

# Manitoba Land Titles Correction Policy (Version 3.3)

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## The correction policy explained

The mission of the Manitoba land titles system is to give certainty to titles and to estates in land in the province of Manitoba, to facilitate the proof of title and to render dealings with land simpler and less expensive.

To ensure the success of this mission, documents presented for registration must comply with certain clear and specific legal guidelines. Historically, documents that were not suitable for registration due to deficiencies were rejected and returned to registrants.

The land titles correction policy was developed by the Registrar-General of Manitoba in conjunction with the District Registrars of the various land titles offices to address those documents that contain deficiencies of one sort or another. The policy allows errors in documents to be corrected without rejection, so long as the correction does not change the substance of the document or endanger the land titles assurance fund.

Corrections can come in the form of a letter, a properly completed Form 30, Correction to Statutory Evidence, a piece of supplementary evidence, or an affidavit or statutory declaration.

This correction policy is an internal document intended to provide instruction to staff of The Property Registry. It is made available to the public as a reference tool.

Though the correction policy is intended to assist clients where possible; it cannot cover all situations and is subject to revision as the law and circumstances change. The use and application of the correction policy in specific situations and for specific parties is subject to the discretion of the District Registrar.

## The correction policy

### Application

The full correction policy is available to lawyers, First Canadian Title and Level 4 Management. A modified correction policy is available to banks, credit unions and other lenders, allowing them to correct mortgages and amending agreements. Certain specified corrections can be made by any registrant.

### Client contact and hold period

Clients can be contacted either through email or over the telephone. Once the client has been contacted the documents should be held for ten business days. In certain situations the documents can be held longer. This is discretionary and will depend on such factors as the level of communication, the nature of the correction, the difficulty in providing the correction and the efforts being made by the client to provide the correction.

### Second contact

Where a client has been contacted and the client has not responded, either with the correction or in some other manner, the client is not to be contacted a second time. The document series is to be rejected.

### When to reject

Documents that can be corrected should only be rejected under the following circumstances:

- If the document series contains more than three errors or omissions (this does not include one error repeated in numerous documents).
- If the document series contains an error that cannot be corrected with the policy.
- If the registrant has asked in writing for the series to be rejected.
- If the registrant has been contacted in accordance with the policy and has not provided the required correction in a timely fashion.

### Notes regarding correction

All notes regarding the deficiency process should be made on the document review form in eWorkflow. This would include a list of deficiencies, a record of all calls or emails sent or received and the fact that a correction document such as a letter, a Form 30 or other supplementary document has been received.

## The correction letter

### Requirement for a correction letter

Other than sworn evidence, most errors and omissions in documents can be corrected by way of a letter. Unless the policy provides otherwise, these letters:

- Must be from a barrister or solicitor entitled to practise in Canada.
- Must be signed by that lawyer.
- May be sent in by fax or email without any need for the original to follow.
- Must contain certain minimum elements:
  1. A clear statement of the correction to be made.
  2. A statement that the person signing the letter has the complete authority to make the change.
  3. A statement that the change to the document is a correction of an error and is not a change in the substance of the document.

A sample of correction letter can be found in [attachment one](#). This sample can be provided to lawyers.

### Incomplete/incorrect correction letters

Where a correction letter has been provided and it is incomplete or in error, and a subsequent correction letter is required, the original correction letter is to be retained by examination staff.

### Correction by lawyer attending in person

A lawyer wishing to make a correction to a document while they are in our office may write a letter of correction as long as it conforms to the guidelines set out above.

A fill-in-the-blanks correction letter for lawyers attending in person can be provided to clients. It can be found in [attachment two](#).

### Exception for Affidavits, Statutory Declarations and Statutory Evidence

With the exception of the date of signing, the following statutorily required evidence cannot be corrected by way of a correction letter:

- The content of affidavits and statutory declarations. This includes affidavits of lost or destroyed duplicate titles, affidavits of witness, and purchasers' and sellers' declarations under *The Condominium Act*
- Evidence under The Homesteads Act
- Tax exemption evidence under The Tax Administration and Miscellaneous Taxes Act

Where the signing date is either missing or incomplete in an affidavit or statutory declaration, a letter can be obtained confirming the signing date. This letter must be signed by the witness to the signature in question and it must contain sufficient detail to identify the subject affidavit or statutory declaration.

