

PRINCIPLES OF REGISTRATION



The Real Estate Brokers Act and The Manitoba Securities Commission

These are some guidelines adopted by staff of The Manitoba Securities Commission pertaining to applications and registrations under *The Real Estate Brokers Act*.

1 Multiple Registrations

The registration provisions of ***The Real Estate Brokers Act*** seek to ensure there will be no confusion as to a registrant's identity or function and clear accountability for their actions. This is necessary not only for members of the public and clients but also to ensure that when allegations of fraud or misconduct are made against a registrant there can be no uncertainty as to the registrant's identity and responsibility.

To ensure these objectives are met, staff of The Manitoba Securities Commission (the Commission) will authorize only one registration be issued for each applicant. This is true whether the applicant is an individual (salesperson or authorized official) or a proprietorship, partnership or corporation registered as a broker.

2 Trade/Business Names

Consistent with the objectives in #1, a proprietorship, partnership or company registered as a broker under ***the Act*** may operate and register under only one business or trade name.

3 Ownership of Brokerages

To ensure fair and open competition and avoid potential conflicts of interest, the Commission requires brokerages to be independent with no common ownership.

The Commission's application forms require applicants to disclose their ownership interest in a brokerage other than their employing brokerage.

If a salesperson or authorized official applies to transfer to another brokerage and has an ownership interest in their employing brokerage, Commission staff will discuss the matter with the applicant and suggest reasonable time for the applicant to dispose of their interest.

4 One Employer (“No man can serve two masters”)

Salespersons and authorized officials registered under ***The Real Estate Brokers Act*** are considered to be employees of their brokerage and owe their duties of loyalty and responsibility to that brokerage.

There must be clear lines of accountability and responsibility between agent and brokerage so that there will be no uncertainty as to who the agent is acting for at all times. Thus a salesperson or authorized official may be registered with only one broker.

5 Salespersons and Authorized Officials Defined as Individuals

Under ***The Real Estate Brokers Act*** salespersons and authorized officials are defined as individuals. The definitions reflect the fact they are considered employees of the broker and are personally responsible for their actions as registrants.

A corporation cannot be considered an employee, hence the Commission will not register a corporation as a salesperson or authorized official.

6 Broker Responsible

The broker is the employer under ***The Real Estate Brokers Act*** of all salespersons and authorized officials registered with the broker. It is common and acceptable for brokers to authorize their employees to act on their behalf, however, the broker's responsibility for the employees' activities cannot be delegated. The Commission holds brokers responsible for the real estate activities of their employees.

There is a strict onus under ***the Act*** on salespersons and authorized officials to report all transactions and turn over all trust money immediately to the employing broker. This allows the broker to exercise the required supervision.

In determining whether the broker exercised proper supervision when involved in disciplinary proceedings, the Commission considers the circumstances and whether the broker could have or should have known about the matter in question. More information on this topic can be found under Practice Guidelines on the Commission's web site.

7 Licensed Assistants—Who is the Employer?

The question occasionally arises as to whether a salesperson or authorized official can employ, engage and pay commissions or compensation to licensed assistants.

The answer is "NO". While it is permissible to set up marketing teams, all registered salespersons and authorized officials in the team must be registered with the broker who is their employer under ***The Real Estate Brokers Act***.