

# CONVEYANCING UPDATE

A Division of McKays Solicitors

## For a smooth, hassle free conveyancing solution... Another guaranteed way to get into huge difficulty in a real estate transaction ...

From time to time parties involved in aspects of buying and selling property become just too keen to make a transaction work.

Often the circumstances involve helping a purchaser "over the line" by assisting them to borrow more on a property than a prudent lender would normally lend.

Solicitor Gregory Casey got involved in a number of these situations and was convicted of fraud on 14 charges in the Brisbane District Court, and sentenced to 3 years jail. He was, not surprisingly, struck off as a solicitor and has since re-applied to become a solicitor and been refused.

The charges were all very similar, and involved being a party to an arrangement where unbeknown to a bank, a purchaser would be given a rebate off the apparent purchase price, making the effective price quite a bit lower.

Essentially what happened was that while the purchase price was stated as \$107,000 for example, the buyer and seller agreed at settlement that the buyer would receive a rebate of \$10,700. The "real" purchase price was therefore \$96,300.

The bank was of course fraudulently misled and agreed to lend roughly 90% of the stated purchase price of \$107,000.

Another form of this deception is where there are 10% non-refundable deposits, with an agreement between the buyer and seller that the buyer never pays the deposit but makes the bank believe they have paid it. Again the bank is misled into believing that the total contract price was the real price paid.

If anyone associated with a real estate transaction actively participates in a scheme where a bank is misled in this way they are likely to be found guilty of fraud, and as the solicitor Casey found, jail can be the very serious outcome.

If you become aware of such an arrangement you must notify the lending institution of your concerns, and/or withdraw from being involved.

**If you have any queries about apparently legitimate arrangements which you would like us to comment on, so you're sure you are not exposed, please do not hesitate to contact our Statewide Conveyancing team. Call Roland Taylor in our Mackay office on 4963 0800 or Kellie Woodward in our Brisbane office on 3223 5928.**

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