#### Correction emails

An email can be submitted in place of a correction letter provided it meets the following requirements:

- It must be from the person entitled to make the correction. It cannot be from that person's paralegal, assistant, or secretary.
- It must contain all of the language that would be required in a correction letter.
- It must contain the name, position, and contact particulars of the sender.

Unlike a correction letter, the email does not need to have a signature.

## Form 30, Correction to Statutory Evidence

Form 30, Correction to Statutory Evidence, was developed to allow clients to correct evidence that is insufficient, missing or incorrect. Form 30 can be submitted by lawyers, lenders, utility companies, governments and government agencies and similar bodies.

Form 30 can be used to correct:

- The content of affidavits and statutory declarations. This includes affidavits of lost or destroyed duplicate titles, affidavits of witness, and purchasers' and sellers' declarations required under *The Condominium Act*.
- Evidence under The Homesteads Act.
- Fair market value and tax exemption evidence under *The Tax Administration and Miscellaneous Taxes Act*. This could include providing tax exemption evidence that has been missed by a transferee.
- Evidence under The Farm Lands Ownership Act.

Form 30 cannot be used to:

- Provide missing signatures, either of parties or of witnesses
- Fix a form lacking the conveyancing clause (I hereby mortgage.../I hereby transfer...)

Form 30

- Must be signed by the person with personal knowledge (the person required to provide the evidence that is in need of correction)
- Is not to be signed by a person's solicitor and agent (their lawyer)
- Is not to be witnessed
- Is to be used in all situations where, in the past, a schedule would have been obtained to provide evidence
- Is to be used with both prescribed forms (paper forms and smart eForms) and non-prescribed forms (condominium declarations, debentures, easement agreements and declarations, etc.)

Letter required

Form 30 is to be accompanied by a letter from the party submitting it, identifying the document that it pertains to and the evidence that is being amended or corrected.

## Email correspondence to be preserved

Where correction materials such as letters, affidavits, certificates, schedules or other supplementary documents are provided by way of email, in addition to keeping the correction materials, the email must be preserved. The email confirms the date and time of the correction as well as the particulars of the party who provided the correction. It may contain other relevant statements as well. These emails are to be saved as a PDF image and attached to the document that is being corrected.

## Correction Issues

### Adding or removing names of transferees

If the name of a transferee must be removed from a transfer, this can be accomplished through the submission of both:

1. A standard correction letter from the lawyer for the registrant confirming that the name is to be removed; and
2. The written approval of the party who is to be deleted.

If the name of a transferee is to be added to a transfer, this can be accomplished through the submission of both:

1. A standard correction letter from the lawyer for the registrant confirming that the name is to be added; and
2. The written approval of the existing transferees.

### Alterations to documents

The content pages of a smart eForms cannot be altered once the form has been locked. Any changes or corrections must be made using a properly drafted correction letter or through the use of the Form 30. Because the document filed in the eRegistration portal is the electronic file used to generate the printed pages, any changes made to a paper print-out will be lost and will not be reflected on the document that is submitted.

## Condominium buyer and seller statutory declarations

Statutory declarations from condominium buyers and sellers cannot be corrected by way of correction letter.

Supplementary evidence can either come in the form of either a new statutory declaration or a properly completed Form 30, Correction to Statutory Evidence.

If the parties cannot provide a replacement declaration due to particular circumstances, ascertain the details and discuss with the District Registrar. The District Registrar has the discretion to accept other evidence of the facts.

## Conveyance clause (mortgaging / transferring statement)

None of the mortgaging statement (I hereby mortgage to the mortgagee my interest in the land), the transferring statement (I hereby transfer the land to the transferee) or the amending statement (I agree to amend the affected mortgage as set forth herein) may be corrected or inserted by way of lawyer's letter. Where any of these statements is missing or incomplete re-execution is required.

## Corporate execution

Where a party executing a document on behalf of a corporation neglects to provide their authority, evidence of that authority can come in by way of a correction letter.

That letter can either be signed by:

1. A lawyer involved in the transaction (standard lawyer's correction letter).
2. By the party who actually signed the document. Where it is the party signing the document, the letter should identify the document in question, and contain a statement identifying their authority to sign it. Examples:

I, Laila Lender, am the party who executed the discharge registered in the Winnipeg Land Titles Office as number 1234567 on behalf of Squeaky Clean Finance and Soap Company. I am an employee of the Company, and I have the authority to bind same.

