

IN THE MATTER OF THE MORTGAGE BROKERS ACT

R.S.B.C. 1996, c 313

-AND-

MARYAM ASADI

**SUSPENSION ORDER**

(Pursuant to section 8(2) of the *Mortgage Brokers Act*)

I AM ADVISED and am of the opinion that:

**Background**

1. Maryam Asadi ("Asadi") has been registered in British Columbia as a licensed Real Estate Representative since April 8, 2004 and has been working as a licensed real estate representative with Re/Max Crest Realty, located at #101 – 2609 Westview Drive, North Vancouver since May 6, 2004.
2. Asadi has been registered in British Columbia as a submortgage broker with Mortgage Alliance of Canada ("Mortgage Alliance") since August 21, 2006.
3. The designated individual for Mortgage Alliance is [REDACTED] ("[REDACTED]").
4. On April 30, 2008, the office of the Registrar of Mortgage Brokers (the "Registrar") received a complaint from [REDACTED] in respect of Asadi. [REDACTED] reported that one of her clients ([REDACTED]), who had complained to Mortgage Alliance, alleged that Asadi had collected \$4000 in fees without proper disclosure. [REDACTED] advised that he had since suspended Asadi.
5. Staff of the Registrar (the "Staff") reviewed a random sampling of 21 mortgages completed by Asadi. Of the 21 reviewed, 15 were deemed suspicious for reasons set out in more detail below.

**False and/or fraudulent employment and/or income information**

6. In reviewing the mortgage files, Staff identified inconsistencies and/or discrepancies in documents filed in support of many of the mortgage applications. Details of the issues identified are set out below:

**[REDACTED] (" [REDACTED ]") mortgage**

7. In November 2006, Asadi submitted a mortgage application to [REDACTED] on behalf of [REDACTED] which indicated that [REDACTED] had been the owner of [REDACTED] for the past six years, earning \$195,000. That application was declined when Asadi advised that she felt uncomfortable approaching [REDACTED] and asking her to sign an authorization for release of information from Canada Customs and Revenue Agency ("CCRA") which [REDACTED] had requested.
8. On March 1, 2008, Asadi submitted a mortgage application on behalf of [REDACTED] to [REDACTED] (" [REDACTED ]") stating that [REDACTED] had been the owner of [REDACTED] for the past eight years, earning \$98,600 a year. In support of this application Asadi submitted a 2006 Notice of Assessment ("NOA") for [REDACTED] showing an income of \$98,635.
9. Staff called [REDACTED] and was first advised that [REDACTED] was a customer and not an employee or owner. Staff was then advised that [REDACTED] was actually the owner's mother.
10. Staff reviewed [REDACTED] website which indicates that the owner is [REDACTED] and not [REDACTED]. This is consistent with corporate registry documents which show that [REDACTED] is the sole director of the limited company which owns [REDACTED]

**[REDACTED] (" [REDACTED ]") mortgages**

11. In February 2007, Asadi submitted a mortgage application on behalf of [REDACTED] which indicated that [REDACTED] had been a registered nurse working for [REDACTED] Care for the past four years and eight months, earning \$98,000. In support of her application, Asadi submitted copies of [REDACTED] 2004 and 2005 NOAs showing income of \$89,764 and \$106,550 respectively.
12. In reviewing the mortgage file, Staff noted the following discrepancies:

- (a) "[REDACTED]" is not a registered corporate entity; and
  - (b) The Credit Bureau report in Asadi's file, which was run on February 4, 2007 identifies [REDACTED] last known employer as "[REDACTED]", where she was employed as a registered nurse.
13. Asadi arranged a second mortgage for [REDACTED] in August 2007. The mortgage application submitted by Asadi in August 2007 indicated that [REDACTED] had been working as a registered nurse for [REDACTED] for the past three years and eight months, earning \$111,000.
  14. Staff noted that the second application, which was submitted only 6 months after the first, was inconsistent both in respect of the length of time [REDACTED] said that she had owned [REDACTED] and in respect of her employment income.
  15. Included in the second loan file was a copy of [REDACTED] bank statement for the period from May 14, 2007-June 14, 2007, which included a payroll deposit from "[REDACTED]" in the amount of \$1,362.62. It appears likely that "[REDACTED]" stands for "[REDACTED]", [REDACTED] employer according to the Credit Bureau report. Based on a bi-weekly pay period, a net income of \$1,362.62 results in an annual net pay of \$35,428.12. This is not consistent with the gross income shown on either of the mortgage applications or the NOAs submitted in support of same.

