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SPECIAL LECTURE

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A Lawyer's Standard of Care to Vulnerable Older Clients: *Recognizing and Preventing Exploitative and Abusive Property Transactions*

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Advocacy Centre for the Elderly

ACE
Advocacy Centre
for the Elderly

- Specialty legal clinic serving low-income seniors since 1984.
- Funded by Legal Aid Ontario under the *Legal Aid Services Act*.
- Legal advice and representation for low-income seniors in the City of Toronto on a wide variety of elder law issues by litigation lawyers and Institutional Advocates.

CONTACT

(416) 598-2656 / (855) 598-2656

INTAKE DAYS: Mondays, Wednesdays, & Fridays from 9:00 AM to 12:00PM and 2:00 PM to 4:00PM

55 University Ave., Suite 1500 Toronto

www.ACELAW.ca

**A Lawyer's Standard of Care to Vulnerable Older Clients:
Recognizing and Preventing Exploitative and Abusive Property Transactions**

Elder Financial Abuse in Property Transactions

POA/Family/Friends



- **Property transfers**
- **Mortgages**
- **Sales**
- **Gifts**

Elder Financial Abuse in Property Transactions

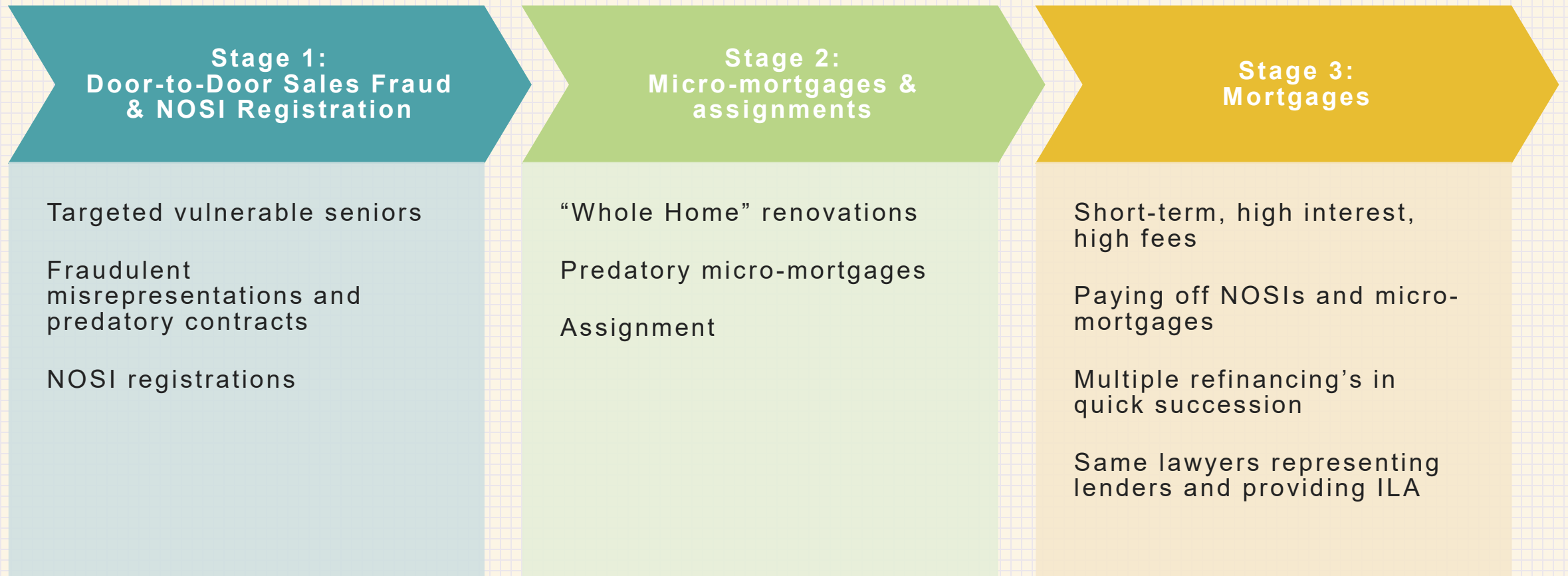
NOSI and Mortgage Fraud Scheme

- **Discovery and pattern recognition**
- **LSO and FSRA complaints**
- **Coordination with police, private practitioners and title insurers**
- **Legislative advocacy**