I, Larry Lender, am the party who executed the discharge registered in the Winnipeg Land Titles Office as number 1234567 on behalf of Squeaky Clean Finance and Soap Company. I executed the document pursuant to power of attorney registered in the Winnipeg Land Titles Office as number 2345678.

## Corrections after document accepted

Once an instrument has been accepted, corrections to the instrument cannot be made by way of correction letter or through the supply of supplementary materials.

Corrections and additions to an instrument that has been accepted must be made using a means that leaves a clear paper trail, one that identifies the nature and date of the correction/addition.

Such corrections should be made using the amending agreement, or where appropriate, the request/transmission.

## *The Farmlands Ownership Act*

Missing or incomplete evidence under *The Farmlands Ownership Act* can be corrected with a lawyer's correction letter or with the Form 30, Correction to Statutory Evidence.

## *The Homesteads Act*

General policy

- *Homestead Act* evidence, consents, releases, discharges of homestead notices, and discharges of dower caveats cannot be corrected with a lawyer's letter.
- Evidence under *The Homesteads Act* evidence must be provided by the relevant owner directly.
- A document where *The Homesteads Act* evidence has been altered without re-execution will not be accepted.

Form 30 or affidavit or statutory declaration to fix evidence

- Defective or missing evidence under *The Homesteads Act* evidence can be clarified, corrected or inserted with either Form 30, Correction of Statutory Evidence, or with a supplementary affidavit or statutory declaration.

Use of the Declaration as to Possession:

- A sworn document known as a *Declaration as to Possession* is prepared by lawyers involved in real property conveyancing. This document often contains evidence pursuant to *The Homesteads Act*.
- Where a land titles document requires evidence pursuant to *The Homesteads Act* and that evidence is either insufficient (a partial statement such as, "My co-transferor is my spouse") or completely missing, land titles can rely on the statements contained in a Declaration as to Possession.

- The declaration must:
  - Be the original or a scan of the original; and
  - Contain evidence that does not contradict evidence already be in the document. If the evidence in the document is wrong (as opposed to being merely insufficient) it must be corrected by Form 30 or with an affidavit of statutory declaration.

### Land transfer tax and fair market value

Missing or incomplete evidence as to fair market value can be corrected by way of a lawyer's correction letter or with the Form 30, Correction to Statutory Evidence.

Exemptions from the payment of land transfer tax:

- Land transfer tax exemption evidence cannot be corrected with a lawyer's letter.
- Tax exemption evidence must be provided by the party acquiring the interest in land that is tax exempt.
- Defective or missing exemption evidence can be fixed with either Form 30, Correction of Statutory Evidence, or with a supplementary affidavit or statutory declaration.

### Lender's correction policy

Banks, credit unions and other financial institutions (as defined in s. 72(2) of *The Real Property Act*) are able to correct certain errors in mortgages and amending agreements, provided the correction fits within one of the following scenarios:

Scenario 1:

There is a missing encumbrance (of any kind, even a so called minor encumbrance) in a mortgage or amending agreement.

Solution:

Obtain a letter from the lender making the document subject to the encumbrance. The letter must instruct land titles to make the mortgage document subject to the missing encumbrance. The letter must be signed by an employee of the bank or credit union and must contain a statement confirming that employment and confirming they have the authority to make the correction.

Scenario 2:

Nothing is struck out from:

- Statements one or two in the signature of mortgagor(s)/encumbrance(s) box of the mortgage;
- Statements one or three in the signature of registered owner(s) of mortgage/encumbrance box of the amending agreement; or
- Statements one, three or four in the signature of registered owner(s) of land box of the amending agreement.

Solution:

Ignore.

Scenario 3:

A date is missing beside a signature.

Solution:

Request a letter from the lender. This letter must be signed by the actual party who witnessed the execution and must confirm this fact together with the date of execution:

I, Anna Thompson can confirm that on June 3, 2013 I witnessed the signature of Penelope Anderson in the mortgage registered in the Winnipeg land titles office as number 1234567/1.

Scenario 4:

Particulars of a witness (name, position and address) are missing.

