

HASKINS SETTLEMENTS AND CONVEYANCING SERVICES
UNLICENSED PERSONS UNDERTAKING SETTLEMENTS
CHECK THEIR QUALIFICATIONS

Conveyancers have an obligation to report to the Settlement Agents' Supervisory Board ("SASB") any instances of unlicensed persons completing settlements on behalf of others. This is for the benefit of the professionalism of the industry, and in the interests of consumer protection. The Act protects the public by ensuring that only those who are qualified can hold a licence and undertake settlements of real estate and business transactions.

Unlicensed individuals may undertake the settlement of a real estate or business transaction on their own behalf, but they are unable to undertake settlement for other parties, even if no fee is charged.

If as a Real Estate Agent you are provided with the name of the person representing the Buyer or Seller and it is not readily identifiable that they are a settlement agent/conveyancer or solicitor you should contact them immediately by telephone and ask them what qualifications they hold.

If they are not a licensed settlement agent with a current triennial or a lawyer with a current practise certificate you should inform them they are unable to attend or assist in the settlement and the buyer/seller should appoint a suitably qualified person to act on their behalf.

In most situations people are unaware that they are unable to act or assist their friends and family even if they are not charging a fee and do not react negatively when this is pointed out to them. If the buyer/seller then nominates a suitably qualified person then no further action is required.

In the majority of cases, SASB issues warnings to these unlicensed individuals and brings to their attention the requirements of the Settlement Agents Act. They are also informed that if they continue in their unlicensed activity, they may be subject to a fine of up to \$20,000.

Unqualified and unlicensed persons cause a number of problems in the settlement process due to their lack of industry knowledge and educational qualifications.

Unlicensed persons do not carry professional indemnity insurance nor are they covered by the Fidelity Guarantee Fund and as such consumers who use the services of an unlicensed person are at risk in that they have no protection from errors or oversights made by the unlicensed person.

Valerie Haskins
10th February 2009

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