[REDACTED] ([REDACTED]) mortgage

16. In March 2007, Asadi submitted a mortgage application indicating that [REDACTED] had been a fleet owner of [REDACTED] Cab Company for the past 10 years, earning \$126,000. NOAs for 2004 and 2005, showing incomes of \$110,839 and 116,541 respectively, were submitted in support.
17. Staff made inquiries and determined [REDACTED] last worked at [REDACTED] Cab Company in March 2006 and that he had never been a fleet owner. Staff was advised that [REDACTED] had quit to work at [REDACTED] Cab Company to become an electrician.

[REDACTED] ("[REDACTED]") and [REDACTED] ("[REDACTED]") mortgage

18. In or about March 2007, Asadi submitted a mortgage application on behalf of [REDACTED] and [REDACTED] indicating that [REDACTED] had been the owner of [REDACTED] Day Care for the past five years and three months, earning \$118,000. In support of the application, [REDACTED] NOAs for 2004 and 2005 were submitted, showing annual income of \$107,780 and \$129,260 respectively.
19. Investigation conducted by the Staff disclosed the following:
  - a. [REDACTED] Day Care is not a registered corporate entity in British Columbia;
  - b. [REDACTED] is the sole proprietor of [REDACTED] which was registered on September 7, 2007, some six months after the mortgage application was submitted; and
  - c. The income on the NOAs appears high given that family daycares have restrictions limiting the number of the children in the daycare to seven.

[REDACTED] ("[REDACTED]") mortgage

20. In March 2007, Asadi submitted a mortgage application on behalf of [REDACTED] stating that [REDACTED] had been employed by [REDACTED] for the past three years and eight months, earning \$89,000. In support of this application Asadi submitted an employment letter authored by [REDACTED] Azad confirming [REDACTED] employment and income.
21. Investigation conducted by the staff disclosed the following:
  - a. The Credit Bureau report in Asadi's mortgage file, pulled on March 8, 2007, indicated that [REDACTED] last known employer was [REDACTED];
  - b. A corporate registry search showed that the director of [REDACTED] is [REDACTED] whose listed address is the same as Asadi's residential address. The existence of any relationship between Asadi and [REDACTED] was never disclosed on the Form 10 Disclosure Statement.

[REDACTED] (" [REDACTED] ") and [REDACTED] (" [REDACTED] ") mortgage

22. In March or April 2007, Asadi submitted a mortgage application on behalf of [REDACTED] and [REDACTED] indicating that [REDACTED] had been the owner of [REDACTED] Dry Clean for the past two years and six months, earning \$69,000.
23. Investigations conducted by the Staff disclosed the following:
- (a) A corporate registry search showed that the owner of [REDACTED] Cleaners was [REDACTED] and not [REDACTED];
  - (b) Staff called [REDACTED] Cleaners and was advised that [REDACTED] no longer worked there; and
  - (c) A Credit Bureau report which was in Asadi's mortgage file indicated that [REDACTED] last known employer was [REDACTED] Dry Cleaners; and
  - (d) Corporate searches showed that [REDACTED] was not the owner of [REDACTED] Dry Cleaners.

[REDACTED] (" [REDACTED] ") mortgage

24. In or about June 2007, Asadi submitted a mortgage application on behalf of [REDACTED] stating that [REDACTED] had been the owner of [REDACTED] for the past four years, earning \$139,000. In support of this application a 2006 NOA showing an income of \$91,389, a Certificate of Incorporation and Notice of Articles of Incorporation for [REDACTED] were submitted.
25. A review of the documents by the Staff disclosed the following:
- (a) The Credit Bureau report (pulled on March 20, 2007) in Asadi's file did not show any work history for [REDACTED];
  - (b) The 2006 NOA did not appear to be genuine as the applicable Tax Centre on the top portion of the page is identified as "Surrey, ON V3T 5E1". The same field appears on the bottom part of the page (the 2007 RRSP Deduction Limit Statement) and reads: "Surrey BC V3T 5E1";

- (c) The Certificate of Incorporation for [REDACTED] appears to have been altered due to the font used and the position of the company name on the document; and
- (d) A corporate registry search yielded no results for "[REDACTED]" although there is a company named "[REDACTED]" which has only been registered since March 2006 and whose sole director is [REDACTED].

[REDACTED] (" [REDACTED ]") mortgage

- 26. In June 2006, Asadi submitted a mortgage application on behalf of [REDACTED] stating that [REDACTED] had been employed as a manager and make-up artist with [REDACTED] for the past three years, earning \$72,000. In support of the application Asadi submitted a job letter from [REDACTED] confirming [REDACTED] annual income.
- 27. In reviewing the file, Staff noted the following:
  - (a) The Credit Bureau report in Asadi's file, which was run on June 19, 2007 identifies [REDACTED] last known employer as [REDACTED]; and
  - (b) A gross salary of \$72,000 appears excessive for a make-up artist; and
  - (c) The Contract of Purchase and Sale for the property [REDACTED] was trying to finance identified her occupation as graphic designer.

