

LLP

Real Estate Lawyers.ca

— "Real Estate Transactions Made Simple" —

FINTRAC SEMINAR

Mark Weisleder

Lawyer, Author, Speaker

Mark@RealEstateLawyers.ca

416-702-2499

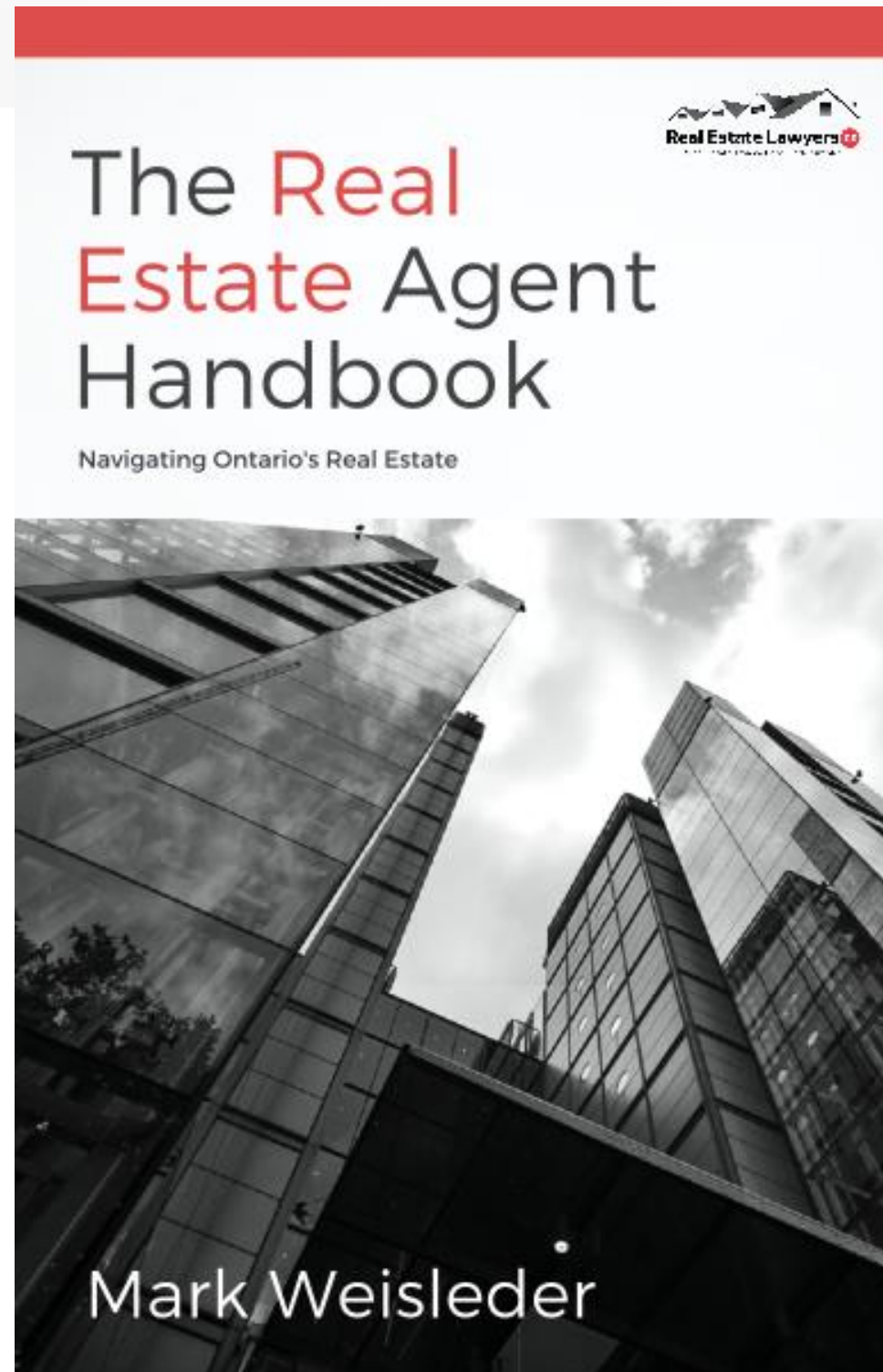


BACKGROUND

- Real Estate lawyer – 35 years
- Best selling author
- Guest Real Estate Expert- CP24, CTV News, BNN, Global News, City TV, Newstalk1010
- Quoted in all National Newspapers on real estate issues
- Assist with RECO complaints
- Senior Partner – Real Estate Lawyers.ca LLP



Mark's New Books



Guide For Residential Landlords In Ontario



Mark Weisleder

Partner, Lawyer, Author & Speaker

Direct Tel: 416-702-2499

Toll Free Tel: 1-888-876-5529

Toll Free Fax: 1-855-466-3803

Email: Mark@RealEstateLawyers.ca

www.RealEstateLawyers.ca

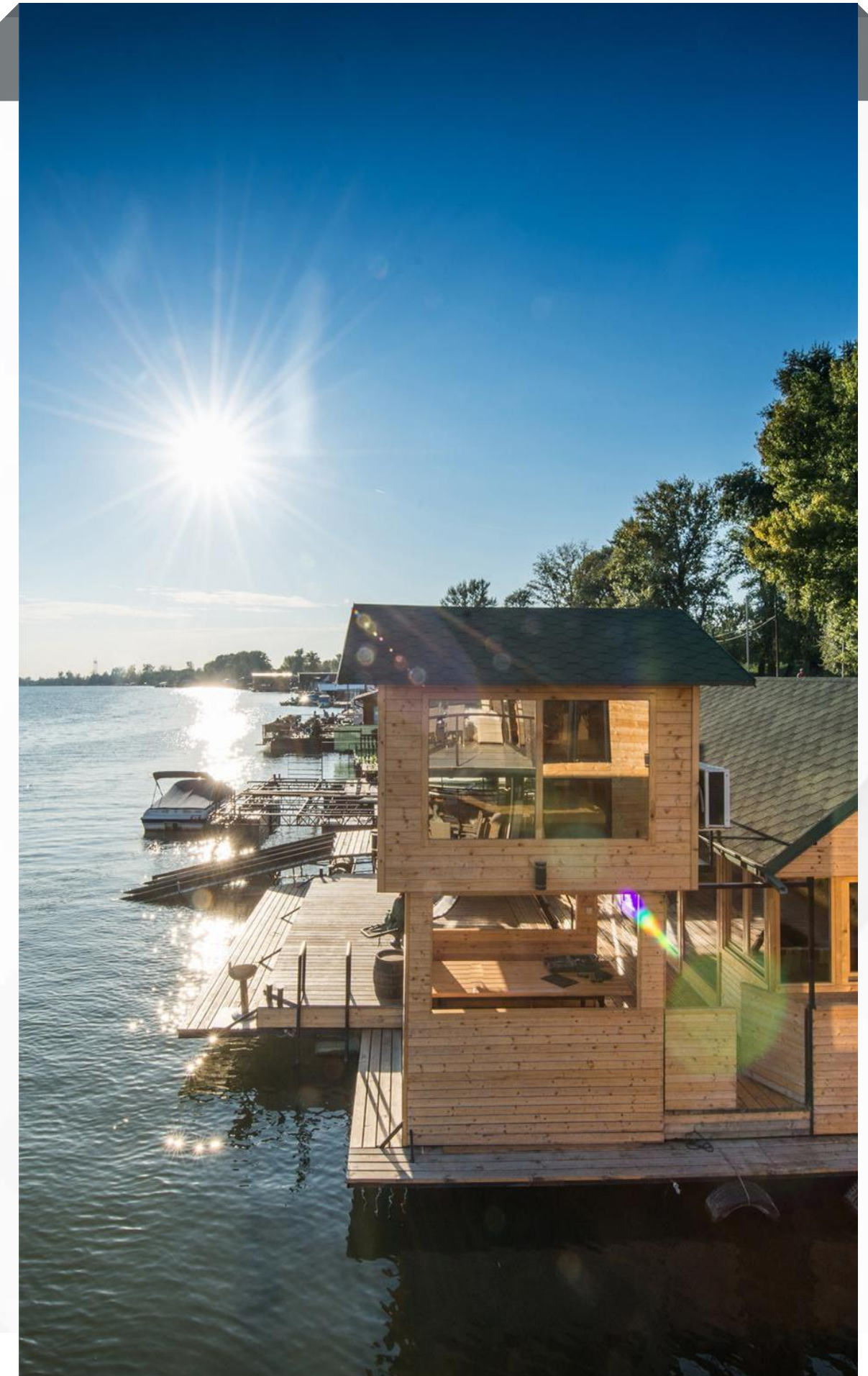
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Title Fraud

What Happened?

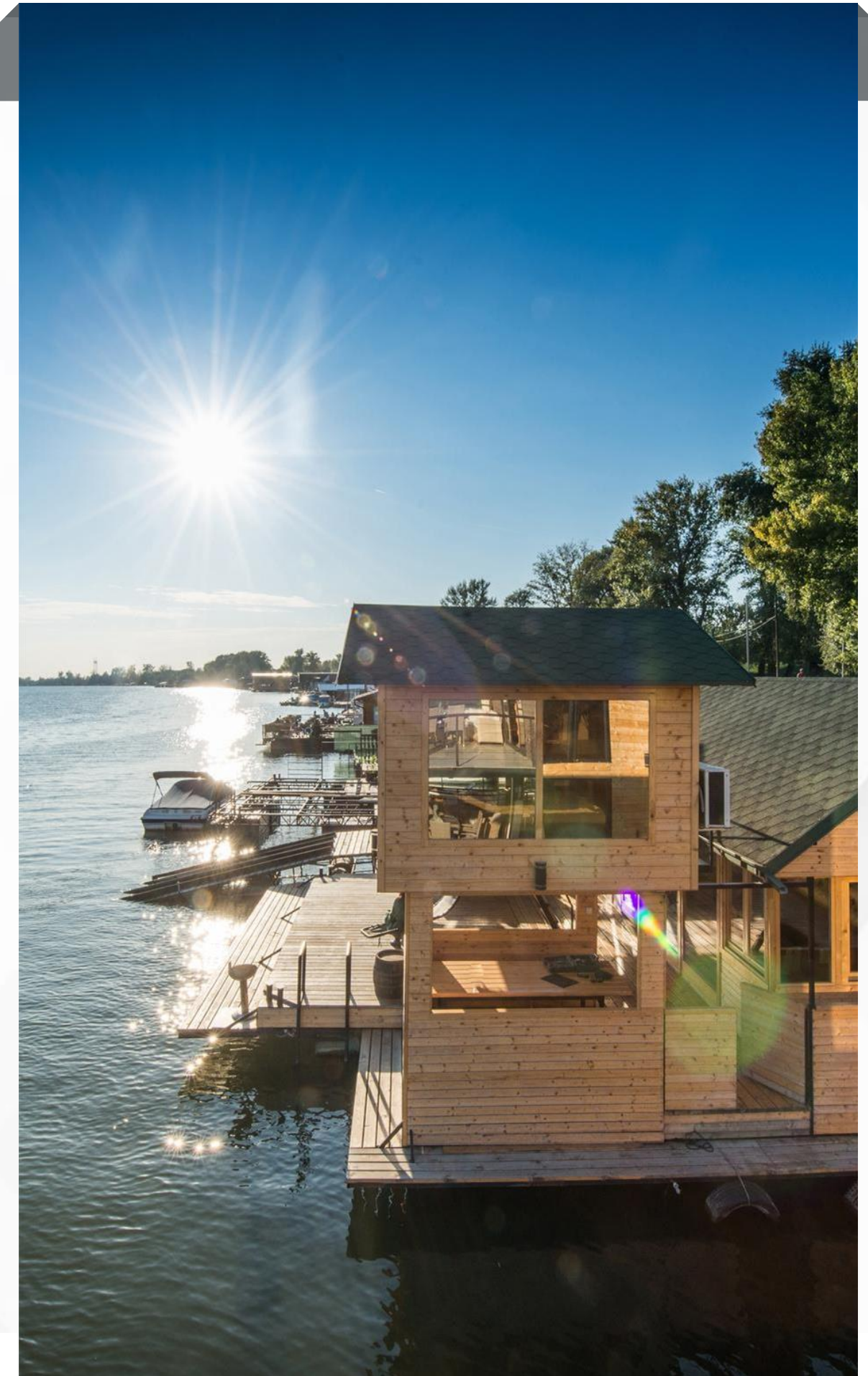
Agent called by person claiming to be the owner
Agent looked up same owner on GEO Warehouse
Person provided government ID proving they were the seller
Said there was a tenant but tenant had agreed to leave
Tenant was part of the scam, permitted showings
Property Listed and Sold
Person hired a lawyer and showed same ID to the lawyer
Buyer had their own lawyer
Deal closed
Money paid to bank account in the name of the fake seller
Real owner shows up from overseas months later



Title Fraud

What Happened?

