

## Nine of 10 fraud cases are private sales

*Criminals have found a new application for identity theft – real estate title fraud – and the Greater Toronto Area is at the centre of this growing criminal activity, according to industry experts at a recent real estate fraud summit in Oakville, Ont.*

*Susan Leslie, VP claims and underwriting for First Canadian Title says, "Nine times out of 10 we see fraud cases arising out of private purchase and sale agreements."*

*"In 2000, real estate title fraud accounted for six per cent of total claims," says Leslie. "This number grew to 14 per cent in 2002 and 36 per cent last year. Real estate fraud now represents our single largest claims category. We have been forced to understand the warning signs and are working hard to do our part in educating the industry of the dangers."*

*First Canadian Title says some of the common indicators that serve as warning signs for potential fraudulent activity during a purchase for refinance transaction include:*

- *The transaction is completed without a face-to-face meeting with the client.*
- *Recent activity on the title to the property (e.g. registration of a transfer of mortgage discharge).*
- *The client(s) will only provide a cellular number for contact purposes.*
- *Inquiries and established credit are inconsistent with age, income or profession.*
- *Direction to pay the funds to an unrelated third party individual.*
- *A counter cheque is presented for deposit or identification, versus a personalized cheque.*
- *The employment information provided cannot be verified.*

*\*Provided by REM, November 2005.*

**ARE YOU THINKING OF SELLING OR  
BUYING PRIVATELY**

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## Due diligence: The growing problem of mortgage fraud

Last Updated Nov. 9, 2006 [CBC News](#)



By mid-2005, Canadians owed \$617 billion in outstanding residential mortgages. A lot of money — and a lot of opportunity for fraud. (CBC)

So, you've found that perfect house and you want to move quickly to lock up the deal before somebody else swoops in and grabs your chunk of paradise. You want your bank to approve you quickly, so you can commit to 17.8 years of bi-weekly payments. (You've done your homework and know that taking out a conventional 25-year mortgage and paying every two weeks instead of every month will slice more than seven years off your payments — but that's another story.)

Your banker wants to move quickly, too. He or she wants to lock you up as a long-term client — there are plenty of other lenders out there hungry for your business, and a delay might send you scurrying off to one of them.

Everything looks good and the selling price is in line with recent sales in the area. Your income indicates you can carry the payments. Approval should be just a formality. And it is. And in the vast majority of transactions, everything goes smoothly. The Canadian Real Estate Association reports that in September 2006, the total value of homes sold through the Multiple Listing Services was \$10.8 billion — a fraction off the previous month's total, but ahead of the same time a year earlier. According to Statistics Canada, "At the end of 2003, individuals and unincorporated businesses held more than \$1.6 trillion in residential structures and land — or about one-third of all assets held by individuals."

By mid-2005, Canadians owed \$617 billion in outstanding residential mortgages. Over the past 15 years, residential mortgage credit has grown by an average of 6.4 per cent per year.

A lot of money — and a lot of opportunity for fraud.

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## Mortgage Fraud.

It's a crime-wave sweeping the country, and it's a problem no one wants to talk about – not the banks, not the government, not even the victims.

More than 7.5 million Canadians own their own home. While owning a home may be the Canadian dream and a symbol of financial security, the value of our homes are proving to be an irresistible target for conmen.

The crime goes by many names, like "The Bump" and "The Oklahoma Flip" and it's proving all too easy to pull off.

Like all of us, Dr. Ramin Dehmoubed, a Toronto dentist, believed that as long as he made payments on his mortgage, his house was his, and no one could take it away. But having your house stolen is possible, and it's happening virtually every day in this country.

"I just can't believe something like that can happen," Dr. Dehmoubed says.

In Dehmoubed's case, two years after buying the house, he discovered there was a lien on the property and his house was for sale. It was his first house, and it was seemingly chosen at random.

Here's how it happened: First a conman made up a story about Dehmoubed owing him money. He then filed phony documents and took them to court to prove his claim.

"They had forged my signature to register a false lien on the house and because I wasn't aware of it, they just enforced it," Dehmoubed says.

The courts enforced the lien by handing the house over to the conman to cover the phony debt. The conman immediately put the house up for sale. Dehmoubed, meanwhile, had no idea this was happening until the sign went up on his front lawn.

The man responsible for trying to snatch his house out from under him was Gideon Augier. They didn't know one another, but as soon as Dehmoubed found out what was happening, he called police.

The investigator was Sgt. Phil Hibbelin with the Toronto Police. At first, Augier threatened to sue the officer. When Hibbelin demanded proof that the deal was legitimate, Augier refused to cooperate.

Finally, Augier was charged, but for Dehmoubed the whole process would take four years and thousands of dollars in legal fees to try and sort out. In the end, the courts gave Dehmoubed his house back, but Augier only got a slap on the wrist – 30 days in jail, to be served on weekends. The judge also ordered restitution, but to this day, Dehmoubed hasn't seen a dime.

