

## ASSISTANTS – MORTGAGE BROKERAGE

**Summary: A mortgage broker must not assign tasks to an unauthorized assistant that must only be performed by an industry member. The mortgage broker must ensure clients, customers and the public have full knowledge that the assistant is not authorized (unlicensed or unregistered). [See *Real Estate Act* s.17, *Real Estate Act Rules*, s.46, s.44, s.51(1)(c) and s.67]**

*Note: For the purposes of this Information Bulletin, and where the context permits, “mortgage broker” means mortgage brokerage, broker and associate, and “assistant” means an individual who is not licensed and authorized to deal in mortgages by the Real Estate Council of Alberta.*

Before dealing in mortgages, an individual is required to hold the appropriate authorization (licence and registration with a licensed brokerage) issued by the Real Estate Council of Alberta [*Real Estate Act*, s.17]. Obtaining the necessary licensing education and starting a career in the mortgage brokerage industry comes at a cost in both time and money and, as a result, the popularity of individuals starting their career as an assistant to a mortgage broker is increasing.

An assistant is a definite asset to a busy mortgage brokerage, as they can perform many of the day-to-day administrative tasks that keep a mortgage broker from dealing directly with clients. However, because they are not authorized to deal in mortgages, assistants are restricted in the duties they may perform.

There are some basic rules an industry member needs to follow. A mortgage broker must only assign to support personnel or assistants tasks they are competent to perform and must not in any way allow an assistant to perform tasks that must only be performed by a mortgage broker. A mortgage broker must ensure clients, customers, the public and other industry members have full knowledge that the assistant is not authorized to deal in mortgages.

It is particularly important for a broker to be aware of all assistants who are employed by the brokerage and its associates, and of the range of duties an unlicensed assistant can legitimately perform. This is because the broker may be subject to disciplinary proceedings for the improper conduct of an unlicensed assistant.

Assistants can be hired by either a brokerage or an individual associate. However, regardless of what entity does the hiring, brokerages must have policies for unlicensed assistants who do not deal directly with members of the public, especially with respect to the confidentiality of client information. Council policy is that if an assistant is dealing directly with members of the public, he or she must be employed by the brokerage.

Experience has shown the line between dealing in mortgages or mortgage brokerage activities and more administrative activities is not always clear. This Information Bulletin outlines activities that can be carried out, and those that cannot be carried out, by an unlicensed assistant in a mortgage brokerage.

The following guidelines may help mortgage brokers and unlicensed assistants avoid problems.

### **Assistants Must:**

- Always identify themselves to the public and/or other industry members as an assistant to their employers.
- Have written consent from the broker in order for an associate to hire them.
- Possess an agreement outlining the assistant's job description and remuneration formula; a copy must be maintained in the broker's file.

### **Assistants May (Under the Supervision of the Mortgage Broker and/or Associate):**

- Answer and forward calls to mortgage brokers and employees of the brokerage.
- Submit completed applications and supporting documentation to the mortgage lender.
- Write ads for the approval of the broker or broker's delegate and place approved advertising (promotional information, newspaper ads) with the media.
- Prepare flyers and promotional information for approval by the broker or associate.
- Record and deposit trust money, mortgage payments and all other brokerage funds.
- Type mortgage contract forms for the approval of the broker or associate.
- Compute the amount of commission cheques to be paid.
- Act as a courier for delivery of documents, etc.
- Schedule appointments.
- Set up files.
- Deliver brochures or flyers.
- Have a business card stating they are unlicensed assistants to the brokerage.
- Make cold calls to canvas interest in using the services of a mortgage brokerage.
- Obtain client leads for the brokerage.
- Attend a mortgage presentation, as an assistant, if accompanied by the broker or associate.
- Accept payment for mortgages and all other funds that have been negotiated by the brokerage or under the administration of the brokerage.
- Perform bookkeeping functions.
- Obtain and compile information pertaining to the application.
- Make phone calls to collect any payments pertaining to mortgages.
- Research underwriting information for the mortgage broker to review.
- Follow-up on building reports, environmental reports, etc.

### **Assistants May Not:**

- Provide advice or opinions with respect to mortgage lending or specific mortgage applications.
- Answer questions or offer opinions related to an applicant's ability to qualify or likelihood of approval.
- Place promotional materials or ads without the review and approval of the broker or broker's delegate.
- Answer any questions from the public concerning mortgage rates, terms, conditions and fees.

- Discuss or explain any mortgage contract or agreement and/or any other real estate or mortgage documents with the public.
- Negotiate any mortgage contracts.
- Negotiate or agree to any commission, commission split, management fee or referral fee on behalf of the brokerage.
- Represent themselves, at any time, as mortgage brokers.

Finally, there is an important message for the assistant who becomes licensed as an associate and yet continues in the role of an assistant. Once the individual becomes an associate, they are employed by, and registered with, a brokerage and may only deal in mortgages for that brokerage. This means they may not act as an assistant to any other brokerage, its broker or associates.