Elder Financial Abuse in Property Transactions

NOSI and Mortgage Fraud Scheme



Elder Financial Abuse in Property Transactions NOSI and Mortgage Fraud Scheme



Optional stage:

Contract Cancellation Services

- **Unsolicited visits, former HVAC salespersons**
- **Up-front fees**
- **Mortgage arrangement**



Case Overview and Commentary

Law Society of Ontario v. Harrison
2025 ONLSTH 98

G R E G W E E D O N

C E R T I F I E D S P E C I A L I S T I N R E A L E S T A T E
L A W & C I V I L L I T I G A T I O N

F O U N D I N G P A R T N E R , W E E D O N L A W



Why This Decision Matters



- The decision exposed a systemic scheme targeting vulnerable seniors and homeowners.
- Seniors on fixed incomes, often isolated, were drawn into exploitative transactions.
- Lawyers were supposed to be the safeguard.

Tribunal Findings & Danielle Harrison

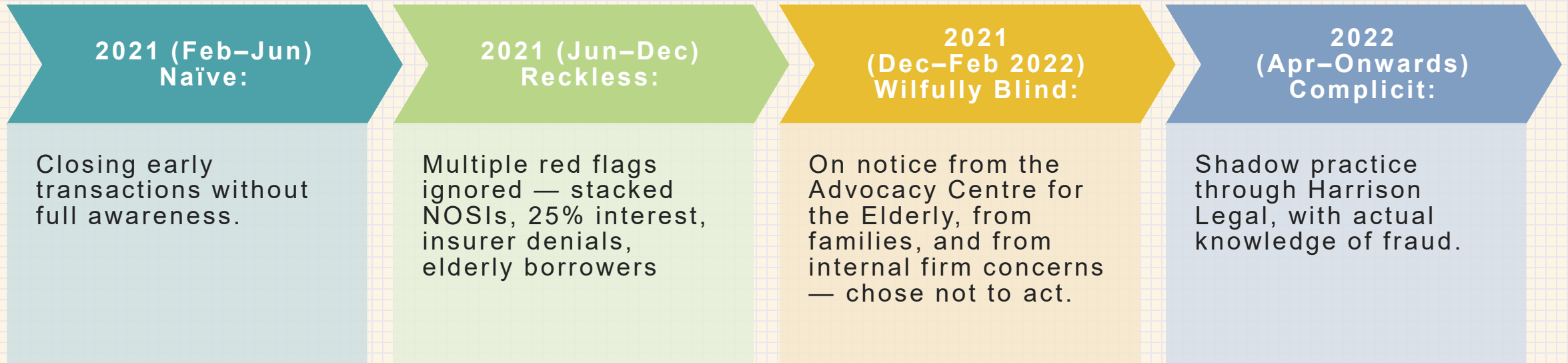
- **Harrison was found to have closed these transactions.**
- **Harrison registered NOSIs for one company (CCC), then acted for seniors on related mortgages (CCI).**
- **When the firm (KMB LLP) instructed Harrison to stop, Harrison continued through a shadow practice. Harrison commissioned statutory declarations that were known to be false.**
- **The Tribunal concluded Harrison moved from naïve, to reckless, to willfully blind, and ultimately complicit in the fraudulent scheme.**

Tribunal Finding One:

Harrison Facilitating Fraudulent Conduct

The Tribunal found that Harrison ignored obvious red flags: **elderly borrowers, stacked NOSIs, extreme loan terms and so on.**

Harrison's Escalating Culpability:



Tribunal Finding Two: Conflicts of Interest

- **The Tribunal determined that Harrison represented Canada's Choice Capital when registering NOSIs.**
- **Harrison later represented borrowers in mortgages that paid out those same NOSIs.**
- **Harrison did not disclose the prior role to the seniors.**
- **The Tribunal concluded this was a textbook conflict that betrayed client trust.**



