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## Law Society boots lawyer in property flip scam

A Brampton lawyer who was the "unwitting dupe" of an unscrupulous client in a bogus mortgage scheme has been ordered to resign his membership by the Law Society of Upper Canada or be disbarred. He has also been prohibited from acting as an Ontario lawyer.

The Law Society published details of the case involving Peter Michael Maloney, 57, who was found guilty of professional misconduct for failing to protect the interests of various property purchasers and the Royal Bank of Canada in connection with 27 real estate transactions between December, 1996 and January, 2000.

Virtually all of the properties involved are in the east end of Toronto. The scenario in each case is a variation of what is called an "Oklahoma mortgage fraud" where a property is bought from an innocent vendor at market price, and then resold or "flipped" at an inflated price.

Without knowing about the first transaction, the bank, which finances the second, or flip purchase, winds up holding a mortgage in an amount higher than the true value of the property.

The facts in all of the transactions are very similar. Typical of the 27 flips is a house on Holborne Ave.

The property was sold to "Smith" in August 1999 for \$129,900. Immediately, the property was flipped to "Brown" for \$190,000, representing an instantaneous 46 per cent increase.

Behind the scenes, a person who the Law Society calls an "unscrupulous client" was pulling the strings to co-ordinate the transactions. That client arranged for Brown, the new purchaser the "flippee" to retain Maloney as his lawyer and to apply for a Royal Bank mortgage based on the inflated purchase price.

The essence of the Law Society's charges against Maloney was that he was the "unwitting dupe" of the unscrupulous client who set up the flip transactions. As well, the Society charged that Maloney neglected to protect the interest of his client, the Royal Bank, by failing to disclose that the properties were being flipped for a profit.

(Although I am an elected governor of the Law Society, I took no part in the Maloney discipline case, and only learned of the details when they were published by the Society.)

An agreed statement of facts signed by Maloney and the Law Society was filed in the case against him.

Maloney acted for the Royal Bank but failed to disclose to it that the property was purchased for \$129,900 and immediately resold for \$190,000.

In the Holborne Ave. case, the Royal Bank advanced a CMHC high-ratio mortgage for \$175,275 to Brown.

Since Smith had just bought the property for \$129,900, there was a considerable profit left over.

The theory behind the double transaction is that the unscrupulous client and the purchaser pocket the difference between the real purchase price and the mortgage advance.

On a Boulton Ave. property, the parties to the scam pulled it off twice. In December, 1997 the property was purchased for \$110,000 and immediately flipped for \$130,000. Royal Bank advanced \$123,000, after CMHC fees.

Just over a year later, in January 2000, the property was again resold for \$162,000, with the Royal Bank handing out financing of almost \$154,000.

Once the extent of the numerous transactions became clear in 2000, the Royal Bank moved quickly to sue 75 parties involved in the scheme. It obtained court orders to seize the records of some of the parties involved, and appoint a receiver to liquidate the properties.

The bank obtained judgments against some of the 75 defendants for repayment of the mortgage deficiencies, but the main case against four principal defendants has not gone to trial and the allegations have yet to be proved in court.

So far in the civil case, the Royal Bank received \$4.4 million from the sale of the flipped properties, leaving a shortfall of more than \$1.5 million.

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