

File note – meeting to advise about a guarantee

Date:	Start time:	End time:	Author:
Attendee (client):			File no.:
Conflict considered if more than one client	Same interest in the transaction? Same assets or value of assets at risk?		
Interpreter name: Or reason why not			
Interpreter address:			
Documents reviewed			
Lender			
Borrower(s)			
Mortgagor(s)			
Guarantor(s)			
Purpose of the loan			
Loan amount	\$		
Interest rate	%	Penalty rate	% payable
Security description Vol/folio or address			

Summary of explanation to client – regarding guarantee and mortgage

- The lender has agreed to lend money to the borrower.
- You are being asked to provide your property as security for the repayment of all money owing to the lender.
- To do that you are asked to sign the documents referred to above.
- These documents entitle the lender to register a
 - first mortgage

- second mortgage or
- caveat

over your property.

- Where the secured property is personal property the Lender will register its interest in the secured property on the Personal Property Securities Register (PPSR). Upon registration the lender will receive a token. Information on documents registered on the PPSR are publicly available for searching.
- The borrower must repay all money owing to the lender failing which demand can be made on the borrower and/or you to pay **all money owing to the lender, which may be more than was borrowed**. The lender does not need to ask the borrower to pay the money back first. They can ask you to pay it first.
- The borrower and you must comply with the terms of the lending documents which usually provide that the borrower and/or owner of the Secured Property must:
 - insure the secured property
 - pay all expenses, rates, taxes and charges in respect of the secured property
 - keep the secured property in good repair
 - obtain consent of the lender to any changes to the secured property such as demolition.
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- The borrower and you will be in default where they fail to comply with the terms of the security documents. Examples of defaults are:
 - all money owing to the lender is not paid by the due date.
 - the borrower or you go into bankruptcy, enters into an arrangement with creditors, has a receiver or liquidator appointed.
 - there is an unsatisfied judgment against the borrower or you.
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- Where there is a default the lender may seek possession of the secured property and is entitled to any rent or other earnings derived from the secured property. The lender may choose the secured property you provided over any other property provided by the borrower as security.
- The lender is entitled to sell any security property in order to recover the amount lent plus interest plus expenses in selling the property.
- The lender will determine how much is owing to the lender.
- Usually the lender will write to a party at the address given on the security documents.
- On repayment of all money owing to the lender the borrower is entitled to request a form of release and/or discharge from the lender.
- The most important thing to know is you could lose your property.
- Because of this serious risk you should obtain independent financial advice about the ability of the borrower to pay back the loan.
- If lender is a bank that the borrower has previously used you should ask the lender to provide information about the borrower's financial position.

Excluded explanations

- I INFORMED the client in very clear terms that I was not expressing any opinion nor advising on:
 - the viability of the transaction which the borrower was undertaking
 - the borrower's ability to make the required payments to the lender
 - the client's ability to make payment to the lender

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Signed by the practitioner

- Copy of file note given to client

Attachments

The following are attached to this file note.

- A list of the security documents provided to client.
- Certified copy of proof of identity documents.