What will be the result when this goes to court
Likely outcome is court will order house given back to the true owner
Title insurance will compensate the buyer
Seller will have to pay the legal fees if they do not have title insurance
However, if buyer resold before seller finds out
Seller may then be out of luck
Will only get compensated if they have title insurance
New ID verification being used – FINTRACKER
Make sure you have Title Insurance



Title Fraud

If you bought before 1998 you likely do not have title insurance

You can buy it today

Need last assessment or agent opinion of value of your home

Cost is close to \$1 per \$1,000 value for premium

House worth \$500,000, premium is \$500

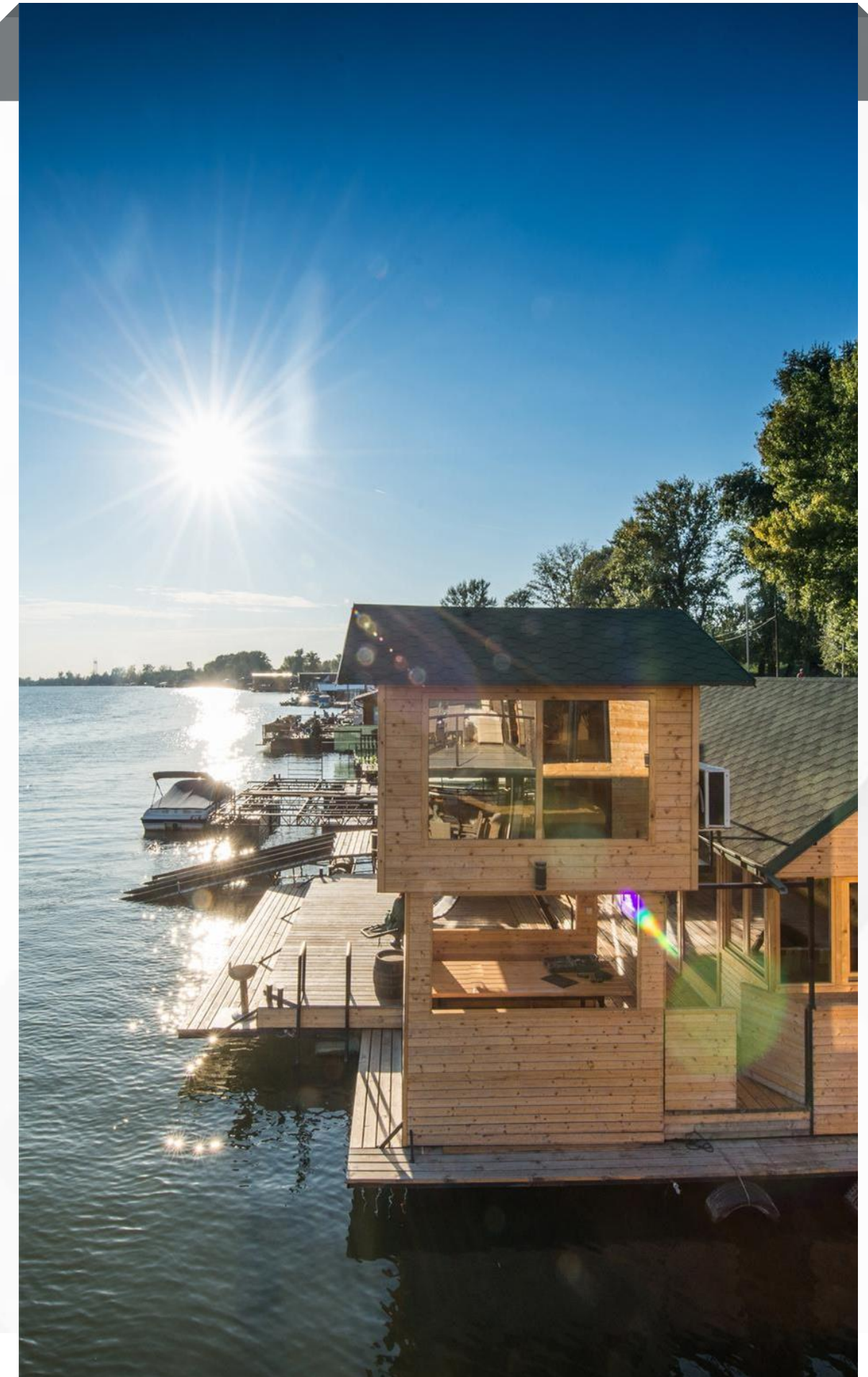
If you have title insurance from 10 years ago

Only covers 200% of value

You can pay extra now to bump this up to current fair market value

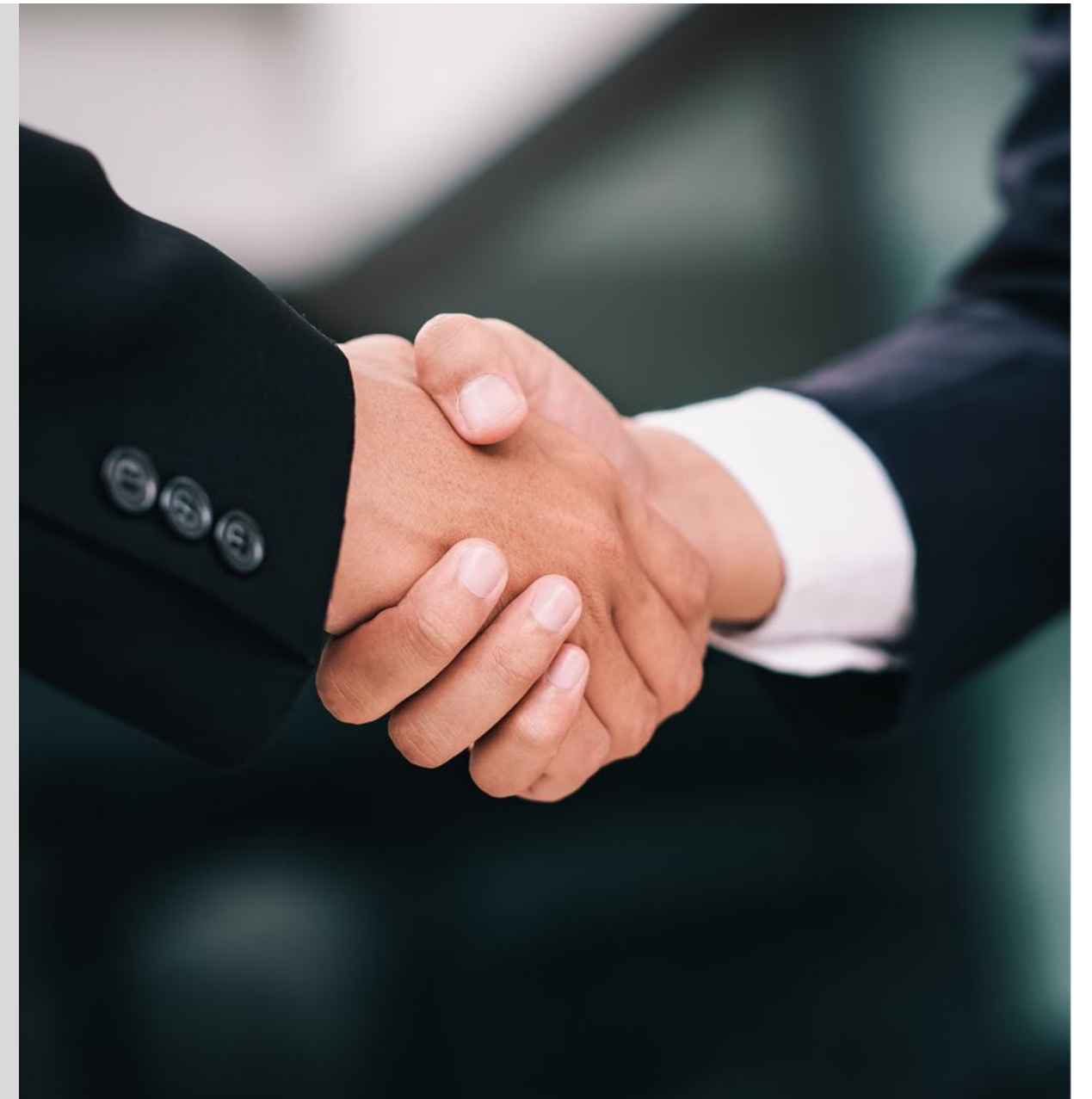
Just contact your title insurer

First Canadian Title or Stewart Title



FINTRAC COMPLIANCE OFFICER

**The Sutton Group Masters Realty Inc.
Brokerage FINTRAC Compliance
Officer is David Hatt**



DOES FINTRAC MATTER?

Federal money laundering and anti-terrorist financing rules **require** real estate agents and brokers to collect personal identification information from buyers and sellers. **It's the law...**



DOES FINTRAC MATTER?

Financial Transactions and Reports Analysis Centre of Canada, or FINTRAC, collects, analyzes and discloses financial information and intelligence on suspected money laundering and terrorist financing activities.

FINTRAC's primary role is to provide law enforcement agencies with information to help them with their investigations. FINTRAC is required by law to protect the personal information it receives from unauthorized disclosure



DOES FINTRAC MATTER?

Your information is kept confidential The only reason the REALTOR® keeps your personal information on file is to comply with federal laws. It will not be used in any commercial way, and will not be provided to anyone else except in response to a request from the federal agency responsible for compliance, the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC).

The law requires these files be kept at the brokerage's office for five (5) years.



DOES FINTRAC MATTER?

This Record must be completed by the REALTOR® member whenever they act in respect to the purchase or sale of real estate.

It is recommended that the Individual Identification Information Record be completed:

(i) for a buyer when the offer is submitted and/or a deposit made, and

(ii) for a seller when the seller accepts the offer.



DOES FINTRAC MATTER?

- When lenders are suspicious, deals don't close
- Lenders can review a deal right up to closing
- If you get involved with the wrong people, it impacts your brand image
- The primary way to avoid any problem
- KNOW YOUR CLIENTS
- Do they fit into your community of clients or your geographic community
- Always ask
- How did you find me?
- Where is the money coming from?



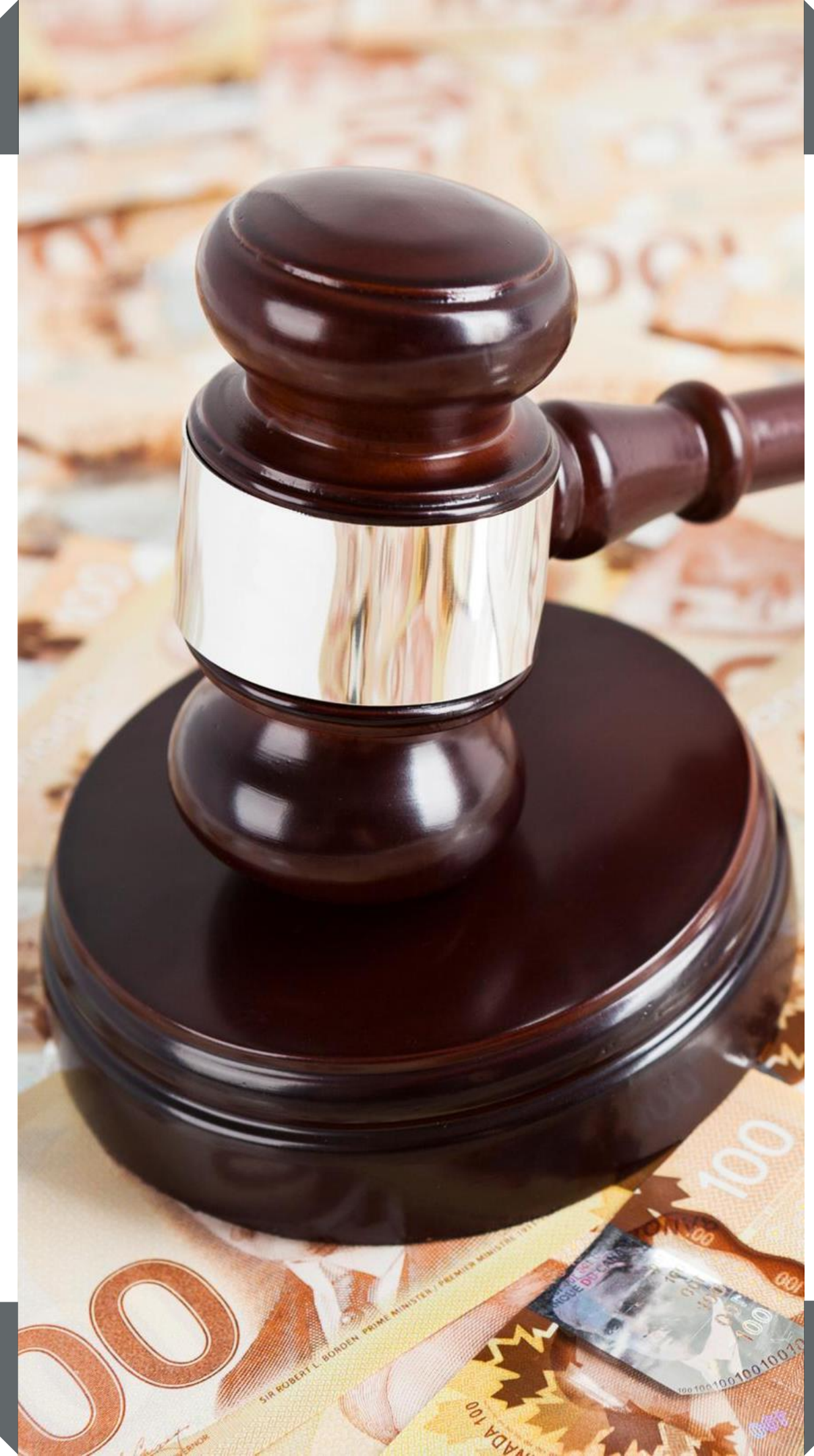
Does FINTRAC Matter

- Continue to build your relationship with your clients
- Contact everyone on your database at least once a year.
- Follow up on their contact information and their plans for the coming year.
- Have they received a promotion?
- You are not only building relationships.
- You are satisfying FINTRAC monitoring requirements.
- You should be monitoring all your clients
- It is just good business



