

This document is a memory-aid designed for those who have decided to leave the real estate brokerage profession. The steps described in this document deal with the three following situations:

- A. Termination of activities of a broker acting for an agency;
- B. Official closing of an agency;
- C. Termination of activities of a broker acting for his own account.

A. TERMINATION OF ACTIVITIES OF A BROKER ACTING FOR AN AGENCY

If you are a broker acting for an agency, you will find below the steps that apply to your situation. Obviously, everything should be done ideally in a harmonious atmosphere and in constant interaction with the agency's executive officer who should be able to properly direct you until your departure.

Inform the executive officer of your decision to leave the profession as soon as possible.

It is strongly advised to wait, as far as possible, until the terms of the transactions underway are fulfilled before leaving the profession. This avoids any possible problems related to the person taking over from you to complete the fulfillment of conditions.

BROKERAGE CONTRACTS

- Inform clients of your decision to leave the profession and of the fact that they will receive a notice to this effect. This step is also applied to all cases of co-listing.
- Identify the brokerage contracts in effect. This includes all cases of co-listing and the brokerage contracts which have not yet been notarized although the immovables are sold and of which the expiration date occurs after the termination of your activities. (In this last case, we must take into account the possibility that a transaction will not be notarized and that the brokerage contract will be still in force.)
- Send a written notice (agency or broker) to clients informing them of the date you intend to cease your activities and offering them the choice to:
 1. Continue to do business with the agency; or
 2. Terminate the brokerage contract.

This notice should also indicate that in the absence of a response from the client, the contract will remain with the agency and another broker will be assigned to it.

TRANSACTIONS

- Identify the accepted transactions that are not notarized and of which the conditions have been fulfilled.
- Identify the accepted transactions of which the conditions have not yet been fulfilled.
- Inform the transactions' parties (whether the conditions are fulfilled or not) and collaborating brokers of the date you intend to cease your activities. If the agency's executive officer has already appointed a replacement, inform the parties of it as well.
- Identify the leasing transactions that could be a subject to a lease renewal.
- Identify the files that were subject to a referral to another agency, to a broker acting on his own account or to a mortgage lender for which you have not been remunerated.

REMUNERATIONS

PRINCIPLE: THE AGENCY HAS THE RIGHT TO PAY THE REMUNERATION TO THE BROKER WHO WAS AUTHORIZED TO ACT FOR IT FOR THE PROFESSIONAL ACTS MADE WHEN HE WAS A LICENCE HOLDER.

This principle applies to the following professional acts and your remuneration can be paid to you only by the agency that you represent at the time these acts were carried out:

- The transactions of which the conditions have been fulfilled and signed at the notary and registered in the Land Register.
- The files that were subject to a referral.

Moreover, an executive officer is allowed to agree to pay a broker for the following brokerage acts, when the broker was authorized to act for him:

- Brokerage contracts in effect when the activities were ceased;
- Transactions of which the conditions have not yet been fulfilled;
- Leasing transactions (lease renewal).

OTHER INFORMATION

- Make sure you have submitted to the agency's executive officer all necessary documents to maintain files and registers.
- Make sure, if you are a member of a real estate board, to abide by the regulations of this real estate board.
- Take an agreement with the agency's executive officer about the payment methods of all amounts of money that the agency owes you, and those that you owe the agency.
- Notify in writing the OACIQ Certification Department, and the Fonds d'assurance responsabilité professionnelle du courtage immobilier du Québec (FARCIQ) as well as any other professional liability insurance company, of the date you intend to cease your activities.

PRESERVATION OF FILES

- The broker acting for an agency is not required to keep the files for the professional acts he made as this responsibility is delegated to the agency. However, if the broker decides to keep a copy of them, he must do it in a way that ensures the security and confidentiality of all information contained therein. When the broker decides to destroy them, he must do it in a safe way (e.g.: shredding).

B. OFFICIAL CLOSURE OF AN AGENCY

If you are the executive officer of an agency ceasing its activities, you will find below the steps that apply to your situation. Obviously, everything must be done ideally in a harmonious climate and in constant interaction with, among others, the brokers acting for the agency.