Solution:

Request a letter from the lender. This letter must be signed by the actual witness.

Scenario 5:

Evidence under a particular act (such as The Homesteads Act, The Tax Administration and Miscellaneous Taxes, The Farm Lands Ownership Act, The Real Property Act) is insufficient, missing or incorrect.

Solution:

Obtain a properly completed Form 30, Correction of Statutory Evidence, and a letter identifying the document and the evidence that is to be corrected.

Scenario 6:

Any errors not covered in the previous five scenarios

Solution:

Reject.

### Missing evidence on signature page

Where evidence is missing or not properly selected on the signature page for a smart form, this can be corrected with either the form 30 or a scan of a new signature page. The registrant cannot correct this defect by selecting or entering the appropriate evidence on the existing signature page. This is because at the time the page was signed, that evidence was not present. Where a replacement signature page is provided, it must:

1. Have the same security features as are on the document
2. Be properly witnessed
3. Be dated with the date of the new signature
4. Be accompanied by a letter from the registrant confirming that the new signature page is to replace the old page.

### Missing mines and minerals reservation

Where a title contains a reservation of mines and minerals and a document is registered that is silent in that regard, the document must be corrected in the ordinary fashion. Document examiners cannot on their own initiative add a mines and minerals reservation to the legal description in the instrument. The only exception to this policy is where the reservation is one contained in the original grant from the crown. In these cases we do not need to add in the reservation in the document.

### Missing or incomplete date

Where the date is either missing or incomplete in an affidavit or statutory declaration, a letter can be obtained confirming the signing date. This letter must be signed by the witness to the signature in question and it must contain sufficient detail to identify the subject affidavit or statutory declaration.

This policy is restricted to the date and does not extend in any way to the content of the affidavit or statutory declaration.

This policy also applies to missing or incomplete dates in land titles documents. Such documents can also be corrected in accordance with the general correction policy where the policy so allows.

## Missing signatures in smart forms

Where the signature of either a party or a witness is missing from the signing page of a smart form, this defect cannot be remedied with the Form 30.

### Missing signature of a party

Where the signature of a party to a smart form is missing, a scan of a new signature page for that party can be obtained, subject to the following:

1. The security features on the replacement page must be the same as on the document
2. The replacement page must be properly witnessed (does not apply for caveat)
3. The page must be accompanied by a letter from the registrant confirming that the new signature page is to replace the old page.

### Missing signature of a witness

A missing witness signature can be corrected in two different ways, depending on the circumstances. It is the responsibility of the registrant to determine the appropriate way.

Where the signature of a witness to a smart form is missing, but the witness saw the party sign the signature page, the witness can sign the signature page and send in a new scan of it. This page must be accompanied by a letter from the registrant confirming that the new signature page is to replace the old page.

Where the signature of a witness to a smart form is missing because the signature of the party to the form was not witnessed, a new signature page must be signed by both the party and the witness. It must:

1. Have the same security features as are on the document
2. Be dated with the date of the new signature and not the defective signature
3. Be accompanied by a letter from the registrant confirming that the new signature page is to replace the old page.

### Missing signature of a solicitor and agent

Where the signature of a solicitor and agent providing either fair market value or *Farm Lands Ownership Act* evidence in smart form transfer is missing, this can be remedied either with a properly drafted lawyer's correction letter providing the evidence or with a scan of a new signature page for that party, subject to the following:

1. The security features on the replacement page must be the same as on the document
2. The page must be accompanied by a letter from the registrant confirming that the new signature page is to replace the old page.

### Security features do not match

Where the smart form security features (the 32 digit security code and corresponding image) in the form are not identical to the security features in the accompanying signature pages, the document may be able to be corrected.

Contact the client to determine where the problem lies; is the document correct or are the signature pages correct?

- If the document is correct, and the signature pages are not, the document can be corrected. The client can submit the correct signature pages, together with a letter requesting that land titles replace the signature pages with the correct pages and delete the incorrect ones. The incorrect pages are to be deleted.
- If the signature pages are correct and it is the document that is incorrect, the series is to be rejected. This error cannot be fixed with the correction policy because the client has registered the wrong document.