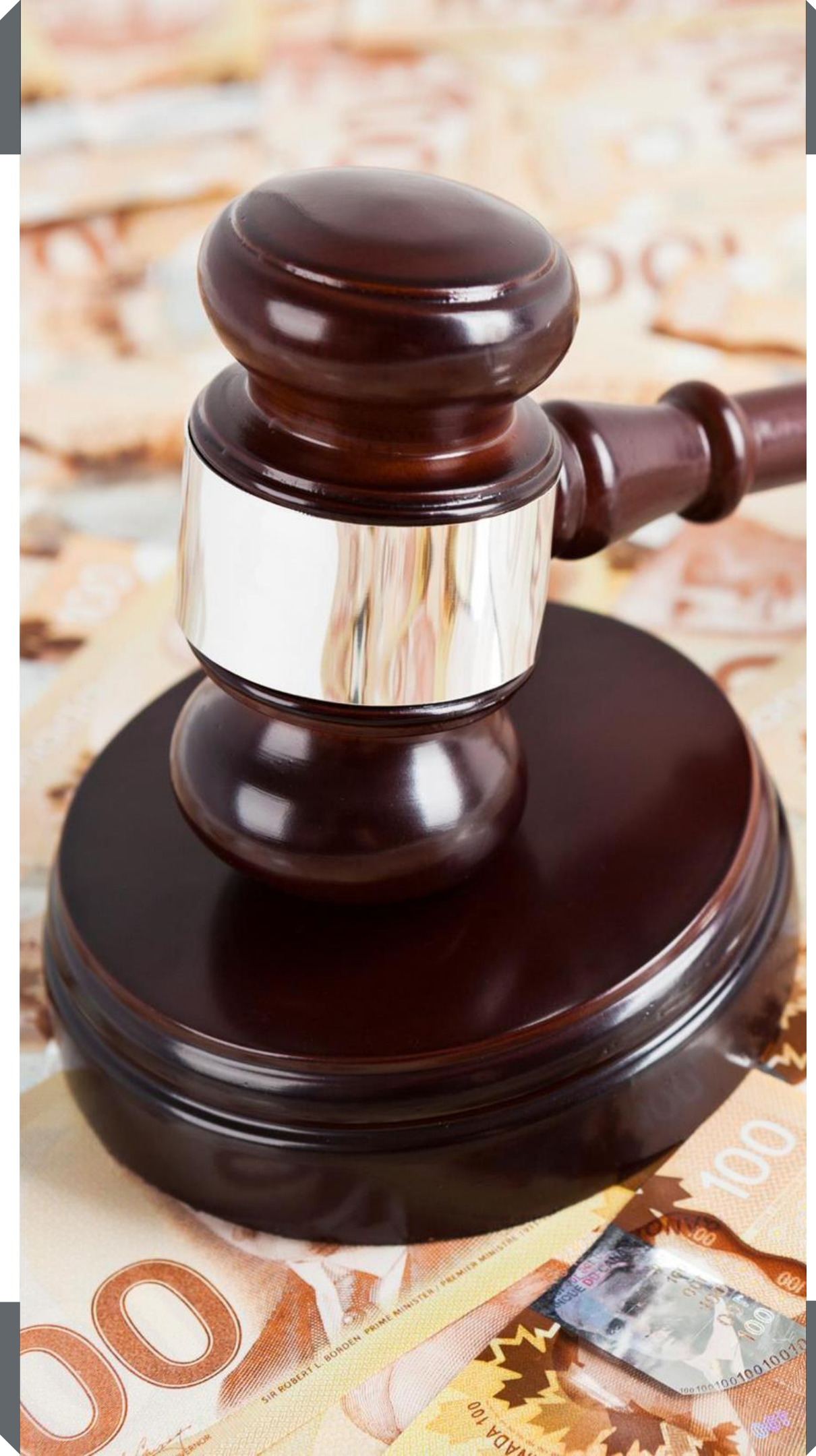
WHAT ARE FINTRAC GOALS?

- FINTRAC is Canada's financial intelligence agency that detects Money Laundering and Terrorist Financing
- Criminals who try to convert “dirty” money into “clean” money through the financial system, using real estate.
- Examples of Money Laundering
 - Every bank draft is potential “cash”– money laundering
 - the buyer puts a large deposit down with condition on a home inspection, cancels the deal, gets deposit returned.
- Every corporation could be laundering money.
- Who owns the corporation?
- It is the shareholders
- Did you ever ask who the shareholders are?



KEY CHANGES ANNOUNCED JUNE 1, 2021

- Virtual currencies are now mentioned, in addition to cash transactions
- Brokerage does not accept any virtual currency or cash
- Use Canadian banks to assist you with any wire transaction identification
- Consider every new client to now be in a Business Relationship
- New Beneficial Ownership Form to complete for corporations
- Check for shareholders in a corporation
- Now we also have form for Politically Exposed Persons (PEP) and their Associates and Heads of International Organizations (HIO)
- Both Foreign and Canadian
- Must also be completed for every buyer or seller
- Important for checking if a third party involved
- Start searching client names on Google
- Will be new lists developed to check for PEP and HIO clients
- Think like a landlord – ask a lot of questions



Politically Exposed Person/Head of International Organization Checklist/Record

Definitions:

- Politically exposed foreign person” (foreign PEP): an individual holding one of the following offices in or on behalf of a foreign state:
 - o head of state or head of government member of the executive council of government or member of a legislature; deputy minister or equivalent rank; ambassador, or attaché or counsellor of an ambassador; military officer with a rank of general or above; president of a state-owned company or a state-owned bank; head of a government agency; judge of a supreme court, constitutional court or other court of last resort; or leader or president of a political party represented in a legislature.
- “Politically exposed domestic person” (domestic PEP): an individual who holds or has held within the last 5 years one of the following specific office or positions in or on behalf of the Canadian federal government, a Canadian provincial (or territorial) government, or a Canadian municipal government:
 - o Governor General, lieutenant governor or head of government; member of the Senate or House of Commons or member of a legislature; deputy minister or equivalent rank; ambassador, or attaché or counsellor of an ambassador; military officer with a rank of general or above; president of a corporation that is wholly owned directly by Her Majesty in right of Canada or a province; head of a government agency; judge of an appellate court in a province, the Federal Court of Appeal or the Supreme Court of Canada; leader or president of a political party represented in a legislature; or mayor.

- “Head of an international organization” (HIO): an individual who currently holds or has held within the last 5 years the specific office or position of head of an international organization and the international organization that they head or were head of is either:
 - o an international organization established by the governments of states; or
 - o an institution established by an international organization.
- “Family member”: a spouse or common law partner, biological or adoptive child, mother or father, mother or father of spouse or common law partner, or sibling.
- “Close associate”: a person who is closely connected to a PEP or HIO for personal or business reasons. For example, they are in a romantic relationship with a PEP/HIO or are business partners with a PEP or HIO. FINTRAC Guidance includes additional examples.

For more information see Compliance Officer or FINTRAC Guidance *Politically exposed persons and heads of international organizations guidance for business relationship based reporting entity sectors and Politically exposed persons and heads of international organizations guidance.*

Politically Exposed Person/Head of International Organization Checklist/Record

Follow the instructions below and complete questions as indicated. Try to answer all applicable questions as per your brokerage's policies and procedures. Please see brokerage's Compliance Officer if you have questions about when to complete this form.

1. Name of individual under review:

2A. Determine whether the individual is any of the following. Check all relevant boxes:

- Politically exposed foreign person (foreign PEP) or family member/close associate of one
- Politically exposed domestic person (domestic PEP) or family member/close associate of one
- Head of an international organization (HIO) or family member/close associate of one
- None of the Above

2B. Indicate the date when the determination above was made:

If you selected None of the Above, there is no need to proceed further. Otherwise, proceed to step 3.

3. Indicate how you made this determination:

- Asked individual
- Internet search
- Consulting a commercial PEP/HIO database that the agent's brokerage has subscribed to
- Other, explain:

4. Position held by PEP or HIO or their family member/close associate:

5. Name of organization in which position is held:



Is Buyer part of your Community of Clients

What should you ask any potential buyer by email?

- Have you signed an agreement with another REALTOR®?
- Business Contact information – this is not private
- This can resolve FINTRAC issue 90% of the time
- The occupation of the person is where FINTRAC auditors look
- What type of home are you looking for? Bungalow, semi-detached, condominium?
- What area?
- Price range?
- Do you own a home?



WHAT ARE FINTRAC GOALS?

How do we stop money laundering or associating with criminals?

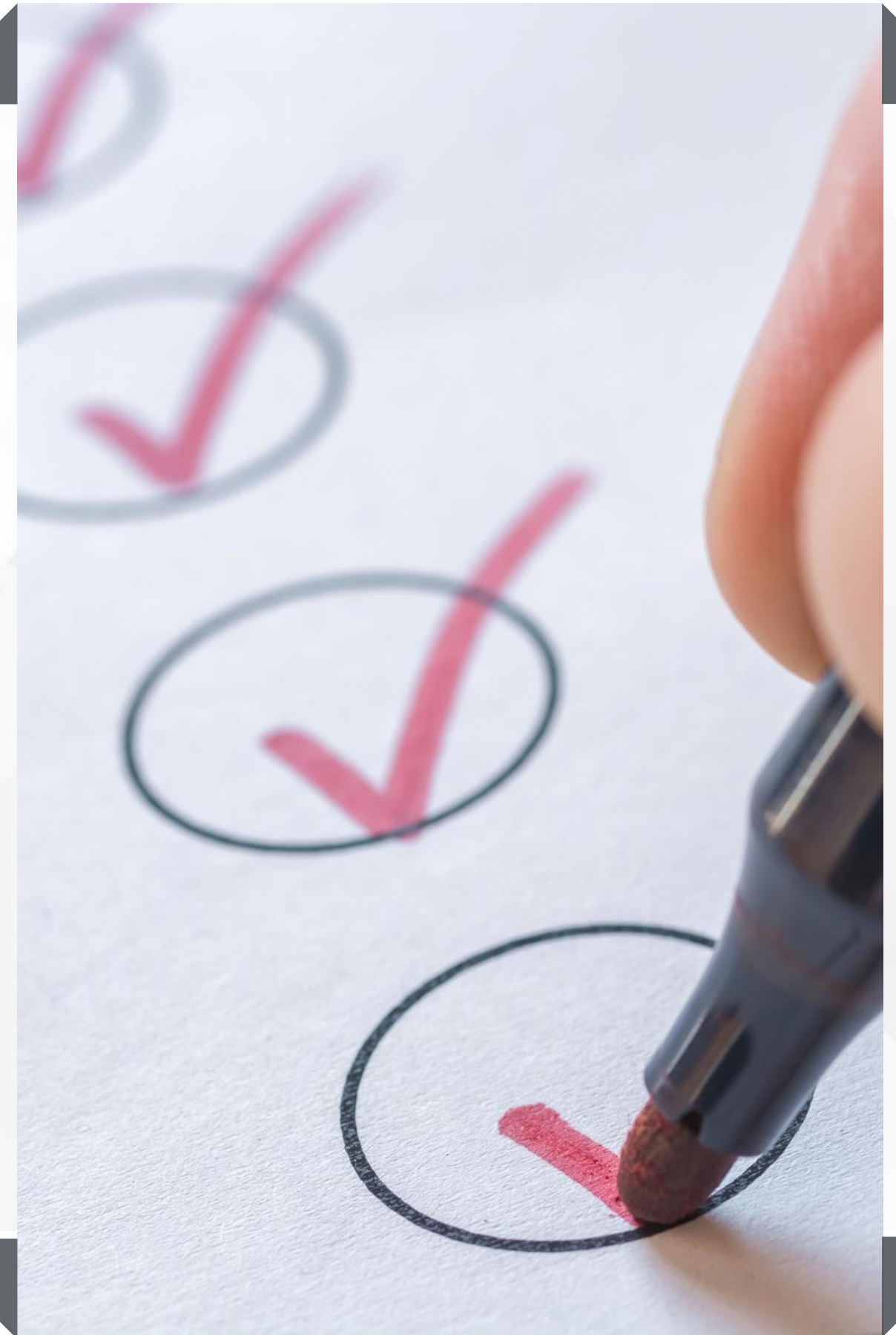
- Properly identify clients.
- Do not accept cash
- Report any suspicious transactions.
- When you do not complete paperwork properly, then it may become a suspicious transaction that the brokerage must report
- FINTRAC ID not required for Leases or Business Purchases, only real estate purchases and sales.



WHAT ARE FINTRAC GOALS?

For every new client, besides personal identification, consider the following criteria when you meet them:

- Are they acting for a third party?
- Is this an overseas client?
- Does the client occupation connect them to the community?
- Does the client operate a cash business?
- Is the client using an offshore bank account?
- Is the client on the terror watch list or from a suspicious country or a PEP or HIO?
- This is also what section C is about on the form as well. Determine risk right away when you meet every client



REVIEWING AND RECORDING THE ID CORRECTLY

- **If in-person:** mask - put ID on the table
- Must be original photo ID you are looking at:
 - Passport, PR card or Driver's License
- Must keep a copy or record the following:
 - Full client name
 - Type of card
 - Card number
 - Jurisdiction – Ontario or Canada
 - The expiry date of Card
 - The date you record the information



Examples of acceptable photo identification documents

Canadian passport	Canada
Permanent resident card	Canada
Citizenship card (issued prior to 2012)	Canada
Secure Certificate of Indian Status	Canada
Driver's Licences	
Provincial Driver's Licence	Province, Canada
Types of card or international document	
Global Entry Card	United States
NEXUS	United States or Canada

ALTERNATIVE IDENTIFICATION

There are 3 other options besides in-person identification:

- Enter into an agreement with a mandatary/ agent and have them verify your client's identity on your behalf, or
- Option A2: Credit file method
- Option A3: - Dual Method



Identification Mandatory/Agent Agreement

BETWEEN:

REAL ESTATE BROKERAGE: _____, having its principal office at _____ (the "Broker");

and

IDENTIFICATION AGENT: _____, having its principal office at _____ (the "Agent");

The parties agree to the terms and conditions set out in this agreement as of _____, 20____ (the "Effective Date").

1. Purpose

This agreement constitutes a written agreement as required by Section 64.1 of the regulations under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* ("Regulations").

2. Services

(a) On request, the Agent will provide the Broker with the identification services described in Schedule A in respect of an individual and/or corporation or other entity (the "Services"). The Broker will make available to the Agent all reasonable information required to enable the Agent to perform the Services.

(b) The Broker will compensate the Agent as follows: _____

3. Approvals and Authority

The Agent will obtain Broker's prior written approval for all Services it performs on the Broker's behalf.