Once your decision to cease the activities of the agency is taken, invite, as soon as possible, all brokers acting for the agency and inform them of the decision.

Following the announcement of the agency's termination of activities, some brokers will decide:

1. To continue acting for another agency or act on their own account if they are qualified to do so; or
2. To leave the profession.

Ask brokers who wish to continue acting for another agency or act on their own account to inquire about the steps to take by contacting the OACIQ certification department. Concerning brokers leaving the profession, refer them to the TERMINATION OF ACTIVITIES OF A BROKER ACTING FOR AN AGENCY section of this memory-aid.

You will also:

- Expect that some clients may ask for a complete copy of their file, photocopies may, therefore, have to be made.
- Expect that some clients must be refunded for the advances that they have granted to the agency (see TRUST ACCOUNTS section below).
- Synchronize all your closure activities in order to maintain your licence in effect until the very end.
- Take an agreement, if applicable, with another agency or broker acting on his own account for the management of the files and registers, other than those related to accounting, for a period of six years from the time of their closure and inform the OACIQ of the location where they will be kept (see *Notice of location where records and registers will be preserved when a real estate or mortgage agency or a real estate or mortgage broker acting on his own account ceases activities form*).

It is strongly advised to wait, as far as possible, until the terms of the transactions underway are fulfilled and that all amounts of money deposited in a special trust account are cashed before ceasing your activities.

BROKERAGE CONTRACTS

- Identify the brokerage contracts in effect. This includes all cases of co-listing and the brokerage contracts which have not yet been notarized although the immovables are sold and of which the expiration date occurs after the closure of the agency. (In this last case, we must take into account the possibility that a transaction will not be notarized and that the brokerage contract will be still in force.)
- Send a written notice (agency or broker) to clients informing them of the date you intend to cease your activities and explaining to them that:
 1. The brokerage contract with the agency will automatically be cancelled and, henceforth, it will be linked to the broker's new agency or to the broker who has decided to act on his own account;
 2. This notice should also state that if the client wants to terminate the brokerage contract, he should send a notice, to this effect, before the date of termination of the agency's activities.

TRANSACTIONS

- Identify the accepted transactions of which the conditions have been fulfilled and that will be notarized before or after the date of the agency's official closure.
- Identify the accepted transactions of which the conditions have not yet been fulfilled and that will be notarized before the date of the agency's official closure.
- Identify the accepted transactions of which the conditions have not yet been fulfilled and that will be notarized after the date of the agency's official closure.
- Identify the leasing transactions that could be a subject to a lease renewal.
- Identify the files that were subject to a referral to another agency, to a broker acting on his own account or to a mortgage lender for which the agency has not been remunerated.
- Determine with each of your brokers and for each file mentioned above, the right procedure to follow.
- Inform the transactions' parties (whether the conditions are fulfilled or not, leasing with a lease renewal, referral) and collaborators (agencies and brokers) and other stakeholders of the date of termination of the agency's activities. Clear guidelines must also be given to everyone regarding the right procedure to follow and that has been established between the agency and its brokers.

REMUNERATIONS

- The agency's executive officer will determine with each of his brokers and for each file mentioned above the remuneration payment agreements, for both the agency and brokers. However, he must remember that the broker cannot be remunerated directly by a notary. Any payment must be paid to the agency.

TRUST ACCOUNTS

Note

- Proceed to a bank reconciliation of trust accounts (general and special) BEFORE making any refund or transfer whatsoever.

1. GENERAL TRUST ACCOUNT

ADVANCES OF REMUNERATION OR DISBURSEMENTS

- Identify the brokerage contracts files where a remuneration or disbursement advance has been provided and of which the sum (or its residual) is still in the trust account, using the trust transaction register, the brokerage contracts register, the statements of bank accounts and, if applicable, the final trust transaction report.
- Reimburse the client in all cases where a brokerage contract was cancelled as a result of the termination of the agency's activities.
 - Total refund when:
 - The agency is not entitled to the remuneration advance as the conditions giving right to the remuneration are not fulfilled;
 - The agency is not entitled to any portion of the disbursement advance, because no disbursement has been incurred at the time of termination of the brokerage contract.

