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Mortgage Fraud & Organized Crime in Canada

Types of Mortgage Fraud

Mortgage fraud schemes range widely in terms of sophistication and complexity. Common features in these schemes include misrepresentations of the borrower's income and/or identity and manipulation of the property's age, size and value. Generally, borrowers fraudulently overstate their income and use false names on mortgage documents. In addition, the targeted property is often fraudulently described as newer, larger and in better condition than it is in reality.

Mortgage fraud can be separated into three general categories though more than one category of fraud may be involved in each overall criminal enterprise:

- fraud to further other criminal activities;
- fraud for profit; and
- fraud for shelter.

Criminal Intelligence Service Canada (CISC) Central Bureau focuses on assessing the scope and magnitude of organized crime's involvement in mortgage frauds that further other criminal activities and mortgage fraud for profit.

Fraud to Further Other Criminal Activities

Mortgage fraud is sometimes undertaken to facilitate other criminal activities such as:

- marihuana grow operations;
- clandestine drug laboratories; and,
- money laundering.

Fraud for Marihuana Grow Operations and Clandestine Drug Laboratories

Criminal groups using mortgage frauds for marihuana grow operations or clandestine ecstasy or methamphetamine labs often provide fraudulent personal or financial information, or use nominees to obtain residential or commercial properties. The crime group may make superficial renovations to conceal the damage before the property is sold to unsuspecting buyers. Or, less commonly, the criminals may stop the mortgage payments and default on the loan. After the default, the financial institution may be left with a property with significant structural and environmental damage from clandestine drug operations.

Fraud for Money Laundering

Criminal groups use a variety of techniques to launder their proceeds of crime through fraudulent real-estate transactions. In a scheme known as "value tampering," a criminal seeks a property owner who agrees to sell the property on paper for a price below its actual value and then surreptitiously accepts the difference in cash. The true nature of the financial transaction (i.e. purchase price, source of income, employment) would likely be misrepresented and this would constitute fraud. The criminal can then sell the property for its actual value in a transaction that has laundered the illicit funds.

Mortgage Fraud for Profit

There are multiple schemes within mortgage fraud for profit. Criminals may undertake one of these schemes, combine schemes or operate multiple schemes simultaneously.

Appraisal Fraud

Appraisal fraud, which involves the fraudulent inflation of the property's value, is a common feature of many mortgage fraud schemes. This scheme may involve a dishonest real-estate appraiser providing an inaccurate valuation report to the lender, or it may involve a criminal group deliberately manipulating computerized real-estate-appraisal systems.

Criminal groups may pretend they are buying or selling properties that are much larger, newer or more recently renovated than other homes in the area. These properties receive fraudulently inflated values from which a large mortgage is illicitly obtained. When the criminals deliberately default on the mortgage, the financial institutions are left with a mortgage that is much larger than the property's actual value.

Illegal Property Flipping

There have been multiple instances of organized illegal property flipping occurring across Canada. Illegal property flipping involves repeatedly and fraudulently selling a property between colluding individuals or nominees. The price is artificially driven up through false appraisals or successive sales between colluding individuals. The properties are then repurchased several times over a short period of time for a higher price by associates of the "flipper". The property can then be acquired by a straw buyer using stolen or false information who intends to let the property default and be untraceable to the financial institution. As the price is artificially inflated, the loss to financial institutions can be significant.

Criminally inclined owners, lenders, mortgage brokers, real-estate agents and developers may all try to have a property appraised for more than its actual value for illicit gain. Illegal property flipping schemes may involve one or more of the following:

- fraudulent appraisals;
- straw buyers;
- false loan documentation;
- inflated buyer income; or
- kickbacks to buyers, investors, or compromised industry professionals.

Air Loans

Air loans involve an application for a mortgage on a property that does not exist, for example a non-existent address. This may involve the creation of a false property profile in a realty listing and the collusion of an individual acting as the buyer who knowingly obtains a mortgage for a non-existent property. In some circumstances, title insurance will cover a lender's losses. However, in cases where the lawyer is compromised or the lawyer's identity is stolen, the title insurance policy may also be falsified. As mortgage insurers may not reimburse loan funds for non-existent properties, this type of fraud can result in a significant loss for the financial institution that issued the mortgage.

In more sophisticated air loans, borrowers and properties may be invented, compromised real-estate agents may be used to post fake MLS (multiple listing service) listings and compromised lawyers used to process the funds for non-existent vendors and purchasers in order to circumvent the financial institution's verification processes.

Title Fraud

Title fraud involves the fraudulent transfer of property. Homeowners who rent out their homes or who have no existing mortgages on high-value properties are more vulnerable to being targeted in title-fraud schemes as a large mortgage can be secured with the property. In a title fraud, the perpetrator assumes the legitimate owner's identity to fraudulently sell or refinance the property based on the existing owner's credit rating and property. The individual then absconds with the stolen funds. The criminal may also illicitly sell the property to a straw buyer who intends to default while the criminal seller steals the mortgage funds. The legitimate homeowner is left with unwanted refinancing, an illicitly obtained new mortgage, or a property that has been sold to someone else.

The perpetrator can undertake title theft without the existing homeowner's knowledge by using false identification and forged documents to take advantage of automated financial and real-estate records systems. The legitimate owner may be unaware of the fraud until the bills for the fraudulently obtained mortgage arrive. If the property were sold to an unsuspecting buyer, both the original homeowner and new buyer would each believe they have clear title to the property. Title-theft victims in Canada have paid extensive legal fees and spent considerable time to restore the title to their property.

Foreclosure Fraud

Foreclosure-rescue services can be legally and ethically undertaken and can benefit the homeowner if there is full verbal and written disclosure of the deal, terms the consumer is capable of fulfilling and moderate fees for the service. However, in fraud schemes, because of the complexity of the transactions and the deception that the owners can regain their property titles, victims are often unaware they are being defrauded. These schemes have been reported in Canada but are much more prevalent in the U.S.

Individuals perpetuating foreclosure scams generally target vulnerable, low-income individuals whose homes are in foreclosure, or who are at risk of defaulting on their loans. While there are many variations within foreclosure scams there are several common elements. A criminal approaches a legitimate owner with a debt-consolidation scheme that typically involves the owner paying up-front fees and transferring the property title (sometimes unwittingly) to the fraudster. The legitimate owner typically receives a cash payout from the fraudster to address immediate bills and remains in the home paying "rent" or "consolidated debt payments" to the fraudster. However, in contrast to legitimate debt consolidation programs, the fraudster pockets all payments from the owner and ignores bills and taxes which leads to debt-collection procedures against the owner. The fraudster then may re-mortgage or sell the property to an accomplice leaving the owner without the property title, homeless and in debt.

Fraud for Shelter

> In contrast to fraud-for-profit schemes, fraud for shelter typically involves individual borrowers who often intend to live in the property as law-abiding home owners. These individuals falsify their personal or financial information in order to obtain a larger mortgage than their income can support. As these individuals are already financially stretched to cover a larger mortgage than they can afford, they are particularly vulnerable to any changes in their financial situation. CISC Central Bureau focuses on fraud for shelter only when organized fraudsters target individuals struggling to make their mortgage payments and exploit them in foreclosure-fraud schemes.

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