Canada's Choice Capital & Harrison The Transactions

	CANADAS CHOICE INVESTMENT FILES									
	Property-City	MTG Principal	Interest %	Lender/Broker Fees	APR (Est.)	Funding Date	Term/Payments	Lawyer for CCI	Lawyer for Senior	NOSIs Paid
1	Toronto	\$250,000.00	25%	\$ 30,000.00	35-45%	8-Jun-21	1 Year, Prepaid Int.		Harrison	Several
2	Peterborough	\$200,000.00	25%	\$ 24,000.00	35-45%	9-Jun-21	1 Year, Prepaid Int.		Harrison	Several
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Tribunal Finding Three: False Declarations

- **The Tribunal reviewed declarations about the purpose of each loan.**
- **Harrison had clients swear that funds were not for renovations.**
- **Harrison knew renovations were the true purpose.**
- **The Tribunal found this was not an error but a deliberate breach of honesty.**



Tribunal Finding Four:

Integrity and Shadow Practice

- **The Tribunal found that Harrison opened a secret trust account under Harrison Legal.**
- **Harrison ran transactions off-book while employed at KMB.**
- **Harrison concealed these ledgers from both employer and regulator.**
- **Records were produced only when Harrison was directly confronted.**
- **The Tribunal concluded there was deliberate concealment and a profound integrity failure.**

Integrity at the Core



- The Tribunal emphasized that the common thread was a lack of integrity.
- Harrison prioritized growth and lender loyalty over professional duties.
- Harrison misled both the firm and the regulator.
- The Tribunal stressed this was not mistake or inexperience, but choice, motivated by greed.

The Human Cost

- **The Tribunal acknowledged devastating consequences for clients.**
- **Seniors lost life-long equity and financial security.**
- **Families were blindsided by foreclosure and POS actions.**
- **Lawyers, meant to be the last line of defence, yet enabled the harm.**
- **Harrison now faces not only regulatory findings but also criminal fraud charges.**



Reform and Response

- Parallel to the Tribunal's findings, advocacy efforts responded to the scheme.
- Lawyers, ACE, and a few notable members in law enforcement lobbied ON government.
- The *Homeowner Protection Act* abolished NOSIs retroactively.
- The NOSI was the gateway to the fraud, and closing it cut the scheme off at its knees. However, fraud evolves, and new schemes will continue to target the vulnerable.
- Reform desperately needed in private lending, micro-mortgages, etc.
- The Law Society Tribunal has set a clear precedent: lawyers must act as vigilant gatekeepers for vulnerable clients. When integrity fails, the consequences for clients — and for the profession — are catastrophic.



Next up: The Standard of Care of a Competent Solicitor

THE QUESTION THAT FOLLOWS IS:

WHAT SHOULD A COMPETENT
SOLICITOR HAVE DONE
DIFFERENTLY?

**Joel Kadish will now address the standard of care
and the red flags that must guide us.**

Thank you.



The Standard of Care of the Reasonably Competent Solicitor



Joel Kadish

KADISH LAW PROFESSIONAL CORPORATION

JOEL@KADISHLAW.COM

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Ensuring Representation in accordance with the Rules of Professional Conduct

- What are my best practices?
- Vulnerable Persons – additional steps
- My Role in *Harrison* at the Law Society Tribunal
- See also *Law Society and McLeod (2021)* – a mortgage agent held a *Teraview* license – registered mortgages, assignment of mortgage and discharges.
 - Was charged criminally and lawyers used interchangeably like pawns on a chess board.
 - Real people got hurt.
 - The victim testimony was devastating.

What makes a Person Vulnerable?

- **Age**
- **Language Barriers**
- **Sophistication**
- **Potential for undue influence**
- **Family and other support**
- **Isolation**
- **What is the inherent nature of the transaction?**
- **Exit Strategy? I.e. if you take a loan, how does it get repaid?**
- **Who benefits?**
- **Potential for detriment beyond the norm, loss of housing and even life savings**



Red Flags

- **How this phrase has become synonymous with Real Estate Fraud and the duty of care**
- **What do I actually do in practice?**
- **LawPRO generic checklist**
 - Look at the details and work that goes into giving this service
 - Do NOT take your ILA/ILR work lightly
 - Can be found here: <https://www.practicepro.ca/wp-content/uploads/2024/11/Generic-ILA-FINAL-checklist-2024.pdf>
- **Withdraw**