[REDACTED] (" [REDACTED ]") and [REDACTED] (" [REDACTED ]") mortgage

- 28. In or about June 2007, Asadi submitted a mortgage application on behalf of [REDACTED] and [REDACTED] stating that [REDACTED] had been the owner of [REDACTED] for the past eight years and four months, earning \$98,000 and that [REDACTED] had been the manager of [REDACTED] for the past four years and four months, earning \$68,000.
- 29. A corporate records search conducted by Staff showed that the director of [REDACTED] was [REDACTED].

[REDACTED] (" [REDACTED] ") mortgage

30. In June or July 2007, Asadi submitted a mortgage application on behalf of [REDACTED] stating that [REDACTED] had been the owner and director of [REDACTED] Painting Ltd. for the past four years and three months, earning \$106,000. In support of his application copies of [REDACTED] 2006 T1 General, Certificate of Incorporation and Notice of Articles of Incorporation for [REDACTED] were submitted.
31. In reviewing the file, Staff noted the following discrepancies:
- (a) The Credit Bureau report in Asadi's file (which had been run April 26, 2007 and updated in June 2007) showed that [REDACTED] last known employer was [REDACTED] Painting where he was employed as a painter.
  - (b) A corporate registry search revealed that the sole director and officer of [REDACTED] Painting Ltd. is [REDACTED], who does not share the same address as [REDACTED];
  - (c) The Certificate of Incorporation and Notice of Articles of Incorporation submitted with the mortgage application related to [REDACTED] Painting Ltd., a completely different company than the company identified in the application itself;
  - (d) A corporate registry search of [REDACTED] Painting Ltd. showed that [REDACTED] had ceased being a director on June 17, 2005, well before the mortgage application was submitted; and
  - (e) The 2006 T1 General identified [REDACTED]'s source of income as "self employment income (business income)" whereas income from a company would normally appear as employment or dividend income.

Statement of [REDACTED] (" [REDACTED] ") mortgage

32. In June or July 2007 Asadi submitted a mortgage application on behalf of [REDACTED] stating that [REDACTED] had been the office manager of [REDACTED] Property Management for the past six years, earning \$78,000. In support of [REDACTED] application, Asadi submitted a job letter from [REDACTED] dated July 9, 2007 indicating that [REDACTED] had been an employee since March 2006.

33. The job letter submitted in support of [REDACTED] mortgage contradicted the employment information on the mortgage application, which stated that [REDACTED] had been the manager of [REDACTED] Property Management for the past six years.

[REDACTED] (" [REDACTED ]") mortgage

34. In or about November 2007, Asadi submitted a mortgage application on behalf of [REDACTED] stating that [REDACTED] had been an owner-driver of [REDACTED] Trucking – [REDACTED] Trucking for the past three years, earning \$89,000. In support of the mortgage application, the following documents were submitted: [REDACTED] 2006 NOA (showing an income of \$89,105), [REDACTED] 2006 T1 General, a 2006 Statement of Business Activities for [REDACTED] Trucking and an application for incorporation for [REDACTED] Trucking Ltd.
35. Staff reviewed the mortgage file and noted the following discrepancies:
- (a) A corporate registry search for [REDACTED] Trucking yielded no results; and
  - (b) [REDACTED] 2006 NOA, under the section "2007 RRSP Deduction Limit Statement" stated that 18% of \$89,185 is \$16,038. Recalculation of this percentage shows that number to be incorrect: the correct number \$16,053.30.

[REDACTED] (" [REDACTED ]") mortgage

36. In or about February 2008, Asadi submitted a mortgage application on behalf of [REDACTED] which indicated that [REDACTED] had been the owner of [REDACTED] for the past three years and two months, earning \$98,300. In support of the mortgage application, Asadi submitted a copy of a 2006 NOA for [REDACTED] which showed an income of \$98,318.
37. Staff, in the course of its investigation, determined the following:
- (a) The only current known location for [REDACTED] is in Oakridge Mall;
  - (b) Staff called [REDACTED] and spoke with an employee who did not recognize [REDACTED] name. The employee passed the phone to the owner who also did not recognize [REDACTED] name. The owner added that there had once been a [REDACTED] at Metrotown



Mall, owned by someone named [REDACTED], but that it had closed several years earlier; and

- (c) Staff called Metrotown Mall and confirmed that [REDACTED] had not been operating there for many years.

