



## MORTGAGE FRAUD RED FLAGS - REAL ESTATE PROFESSIONALS

**Summary: Mortgage fraud is increasingly widespread and complex and its consequences can be devastating. It is a criminal offence, and in Alberta several individuals have been convicted of mortgage fraud by the RCMP and/or other police forces. Participation in mortgage fraud is contrary to the *Real Estate Act* Rules, and industry members who breach the Rules face strong sanctions, including suspension or cancellation of their authorization. All industry professionals must play an active role in preventing mortgage fraud by identifying suspicious deals, notifying the authorities, and assisting in investigation of parties involved. [See: *Real Estate Act* Rules, s.42(a)(b)(g)]**

There have been multiple news stories about high-profile mortgage fraud cases. The public has been made increasingly aware of it and, as a result, greater demands are being placed on Alberta real estate industry professionals when it comes to mortgage fraud awareness and prevention. Real estate professionals should ensure they have armed themselves with the knowledge and experience necessary to avoid, even unknowingly, participation in mortgage fraud.

According to the Canadian Association of Accredited Mortgage Professionals, mortgage fraud is defined as “the material misstatement, misrepresentation or omission relied upon by an underwriter or lender to fund, purchase or insure a mortgage loan.” There are two categories of mortgage fraud: fraud for housing and fraud for profit. Fraud for housing, for example, can occur if the borrowers, the intended residents of the subject property, represent that the deposit came from their own sources when in fact it is a loan that will have to be repaid to a relative. On the other hand, fraud for profit is typically perpetrated by organized crime or by individuals seeking to make money through property manipulations, seeking to acquire properties for rental purposes under the premise they are going to be residing in them or for illegal purposes, such as to facilitate grow-ops or money laundering.

This information bulletin highlights a number of mortgage fraud red flags that are specific to Alberta real estate brokers, associate brokers and associates.

### **What are red flags?**

Red flags have been developed by organizations such as RECA through their experience of investigating mortgage fraud files. Red flags identify the more common issues found to be present as potential indicators of fraudulent real estate or mortgage brokerage transactions. Considered individually, these red flags might appear innocent enough. When two or three red flags appear in the same transaction, it can be an indication of the presence of mortgage fraud. If several red flags are present, a real estate industry professional should exercise greater care. The transaction may require further scrutiny to determine whether it is a legitimate or fraudulent transaction.

If several red flags are present, a real estate industry member should be suspicious. For example, if you are involved in a transaction where the buyer is a numbered company, the deposit is to be held by the buyer’s lawyer, high-ratio financing is required and the contract is unconditional. Considered individually, these factors appear innocent.

However, when found together, they seem suspicious and this transaction may require further scrutiny to determine if it is legitimate.

Although the examples below are brief, the strategies available to fraudsters are numerous and varied. Real estate professionals should use this list of red flags to become more aware of the scope of the fraudulent activities they may encounter as they strive to fulfill their professional responsibilities.

**Red flags associated with the true identity of the parties to the trade:**

- client will not provide photo ID, when requested
- transaction involves a relative of the associate
- existence of other offers, subject to financing, that collapsed
- parties "undisclosed," "care of listing brokerage," or "nominee"
- land title records do not match seller information
- buyer is a numbered company seeking a high-ratio mortgage
- corporate search shows the associate or the associate's spouse or family member is a director
- buyers or sellers are not personally or professionally related; e.g. "R. Smith and Michael Jones"
- buyers' or sellers' names are only partially indicated; e.g. last name appears without a first name ("Smith"), or the first name is indicated by only an initial ("R. Smith")
- information about buyer's income doesn't match industry standards
- buyer purchases property far from place of employment for no apparent reason
- buyer purchases investment property, yet does not own a principal residence
- buyer is purchasing many properties with high-ratio mortgages, using different names or variations of his name
- parties have no formal office; communication is by cell phone, email and fax; meetings are scheduled at restaurants
- source of deposit cheques is other than buyer
- deposit is provided in cash or by money order
- buyer or seller is represented by a person acting on a power of attorney

