



Purchase and Sale of Real Estate Property: Case Study



Unexplained source of wealth used to purchase property
(This scenario is based on *Wang v. Kesarwani*, 2017 ONSC 6821 (CanLII))

Current to July 2021

The Facts






A couple with some wealth recently immigrated to Canada from a country that is high risk. They retained you to assist with the purchase of a large residential property and to set up a company. The home was paid for without any financing. The couple separated soon after moving to Canada. Despite separating, they continued to buy and develop residential properties together, usually without financing through their joint company.

At one point, the ex-husband transferred his interest in the company to a real estate agent they had been using for the purchases, only to transfer the interest back a short time later. The couple did not have any employment or business interests in Canada beyond real estate investing. The ex-husband was an extensive gambler and required income from the properties to pay for these activities.

NOTE: While the legal services described in this case study are outside of the paralegal scope of practice, the red flags and best practice recommendations apply, with appropriate modifications, to the provision of legal services by paralegals.

Red Flags



-  Clients coming from a high-risk country. These are countries that have been identified by competent authorities as posing a high risk for money laundering based on, among other things, prevalence of corruption and financial crime, and weakness of anti-money laundering laws and measures
-  Unexplained source of wealth for the purchase of properties
-  Purchase of several residential properties without financing over a short period of time
-  Potential marriage of convenience (separating soon after entering Canada)
-  Unusual transfer of the client's interest in the company only to be returned for no apparent reason
-  Client heavily involved in gambling activities

What Should You Have Done?



You Should Have:

- **Identified and managed risks.** The red flags in this scenario (i.e., extensive gambling, possible marriage of convenience, large purchases without financing) indicate the need for caution.
- **Complied with the source of funds requirement.** Lawyers and paralegals are required to obtain from a client information about the source of funds being received, paid, or transferred in respect of a financial transaction that is not exempt from the client verification requirements set out in [By-Law 7.1](#). In this case, because your client is from a high-risk country and has wealth of a mysterious origin, you should have conducted further inquiries, including requesting additional supporting documentation about the source of funds.
- **Declined to act.** Unless you are satisfied to a reasonable standard that the money is not the proceeds of crime, you should have declined to act or not continued to act for the clients.

Supports and Resources



- **Guidance Documents:** For more information, consider consulting the Law Society's Fraud webpage, Red Flags Quick Reference Guide, and Frequently Asked Questions: Source of Funds.
- **Practice Management Helpline:** Lawyers or paralegals who have questions about their professional obligations relating to client identification and verification, fraud, money laundering, terrorist financing, or other illegal activity may wish to contact the [Practice Management Helpline](#).



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