



Bob Aaron bob@aaron.ca

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## Mortgage fraud persists with cash-back schemes

Despite the concerted efforts of every stakeholder in the real estate industry, the message that real estate fraud doesn't pay is apparently not getting through to everyone in the field.

As a result of his participation in a number of "cash-back" or inflated purchase price transactions, a local real estate agent lost his licence earlier this year.

Najeeb Ahmad became a real estate salesperson in 2003. That summer, he was approached by an individual (S.H.) who offered to introduce him to willing buyers of residential real estate.

Ahmad was retained by a client who instructed him to present an offer to purchase a property on Melita Ave. in Toronto. It was listed at \$269,900 and Ahmad prepared an offer for his client at \$245,000.

The intermediary, S.H., became involved at this point and suggested that the price be inflated to about \$288,000. A side agreement would be drawn up so that the purchaser would get a cash rebate of \$26,500 on closing presumably from an inflated mortgage advance.

Fortunately, the seller's lawyer recognized what the licensing tribunal later called a "fraudulent scheme," and the seller refused to go along with the scam.

Undeterred, Ahmad tried it again with another property on the same street, which was listed at \$254,900. Ahmad contacted the listing agent and said that he had an interested client if the asking price was increased by \$30,000 to \$284,900.

After the requested price increase, Ahmad's client submitted an offer at \$284,500, and Ahmad told the listing agent that a mutual agreement would have to be signed requiring the seller to refund \$33,900 to the buyer out of the closing proceeds. Ahmad also told the listing agent that both buyer and seller would have to retain the same lawyer who would co-operate with the scheme.

On Nov. 26, 2003, the property was sold for \$284,500, and a Royal Bank mortgage was advanced with a principal amount of \$279,058.94.

When the seller of the first Melita Ave. property received a flyer in his mailbox announcing the sale of the neighbouring house at \$284,500 some \$30,000 more than it was worth he contacted the Real Estate Council of Ontario (RECO), and an investigation was begun.

After Ahmad was approached by the RECO investigator, he voluntarily disclosed three other "improper" transactions that were not in the RECO files. He also disclosed them to his broker and two of the inflated price transactions were terminated before they could close.

One of these was a property at 1928 Dufferin St. In 2003, it was listed at \$289,000. After two weeks, the price was increased to \$324,900. The Multiple Listing Service shows the property "sold" for \$322,500, but when Ahmad disclosed the transaction and a \$40,681 "rebate" to his broker, the deal was unwound. The house eventually sold to a real buyer for \$279,000.

A property transaction on Miller St. in Toronto was not halted in time, and did proceed to closing. The facts are similar to the Melita Ave. properties.

Its original inflated listing price was \$229,900 in November 2003. Ahmad was both the listing and selling agent, receiving instructions from S.H., who was orchestrating the players.

On behalf of his purchaser client, Ahmad submitted an offer to purchase for \$225,000. At the same time an agreement was entered into requiring the buyer to get a refund of \$38,288 from the inflated purchase price.

On the Dec. 4, 2003, closing date, Royal Bank advanced a mortgage of \$220,697 significantly higher than the true underlying price of \$186,712.

During the testimony at his RECO hearing, Ahmad stated that he knew the first transaction he participated in on Melita Ave. was wrong. Despite this, the RECO panel noted that Ahmad did nothing to distance himself from four further transactions "that he well knew were based on fraud and deceit."

Mortgage fraud is a criminal act. While RECO has no jurisdiction to prosecute under the Criminal Code, the Real Estate and Business Brokers Act gives RECO the power to investigate criminal offences that are relevant to a person's fitness for registration under the Act. Any registrant proven to have knowingly participated in mortgage fraud faces losing his or her registration. Ahmad's registration was revoked.

Since 2002, RECO has opened approximately 50 investigations regarding registrants alleged to have been involved in mortgage fraud.

The RECO web site (<http://www.reco.on.ca>) does not indicate whether any criminal charges have been laid following its mortgage fraud investigations.

I'm hoping this type of activity will soon come to an end, but I have my doubts.