Real Estate Council Alberta

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Mortgage Fraud Red Flags - Real Estate Licensees

RECA Resource
Information Bulletins

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Purpose

This bulletin applies to real estate licensees. It lists common mortgage fraud red flags specific to real estate licensees, organized by category, to help licensees recognize warning signs in transactions.

Regulatory status: Information Bulletins provide guidance on how RECA interprets and applies existing legislative requirements. They do not create new legal requirements or amend the *Real Estate Act* or the *Real Estate Act* Rules.

Why this matters

Mortgage fraud is a criminal offence. Participation in mortgage fraud also violates the *Real Estate Act* Rules. Licensees who breach the Rules face significant sanctions, including suspension or cancellation of their authorizations. Licensees must help prevent mortgage fraud by identifying suspicious transactions and notifying authorities.

What the Rules require

Licensees must act honestly and must not make representations or engage in conduct that is reckless, intentional, misleading, or deceptive, nor participate in fraudulent or unlawful activities in connection with their services. The red flags below indicate that a transaction may warrant closer attention to meeting those duties, rather than being a checklist of prohibited conduct in and of itself.

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

- client won't provide photo ID, when asked;
- transaction involves a licensee's relative;
- existence of other offers, subject to financing, that collapsed;
- parties "undisclosed," "care of listing brokerage," or "nominee";
- land title records don't match seller information;
- buyer is a numbered company seeking a high ratio mortgage;

- corporate search shows the licensee or the licensee's spouse or family member as a director;
- buyers or sellers are not personally or professionally related, for example, "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 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 their name;
- parties have no formal office; communication is by cell phone, email and fax; meetings take place at public places;
- the deposit cheque(s) is coming from someone other than the buyer;
- deposit is provided in cash or by money order; or
- someone acting on a power of attorney represents the buyer or seller.

Red flags associated with property value:

- no CMA or appraisal available, or if available, does not seem applicable;
- vendor take-back 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 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-value ratios;
- a corporation owns listed property but has a mortgage of more than 80% of the property value (apart from MLI Select);
- purchase price is the same as, or higher than, list price;
- property list price or purchase price is unusual for the neighbourhood; or
- appraisals were provided by the parties to the trade.

Red flags indicating unusual transactions:

- vendor asks you to enter all transactions in listing database without qualifiers;
- quick succession of trades on one property;
- seller in the "business" of selling real estate, and buys and sells many properties;

- uncommon commission arrangements, unusual adjustment to commissions, low fees;
- listing licensee refers people to an unlicensed person for showings or information;
- listing information is unusual or inconsistent with the transaction, for example, the listing is removed from the listing database before sale, the sale is not reported, the listing reappears at a higher price, the licensee named in the listing differs from the purchase contract, the listing database history doesn't support the pricing, etc.;
- seller's real estate licensee is asked to produce a feature sheet on the property with an inflated price;
- condition allowing buyer to show unit to prospective tenants (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;
- 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 licensee 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; or
- deposits not held at a typical trustee (e.g., lawyer, builder, brokerage, etc.).

Red flags associated with licensee behaviour:

- licensee's lifestyle is not consistent with income received through the brokerage;
- licensee's section of the contract not filled out;
- licensee tends to use the same lawyer on most transactions;
- licensee primarily does transactions with only certain other licensees;
- licensee tends always to refer clients to the same mortgage broker;
- licensee buys and sells their own properties regularly;
- licensee lends down payment to client;
- number of listings or sales a licensee has posted on the listing database does not correspond to brokerage records (possible fraudulent broker load situations);
- licensee regularly advertises properties as "low down," "assumable," "no down," "no qualifying," "quick possession," etc.; or
- licensee holds both real estate and mortgage licences.

Red flags associated with brokerage operations:

- broker has no fraud prevention or detection policies;
- brokerage has no policies or oversight for personal trades/deals in mortgages;

- conveyancing staff not trained to recognize suspicious transactions;
- brokerage does not require licensees to pull and review current property title with each new listing;
- brokerage does not require licensees to file original transaction documents;
- brokerage does not check the background of prospective licensees 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; or
- broker does not review or approve advertisements before publication.

Reporting a suspicious transaction

Contact the lender and explain why you are suspicious. If the persons involved are other licensees (real estate licensees/brokers, mortgage licensees/brokers, or appraisers), report the results of your review to RECA in writing.

Related Information

Legislation	Relevant Sections
Real Estate Act Rules	ss. 41(a), 42(a)(b)
Additional Resource: Information Bulletins	Mortgage Fraud Red Flags - Mortgage Licensees Mortgage Fraud Red Flags - Real Estate Appraisal Professionals