B. OFFICIAL CLOSURE OF AN AGENCY (CONT'D)

- Partial refund when:
 - The agency is entitled to a portion of remuneration or disbursement advance at the time the brokerage contract is terminated.
- Transfer the sum when the client chooses to continue with his broker.
 - Get from the client written instructions requesting from the agency ceasing its activities to transfer to the new agency or to a broker acting on his own account the sum held in a trust account.
- Photocopy the supporting documents (cheques, notice letters, clients' written instructions, etc.) and place them in the files.
- Reverse the entries in the *Transactions register to the general trust account*.

DOWN PAYMENTS PAID AT THE TIME OF TRANSACTION PROMISE

- Identify each transaction waiting to be notarized and for which a down payment has been paid in the general account or in a special account, using the trust transaction register, the register of transactions, the statements of bank accounts and, if applicable, the final trust transaction report.
- Inform in writing each party that the deposit related to the transaction will be transferred.
 - Get from the depositor a written agreement requesting from the agency ceasing its activities to transfer the sum to the new agency or to the broker who has decided to act on his own account or to the trust account of the acting notary.
- Photocopy the supporting documents (cheques, notice letters, etc.) and place them in the files.
- Reverse the entries in the *Transactions register to the general trust account*.

2. SPECIAL TRUST ACCOUNT

IMPORTANT NOTE

If an investment special account comes to term in a date subsequent to the date of termination of the agency's activities and it is impossible to wait until this maturity date, the agency will have no other choice than cashing this investment before maturity. Furthermore, depending on the nature of the agreement with the client, he will be entitled to all interests initially planned if the client requests that. The agency must assume and refund the client the difference between the old and the new interest rate granted by the new financial institution. In this regard, when it comes to investment, caution is required and the short-term investment is preferred. For example: renew an investment every 30 days.

OTHER INFORMATION

- Make sure, if the agency is a member of real estate board, to abide by the regulations of the real estate board.
- Take an agreement with each broker concerning the payment methods of all amounts of money owed by the agency to the broker, and those owed by the broker to the agency.
- Notify in writing the OACIQ Certification Department, and the Fonds d'assurance responsabilité professionnelle du courtage immobilier du Québec (FARCIQ) as well as any other professional liability insurance company, of the date of termination of the agency's activities.
- Send to the OACIQ the *Register of disclosure notices*. (If there is no notice, send a duly completed declaration.)
- Proceed to the closure of the general trust account **when the balance of the account is zero**.
- Complete a final *Trust Transaction Report* and send it to the Organization. (If there is no activity in the account, send a duly completed declaration.)
- Complete the *Notice of closing of a general trust account* form and send it to the Organization.
- Complete the *Notice of location where records and registers will be preserved when a real estate or mortgage agency or a real estate or mortgage broker acting on his own account ceases activities* form and send it to the Organization.

C. TERMINATION OF ACTIVITIES OF A BROKER ACTING ON HIS OWN ACCOUNT

If you are a broker acting on his own account, you will find below the steps that apply to your situation.

Once the decision to leave the profession is taken, you will have to:

- Expect that some clients may ask for a complete copy of their file, photocopies may, therefore, have to be made.
- Expect that some clients must be refunded for the advances that they have granted to the broker (see TRUST ACCOUNTS section below).
- Synchronize all you closure activities in order to maintain your licence in effect until the very end.
- Take an agreement, if applicable, with an agency or another broker acting on his own account for the management of the files and registers for a period of six years from the time of their closure and inform the OACIQ of the location where they will be kept.

It is strongly advised to wait, as far as possible, until the terms of the transactions underway are fulfilled and that all amounts of money deposited in a special trust account are cashed before ceasing your activities.

BROKERAGE CONTRACTS

- Identify the brokerage contracts in effect. This includes all cases of co-listing and the brokerage contracts which have not yet been notarized although the immovables are sold and of which the expiration date is subsequent to the termination of activities.
- Send a written notice to clients informing them of the date you intend to cease your activities and of the fact that the brokerage contract will be deemed cancelled as of this date of termination of activities.

