

# Fraud alert:

## Fraud reports on the rise



*Since LAWPRO first reported on real estate related fraud (**Special Report on Fraud**, Summer 2001), the incidence of reported fraud has continued to increase. Earlier this year, one title insurer reported that more than 25 per cent of all fraud claims it has received over the last decade were reported in the month of January 2004 alone. The Canadian Institute of Mortgage Brokers and Lenders, reported that total industry exposure to mortgage fraud was between \$150 and \$300 million in 2001, compared to \$73 to \$75 million the previous two years.*

Moreover, no lawyer today is sheltered from exposure to fraud. No matter if you practise in a major metropolitan area or are a rural practitioner, whether you work with a major law firm or on your own – you are equally a potential target for a fraudster.

### What kind of fraud should you be on the lookout for?

The following are brief descriptions of the principal types of fraud that lawyers should be aware of:

#### IDENTITY FRAUD:

The ease with which fraudsters can steal someone's identity has been well documented in the general media. SIN numbers, drivers' licences, health cards, passports and other visual identification records are relatively easy to obtain – if you are so inclined. Moreover, impersonators today are not only stealing another's property, they are also stealing that individual's credit rating, making it that much easier to perpetrate the mortgage fraud. Similarly, the incidence in which forged documents are used to discharge old and assume new mortgages is on the rise.

A variation on this theme is corporate identity fraud – that is where the fraudster takes control of a company's corporate records (for example, appointing him/herself to a position as signing officer) and then proceeds to act on behalf of the corporation, for his or her own benefit.

#### VALUE FRAUD:

In this situation a lender is persuaded to loan more against a property than its true value. Properties are often "flipped" from one buyer to another in a short

period of time; typically lawyers are dealing with clients who appear to buy and sell numerous properties and/or who appear to have sums of cash at their disposal with which to purchase properties. These may also be clients who the lawyer has not acted for in the past, or who are in a rush to close the transaction. The mortgage may have been arranged through a mortgage broker.

### How can you protect yourself against being a victim of fraud?

1. Be diligent in all aspects of your practice: Obtain photo identification of borrowers/purchasers and keep a copy of that identification in your files.
2. Also, be on the lookout for new requirements in lender instructions: As lenders implement new measures to combat value fraud, you may be required: to review the stated property value in past transfers; or to be on the lookout for specific numbers or types of transactions affecting the property; or to provide a list of inactive instruments.
3. Familiarize yourself with the warning signs of value and identity frauds, as first reported in LAWPRO's Special Report on Fraud. The report is available on our Web site at <http://www.lawpro.ca/fraudreport> or in hard copy from practicePRO at 1-416-598-4623, or e-mail [susan.carter@lawpro.ca](mailto:susan.carter@lawpro.ca).
4. **Finally, remember the old adage: If it seems too good to be true, it likely is.** Use your common sense and listen to your instincts. Ask detailed questions. If you don't like the answers, decline the retainer or take the time to investigate more thoroughly. Beware of the rush retainer offering fees above your normal rate.