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Det. Phil Shrewsbury of the York Regional Police has investigated a number of mortgage fraud cases, including one of Canada's biggest, a scheme worth nearly \$1.5 million. Shrewsbury says that the con could happen to anyone. And he says you may not know until the banks, or the police, knock on your door.

In many cases, stealing a house is easy. Once a crook sees a house he wants, he simply files transfer of ownership papers at the provincial Land Titles Office. Much of the time, no one there will even verify the signature. It's a crime so easy to commit that Shrewsbury says they have a case backlog of about one year to 18 months before police can even start investigating a complaint.

How big is mortgage fraud in dollar terms? No one really knows. There is no central registry in this country, and it's a crime the banks don't like to talk about. However, one estimate by the Quebec Association of Real Estate Agents and Brokers says mortgage fraud could be worth \$1.5 billion a year.

You might be wondering how the courts have ruled on these cases. A review of previous mortgage fraud cases is not encouraging. While the courts usually return the houses to the victims, they have also ruled that the victims are responsible for the mortgages that were taken out fraudulently.

And while innocent victims are seemingly punished, the con men are, for the most part, getting away with it.

## Title fraud

Title fraud is a different type of real estate fraud that most often hurts individual homeowners. In comparison to the more than two million real estate transactions that occur each year in the province, there are a limited number of cases of title fraud. The most common forms of title fraud involve fraudsters using stolen identities or forged documents to transfer a registered owner's title to himself or herself without the registered owner's knowledge. The fraudster then obtains a mortgage on this property and once the funds are advanced on the mortgage, he or she disappears. This type of fraud is also sometimes referred to as "mortgage fraud."

Suspicious Transactions Reporting , Produced by The Canadian Real Estate Association

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# What is money laundering?

The United Nations defines money laundering as "any act or attempted act to disguise the source of money or assets derived from criminal activity." It's a process whereby "dirty money" produced by criminal activity is transformed into "clean money," the criminal origin of which is difficult to trace. There are three stages in the money laundering process:

- Ø Placement: placing the proceeds of crime into the financial system;
- Ø Layering: converting the proceeds of crime into another form & creating complex layers of financial transactions to disguise the audit trail, the source and the ownership of funds, and;
- Ø Integration: placing the laundered proceeds back into the economy to create the perception of legitimacy.

Under Canadian law, a money laundering offence generally involves concealing or converting property or money, knowing or believing that they were derived from the commission of most-crimes that are motivated by profit.

## Broker and Salesperson Responsibilities

When regulations come into effect on November 8, 2001, all licensed real estate sales personnel that receive, pay, deposit, withdraw or transfer funds must report suspicious transactions by filing a suspicious transaction report with FINTRAC (Available on their secure website at: [www.fintrac.gc.ca](http://www.fintrac.gc.ca)).

## Who must report suspicious transactions?

Federal regulations for reporting suspicious transactions apply to a number of financial intermediaries, including all real estate sales representatives.

## What is a "suspicious transaction"?

A suspicious transaction is a financial transaction for which there are reasonable grounds to suspect that it is related to money laundering.

## To whom should the suspicious transaction be reported?

Suspicious transactions must be reported to FINTRAC. A suspicious transactions report form and reporting guide are available from your brokerage office, or can be completed and filed electronically by accessing FINTRAC's secure website ([www.fintrac.gc.ca](http://www.fintrac.gc.ca)).

## What records do I need to keep for suspicious transactions?

There is no legal requirement to retain any documentation on suspicious transactions.

## Is there a minimum dollar value below which a suspicious transaction need not be reported?

There is no minimum dollar value for suspicious transactions.

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[Stealing Home](#) (Updated Mon. Mar. 21 2005 8:16 AM ET. CTV.ca News Staff )

# VALUE OF WORKING WITH A BROKER OR SALESPERSON WHEN YOU WORK WITH A REGISTERED BROKER OR SALESPERSON YOU BENEFIT FROM:

## Education, Knowledge and Experience

All brokers and salespersons are required to complete educational courses prior to becoming registered and are also required to take continuing education courses. In addition, many brokers and salespersons pursue ongoing professional development opportunities, obtain membership in professional associations and attend industry events on a regular basis. While consumers buy and sell real estate infrequently, most brokers and salespersons are engaged in these activities on a daily basis.

## Consumer Deposit Insurance

All brokers and salespersons are required to be insured. The insurance program administered by RECO includes consumer deposit insurance - paid for by brokers and salespersons. In the event of fraud, misappropriation of funds or insolvency there is coverage available to consumers of up to \$100,000 per claim to a maximum of \$500,000 per occurrence.

