Money Magazine, 1 September 2014

PROPERTY MARKETERS

Unethical property spruikers are serious wealth hazards

STORY ANDREW CROSSLEY

Spot the sharks

AUSTRALIA'S FINANCIAL planning and mortgage broking industries have become more tightly regulated over the past 10 to 15 years. The property industry, unfortunately, has not become more regulated. So it is vital that consumers be vigilant and do their due diligence on any firm operating in this industry.

Everyone should avoid spruikers but it can be difficult to spot wolves masquerading as people. The property industry is basically the last area of business where unethical practice in the financial and investment services sector is allowed to thrive.

The government and industry bodies have so far failed in their mediocre attempts to introduce regulation. In fact, this is being kind, as there seems to be little evidence that any effort at all has been expended towards better rules, although most ethical operators adhere to their own. The only small success has been with property held in a self-managed super fund (SMSF), where strict rules apply.

A big problem with the property industry at the moment is that there is no barrier to entry, let alone one that is adequate, covering

Those in the industry who are not eligible for property indemnity insurance **should not and must not provide property advice**

such things as such as suitability to practise, educational qualifications, a code of conduct and minimum training. Any unethical business can market property. There really needs to be an educational standard and a regulator to monitor practices.

There are many examples of people being sold a property with huge undisclosed commissions, or one not suitable for the client's risk appetite, profile or goals. Unfortunately, these practices have become entrenched in the industry.

Droves of investors are failing to accumulate wealth, partly through their own fear and, significantly, due to not knowing who to trust. They may rely on the wrong firm, only to end up losing a great deal of money, or simply becoming dissatisfied with the experience, and not invest in property again. These poor practices lead to disenchantment and loss of confidence.

There are several challenges and hurdles in regulating investment property. The simplest to overcome is dealing with the lack of integrity and poor character of many of these salespeople and marketing companies.

Established properties are typically not being sold by the spruikers this article refers to; they are sold by real estate agents. They are salespeople, yes, and many are professionals. So to taint them with the derogatory term, spruiker, is not accurate unless these same agents are selling brand-new properties and receiving higher than the average 2.2% commission.

The use of spruikers is solely reserved for marketing companies and individuals who sell some new property. Whether units, townhouses, houses, by way of off- the-plan or house-and-land contracts, it is all the same.

Often marketing material contains photographs of pretty parks and playgrounds in the area and a few descriptions of proposed infrastructure and expected population growth. Rarely does it mention the supply of new stock in the area and its impact on values. The reports use emotive elements and warm, cozy pictures. What they lack is real substance and a true comparison with other properties on the estate.

A few points are "must knows" in order to differentiate the spruikers from ethical and standards-compliant professionals. "Standards compliant" refers to codes of conduct and ethical models taught and promoted by the Property Investment Association of Australia (PIAA) and Property Investment Professionals of Australia (PIPA), both of which are lobbying the government for positive change and industry regulation.

There is no regulation requiring an individual or company to disclose the commission they are deriving from selling a property, nor is there a requirement for transparency as to any conflict of interest or vested interest the parties have in the transaction.

There is no independent recognition of the experience or qualifications of a firm operating in the industry, or whether any information provided is soundly based and prudent.

Many spruikers masquerade as advisers but are, in fact, uneducated salespeople lacking in both life and industry experience. A sure sign of a spruiker is if they get paid directly by the vendor, developer or builder and promote particular projects.

Vested interests in a specific project means there is vertical integration of finance and conveyancing, with kickbacks along the way. One firm in the marketplace charges $10,000 to accept a client, professing to help people invest successfully only then to sell them a piece of land it owns, enabling it to make another $30,000 to $50,000 on the transaction. Charging at both ends is highly unethical.

As for undisclosed commissions, one firm stated publicly that this was its business model and what it earned was nobody else's business.

This is the epitome of the attitude of most operators in the property market. Beware your broker or financial planner recommending you to a property marketing company with stock to sell. It will almost definitely be receiving a kickback, normally 2% to 3%.

It will not reveal this, usually, as the firm considers the commission falls outside the fees as defined by the regulations of the industry in which it is licensed to operate and therefore it doesn't need to disclose it. It is also remiss of an adviser to point you to a firm that sells property, rather than an independent firm that represents the buyer, not the seller.