4. Termination

Either party may terminate this agreement at any time on written notice to the other, provided that the Agent is required to complete any Services requested at the time of termination, and the Broker is required to pay for such Services.

5. Indemnification

The Agent will indemnify the Broker against any claims, liability, costs and reasonable expenses arising directly from the Agent's negligent acts or omissions in the performance of the Services.

6. Confidentiality

The Agent acknowledges that some of the information received from the Broker and/or the individuals from whom the Agent may obtain information under this Agreement is proprietary and confidential, and may constitute "personal information" within the meaning of the *Personal Information Protection and Electronic Documents Act* (PIPEDA) (collectively, "Confidential

Identification Mandatory/Agent Agreement

8. Non-Assignable

This Agreement is not assignable by either party without mutual consent, which consent will not be unreasonably withheld.

9. Audit

The Agent grants to the Broker the right, at all reasonable times, to examine and audit all records in its possession or under its control which directly pertain to the Services provided to the Broker under this Agreement or as otherwise may be required under the Regulations.

10. Applicable Law

This Agreement will be construed in accordance with the laws of the [Insert name of Province/Territory] _____ and the laws of Canada applicable therein.

11. Severability

The obligations and agreements of the Broker and Agent under this Agreement will be treated as separate and severable.

12. Complete Agreement

This Agreement, including the attached Schedules, constitutes the entire Agreement between the Broker and the Agent. The terms cannot be changed, except by an instrument in writing signed by the parties.

The Agent's authority to act on behalf of the Broker is limited to the rights, duties and responsibilities set out in this Agreement.

IN WITNESS WHEREOF the parties have executed this agreement the ____ day of _____, 20____.

BROKER

Per: _____

Title: Authorized Signing Officer

Date: _____

AGENT

Per: _____

Title: Authorized Signing Officer

Date: _____

Identification Mandatory/Agent Agreement

Schedule A - Identification Services

Check all that apply:

- Agent will ascertain the following individuals' identity by completing the individual identification information record provided by the Broker to the Agent for each individual and providing the completed records to the Broker.
(List name of individual(s)):

- Agent will confirm the existence of each of the following corporations/entities by completing the corporate/entity identification information record provided by the Broker to the Agent for each corporation/entity and providing the completed records to the Broker. (List name of corporation(s)/entities):

1. For Broker's Internal Use Only

To be completed after this agreement is executed and Services have been provided by the Agent

Indicate date where the Broker received information from the Agent for each of the individuals and corporations/entities listed above:

Month Day Year

Indicate date where the Broker referred to the information provided by the Agent for each of the individuals and corporations/entities listed above:

Month Day Year

A.2 Credit File

Ascertain the individual's identity by comparing the individual's name, date of birth and address information above to information in a Canadian credit file that has been in existence for at least three years. If any of the information does not match, you will need to use another method to ascertain client identity. Consult the credit file at the time you ascertain the individual's identity. The individual does not need to be physically present.

1. Name of Canadian Credit Bureau Holding the Credit File:
2. Reference Number of Credit File:

To be deemed an acceptable method, the credit file must:

1. Be from a Canadian credit bureau (credit files from foreign credit bureaus are not acceptable);
1. Have been in existence for at least three years; and
1. Match the name, address and date of birth that the individual provided.

Please silence your microphone

REVIEWING AND RECORDING THE ID CORRECTLY

Dual method possible:

Need 2 source documents – originals to look at:

- 1 showing name and address
- 1 showing name and birthdate
- 1 client's current bank statement or bank cancelled cheque.
- The utility bill is enough to show the name and address.
- Birth certificate, marriage certificate.

Record what document is, the date you looked at it and sign.



Examples of reliable sources of information for the dual-process method

Reliable sources of information to verify name and address	Reliable sources of information to verify name and date of birth	Reliable sources of information to verify name and confirm a financial account (specifically a deposit account, credit card account or loan account)
<p>Issued by a Canadian government body:</p> <ul style="list-style-type: none"> • A fax, photocopy, scan or electronic image of a government-issued photo identification document • Any statement, form, certificate or other source issued by a Canadian government body (federal, provincial, territorial or municipal): <ul style="list-style-type: none"> • Canada Pension Plan (CPP) statement • Property tax assessment issued by a municipality • Provincially issued vehicle registration • Benefits statement: <ul style="list-style-type: none"> • Federal, provincial, territorial, or municipal levels <p>Issued by other Canadian sources</p> <ul style="list-style-type: none"> • Utility bill (for example, electricity, water, telecommunications) • Canada 411 • Record of Employment • Registered investment account statements (for example, RRSP, TFSA or RRIF) • Canadian credit file that has been in existence for at least six months • Product from a Canadian credit bureau or other third party (containing two trade lines in existence for at least six months) • Insurance documents (home, auto, life) 	<p>Issued by a Canadian government body:</p> <ul style="list-style-type: none"> • A fax, photocopy, scan or electronic image of a government-issued photo identification document • Any statement, form, certificate or other source issued by a Canadian government body (federal, provincial, territorial or municipal): <ul style="list-style-type: none"> • Birth certificate • Marriage certificate or government-issued proof of marriage document (long-form which includes date of birth) • Divorce documentation • Permanent resident card • Citizenship certificate • Temporary driver's licence (non-photo) <p>Issued by other Canadian sources</p> <ul style="list-style-type: none"> • Canadian credit file that has been in existence for at least six months • Product from a Canadian credit bureau (containing two trade lines in existence for at least six months) • Investment account statements (for example, RRSP, GIC) • Insurance documents (home, auto, life) <p>Issued by a foreign government</p> <ul style="list-style-type: none"> • Travel visa 	<p>Confirm that the individual has a deposit account, credit card or loan account by means of:</p> <ul style="list-style-type: none"> • Credit card statement • Bank statement for deposit or chequing accounts • Loan account statement (for example, mortgage) • Cheque that has been processed in the last statement period (cleared, insufficient funds) by a financial institution • Telephone call, email, letter, or other traceable means of confirmation from the financial entity holding the deposit account, credit card or loan account. • Product from a Canadian credit bureau (containing two trade lines in existence for at least six months) • Use of micro-deposits

You must always rely on valid and current information whether it be through an original version or whether you obtain another version of the information's original format, such as a fax, photocopy, scan, or electronic image.

FINTRAC IDENTIFICATION FORM



A.2 Credit File

Ascertain the individual's identity by comparing the individual's name, date of birth and address information above to information in a Canadian credit file that has been in existence for at least three years. If any of the information does not match, you will need to use another method to ascertain client identity. Consult the credit file at the time you ascertain the individual's identity. The individual does not need to be physically present.

- 1. **Name of Canadian Credit Bureau Holding the Credit File:** Equifax/TransUnion
USE THIS SECTION OR A.3 IF THE CLIENT DOES NOT HAVE GOVERNMENT ISSUED PHOTO ID
- 2. **Reference Number of Credit File:** (review document for a reference number)

A.3 Dual ID Process Method

1. **Complete two of the following three checkboxes** by ascertaining the individual's identity by referring to information in **two** independent, reliable, sources. Each source must be well known and reputable (e.g., federal, provincial, territorial and municipal levels of government, crown corporations, financial entities or utility providers). Any document must be an original paper or original electronic document (e.g., the individual can email you electronic documents downloaded from a website). Documents cannot be photocopied, faxed or digitally scanned. The individual does not need to be physically present.

- Verify the individual's name and date of birth by referring to a document or source containing the individual's name and date of birth*
 - Name of Source:** BIRTH CERTIFICATE most common USE THIS SECTION IF NO PHOTO GOVT ID
 - Account Number**:** (review document for reference number)
- Verify the individual's name and address by referring to a document or source containing the individual's name and address*
 - Name of Source:** PROPERTY TAX OR UTILITY BILL 2 OUT OF 3 HAVE TO BE DONE
 - Account Number**:** (review document for reference number)
- Verify the individuals' name and confirm a financial account*
 - Name of Source:** BANK OR CREDIT UNION STATEMENT
 - Financial Account Type:** (chequeing, savings, credit card, loan, mortgage)
 - Account Number**:** (review document for reference number)

*See CREA's FINTRAC materials on REALTOR Link® for examples. ** Or reference number if there is no account number.

EXCEPTIONS TO CLIENT IDENTIFICATION

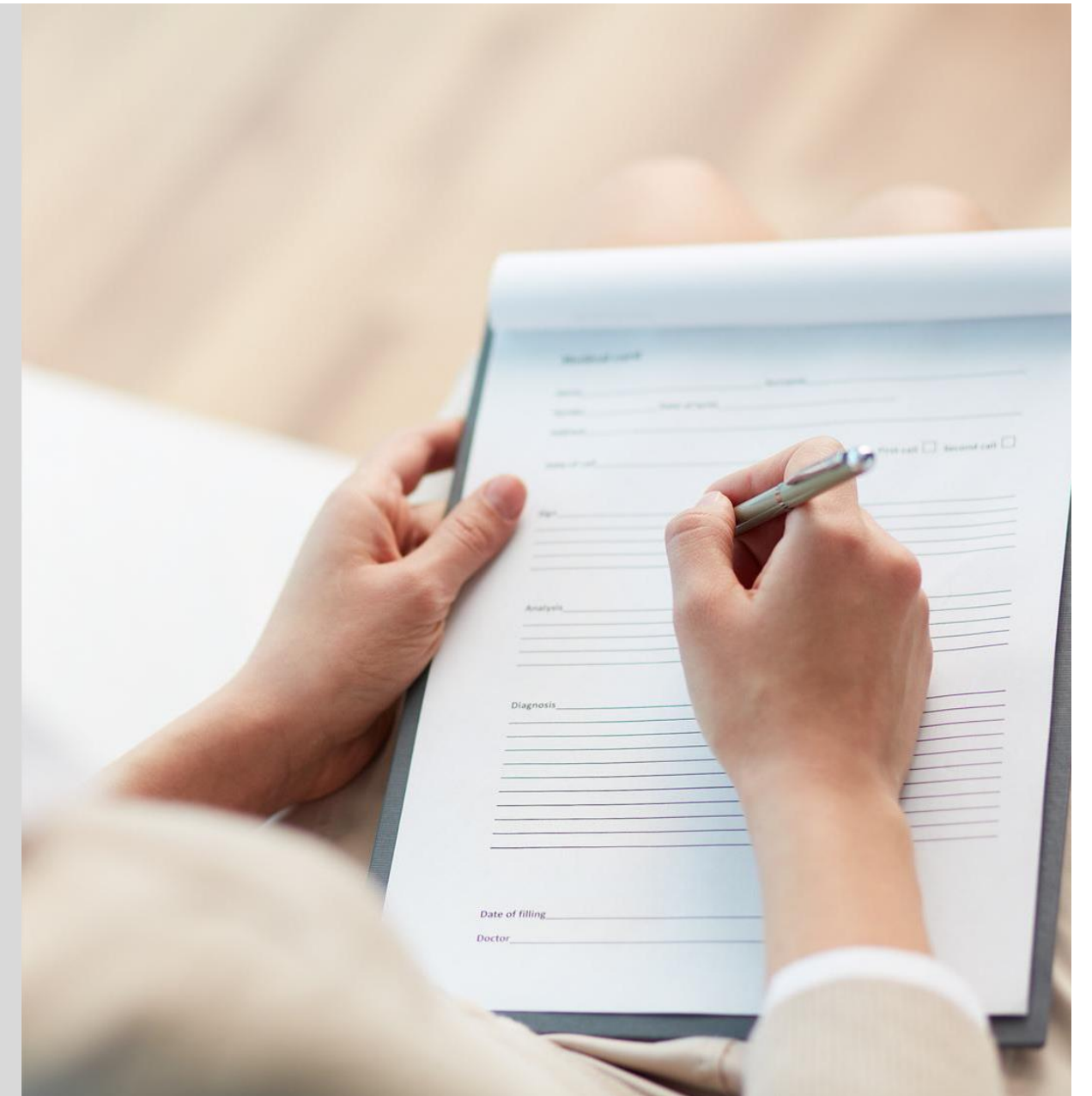
- Agents do not need to document their own identity for their own transaction
- Agents are not required to identify “very large corporations” or their subsidiaries, such as what happens with Power of Sale transactions, or if a corporation has over 75 million in assets on audited statements



ARE YOUR ID AND RECEIPT OF FUNDS BEING COMPLETED CORRECTLY?

Identify everyone in person

- Who is providing the deposit?
- Need to record source of deposit if different person than on the Agreement of P&S – ex. Parent must be identified
- Occupation - Doctor, lawyer, teacher – ok - “Sales” or “Self-Employed” Manager, Supervisor, “Small Biz owner” “Family Biz”, Distribution, = all not good enough. Be as specific as possible.
- Retired - Add in what they did before



FINTRAC IDENTIFICATION FORM



Form 630

for use in the Province of Ontario

NOTE: An Individual Identification Information Record is required by the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*. This Record must be completed by the REALTOR® member whenever they act in respect to the purchase or sale of real estate.

It is recommended that the Individual Identification Information Record be completed:

- (i) for a buyer when the offer is submitted and/or a deposit made, and
- (ii) for a seller when the seller accepts the offer.

Transaction Property Address:

Oshawa

Sales Representative/Broker Name:

Date Information Verified/Credit File Consulted:

A. Verification of Individual

NOTE: One of Section A.1, A.2. or A.3 must be completed for your individual clients or unrepresented individuals that are not clients, but are parties to the transaction (e.g. unrepresented buyer or seller) . Where you are unable to identify an unrepresented individual, complete section A.4 and consider sending a Suspicious Transaction Report to FINTRAC if there are reasonable grounds to suspect that the transaction involves the proceeds of crime or terrorist activity. Where you are using an agent or mandatary to verify the identity of an individual, see procedure described in CREA's materials on REALTOR Link®.