## Complaints & Enforcement

All real estate brokers and salespersons are required to comply with the *Real Estate and Business Brokers Act, 2002* and associated regulations, including the Code of Ethics. RECO addresses inquiries, concerns and complaints about the conduct of brokers and salespersons and takes appropriate action to protect the public interest.

## **MAKE SURE YOUR BROKER OR SALESPERSON IS REGISTERED**

In Ontario, in order to trade in real estate, brokers and salespersons must be registered under the *Real Estate and Business Brokers Act, 2002*. Before you begin working with a real estate broker or salesperson, make sure you confirm that they are registered by using the online search feature.

The information available to you includes the registration status, the current expiry date of registration, whether or not the individual has complied with insurance requirements, and regulatory activities related to the brokerage, broker or salesperson, such as:

- ✓ Registrar's Proposals to refuse, revoke, suspend or apply conditions to a registration
- ✓ Charges under REBBA 2002 and related convictions
- ✓ Immediate suspensions ordered by the Registrar
- ✓ Decisions of Discipline and Appeals Panels related to ethical conduct

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## **COMPETING OFFERS** (Published by Real Estate Council of Ontario)

In certain market conditions, consumers may find that more than one buyer is interested in a property. This is a competing offer situation and creates unique conditions in a real estate transaction. Both sellers and buyers need to consider how to respond when presented with a competing offer situation. Working closely with your real estate broker or salesperson will ensure that you understand the process. In Ontario, the seller's real estate broker or salesperson is required to disclose the number of competing offers to all buyers who have submitted a written offer. However, the terms and conditions of each offer are confidential to the seller and their broker or salesperson.

### **Working with a real estate broker or salesperson**

The seller's real estate broker or salesperson represents the interests of the seller in the transaction. The decisions about how offers are presented and responded to, as well as which offer is accepted, are made by the seller.

The buyer's real estate broker or salesperson represents the interests of the buyer in the transaction. The buyer makes the final decisions related to their offer, including the important decision of whether or not they want to participate in a competing offer situation. In some situations, the real estate broker or salesperson will represent the interests of both seller and buyer or multiple buyers. Consumers should seek guidance from their real estate broker or salesperson if this situation arises.

### **DEPOSIT PROTECTION**

When you work with a registered real estate broker or salesperson your deposit is protected. All registered real estate brokers and salespersons are required to participate in an insurance program that includes consumer deposit insurance. The premium for the insurance coverage, including the coverage that protects your deposit, is paid for by brokers and salespersons.

### **COVERAGE**

Consumer deposit insurance protects you in the event of fraud, insolvency or misappropriation of funds. The insurance provides coverage up to a maximum of \$100,000 per claim and a maximum of \$500,000 for all claims related to the occurrence. There is no deductible under this coverage.

### **WHAT'S NOT COVERED**

Claims arising as a result of a registered broker or salesperson acting as an executor, administrator, trustee, guardian, conservator or in any other fiduciary capacity other than as a broker or salesperson are not covered under the policy.

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## **Tips for Buyers**

In a competing offer situation, buyers may be tempted to offer more for the property than they planned to and/or remove conditions from offers that are intended to protect them. Before participating in a competing offer situation, buyers should consider factors such as:

### Offer Price

How much can the buyer afford to offer for the property and how much is the property worth? A high offer could enhance the buyer's chance of success. However, it may not be the best long-term financial decision for the buyer. A competing offer situation does not necessarily mean that a property will sell for more than the asking price. Similarly, an offer that meets or exceeds the asking price will not guarantee that a buyer's offer is accepted.

### Financing

Buyers should be aware that pre-qualifying for a mortgage does not safely eliminate the need for a financing condition in an offer.

### Home Inspection

In competing offer situations, it can be tempting not to include a clause in an offer that makes it conditional on a home inspection. While your offer might be more acceptable to the seller, you may later learn that there are property defects, required repairs or needed upgrades that you weren't aware of. In some cases, this can be expensive in the short or long-term. Foregoing a home inspection is a significant risk that a buyer needs to carefully consider.

## **Tips for Sellers**

A seller facing competing offers has to consider how they want to deal with the situation. The seller can decide to: accept the best offer; negotiate with one buyer and reject all other offers; negotiate with one buyer and advise other buyers that their offers are being set aside while the seller negotiates; or reject all offers. Even in a competing offer situation, buyers have other options and may choose not to continue to participate. A seller may attempt to negotiate only to find out that it was the best offer the buyer could present. In the meantime, other buyers have found new properties they are interested in. The seller's real estate broker or salesperson can provide advice and guidance, ensuring that the obligations and the options available are understood.

## **HOW TO MAKE A CLAIM**

Information related to making a claim is provided below. Before making a claim, you may want to contact RECO's Insurance Department for more information. Phone: 416-207-4841. Toll-free: 1-800-245-6910. E-mail: [insurance@reco.on.ca](mailto:insurance@reco.on.ca). This information is provided by Martels Real Estate Inc.

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