### Substitute documents

Where a client needs to substitute an entire document due to a deficiency in the original document both documents are to be retained and clearly marked. The new document is to be marked by the land titles staff as "supplementary evidence, page 1 of 2/supplementary evidence, page 2 of 2" and the original document is to be marked with, "see supplementary document".

Because these new documents are merely supplementary, being provided for the purpose of addressing or correcting some deficiency in the primary document, they do not need to be file copies of the original document and can in fact be dated after the date of the original document.

Supplementary documents are not to receive their own registration number or bar code.

All such supplementary documents must be approved by the District Registrar. Supplementary documents are to be accepted in lieu of rejection only where rejection would cause an unacceptable consequence as determined by the District Registrar.

## Substitute pages

Where a large document such as an easement, a condominium declaration or a debenture contains errors or is incomplete do not replace pages of the document on behalf of the client with substitute or slip pages. Instead the document is to be rejected and returned to the client. Any changes made by the client once the document is in their possession and control is not our business or responsibility.

Where the client wants to attend the land titles office in person, the document can be temporarily provided to the client for the limited purpose of changing pages. The client is not to be permitted to remove the document from the office.

This restriction does not apply where the pages are completely missing. In these cases the document can be retained and the missing pages can be forwarded to land titles staff member by the registrant.

## Specific Documents

### Caveats

Caveats can be corrected by way of a correction letter from any of:

- The caveator
- A person who has signed the caveat as agent for the caveator
- The lawyer for the caveator
- The registering lawyer

Executed agreements attached to caveats cannot be corrected in this manner.

### Condominium notice of lien

Rejecting a condominium lien can have very serious ramifications for the relevant condominium corporation. Often they have very tight registration timelines. Because of this, the correction policy will apply to condominium liens.

Where the lien is registered by a law firm we will accept correction letters for the body of the document and either Form 30, Correction to Statutory Evidence, or supplementary affidavits/affirmations for deficiencies with the affidavit verifying claim.

Where a lien is registered by an individual or a management company we will accept supplementary affidavits/affirmations for deficiencies with the affidavit verifying claim.

### Discharges

Discharges can be corrected by way of a correction letter from any of:

- The owner of the instrument affected by the discharge
- The agent who has signed the discharge where that agent is otherwise authorized to sign the discharge (for example they signed the original registration as agent)
- The lawyer for the owner of the instrument
- The registering lawyer.

## Notice Exercising Power of Sale

Deficiencies in Notices Exercising Power of Sale (NEPS) cannot be corrected by correction letter. If the document is not suitable for registration, it is to be rejected.

This strict policy is in place because the NEPS form is served on the owners and encumbrancers of the affected land following registration and it must be clear and straightforward – letters directed to Land Titles correcting errors will only serve to confuse the document.

In order to alleviate some of the delay caused by this policy, the party rejecting the NEPS will advise the registrant by email that their NEPS is being rejected and why it is being rejected. This will allow the registrant the opportunity to immediately register a replacement NEPS, without having to wait for the rejection to arrive in their office.

## Personal Property security notices

*Personal Property Security Act* notices can be corrected by way of a correction letter from any of:

- The secured party
- A person signing the notice as agent for the secured party
- The lawyer for the secured party
- The registering lawyer

## Schedules

Where a client has not identified a schedule in the manner specified in the rules contained in the schedule completion policy, a lawyer's letter can be obtained to correct the deficiency. A sample of a schedule correcting letter can be found in [attachment three](#).

## Statutory easements

- Content errors - The contents of these agreements cannot be corrected using the correction letter policy.
- Missing, incorrect or incomplete evidence under *The Homesteads Act* – Can be cured by evidence in a Form 30, Correction to Statutory Evidence or in a supplementary affidavit or statutory declaration.
- Missing grantee/registrant's address for service - Can be cured by correction letter.
- Missing title numbers – Can be cured by correction letter.

## Attachment One

\_\_\_\_\_ Land Titles Office

Attention: \_\_\_\_\_, Document Ex

This statement is required because we will only allow errors to be corrected; we will not allow the substance of a document to be altered.