1. Full legal name of individual

2. Address:

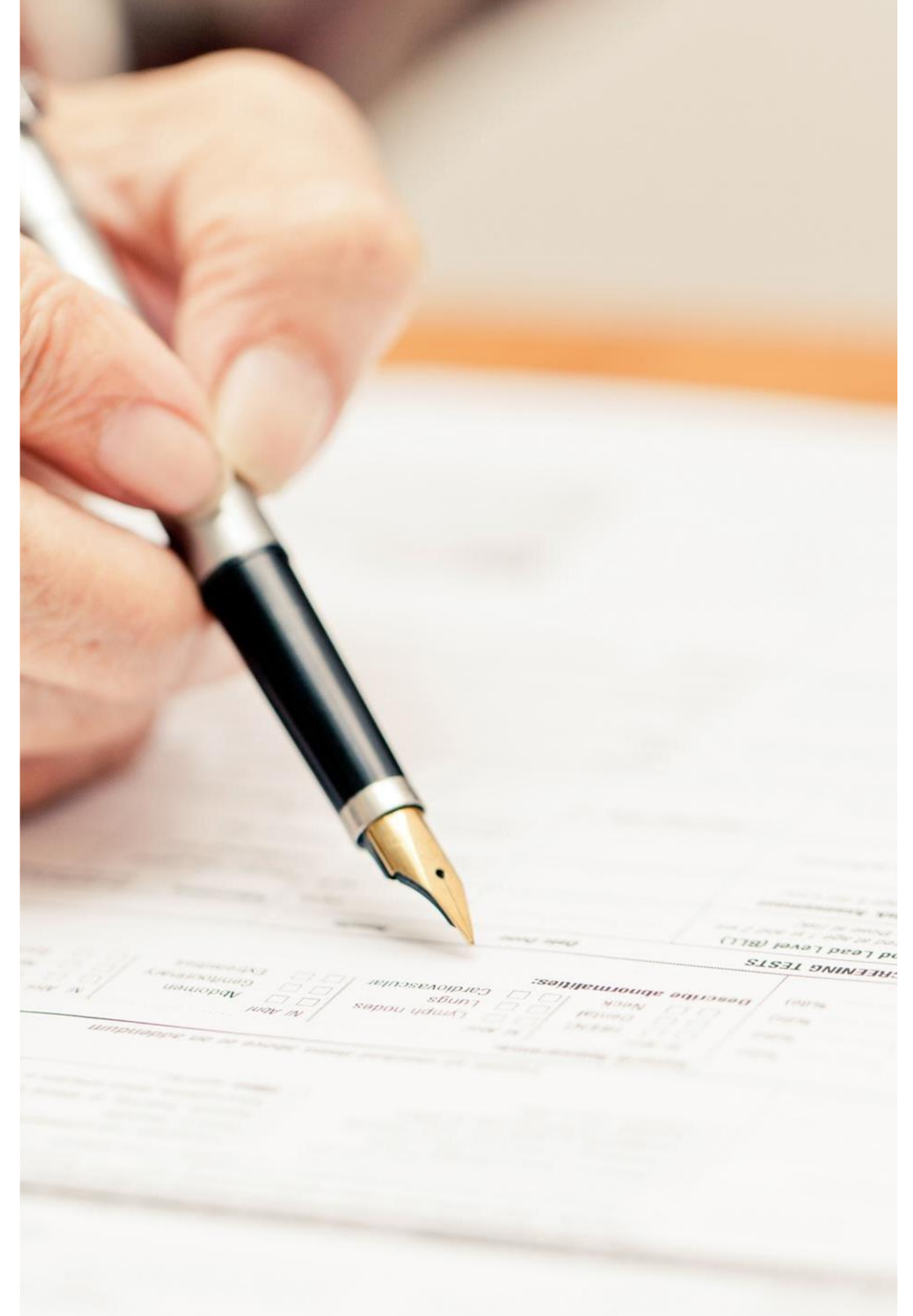
3. Date of Birth:

4. Nature of Principal Business or Occupation:

Nature of Principal Business or Occupation is the MOST IMPORTANT field to complete with proper detail.

COMPLETING FORMS CORRECTLY

- Third-Party – Section B
- Ask, “Are you doing the deal for a third party?” put X in “No.”
- Make sure you always complete this section on every FINTRAC ID form
- This demonstrates you are asking about beneficial ownership as well



FINTRAC IDENTIFICATION FORM



B. Verification of Third Parties

NOTE: Only complete Section B for your clients. Complete this section of the form to indicate whether a client is acting on behalf of a third party. Either B.1 or B.2 must be completed.

B.1 Third Party Reasonable Measures

Where you cannot determine whether there is a third party or there is no third party, complete this section.

Is the transaction being conducted on behalf of a third party according to the client? (check one):

- Yes
- No

Measures taken (check one):

- Asked if client was acting on behalf of a third party
- Other, explain: COMPLETE THIS SECTION - THIS EXAMPLE IS THE MOST COMMON.

Date on which above measures taken: June 17, 2019 READ THROUGH TO ENSURE CORRECT COMPLETION.

Reason why measures were unsuccessful (check one):

- Client did not provide information
- Other, explain:

Indicate whether there are any other grounds to suspect a third party (check one):

- No
- Yes, explain:

COMPLETING THE FORMS

- C must always be completed for every client
- It is about determining risk
- Is the client in front of you?
- Do they have a connection to Canada?
- No dealing through a third party
- Not a PEP, HIO or Associate
- No offshore accounts
- No cash business
- No suspicious behavior when answering questions
- Then you mark down low risk on the form in section C



FINTRAC IDENTIFICATION FORM



NOTE: Only complete Sections C and D for your clients.

C. Client Risk *(ask your Compliance Officer if this section is applicable)*

Determine the level of risk of a money laundering or terrorist financing offence for this client by determining the appropriate cluster of client in your policies and procedures manual this client falls into and checking one of the checkboxes below:

Low Risk

- Canadian Citizen or Resident Physically Present
- Canadian Citizen or Resident Not Physically Present
- Canadian Citizen or Resident – High Crime Area – No Other Higher Risk Factors Evident
- Foreign Citizen or Resident that does not Operate in a High Risk Country (physically present or not)
- Other, explain:

LOW risk is being in front of you with Government issued Photo ID

Low Risk is being in front of you with Canadian Government issued ID

FINTRAC IDENTIFICATION FORM



Medium Risk

Explain:

IF YOU FEEL THERE IS HIGHER RISK, DISCUSS WITH BROKER OF RECORD OR FINTRAC COMPLIANCE OFFICER

High Risk

Foreign Corporation or Entity that operates in a High Risk Country

Other, explain:

IF YOU FEEL THERE IS HIGHER RISK, DISCUSS WITH BROKER OF RECORD OR FINTRAC COMPLIANCE OFFICER

LEARNING ABOUT RISK

Watch the FINTRAC video entitled:
Your Role in Fighting Money Laundering and
Terrorist Financing
at the link below:

<https://www.fintrac-canafe.gc.ca/guidance-directives/overview-apercu/multimedia/1-eng?v=role>



LEARNING ABOUT RISK

I have read the FINTRAC obligations for Real Estate Sales Representatives at the following link

<https://www.fintrac-canafe.gc.ca/re-ed/real-eng>
and <https://www.fintrac-canafe.gc.ca/pen/1-eng>



HIGH-RISK ENTITIES AND COUNTRIES

- Be familiar with Terrorist Website.
- [Counter-terrorism \(publicsafety.gc.ca\)](https://publicsafety.gc.ca) then click “Listed

Terrorist Entities”

The countries currently identified as a higher risk of terrorism and money laundering are:

- Afghanistan, Egypt, India, Iraq, Lebanon, Libya, Pakistan, Palestinian Territories, Saudi Arabia, Somalia, Sri Lanka, Syria, Tanzania, Turkey, United Arab Emirates, Yemen, North Korea
- **New directives for Belarus, Burma, China, Iran, Nicaragua, Russia, Sudan, Syria, Ukraine, Venezuela and Zimbabwe**
- Subscribe for PEP/HIO lists when available



SECTION D

- What is a Business Relationship?

Now every client is considered to be in a business relationship

Section D should always be completed.

Thus answer for every client:

What is reason for the transaction?

What is source of funds?

What is intended use of the property?

If client has done multiple deals with our brokerage in past 5 years, more details are required



SECTION D

Questions for monitoring:

- What is the client's source of funds?
- Based on savings, employment
- It Could be “selling a home to buy another home.”
- It Could be “refinancing to buy the second property.”
- It Could be a “gift from parents.”
- Update client ID

Get more information on what the client does for a living.

- Does the client occupation add up to the number of transactions being done?

If not a good explanation – high risk – go to FINTRAC Officer.



FINTRAC IDENTIFICATION FORM



D. Business Relationship

(ask your Compliance Officer when this section is applicable)

D.1. Purpose and Intended Nature of the Business Relationship

Check the appropriate boxes.

Acting as an agent for the purchase or sale of:

- | | |
|---|---|
| <input type="checkbox"/> Residential property | <input type="checkbox"/> Residential property for income purposes |
| <input type="checkbox"/> Commercial property | <input type="checkbox"/> Land for Commercial Use |
| <input type="checkbox"/> Other, please specify: | |

D.2. Measures Taken to Monitor Business Relationship and Keep Client Information Up-To-Date

D.2.1. Ask the Client if their name, address or principal business or occupation has changed and if it has include the updated information on page one.

D.2.2 Keep all relevant correspondence with the client on file in order to maintain a record of the information you have used to monitor the business relationship with the client. Optional - if you have taken measures beyond simply keeping correspondence on file, specify them here:

Section D must always be completed

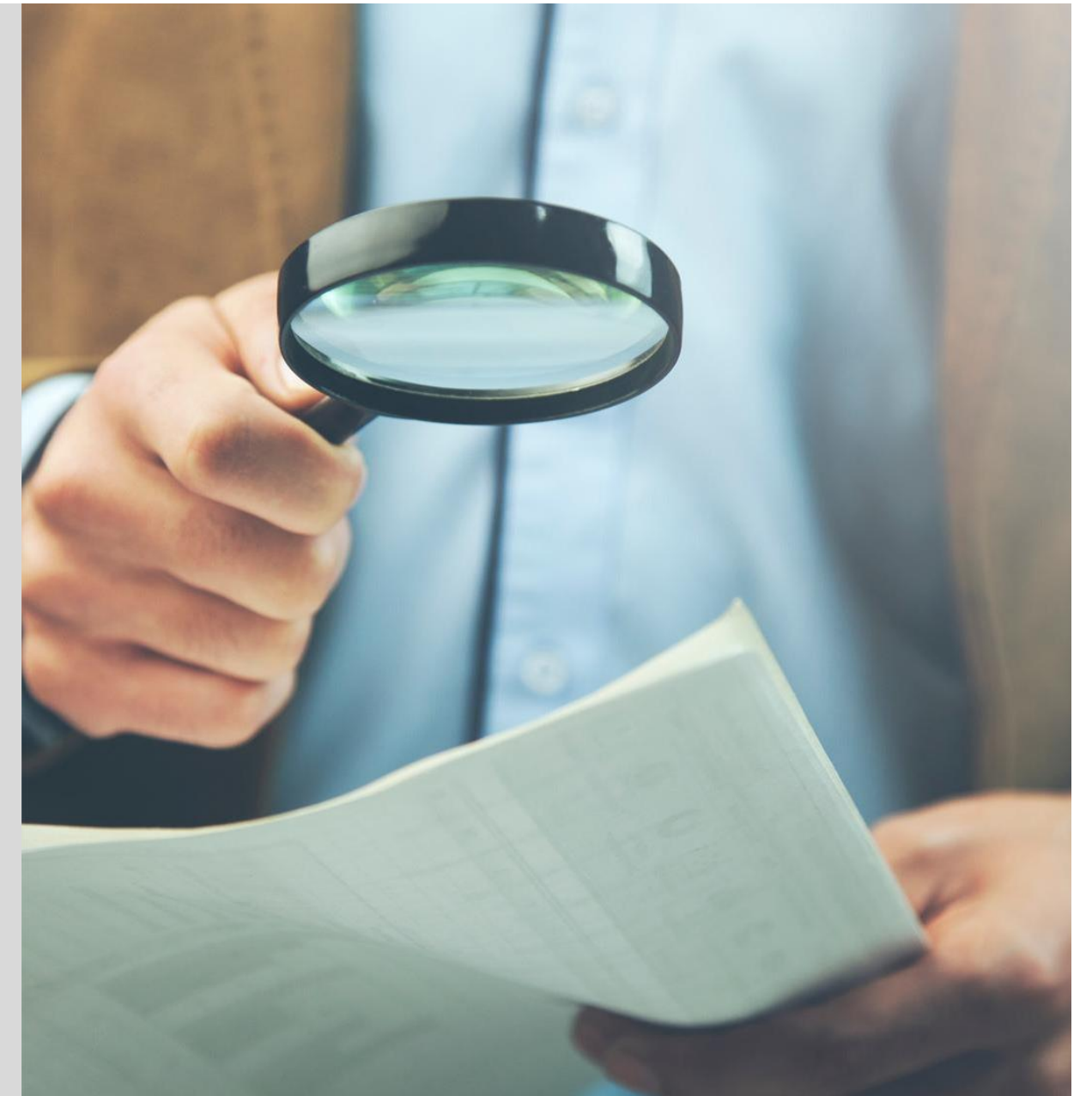
Answer: Reason for Buying, Source of Funds, Intended Use of Property

