

MAY 26, 1995

TO ALL REAL ESTATE BROKERS,
AUTHORIZED OFFICIALS AND SALESPERSONS
PROVINCE OF MANITOBA



FRAUDULENT MORTGAGE APPLICATIONS

The Manitoba Securities Commission is warning all registrants to avoid participating in any type of financing scheme which is intended to mislead mortgage lenders.

From time to time Commission staff learn about transactions where purchasers, apparently with the knowledge of real estate agents, have obtained a mortgage with insufficient or no equity by withholding pertinent information from the mortgagee. The practice lends itself most readily to cases where the purchaser's equity is purported to be in the 5% range. Usually the deal involves a private agreement between the parties (which is not disclosed to the mortgage company) wherein vendor and purchaser agree in effect to close the deal under terms different than stated in the offer to purchase.

Any scheme whereby a purchaser attempts to obtain financing for which he/she would not qualify if all of the details of the transaction were disclosed to the lender must be avoided. This can be done by ensuring that all terms and conditions relative to financing (including a supposed promise by a purchaser's parent or relative of a "gift" of money, sometimes evidenced by a "gift letter", or a rebate or kickback given by the vendor, for example) are fully described in the offer, or in a schedule attached to and referred to in the offer itself.

The Commission is providing notice that any registrant who knowingly engages in or countenances such a scheme could face a fitness hearing and possible suspension or cancellation of registration. In addition, failure to disclose a material fact in connection with a trade or transaction may constitute a "fraudulent act" within the meaning of The Real Estate Brokers Act. Any registrant committing a fraudulent act could face very serious consequences including a prosecution.

All brokers are directed to give a copy of this notice to their sales agents, and to provide appropriate warning to avoid involvement in such schemes.

J.W. Storsley
Registrar
The Real Estate Brokers Act
The Mortgage Dealers Act