**Red flags associated with the property value:**

- VTB and/or other forms of equity arrangements
- sweat equity arrangements as opposed to a reduced price
- vendor take back or sweat equity arrangements not referenced in the purchase contract
- chattels are used as deposit or as partial payment
- renovation value included in the sale price
- property has illegal/nonconforming suites
- property is a combination of residential and commercial components that are not reflected in the financing arrangements
- commercial property has residential type financing or loan-to-values ratios
- listed property is owned by a corporation but has mortgage in excess of 80% of property value
- purchase price is same as, or higher than list price
- property list price or purchase price of property is unusual for the neighbourhood
- appraisals were provided by the parties to the trade

**Red flags indicating unusual transactions:**

- vendor asks you to enter all transactions in MLS without qualifiers
- quick succession of trades on one property
- seller in the "business" of selling real estate and buys and sells many properties
- use of "Seller's Rights Reserved" on listings
- uncommon commission arrangements, unusual adjustment to commissions, low fees
- listing associate's instructions refer inquiries to unlicensed person for showings or information
- MLS information is unusual or inconsistent with the transaction; e.g. listing is removed from MLS prior to sale, sale is not reported, listing reappears at higher price, listing associate on MLS is different from the purchase contract, MLS history doesn't support pricing, etc.
- Seller's real estate representative is asked to produce a feature sheet on the property with an inflated price
- one lawyer represents both parties to the transaction
- condition allowing buyer to show unit to prospective tenants; note: most high-ratio mortgages require owner occupancy
- all or many units of building are sold at the same time with coinciding possession dates
- immediate possession dates
- firm transaction with none of the usual conditions; in particular, a transaction requiring high-ratio financing, yet is unconditional
- no counter offer
- contract indicates unusual statement; i.e. "this is a private sale"
- names appear to have been added to or deleted from the contract
- not all parties named on the contract have signed it
- purchase contract indicates both parties signed at the same time
- no buyer's or seller's associate information provided for delivery of documents
- schedules or addendums exist but are not indicated in the contract, or, schedules or addendums do not reference the originating contract
- deposits are not held at brokerage; particularly applies when brokerage is not even provided with a photocopy of the deposit cheque

**Red flags associated with industry member behaviour:**

- industry member's lifestyle is not consistent with income received through the brokerage
- industry member section of the contract not filled out
- industry member tends to use same lawyer on most transactions
- industry member primarily does transactions with only certain other associates
- industry member tends to always refer clients to the same mortgage broker
- signatures are witnessed by someone other than the real estate associate(s)
- industry member buys and sells his/her own properties regularly
- industry member lends down payment to client
- number of listings or sales an industry member has posted on the MLS system does not correspond to brokerage records (possible fraudulent broker load situations)
- industry member regularly advertises properties as "low down," "assumable," "no down," "no qualifying," "quick possession," etc
- industry member holds both real estate and mortgage associate licence

**Red flags associated with brokerage operations:**

- broker has no fraud prevention or detection policies
- brokerage has no policies or oversight related to personal trades/deals in mortgages
- brokerage administration staff are not trained to recognize suspicious transactions
- brokerage does not require property title be pulled and examined with each new listing
- brokerage does not require the original transaction documents to be filed with them
- brokerage does not check that all transaction documents are filed with them
- brokerage does not check background of prospective industry members and/or employees
- brokerage does not disclose what information it has or has not verified
- brokerage does not comply with the requirements of the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC)
- broker does not review transactions on a regular basis
- conveyancing staff not trained to recognize suspicious transactions
- advertisements are not approved prior to publication and/or are not reviewed by broker

### **When you identify a suspicious transaction**

If you have found information to be false or misleading, contact the lender and advise them of your findings. If the persons involved are other industry members (real estate associates/brokers, mortgage associates/brokers or appraisers), report the results of your review to RECA in writing.

If you suspect fraudulent and/or other illegal behaviour, contact the local police or RCMP.

Have you experienced other red flags? Please forward them to RECA so we can share them with other industry professionals.