Dear Sir/Madam:

RE: Correction of Transferee in Transfer Number 2345676/3

A. Please correct Transfer Number 2345676/3 as follows:

Change the name of the Transferee from Jon Jines to John Jones

These three paragraphs are **all** required to prove authority where more

B. This is a correction of a typographical error and is not a change

C. I am the solicitor for the Transferee John Jones;

D. I have my client's authority to make this change; and

E. I have received the authority from the solicitor for the Transferor to make this change.

RE: Correction of Legal in Transfer Number 2345676/4

A. Please correct Transfer Number 2345676/4 as follows:

Change the legal description from Lot 1 Block 2 Plan 33 to Lot 1 Block 2 Plan 33

This statement is required because we will only allow errors to be corrected; we will not allow the substance of a document to be altered.

B. This is a correction of a typographical error and is not a change in the legal description conveyed;

C. I am the solicitor for the Transferee John Jones;

D. I have my client's authority to make this change; and

E. I have received the authority from the solicitor for the Transferor to make this change.

RE: Correction of Mortgage Number 2345678/5

A. Please correct Mortgage Number 2345678/5 as follows:

1. Make the document subject to Caveat 1234567/5; and

2. Make the document subject to the mortgage from John Jones to The Royal Bank of Canada registered immediately prior in series to Mortgage number 2345678/5 as number 2345677/5.

B. I am the solicitor for the Mortgagor John Jones and the Mortgagee The Bank of Montreal.

C. I have both of my clients' authority to make the above changes.

This statement makes it clear that no other lawyers are involved in the transaction and therefore that no other authority is required

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RE: Correction of Transfer Number 2345679/1

A. Please correct Transfer Number 2345678/1 as follows:

Add the words "As Joint Tenants" following the names of the transferees.

B. As a result of an oversight at the time the transferred was prepared no interest was typed onto the transfer. This is the interest the parties intended.

C. I am the solicitor for the Transferor Susan Thomas and the Transferees John Jones and Mary Jones.

D. I have all of my clients' authority to make the above change.

Yours truly,

Barrister and Solicitor

Please note: All letters of correction must be signed by

## Attachment Two

Date: \_\_\_\_\_

\_\_\_\_\_ Land Titles Office

Attention: District Registrar

Dear Sir:

RE: Correction of Document by Lawyer Attending in Person

Correction of Instrument Number \_\_\_\_\_/\_\_\_\_\_

A. Please correct Instrument Number \_\_\_\_\_ as follows:

(Please specify the correction required and any relevant supporting explanation.)

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B. I am the solicitor for \_\_\_\_\_  
the \_\_\_\_\_ (transferee, mortgagee, etc.) and  
\_\_\_\_\_ the \_\_\_\_\_ (mortgagor,  
transferor, etc.).

C. I have (both of ) my client's authority to make this change; and

D. I have received the authority from the solicitor for the  
\_\_\_\_\_ to make this change.

Yours truly,

Signature:

Print Name: \_\_\_\_\_

Barrister and Solicitor

## Attachment Three

\_\_\_\_\_ Land Titles Office

Attention: \_\_\_\_\_, Document Examiner

Dear Sir/Madam:

RE: Correction of Schedule A attached to Mortgage Number 2345678/2

Please correct Mortgage Number 2345678/2 as follows:

On schedule A please add the following wording:

"This Schedule forms part of a Mortgage from Mary Anne Brown to Royal Imperial Bank of Nova Scotia this 21<sup>st</sup> day of November, 2006."

I am the solicitor for the Mortgagor Mary Anne Brown and the Mortgagee Royal Imperial Bank of Nova Scotia.

I have both of my clients' authority to make the above changes.

As the solicitor for the Mortgagor Mary Anne Brown I can confirm that at the time of execution of the Mortgage by her:

1. She received a copy of the Mortgage and all the terms therein, including the pages numbered 1 to 10 of Schedule "A" currently attached to the subject Mortgage; and
2. She acknowledged that the terms contained in the Schedule thereto form part of the subject Mortgage and agreed to be bound by them. Despite this, she inadvertently neglected to initial pages 1 to 9 of the Schedule and inadvertently neglected to sign the tenth page of the Schedule.

Please accept this correction letter in place of and instead of the requirement for the mortgagor to sign and initial the pages of Schedule "A" to the mortgage and as my client's confirmation that the terms set forth on these pages do in fact form part of the mortgage. I have the authority from my client the mortgagor to correct the mortgage by way of this letter. I also have the authority from the mortgagee to make this correction.

Yours truly,

Barrister and Solicitor