



IN THE MATTER OF THE MORTGAGE BROKERS ACT
R.S.B.C. 1996, c. 313

AND

IN THE MATTER OF THE MORTGAGE ALLIANCE COMPANY OF CANADA

UNDERTAKING, ADMISSIONS AND WAIVER

A. UNDERTAKING

The following agreement has been reached between The Mortgage Alliance Company of Canada ("Mortgage Alliance") and the Registrar of Mortgage Brokers (the "Registrar"):

1. Mortgage Alliance consents to pay costs in the amount of \$12,000 and an administrative penalty in the amount of \$20,000, which shall be a final settlement of all matters described below. The Registrar agrees to take no further action regarding these matters.
2. Mortgage Alliance consents to an examination of their mortgage broker files by Staff of the Registrar ("Staff") in 2010. The cost of the examination shall be borne by Mortgage Alliance, at a rate of \$80/hour for Staff's time, with the total cost not exceed \$2,000.

B. FACTS AND ADMISSIONS

As a basis for this Undertaking, Mortgage Alliance acknowledges the facts set forth herein are correct:

1. Mortgage Alliance is a registered mortgage broker under the *Mortgage Brokers Act* (the "Act") under registration number X028256. Mortgage Alliance operates from its registered head office address at #505 – 4211 Kingsway, Burnaby B.C. V5H 1Z5.
2. [REDACTED] was a submortgage broker under the Act (registration number 142683), registered with Mortgage Alliance from August 21, 2006 to August 10, 2008.

3. [REDACTED] was a submortgage broker under the Act (registration number 143077), registered with Mortgage Alliance from March 2, 2007 to October 15, 2008.
4. On April 30, 2008 Mortgage Alliance contacted the Registrar's office to advise that it had received a complaint regarding [REDACTED]
5. On May 12, 2008 [REDACTED], staff of the Registrar, commenced an examination of the mortgage broker activities of Mortgage Alliance. The examination included the review of several mortgage broker files including those of [REDACTED]
6. Based on the examination, staff of the Registrar identified several compliance issues with respect to Mortgage Alliance's mortgage broker activities.

Conflict of Interest Disclosure

7. [REDACTED] arranged two mortgages on a property purchased/owned by him and his spouse (files MX 89 08-04 and MX 89 08-05) and there is no evidence in the files of a Form 10 Conflict of Interest Disclosure to the lender that an associate of Mortgage Alliance [REDACTED] as submortgage broker) had a direct interest in the mortgage transaction. Although there is no evidence in the files that the required Form 10 was provided to the lender, Mortgage Alliance was able to access electronic communications through the "Morty" system which indicated that the lender was aware that these were [REDACTED] own mortgage transactions.
8. [REDACTED] arranged a mortgage (file MT 43 07-42) and provided Form 10 Conflict of Interest disclosure to the borrower stating that "Fee of \$2,500 is charged for the broker's services". However, based on Mortgage Alliance's records, the \$2,500 did not form part of the remuneration paid to [REDACTED] by Mortgage Alliance. The information stated in the disclosure was therefore inconsistent with Mortgage Alliance's records and indicated the possibility that [REDACTED] was collecting fees outside of the brokerage.

Cost of Credit Disclosure

9. [REDACTED] arranged a mortgage (file MX 89 08-02) and the borrower acknowledged receipt of the cost of credit disclosure on April 3, 2008. The borrower however executed the Form B mortgage document on April 1, 2008, two days prior to acknowledging the disclosure. It appears therefore that the borrower was not afforded an opportunity to review the cost of credit disclosure and have the required two day period from the time disclosure was made to decide whether or

not to proceed with the financing obligation.

10. On a number of [REDACTED] files, a \$2,000 fee referred to as "Broker Fees paid by lawyer or borrower at or prior to completion" was entered in the "Total Value Given by the borrower" section of the cost of credit disclosure. However, based on Mortgage Alliance's records, the \$2,000 did not form part of the remuneration paid to [REDACTED] by Mortgage Alliance. The information stated in the disclosure was therefore inconsistent with Mortgage Alliance's records and indicated the possibility that [REDACTED] was collecting fees outside of the brokerage.
11. None of the cost of credit disclosures included the legal fees, or an estimate of the legal fees that would be incurred by the borrower with respect to the mortgage transaction.
12. None of the cost of credit disclosures included the costs associated with obtaining title insurance where having acceptable title insurance in place was a requirement of the lender.
13. None of the cost of credit disclosures where the lender required the payout of existing debts from the mortgage proceeds, included those payout amounts on the disclosure.

Other Issues

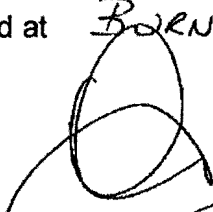
14. In reviewing the mortgage broker files arranged by [REDACTED] Staff identified inconsistencies and/or discrepancies in documents filed in support of many of the mortgage applications. These inconsistencies and/or discrepancies related to false employment or income information.
15. As a result of these findings, the Registrar of Mortgage Brokers issued a Suspension Order against [REDACTED] on August 1, 2008 suspending her for 120 days pending the completion of the investigation into the matter. The Suspension Order outlines the inconsistencies and/or discrepancies identified.
16. On August 10, 2008 [REDACTED] entered into a Consent Order with the Registrar whereby she consented to a lifetime cancellation of her submortgage broker registration, payment of an administrative penalty and payment of partial costs of the investigation.
17. In reviewing the mortgage broker files arranged by [REDACTED] Staff also identified inconsistencies and/or discrepancies in documents filed in support of many of the mortgage applications. These inconsistencies and/or discrepancies also related

to false employment or income information. As a result of these findings, Staff intended to pursue regulatory action against [REDACTED] however on October 1, 2008 it was learned that [REDACTED] had relocated to Calgary, Alberta and was not planning to return to British Columbia in the foreseeable future. At that time Staff requested that Mortgage Alliance cancel [REDACTED] registration certificate and return it to the office of the Registrar. The cancelled certificate was received on October 21, 2008.

C. Admissions and Waiver

1. Mortgage Alliance acknowledges that based on the findings of the examination, its mortgage broker activities were not in compliance with the requirements of the *Mortgage Brokers Act* (the "Act") and its regulations, *the Business Practices and Consumer Protection Act* ("BPCPA"), the *Disclosure of the Cost of Consumer Credit Regulation*, and the policies and Bulletins published by the Registrar of Mortgage Brokers.
2. Mortgage Alliance acknowledges that it failed to ensure that the mortgage broker activities of its employees were carried out in accordance with the requirements of the Act.
3. Mortgage Alliance acknowledges that it has had an opportunity to seek independent legal advice prior to signing this undertaking, and has either sought independent legal advice or waives its right to seek independent legal advice.
4. Mortgage Alliance waives its right to an appeal, under section 9 of the Act, of the undertaking contemplated by this Agreement, as described in Part A herein.

Dated at BURNABY, BC, this 23 day of April, 2009.



Authorized Signatory of
The Mortgage Alliance Company of Canada

Signed at Surrey, British Columbia, this 28th day of April, 2009



L. Jay Mitchell

**Acting Registrar of Mortgage Brokers
Province of British Columbia**