financial institution, the names and addresses of beneficiaries can be replaced with a confidential numbering system that is maintained at the brokerage if desired. For example: Beneficiary #1234 - \$10,000, Beneficiary #1235 - \$5,000. Once this information pertaining to the beneficiaries of the brokerage trust accounts has been gathered, banks must provide CDIC with the amount of insured deposits held by the bank on April 30 each year.

If there is a bank failure at any point during the year, the trust account holder (the brokerage) has 20 days from the day of the bank failure to update their list of beneficiaries and the amounts due to each beneficiary from the trust account, dating back to the day of bank failure.

Although this may be a new annual requirement to some, communicating this information to your financial

institution guarantees that the trust account beneficiaries are covered up to \$100,000 per beneficiary. If the multiple beneficiary information of a trust account is not disclosed to the bank, and subsequently to the CDIC, the trust account deposit insurance coverage is rolled in with all of the other trust account holder's personal and business deposits, GICs, etc. to a maximum coverage of \$100,000 overall. Therefore, the merit in completing this task annually is well worth the effort in order to protect both the brokerage and the trust account beneficiaries.

If you have any further questions about the CDIC requirements for trust accounts, please feel free to contact the Commission's brokerage auditor, Ms. Johnson or you can visit the CDIC website at www.cdic.ca, or speak with your banking professional.

CUDGC

If your trust account is with a credit union in Saskatchewan that is covered by CUDGC, then your trust account deposits, and in fact all of your deposits, are fully guaranteed. According to the CUDGC, there is no limit to the size of the deposits held in Saskatchewan credit unions that are covered by the guarantee. The guarantee applies to all forms of personal, business and trust deposits held in Saskatchewan credit unions. The deposit guarantee is provided by legislative authority through *The Credit Union Act, 1998*.

As there is no limit on the deposit amounts guaranteed, there is no need to identify the multiple beneficiaries of the trust account to CUDGC, as no individual deposit limits apply. An updated list of beneficiaries would need to be provided in the event of a credit union failure to make certain that the proper amounts would be paid out to the beneficiaries of the brokerage trust account.

If you have any further questions about the CUDGC Saskatchewan coverage, you may visit the CUDGC website at www.cudgc.sk.ca.

We hope that neither the CDIC nor the CUDGC will ever need to provide deposit insurance coverage on the brokerage trust accounts. However, by communicating with your financial institutions, establishing the correct trust account names and remitting the required information annually, brokerages can rest assured that in the event of a banking crisis, the members of the public that have entrusted their deposits to brokerages will be protected.

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:

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Jason Weiler	jweiler@srec.ca

Commission Members

Wayne White (Regina) Chairperson
 Larry Gingerich (Saskatoon) Vice Chairperson
 David Chow, Moose Jaw
 Paul Jaspar, Saskatoon
 Trevor Koot, Swift Current
 Murray Lang, Regina
 Phillip Mack, Regina
 Anne Odishaw, Saskatoon
 Marion Piper, Lloydminster
 Ron Skinner, Yorkton
 Tim Ward, Saskatoon

Commission Staff

Al Jacobson, Executive Director/Registrar
 Tom Ketterer, Assistant Executive Director/Registrar
 Dayna Johnson, Brokerage Auditor
 Verna Olfert, Registration & Office Administrator
 Aaron Tetu, Legal & Compliance Manager
 Jason Weiler, Systems Administrator