



Fighting fraud:

build a better checklist

The first thing Stephen Shub did when he learned of the proliferation of real estate frauds was to beef up his already-extensive intake form/checklist guide to include a series of fraud flags.

"It might take an additional minute or two to ask a few more questions in my initial conversation with our client when we're doing a purchase or refinance transaction – but in my mind, that's time well spent," says Shub, a sole practitioner based in North York. "Because in the long run, these flags save us time. We don't end up spinning our wheels on garbage or nonsense transactions. We don't end up doing all our searches and documentation only to find out that there's a real issue here.

"I think that's the problem in so many situations: The lawyer cranks up the file too quickly only to find out too late – when the pressure to close is tremendous and he's invested a lot of time and effort – that there's an issue that could come back to bite him.

"Our view is that we want to take the time to identify these potential issues before we do a whole lot of work on the file. I don't want to end up the duped lawyer – because even if you are totally innocent, the consequences are huge: The investigative process exacts a huge toll on your practice and on you personally."

The fraud flags he's incorporated into both a form he completes as part of his initial conversation with his clients, and into his refinancing pre-closing checklist, are based on common indicia of fraud that he learned about from readings and attending various seminars on the subject of real estate fraud. The fraud flags used on his refinancing intake form/initial conversation with the client are reproduced on this page. To see the complete opening checklist Shub uses, go to www.practicepro.ca/refinancechecklist.

Fraud Flag Questions:

- | | | |
|-----|----|---|
| Yes | No | Client not known to us before |
| Yes | No | No existing first mortgage to discharge |
| Yes | No | Client wants \$\$ paid to unsecured 3rd party by us |
| Yes | No | 411.ca does not confirm that residence telephone connects to address given |
| Yes | No | Client appears to have problem providing documents |
| Yes | No | Financing is based on a concocted purchase agreement |
| Yes | No | Property is vacant or tenanted |

Total number of "yes" answers: _____

If there are two or more "yes" responses, staff are instructed to check with Shub after obtaining a copy of register showing deleted documents to check for any recent mortgage discharge or title transfer, and before opening the file and "before leaving initial conversation in a prospective client filing system which is alphabetical by surname."

Shub also must sign an internal acknowledgement on his own pre-closing checklist acknowledging that if there were two or more "yes" responses to the fraud flag questions, he has been consulted and has given permission for the transaction to proceed.

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