Independent Legal Advice Checklist Generic

PracticePRO

Review

- ☐ I reviewed the requirements for limited scope retainers
- ☐ I have conducted a conflict check

Record the following information:

- Date, start time and finish time:
- Client's name:
- Client's address:
- Telephone:
- Client ID checked:
- Referred by:
- Other parties to the agreement, transaction or course of action:
- Background facts and circumstances and why independent legal advice is necessary:
- List the documents reviewed:
- List everyone present at the meeting:

If language or understanding the client is an issue:

- Client's spoken languages: Written languages:
- The client has limited facility with English, so I obtained an interpreter whose name was:

Part A - The Client

- ☐ I reviewed the current state of the client's relevant personal/health/family/business circumstances.
- ☐ I reviewed the background facts and circumstances for the subject agreement, transaction or course of action.
- ☐ The client said that the reason for his or her consent to this agreement, transaction or course of action was [•].
- ☐ I satisfied myself that the client was not subject to duress or undue influence and that the client was signing relevant documents or proceeding with the planned course of action freely and voluntarily.
- ☐ I accepted payment from the client only, and not from anyone adverse in interest to the client.

This document may be adapted for use by lawyers and paralegals for their legal practices. It is available at <https://www.practicepro.ca/practice-aids/checklists/>. © 2024 Lawyers' Professional Indemnity Company

Part B - If the independent legal advice relates to a contract or agreement

- ☐ I obtained relevant disclosure (personal, financial, other) from both my client and the other side.
- ☐ I determined that documents were sufficiently well-drafted to accomplish my client's objectives.
- ☐ I ensured that the terms of the agreement were both certain and enforceable.
- ☐ I explained the final nature of the agreement.
- ☐ I reviewed the risks and consequences of the agreement.
- ☐ I carefully explained all the clauses of the agreement and the client indicated that he or she understood same.

Part C - When client signs or proceeds contrary to advice

- ☐ I advised the client against signing the documents or pursuing the intended course of action, but the client wished to proceed contrary to my advice, so I explained my advice in the presence of a witness, whose name was [•].
- ☐ The client signed an acknowledgement, in the presence of this witness, that he or she was signing the documents or proceeding against my advice.

Part D - File management

- ☐ I opened a file.
- ☐ I placed this form, a copy of the document and my notes in the general independent legal advice file.
- ☐ I took notes of my meeting(s) with the client and retained these.
- ☐ I docketed the time spent advising the client.
- ☐ I provided the client with a written certificate that the client has received ILA and obtained the client's signature on a copy of the certificate.
- ☐ If applicable, I have sent the signed copy of ILA certificate to the lawyer who represents the client or who has requested independent legal advice.
- ☐ I sent a reporting letter outlining the terms of the agreement or obligation assumed, together with my account. My advice was verbal only and I sent no reporting letter.

Source of document: Adapted from an ILA Checklist prepared by Philip Epstein, a specialist in family law practicing in Ontario, for the Lawyers' Professional Indemnity Company. Updated by LAWPRO.

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Safeguards & Ways to stay safe

- **Law Society Special Lectures 2002**
 - First lectures on Real Estate Fraud
- **Fraud is ever evolving – it is a living tree**
 - new techniques and ways to scam
- **Please phone a friend**
- **Phone practice advisory at the Law Society of Ontario**
 - 416-947-3315 or 1-800-668-7380



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ACE Special Lecture: A Lawyer's Standard of Care to Vulnerable Older Clients



Investigative Perspectives and Enforcement
Considerations (LSO v. Harrison)

Ken Doering, CPA, CMA, DIFA
Manager, Investigation Services
Law Society of Ontario
September 25, 2025



Law Society
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Overview



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Opening



Case Overview

The panel focuses on real estate fraud and professional misconduct in the Law Society of Ontario v. Danielle Shannon Harrison case.

Systemic Vulnerabilities

This case exposes weaknesses in mortgage and Notice of Security Interest practices susceptible to exploitation.

Role of Lawyers

Lawyers have a critical responsibility to uphold ethics and protect the public within legal and real estate practices.

Discussion Objectives

Review timeline, culpability levels, red flags, and enforcement to guide practitioners and regulators.