REVIEWING AND RECORDING THE ID CORRECTLY

Receipt of funds record

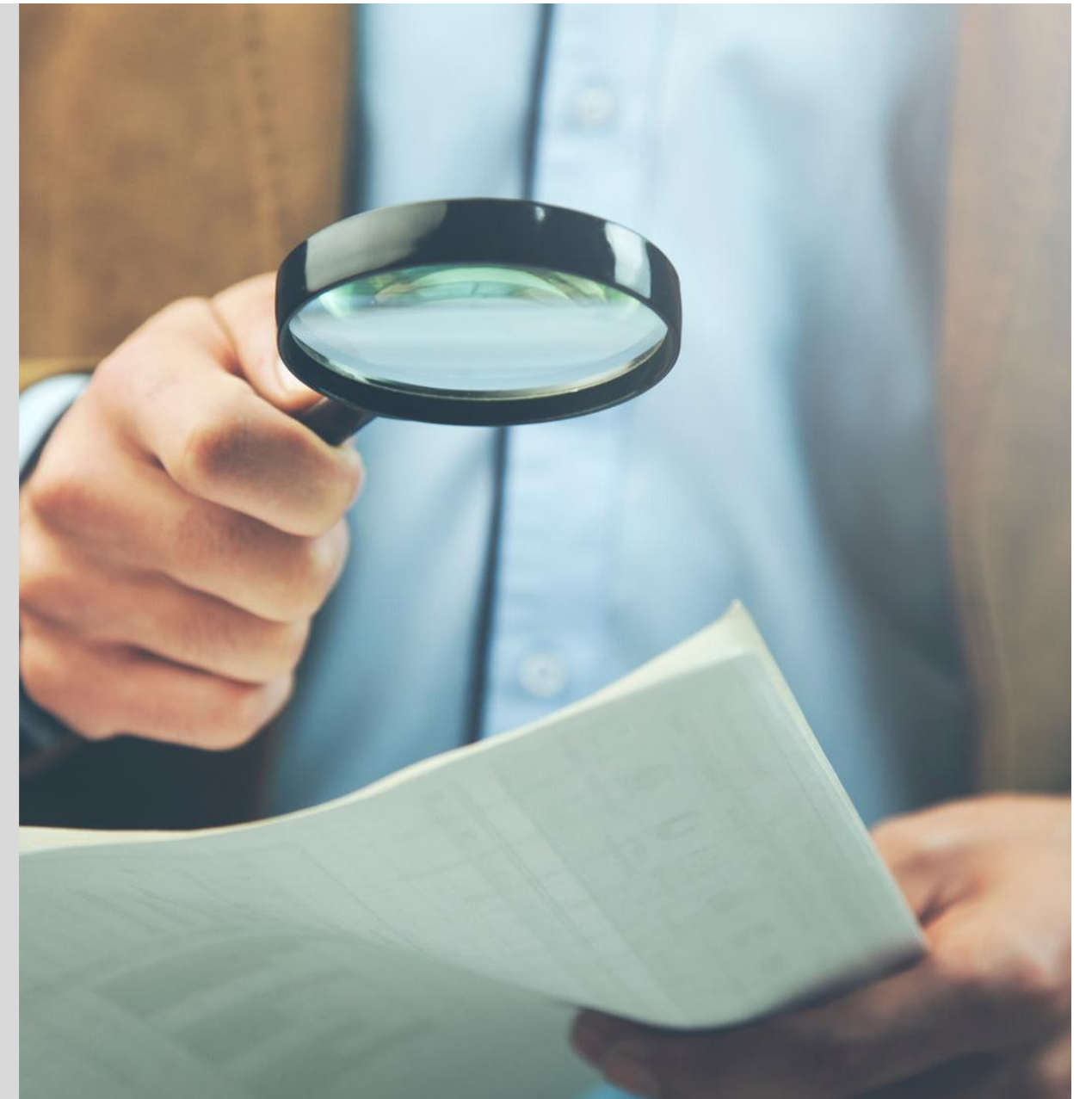
The key questions to ask:

- Where is money coming from, and where is it going to
- Now has an e-transfer section – shows client name
- Can also use a wire transfer
- Bank has done the verification for you
- Ask client for bank receipt
- Ask for details from the listing brokerage
- This is preferable to any bank draft



REVIEWING AND RECORDING THE ID CORRECTLY

- Today a Certified cheque is better than a bank draft
- Not always an option
- If bank draft, you still need account information
- Some banks now showing client name on the bank draft
- If the client refuses, for privacy reasons, then ask client “Did the money come from your account” Write – Client confirms funds came from their account
- Still may have to be reported as Suspicious Transaction
- Look at all circumstances, how long client in community, uses local lawyer.
- Money paid to Listing Brokerage



RECEIPT OF FUNDS RECORD



A. BASIC TRANSACTION INFORMATION

Transaction Property Address:

Sales Representative/Broker Name:

Date:

B. INFORMATION ON FUNDS

Amount of Funds: Currency of Funds:

Date of receipt of funds:

Type of funds received:

Cheque Certified Cheque Cash Bank Draft e-transfer Wire Transfer Other, explain:

Method of receipt:

in person mail electronically (for e-transfer/wire transfer) Other, explain:

Purpose of funds (e.g., deposit for purchase):

For Funds not in CAD:

Exchange rate: Source of exchange rate:

RECEIPT OF FUNDS RECORD



C. INFORMATION ON INDIVIDUAL/ENTITY PROVIDING FUNDS

When a REALTOR® member completes a Receipt of Funds Record, they must also complete an Identification Information Record at the same time on the individual (or entity) from whom you receive the funds. Complete that record and attach it to this record.

D. ACCOUNT-RELATED INFORMATION

D.1. List any reference number(s) of the brokerage that received the Funds that is connected to this purchase/sale transaction and that functions as an account for the Funds: _____

D.2. If an account is affected* by the transaction complete this section for each affected account**:

* Some examples of when an account is affected are when funds are received by cheque, or a money order or bank draft purchased from an account. The account from which the funds are drawn is "affected".

**Add additional information for additional accounts, if necessary

Account 1: Number of account: _____ Name of account holder: _____

Type of account: Chequing Saving Trust Other, explain: _____

Account 2: Number of account: _____ Name of account holder: _____

Type of account: Chequing Saving Trust Other, explain: _____

Account 3: Number of account: _____ Name of account holder: _____

Type of account: Chequing Saving Trust Other, explain: _____

Account 4: Number of account: _____ Name of account holder: _____

Type of account: Chequing Saving Trust Other, explain: _____

Account 5: Number of account: _____ Name of account holder: _____

Type of account: Chequing Saving Trust Other, explain: _____

Enter the Buyers Bank account number, branch number and Institution that is the SOURCE account for their deposit either from a receipt of the transaction or a cheque or bank statement from your Buyer. This step is mandatory.

RECEIPT OF FUNDS RECORD



E. NOTES

TWO AGENTS: Where there are two agents involved in a transaction, the buyer's agent is responsible for completing the receipt of funds record.

LISTING AGENT TRUST ACCOUNT: If funds are deposited into a listing agent's trust account, the buyer's agent is only required to record the fact that the funds were deposited into the listing agent's trust account but is not required to include the number of the trust account or the name or entity that holds the trust account.

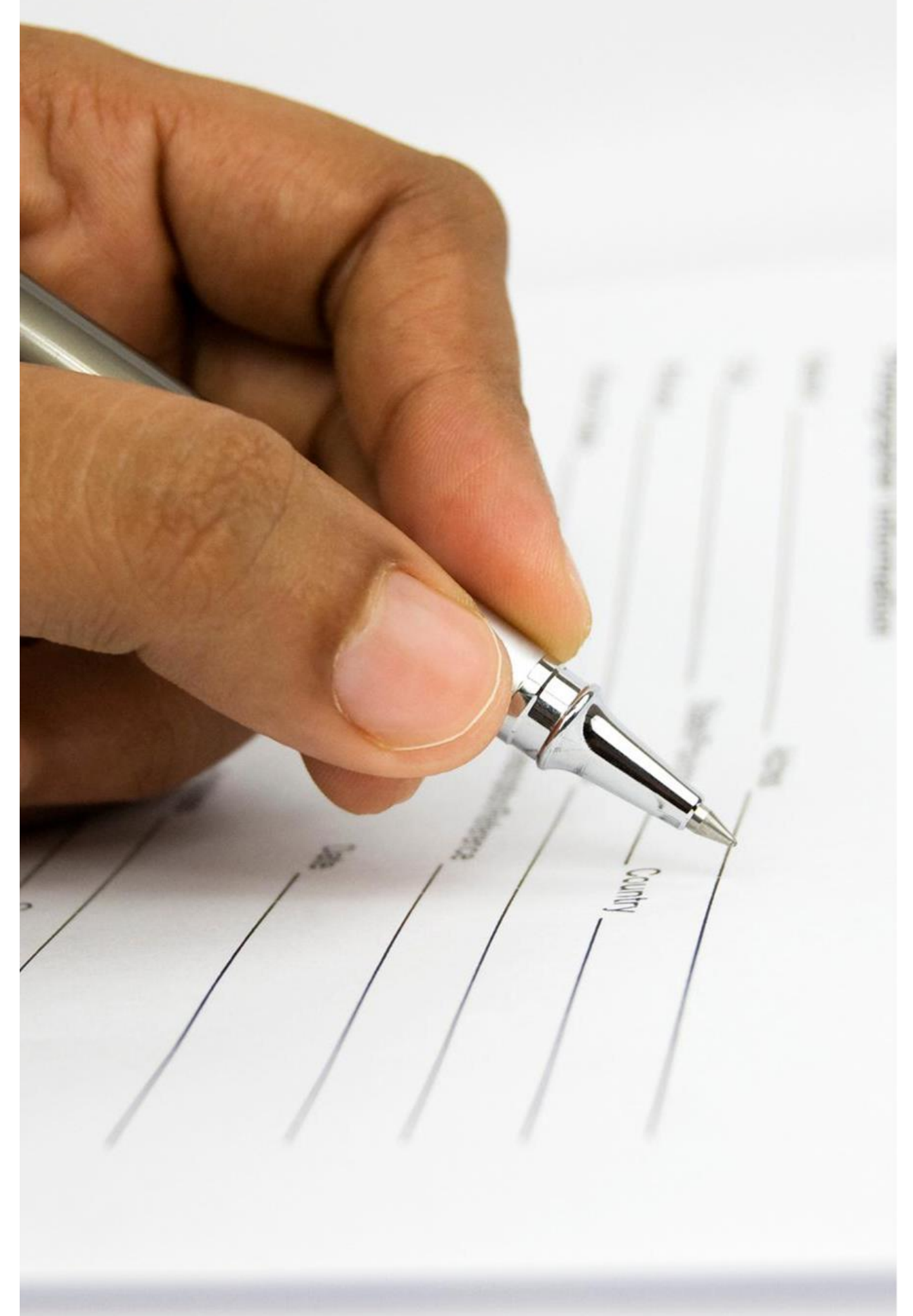
REASONABLE MEASURES: If the buyer agent's client provides funds directly to the listing agent, the buyer agent is only obligated to take reasonable measures (i.e. ask) the listing broker for:

- Any listing brokerage reference numbers.
- Where a client account is affected (e.g. client's chequing account), the account number, the name of the account holder and the type of account.

MULTIPLE ACCOUNTS: Note that if multiple accounts are affected, information on all accounts affected needs to be recorded subject to the caveats noted above with respect to listing agent trust accounts and the reasonable measures.

COMPLETING FORMS CORRECTLY

- Corporation – need proof person can sign for the company.
- Identify the person who is signing for the company
- Usually one of the Directors
- By-law, articles of incorporation, tax reassessment.
- What is the address of the corporation?
- List the names and addresses of any other Director



Corporations

To confirm the existence of a **corporation**, you can refer to a paper record or an electronic record that was obtained from a source that is accessible to the public, such as:

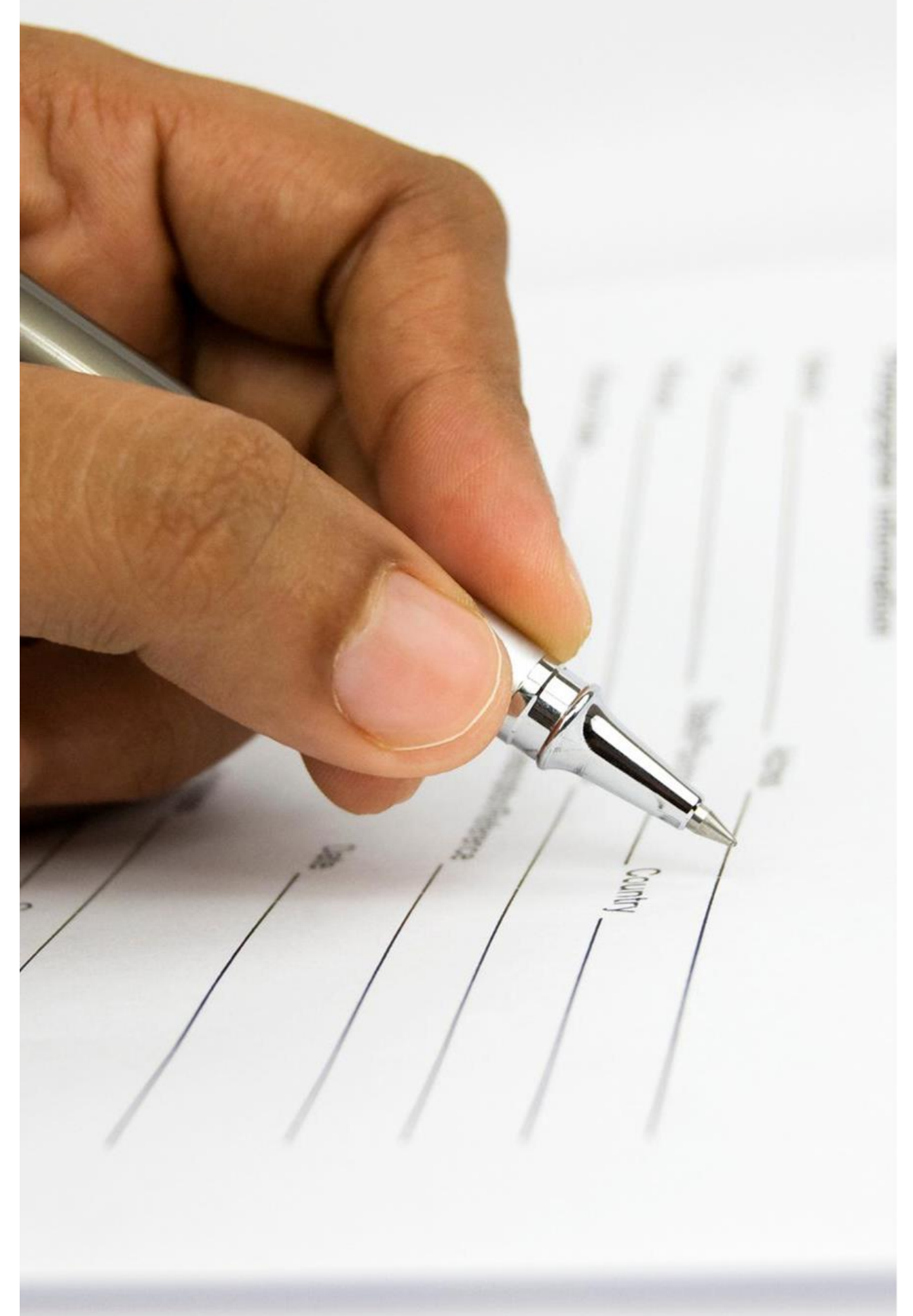
- its certificate of incorporation;
- a certificate of active corporate status;
- a record that has to be filed annually under provincial securities legislation; or
- any other record that confirms the corporation's existence, such as the corporation's published annual report signed by an audit firm, or a letter or notice of assessment for the corporation from a municipal, provincial, territorial or federal government.