C. TERMINATION OF ACTIVITIES OF A BROKER ACTING ON HIS OWN ACCOUNT (CONT'D)

TRANSACTIONS

- Identify the accepted transactions of which the conditions have been fulfilled and that will be notarized before or after the date of the termination of activities.
- Identify the accepted transactions of which the conditions have not yet been fulfilled and that will be notarized before the date of the termination of activities.
- Identify the accepted transactions of which the conditions have not yet been fulfilled and that will be notarized after the date of the termination of activities.
- Identify the leasing transactions that could be a subject to a lease renewal.
- Identify the files that were subject to a referral to another agency, to a broker acting on his own account or to a mortgage lender for which the broker has not been remunerated.
- Identify another broker acting on his own account or another agency to take over the transaction files mentioned above, if applicable.
- Inform the transactions' parties (whether the conditions are fulfilled or not, leasing with a lease renewal, referral) and collaborators (agencies and brokers) and other stakeholders of the date of termination of activities. Clear guidelines must also be given to everyone regarding the proper procedure to follow and that has been established between you and those who will take over.

TRUST ACCOUNTS

Note

- Proceed to a bank reconciliation of trust accounts (general and special) BEFORE making any refund or transfer whatsoever.

1. GENERAL TRUST ACCOUNT

REMUNERATION OR DISBURSEMENTS ADVANCES

- Identify the brokerage contracts files where a remuneration or disbursement advance has been provided and of which the sum (or its residual) is still in the trust account, using the trust transaction register, the brokerage contracts register, the statements of bank accounts and, if applicable, the final trust transaction report.
- Reimburse the client once his brokerage contract is cancelled and according to one of the following scenarios:
 - Total refund when:
 - The broker is not entitled to the remuneration advance as the conditions giving right to the remuneration are not fulfilled;
 - The broker is not entitled to any portion of the disbursement advance, because no disbursement has been incurred at the time the brokerage contract is terminated.
 - Partial refund when:
 - The broker is entitled to a portion of remuneration or disbursement advance at the time the brokerage contract is terminated.
- Photocopy the supporting documents (cheques, notice letters, etc.) and place them in the files.
- Reverse the entries in the *Transactions register to the general trust account*.

DOWN PAYMENTS PAID AT THE TIME OF TRANSACTION PROMISE

- Identify each transaction waiting to be notarized and for which a down payment has been paid in the general account or in a special account, using the trust transaction register, the register of transactions, the statements of bank accounts and, if applicable, the final trust transaction report.
- Inform in writing each party that the deposit related to the transaction will be transferred.
 - Get from the depositor a written agreement requesting from the broker acting on his own account who is ceasing his activities to transfer the sum to the agency or to the broker acting on his own account who will take over as established in the TRANSACTIONS section or to the trust account of the acting notary
- Photocopy the supporting documents (cheques, notice letters, etc.) and place them in the files.
- Reverse the entries in the *Transactions register to the general trust account*.

2. SPECIAL TRUST ACCOUNT

IMPORTANT NOTE

If an investment special account comes to term in a date subsequent to the date of termination of the agency's activities and it is impossible to wait until this maturity date, the agency will have no other choice than cashing this investment before maturity. Furthermore, depending on the nature of the agreement with the client, he will be entitled to all interests initially planned if the client requests that. The agency must assume and refund the client the difference between the old and the new interest rate granted by the new financial institution. In this regard, when it comes to investment, caution is required and the short-term investment is preferred. For example: renew an investment every 30 days.

OTHER INFORMATION

- Make sure, if you are a member of real estate board, to abide by the regulations of this real estate board.
- Notify in writing the OACIQ Certification Department, and the Fonds d'assurance responsabilité professionnelle du courtage immobilier du Québec (FARCIQ) as well as any other professional liability insurance company, of the date of termination of your activities.
- Send to the OACIQ the *Register of disclosure notices*. (If there is no notice, send a duly completed declaration.)
- Proceed to the closure of the general trust account **when the balance of the account is zero**.
- Complete a final *Trust Transaction Report* and send it to the Organization. (If there is no activity in the account, send a duly completed declaration)
- Complete the *Notice of closing of a general trust account* form and send it to the Organization.
- Complete the *Notice of location where records and registers will be preserved when a real estate or mortgage agency or a real estate or mortgage broker acting on his own account ceases activities* form and send it to the Organization.