Steps Taken by the Law Society



- ❖ April 2022 – first matter referred to Investigation Services
- ❖ May 2023 – licence suspended on an interlocutory basis
- ❖ Nov 2023 – licensee appealed suspension – allowed
- ❖ February 2024 – licence suspended on an interlocutory basis
- ❖ July 2025 – Tribunal finding of professional misconduct
- ❖ TBD – penalty and costs

Notices to the Professions

August 16, 2023 – Notice to the Professions: Exploitive loan agreements

[Notice to the Professions: Exploitive loan agreements | Law Society of Ontario](#)

June 13, 2024 – Notice to the Professions: The Homeowner Protection Act, 2024

[Notice to the Professions: The Homeowner Protection Act, 2024 | Law Society of Ontario](#)

Practice Supports and Resources: Exploitive loan agreements

[Exploitive loan agreements - Lawyer | Law Society of Ontario](#)



Case Timeline and Key Dates



Law Society
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Key Dates & Timeline

Initial Engagement

Harrison was retained in February 2021 to register NOSIs and began involvement with mortgage business by May 2021.

Emergence of Issues

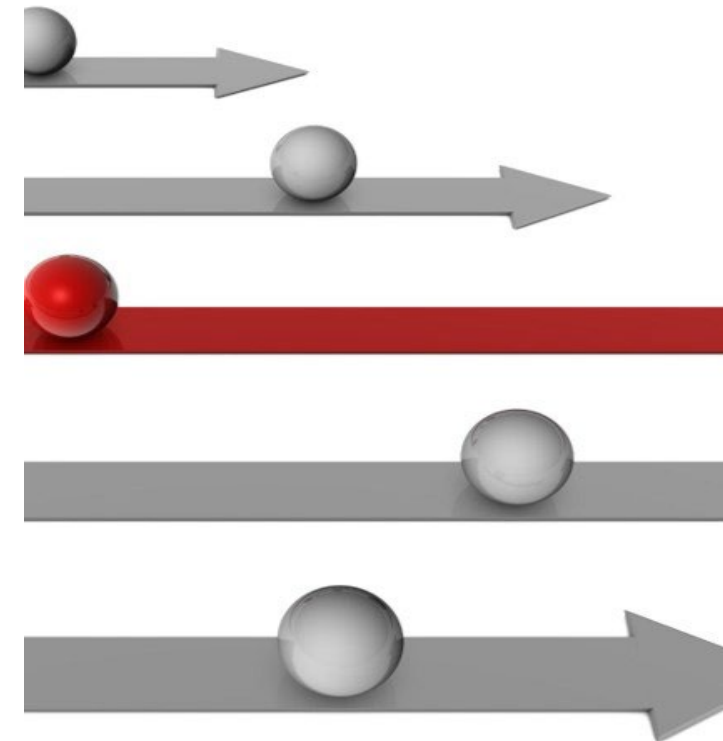
First mortgage closings in June 2021 raised red flags, followed by a formal complaint to ACE in December 2021.

Regulatory Actions

Police involvement and instructions to cease occurred in early 2022; shadow practice began despite warnings.

Final Disciplinary Measures

License suspension in May 2023 and Tribunal findings in July 2025 marked the culmination of the case.