You can obtain a corporation's name and address and the names of its directors from a provincial or federal database such as the [Corporations Canada database](#), which is accessible from [Innovation, Science and Economic Development Canada](#). You may also get this type of information if you subscribe to a corporation searching and registration service.

You must verify the corporation's name, address and the names of its directors.

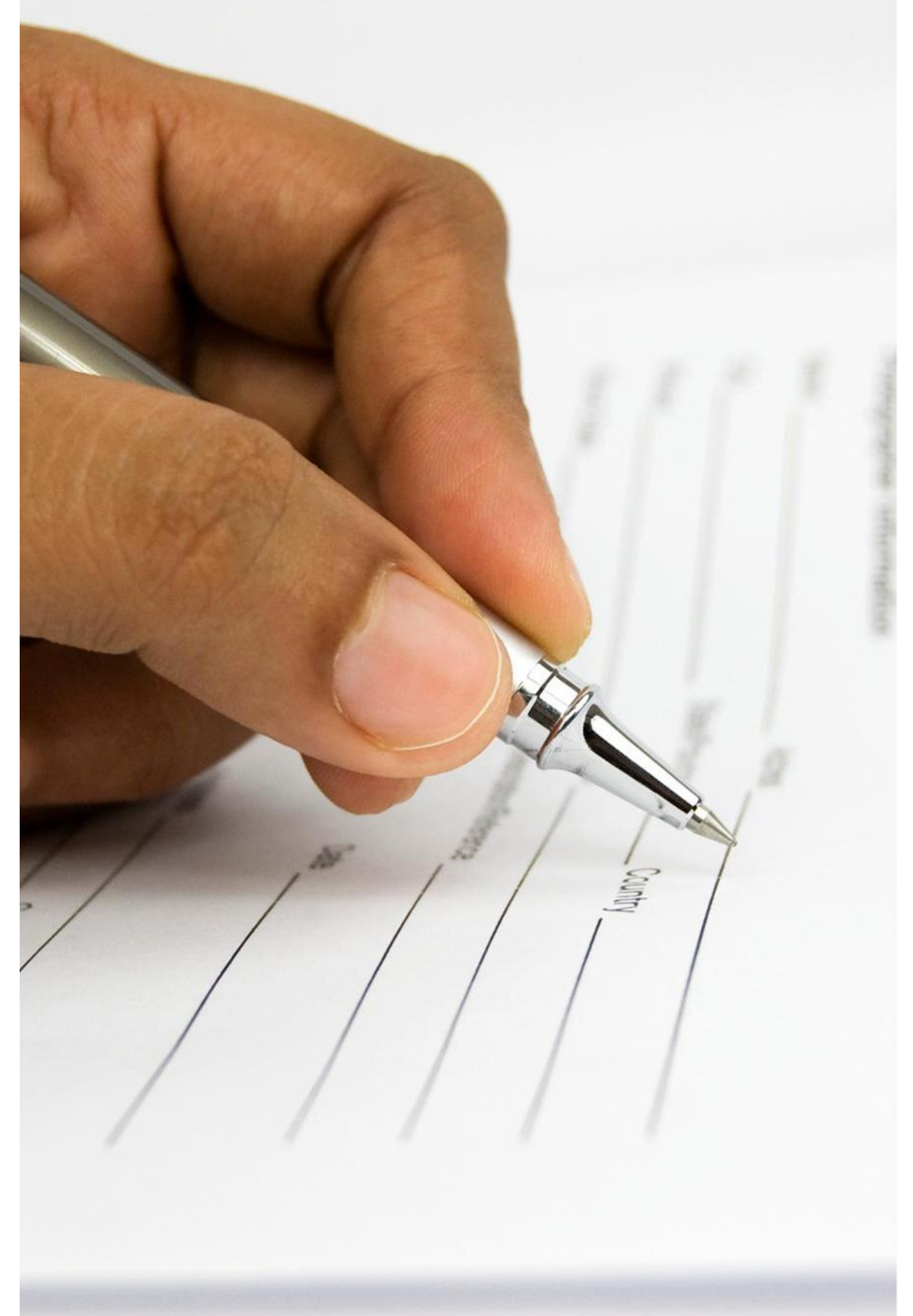
COMPLETING FORMS CORRECTLY

- Ask – Does the Director own all the shares of this company? If the answer is no, ask who are the shareholders who own at least 25% of the shares. Write down the answer. Complete Beneficial Ownership form this way
- Ask for permission to obtain an answer from the company lawyer. If the answer is no or permission is denied, consider speaking to your FINTRAC compliance officer as to whether this is now a suspicious transaction
- Banks are already asking for this now



COMPLETING FORMS CORRECTLY

- Due to Foreign Buyer Ban, need to make sure in 2023 and 2024 that no foreign person owns even 10% of the shares of the Corporation





Corporation/Entity Identification Information Record



Form 631

for use in the Province of Ontario

NOTE: A Corporation/Entity Identification Information Record is required by the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*. This Record must be completed by the REALTOR® member whenever they act in respect to the purchase or sale of real estate.

It is recommended that the Corporation/Entity Identification Information Record be completed:

- (i) for a buyer when the offer is submitted and/or a deposit made, and
- (ii) for a seller when the seller accepts the offer.

Transaction Property Address:

Sales Representative/Broker Name:

Date

A.1. Verification of Corporation

NOTE: Either section A.1 or A.2 must be completed for your corporate/entity clients or unrepresented entities that are not clients, but are parties to the transaction (e.g. unrepresented buyer or seller). Where you are unable to identify an unrepresented entity, complete section A.3 and consider sending a Suspicious Transaction Report to FINTRAC if there are reasonable grounds to suspect that the transaction involves the proceeds of crime, or terrorist activity. Where you are using an agent or mandatary to verify the existence of an entity, see procedure described in CREA's materials on REALTOR Link®.

1. Name of Corporation: !

2. Corporate Address:

A.1. Verification of Corporation

NOTE: Either section A.1 or A.2 must be completed for your corporate/entity clients or unrepresented entities that are not clients, but are parties to the transaction (e.g. unrepresented buyer or seller). Where you are unable to identify an unrepresented entity, complete section A.3 and consider sending a Suspicious Transaction Report to FINTRAC if there are reasonable grounds to suspect that the transaction involves the proceeds of crime, or terrorist activity. Where you are using an agent or mandatary to verify the existence of an entity, see procedure described in CREA's materials on REALTOR Link®.

1. Name of Corporation: CLIENT BUSINESS NAME

2. Corporate Address: 360 KING ST WEST
OSHAWA ON L1J 2J9

3. Nature of Principal Business: CLIENTS BUSINESS (ACCOUNTING, FITNESS GYM, CAR SALES, ETC)

4. Name of Directors: As set out in certificate of corporate status or other record confirming corporation's existence.

NAMES OF THE DIRECTORS

5. Type and Source of Verification Record:

Must confirm existence of the corporation (e.g., certificate of corporate status, published annual report, government notice of assessment). If record is in paper format, a copy must be kept. If record is an electronic version, a record of the corporation's registration number and type and source of record (e.g., Corporations Canada website) must be kept.

READ OVER THIS SECTION, FILL IN AS APPROPRIATE

6. Registration number of corporation:

7. Attach a copy of corporate records showing authority to bind corporation regarding transaction:

(e.g., certificate of incumbency, articles of incorporation, by-laws setting out officers duly authorized to sign on behalf of corporation)

ATTACH A COPY OF THE ARTICLES OF INCORPORATION ETC

5. Type and Source of Verification Record:

Must confirm existence of the corporation (e.g., certificate of corporate status, published annual report, government notice of assessment). If record is in paper format, a copy must be kept. If record is an electronic version, a record of the corporation's registration number and type and source of record (e.g., Corporations Canada website) must be kept.

READ OVER THIS SECTION, FILL IN AS APPROPRIATE.

6. Registration number of corporation:

7. Attach a copy of corporate records showing authority to bind corporation regarding transaction:

(e.g., certificate of incumbency, articles of incorporation, by-laws setting out officers duly authorized to sign on behalf of corporation)

ATTACH A COPY OF THE ARTICLES OF INCORPORATION ETC

A.2. Verification of Other Entity *(if applicable)*

1. Name of other entity: IS THERE ANOTHER COMPANY INVOLVED, ASSISTING THE BUYER?

2. Address:

3. Nature of Principal Business:

4. Type of Verification Record: Must confirm existence of other entity (e.g., partnership agreement, articles of association).

5. Source of Record: Record may be paper or an electronic version. If record is in paper format, a copy must be kept. If record is an electronic version, a record of the entity's registration number and type and source of record must be kept.

6. Registration number:



Corporation/Entity Identification Information Record

Form 631

for use in the Province of Ontario

A.3 Unrepresented Entity Reasonable Measures Record *(if applicable)*

Only complete this section when you are unable to ascertain the existence of an unrepresented entity.

1. Measures taken to Confirm Existence *(check one)*:

- Asked unrepresented entity for information to confirm their existence
- Other, explain: IS THERE SOMEONE INVOLVED THAT IS NOT REPRESENTED?

Date on which above measures taken:

2. Reasons why measures were unsuccessful *(check one)*:

- Unrepresented entity did not provide information
 - Other, explain:
-

B. Verification of Third Parties

NOTE: *Only complete Section B for your clients.* Complete this section of the form to indicate whether a client is acting on behalf of a third party. Either B.1 or B.2 must be completed.

B.1 Third Party Reasonable Measures

Where you cannot determine whether there is a third party, or there is no third party, complete this section.

Is the transaction being conducted on behalf of a third party according to the client? (check one):

- Yes
- No

Measures taken (check one):

Asked if client was acting on behalf of a third party

Other, explain: THIS IS THE STANDARD ANSWER

Date on which above measures taken: DATE

Reason why measures were unsuccessful (check one):

Client did not provide information

Other, explain:

Indicate whether there are any other grounds to suspect a third party (check one):

No

Yes, explain:

Beneficial Ownership Record

- 1. Complete sub-section 1 (as applicable, according to the type of entity).
- 2. Complete sub-section 2 for all entities.
- 3. Complete sub-section 3 if entity is a not-for-profit corporation.
- 4. Confirm accuracy of information in sub-sections 1, 2 and 3 (as a best practice) and document you did this in sub-section 4.
- 5. If you cannot obtain information in sub-sections 1, 2 or confirm its accuracy, complete sub-section 5.

1. Record Keeping - General

Only complete the subsection that applies. Add additional pages if necessary.

A. For corporate entities:

Names of all directors of corporation:

.....

.....

.....

.....

Name and addresses of all persons who own directly or indirectly 25% or more of shares of corporation:

.....

.....

.....

.....

B. For trust entities:

Name and addresses of all trustees, known beneficiaries and settlors of trust:

.....

.....

.....

.....



4. Confirm Accuracy of Information in Sections 1, 2 and (as a best practice) Section 3

Tick applicable boxes to document the measures you took to confirm the accuracy of information in sub-sections 1-3:

Asked entity for information and they provided (check all that apply):

- | | |
|---|--|
| <input type="checkbox"/> Minute book | <input type="checkbox"/> Securities register |
| <input type="checkbox"/> Shareholders register | <input type="checkbox"/> Articles of incorporation |
| <input type="checkbox"/> Annual returns | <input type="checkbox"/> Certificate of corporate status |
| <input type="checkbox"/> Shareholder agreement | <input type="checkbox"/> Partnership agreement |
| <input type="checkbox"/> Board of director's meeting records of decisions | <input type="checkbox"/> Other, explain |
| <input type="checkbox"/> Trust deed | |

- Checked CRA list of charities (if sub-section 3 applies)
- Internet search
- Entity provided signed letter confirming the veracity of the information in Sections 1 and 2
- Other, explain:

(optional) Date(s) above measures taken:

5. Complete this sub-section if you cannot obtain information in sub-sections 1, 2 or confirm its accuracy in sub-section 4.

Tick applicable boxes for each task taken.

- Took reasonable measures to verify the identity of the entity's chief executive officer or the person who performs that function.
- Applied special measures for high-risk-clients.