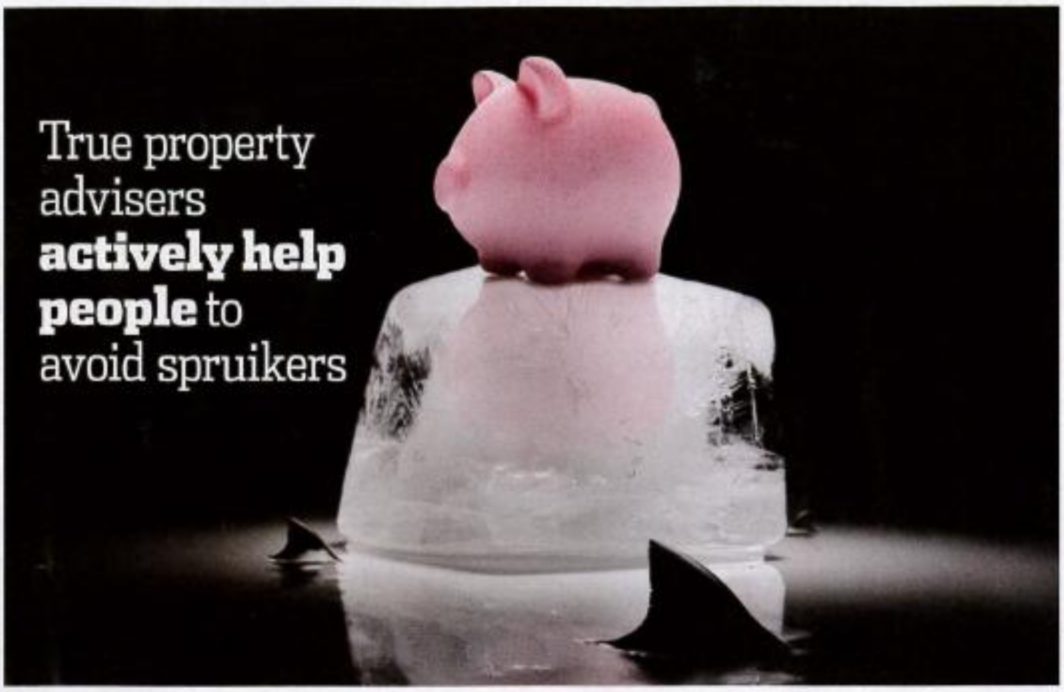
A more recent phenomenon is organisations that present seminars and market themselves as being "ethical" and "educators". Often these educators have properties they promote to their overtrusting audiences. Such organisations are often fronts for undisclosed property interests that use certain tactics to convert leads to sales.

Most people in the property industry have not become appropriately qualified to act as property advisers, either through PIAA or PIPA. Many operators do not want to undertake the educational requirement to be insured, as they have become used to making huge commissions by having relationships with the developer-vendors and not disclosing their vested interests – interests that motivate them to promote one type of property over another

The fact that a firm involved in advice is eligible for professional indemnity insurance sets them apart from everyone else.

Those in the industry who are not eligible for property indemnity insurance should not and must not provide property advice.

This is the most obvious difference between



someone you may be able to trust and a marketing company or spruiker. Anyone who represents the seller will not have this insurance. They will probably have insurance to sell property, not provide advice.

True property advocates and property advisers actively help people to avoid spruikers. They are independent of developers, marketing companies and property providers.

The property is sourced after first ascertaining the individual's needs and it is not sourced from a small number of projects limited to one state or one type of strategy.

Advisers provide the best opportunity for investors to benefit from sound research, objectivity and avoidance of hearsay and vested interests. Advice is tailored to a risk profile that matches the client by comprehensively evaluating the property, the investment strategy, market conditions and climate.

Considerable due diligence, combined with property choices that have been researched and sourced, is provided, facilitating the ability for investors to make informed decisions based on good-quality information.

Investors' goals, their lifestyle and their finances are taken into account to locate suitable properties for their circumstances. Recommendations ignore emotion and the selling techniques that the spruikers and most marketing companies practise.

The main point to recognise here is this all culminates in reducing the urgency to purchase a particular property and is therefore a more professional process. There's no reliance on glossy brochures with pretty pictures of all the wonderful inclusions like stone benchtops, plush carpets and shiny tiles. Most investors simply want to know the property has good potential to grow in value, will attract a good tenant and will be affordable.

This ethical model eliminates service-level agreements with developers, which are currently used by many marketing companies. This helps you avoid situations where one might be given inflated performance projections and experience pressure sales techniques that are designed to manipulate.

Strict code of ethics

All this makes for a regulation-ready adviser and addresses the concerns expressed by the government, such as barriers to entry, consumer protection and the big one – fitness of individuals practising in the industry.

The buyer is being independently represented, with no direct relationship with the vendor, no property lined up to sell. Property choices are guided by the client's situation, goals, risk appetite and finance. All fees and any interests are disclosed and the adviser works to a strict code of ethics.

Advisers with professional indemnity insurance are the only ones an investor should deal with (financial planners generally do not have this for specific property advice).

With regulation, the property industry will become more professional and it should become clear who the property firm represents. With barriers to entry, higher standards, disclosure of commissions and vested interests, and transparency about the property choices being offered, consumers will have better protection.

This is available now – the public just needs to know where to find it. The Australian Securities and Investments Commission (ASIC) currently does not have the authority to regulate real property.

Property is not currently considered a financial product for the purposes of regulation. While it is, of course, a financial product, it is not considered a product under the umbrella of the financial planning industry and existing regulation in this industry. SMSFs are different – and maybe this is the start of better things to come. **M**

Andrew Crossley is a property investment adviser and property advocate, founder of the Australian Property Advisory Group, specialising in representing the buyer, not the seller. He wrote top-selling Property Investing Made Simple *(Busybird Publishing, $24.95). Visit www.australianpropertyadvisorygroup.com.au or contact andrew@austpag.com.au.*