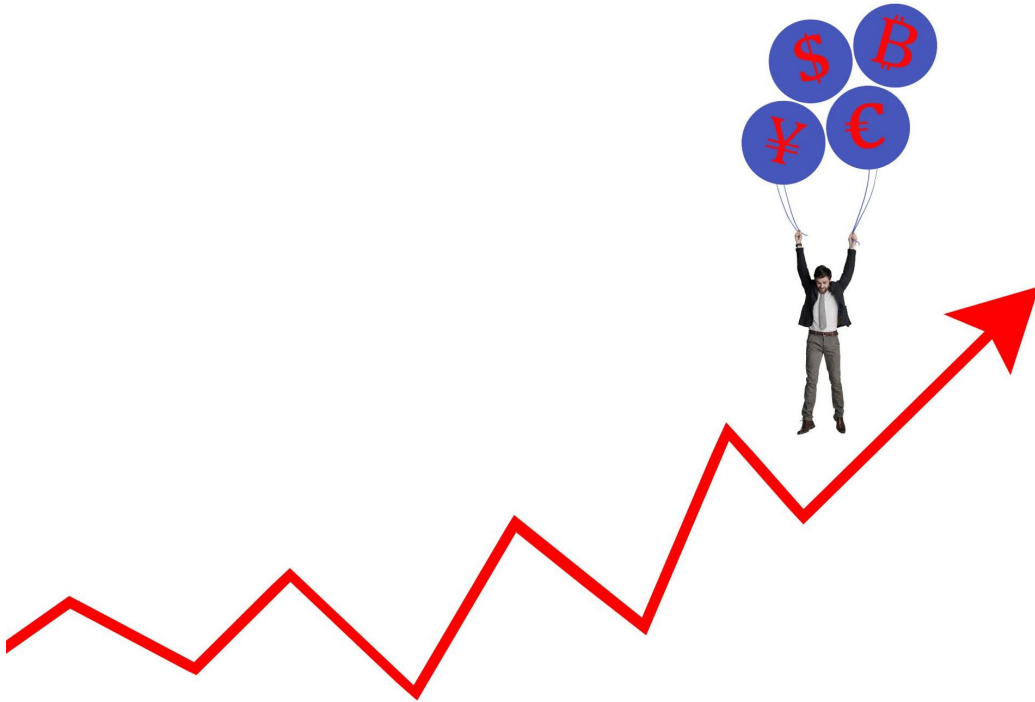
Culpability and Fraud Awareness



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Levels of Fraud & Culpability



Negligence Phase

Between June and December 2021, negligence is shown by failure to acknowledge misconduct despite signs.

Recklessness Phase

From December 2021 to February 2022, reckless disregard led to ignoring clear warnings and complaints.

Willful Blindness Phase

February to April 2022 involved willful blindness, suspecting fraud but deliberately avoiding confirmation.

Actual Knowledge Phase

Between April 2022 and March 2023, active participation occurred with actual knowledge of fraud.

Indicators of Misconduct



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Red Flags Identified



Vulnerable Borrowers

Elderly borrowers with low fixed incomes and cognitive impairments were targeted in risky mortgage deals.

High Costs and Fees

Mortgages carried high-interest rates up to 25% and excessive broker fees of 5–7%, increasing borrower burden.

Legal and Ethical Issues

Conflicts of interest, false declarations, and title insurance refusals indicated predatory lending and malpractice.

Questionable Closing Practices

Presence of salespeople at closings and discrepancies in discharge amounts raised transparency concerns.

Investigative Insights



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Investigative Perspective



Pattern Recognition

Repeated problematic transactions were identified through pattern recognition across multiple cases.

Document Inconsistencies

Missing lender signatures and inflated discharge amounts raised suspicion during the investigation.

Client Vulnerabilities

Signs of client incapacity and third-party influence indicated exploitation within the scheme.

Concealment and Non-Cooperation

Undisclosed relationships and withholding trust ledgers obstructed the regulatory investigation process.

Regulatory Response



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Enforcement Considerations

Public Protection and Suspension

Interim suspension was necessary to prevent further harm and protect public interest during enforcement.

Deterrence and Disciplinary Response

Robust disciplinary measures reinforce professional standards and deter misconduct in legal practice.

Regulatory Oversight and Risks

Systemic risks in NOSIs and private mortgages highlight the need for tighter regulatory controls.

Transparency and Firm Accountability

Lack of supervision and failure to disclose trust ledgers undermine integrity and necessitate cooperation with regulators.



Conclusion



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Closing Remarks

Importance of Vigilance

- Maintaining vigilance helps detect and prevent fraud schemes in real estate and legal practices.

Upholding Ethical Standards

- Legal practitioners must uphold integrity to maintain public trust and professional responsibility.

Need for Strong Oversight

- Robust regulatory oversight is essential to prevent professional misconduct and protect vulnerable clients.

“The Scheme” – abundance of evidence that the borrowers (elders) were put at risk of losing their homes starting with the loans registered as NOSIs and then converting the debt into high interest mortgages that the borrowers had no hope of discharging.



Thank you

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