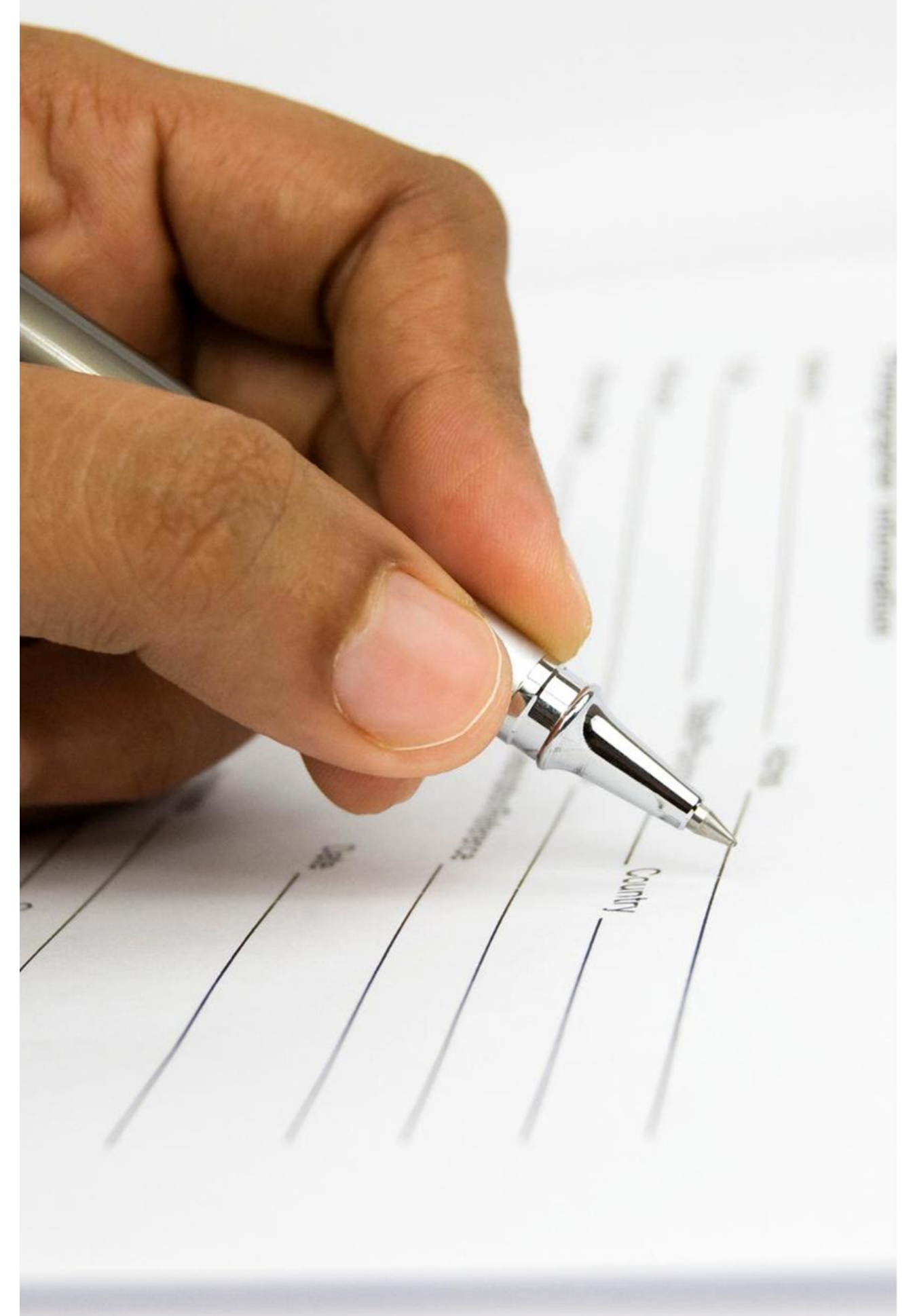
Agents should speak to the Compliance Officer for direction if step 5 is necessary.

COMPLETING FORMS CORRECTLY

Consent

I (**name of individual**), as a duly authorized representative of **[name of corporation]**, hereby authorize **[lawyer]** to release and communicate to **[insert name]** the corporation information set out in the attached Information Form Respecting Corporations/Other Entities for the sole purpose of enabling **[insert name]** to comply with his/her obligations under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* and its associated Regulations.

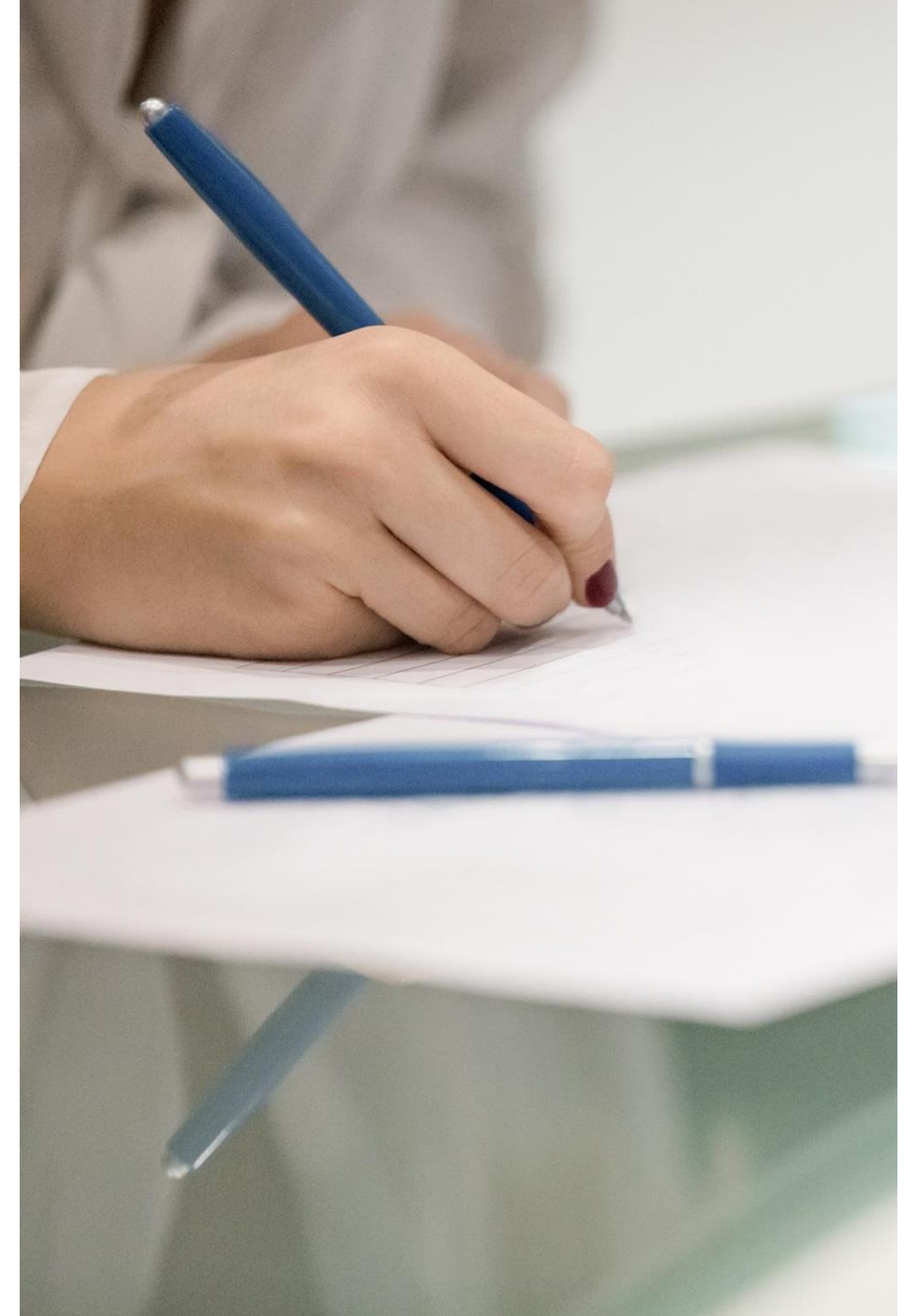
- Name _____ Date _____
- Signature _____



COMPLETING FORMS CORRECTLY

Powers of Attorney

- Be careful before letting anyone sign as Power of Attorney.
- Ask to see the original.
- Personally identify the attorney.
- Show the person giving the POA as a third party.
- Ask if the POA was prepared by a lawyer.
- POA not effective once a person dies



COMPLETING FORMS CORRECTLY

- Estates
- Personally identify the Trustee.
- Show deceased as the third party.
- Get a copy of the will
- Unrepresented parties
- FSBO seller or Self Represented Buyer
- Still need to ask for ID – report to FINTRAC compliance officer if they do not provide



FINTRAC IDENTIFICATION FORM



B.2 Third Party Record

Where there is a third party, complete this section.

- 1. Name of third party: COMPLETE THIS SECTION WHEN THERE IS A THIRD PARTY
- 2. Address: COMMON THIRD PARTIES ARE - POWER OF ATTORNEY DONOR
..... OR 'THE ESTATE OF SOMEONE'
- 3. Date of Birth (if applicable): ****THE DONOR OR SOMEONE GOES IN HERE****
- 4. Nature of Principal Business or Occupation: KEEP A COPY OF THE POWER OF ATTORNEY OR THE CERTIFICATE
- 5. Incorporation number and place of issue (if applicable): OF ESTATE TRUSTEE
- 6. Relationship between third party and client:

FINTRAC IDENTIFICATION FORM



OREA Ontario Real Estate Association
Form 630
for use in the Province of Ontario

Individual Identification Information Record

A.4 Unrepresented Individual Reasonable Measures Record *(if applicable)*

Only complete this section when you are unable to ascertain the identity of an unrepresented individual.

1. Measures taken to Ascertain Identity *(check one)*:

- Asked unrepresented individual for information to ascertain their identity
 - Other, explain: AN UNREPRESENTED INDIVIDUAL MAY BE A 'FOR SALE BY OWNER' THAT YOU ARE BRINGING A BUYER OFFER TO
- Date on which above measures taken: ... COMPLETE THIS SECTION IF NECESSARY - READ THROUGH ...

2. Reasons why measures were unsuccessful *(check one)*:

- Unrepresented individual did not provide information
- Other, explain:

BROKERAGE TRAINING PROGRAM

- Have you read the company's FINTRAC policy?

I have watched the FINTRAC video entitled: Your Role in Fighting Money Laundering and Terrorist Financing at the link below:

<https://www.fintrac-canafe.gc.ca/guidance-directives/overview-apercu/multimedia/1-eng?v=role>

You must complete the training certificate.



FINTRAC TRAINING CERTIFICATE

- I have read the Firm's FINTRAC Policy
- I have watched the FINTRAC video on money laundering
- I have read the FINTRAC link on obligations for real estate salespeople
- I have attended the Brokerage's FINTRAC training program

Name: _____ Date _____ -

RISK ASSESSMENT

- Brokers to complete every 2 years
- Make sure all FINTRAC forms are completed correctly during the review.
- Make sure proper training
- Make sure FINTRAC policies followed



INDEPENDENT AUDIT

- Also done every 2 years
- To review the brokerage FINTRAC regime



INDEPENDENT AUDIT

- Results of Independent Audit - Excellent results
- Occupation of Client completed very well – showing name of company they work for and position
- Section D also completed in full in most cases
- PEP being completed when required
- Beneficial Ownership Forms completed for all corporations
- Receipt of Funds Record does show account information



Who signs Listings

- Start your search by finding the name of the owner on title
- Ask the seller for a copy of the deed or tax bill
- Check MPAC, Geo Warehouse
- Check top left hand corner for owner name



Legal Owner(s)



Ontario

ServiceOntario

PARCEL REGISTER

LAND
REGISTRY
OFFICE #65

S

PROPERTY DESCRIPTION: UNIT 10, LEVEL 1, YORK REGION CONDOMINIUM PLAN NO. 909 AND ITS APPUR
65M3180, PTS 27 TO 49 INC., PL 65R19930; MARKHAM, AS MORE PARTICULAR

PROPERTY REMARKS:

ESTATE/QUALIFIER:

FEE SIMPLE
ABSOLUTE

RECENTLY:

CONDOMINIUM FROM 02936-1488

OWNERS' NAMES

CAPACITY SHARE

ROWN

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTI
	2000/07/29	THE NOTATION OF THE	"BLOCK IMPLEMENTATION DATE" OF 1998/10/14 ON THI	
		WAS REPLACED WITH THE "PIN CREATION DATE" OF 1998/10/21		
		** PRINTOUT INCLUDES ALL DOCUMENT TYPES AND DELETED INSTRUMENTS SINCE: 1998/10/20 **		

Who signs Listings

- Every person on title should sign your listing
- Or else someone may sometimes sign on their behalf
- For a company on title, make sure you have the company signing officer sign your listing
- If the seller cannot sign due to illness, we will discuss what to do if there is a Power of Attorney available
- If the seller has passed away, we will look at how a trustee signs for the seller estate



Who signs Listings

- When there is more than 1 owner on title
- They can hold title as Joint Tenants or as Tenants in Common
- The Main Difference
- The Principle of Survivorship
- If one joint tenant dies, the property automatically goes to the survivor
- If title is held as tenants in common and one dies
- Property goes to the estate of the deceased
- Check top right corner of search under heading Capacity to find if joint tenancy or tenancy in Common



Legal Owner(s)



Ontario

ServiceOntario

LAND
REGISTRY
OFFICE #65

PARCEL REGISTER

S

PROPERTY DESCRIPTION: UNIT 10, LEVEL 1, YORK REGION CONDOMINIUM PLAN NO. 909 AND ITS APPUR
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		** PRINTOUT INCLUDES ALL DOCUMENT TYPES AND DELETED INSTRUMENTS SINCE: 1998/10/20 **		

Who signs Listings

- Example – 2 owners on title
- A and B are joint tenants on title
- A dies
- Only B signs your listing
- Even if MPAC or GEO Warehouse still show both of them on title
- Only the survivor signs your listing
- Title is corrected at closing with a death certificate of the deceased



Who signs Listings

-
- A and B are tenants in common on title
 - A dies
 - B, the survivor and the trustee for A's estate both sign your listing





Thank you

Mark Weisleder

Lawyer, Author, Speaker

Mark@RealEstateLawyers.ca

(416) 702-2499