[REDACTED] (" [REDACTED ]") mortgage

- 38. In or about March 2008 Asadi submitted a mortgage application on behalf of [REDACTED] which indicated that [REDACTED] had been the self-employed owner of [REDACTED] Dental Supplies for the past three years and six months, earning \$87,000.
- 39. The application was initially submitted to [REDACTED] Financial (" [REDACTED ]") which declined it in early April 2008, after expressing concerns about the documents submitted in support of the application. [REDACTED] had requested notarized copies of NOAs, which prompted Asadi to cancel this and all future deals she had with them. This is reviewed in more detail below.
- 40. After [REDACTED] declined the application, Asadi submitted a new application to [REDACTED]. This application, however, stated that [REDACTED] had been the owner of [REDACTED] for the past three years and six months. In support of this application Asadi submitted NOAs for 2005 and 2006 (showing income, respectively, of \$87,327 and \$87,614).
- 41. Staff reviewed the information in the [REDACTED] mortgage file and noted the following:
  - (a) The Credit Bureau report in Asadi's file indicated that [REDACTED] last known employer was [REDACTED] where she worked as a dental assistant;
  - (b) When Staff called [REDACTED] office and asked for [REDACTED] the receptionist advised that [REDACTED] was with a patient, but offered to take a message;
  - (c) Staff contacted [REDACTED] by phone and asked to speak with [REDACTED]. The individual who answered indicated that there was no one by that name employed there and that the owner's name was [REDACTED];

- (d) The Notice of Articles of Incorporation for [REDACTED], which had been submitted to [REDACTED] indicated that there were four directors, each one of whom bore the name "[REDACTED]";
- (e) A corporate search of [REDACTED], conducted by Staff on June 26, 2008, revealed that there are four different directors for the company, one of whom is [REDACTED] and
- (f) The registered address for [REDACTED] (Pender Street) is that of [REDACTED]. It seems likely that "[REDACTED]" stands for "[REDACTED]"

[REDACTED] ("[REDACTED]") and [REDACTED] ("[REDACTED]") mortgage

- 42. [REDACTED] wrote [REDACTED] on April 14, 2008 complaining about Asadi's services. [REDACTED] complaint revolved around \$4,000 in fees which [REDACTED] charged for her services. This is discussed in more detail below, under the heading "non-disclosure of fees."
- 43. The mortgage application submitted by Asadi on behalf of [REDACTED] and her husband, [REDACTED], indicated that they were employed, respectively, at [REDACTED] (earning \$31,000) and [REDACTED] (earning \$61,000). Filed in support of the mortgage application was a 2006 NOA for [REDACTED], dated April 24, 2007, showing his 2006 income as \$61,309.
- 44. Staff contacted the bank which had previously held the mortgage on the [REDACTED] property and learned that they had a copy of [REDACTED] 2006 NOA on file. A copy was obtained, but it was dated June 4, 2007 and showed income for [REDACTED] in 2006 of \$38,126.
- 45. In subsequent discussions with Staff, [REDACTED] confirmed that the 2006 NOA dated April 24, 2007 was false. She further verified that her husband's 2006 NOA dated June 4, 2007 was legitimate.

**Non-disclosure of fees to lenders and failure to remit borrower fees to Mortgage Alliance**

- 46. Five of the mortgages reviewed indicated the following:
  - (a) That fees paid by the borrower were not disclosed by Asadi to lenders; and

- (b) That fees paid by the borrower were not remitted by Asadi to Mortgage Alliance.

Particulars of these transactions, and the information contained in the mortgage files, are set out below:

████████ mortgage

- The Form 10, dated August 27, 2008 and signed by Asadi, contains the following representation: "THE MORTGAGE ALLIANCE COMPANY...WILL RECIVE [sic] A FEE DIRECTLY FROM THE LENDER. NO ADDITIONAL FEE IS OR WILL BE CHARGED TO THE CLIENT FOR THE BROKER'S SERVICES."
- The Fixed Credit Disclosure Statement, dated August 28, 2007 and signed by Asadi, indicates that the lawyer or borrower, at or prior to completion, is paying \$2,000 in broker fees.
- The Mortgage Alliance Invoice Checklist, signed by Asadi, discloses receipt of a finder's fee (paid by the lender) in the amount of \$5,278.50. There was no indication on the Checklist of the receipt of an additional fee from the borrower.
- The mortgage file did not include a Form 10 to the lender disclosing the borrower fees received.

████████ mortgage

- The Form 10, dated June 28, 2007 and signed by Asadi, contains the following representation: "THE MORTGAGE ALLIANCE COMPANY...WILL RECIVE [sic] A FEE DIRECTLY FROM THE LENDER. NO ADDITIONAL FEE IS OR WILL BE CHARGED TO THE CLIENT FOR THE BROKER'S SERVICES."
- The Fixed Credit Disclosure Statement, dated June 28, 2007 and signed by Asadi, indicates that the lawyer or borrower, at or prior to completion, is paying \$2,000 in broker fees.
- The Mortgage Alliance Invoice Checklist, signed by Asadi, discloses receipt of a finder's fee (paid by the lender) in the amount of \$1,046.25. There was no indication on the Checklist of the receipt of an additional fee from the borrower.
- The mortgage file did not include a Form 10 to the lender disclosing the borrower fees received.



████████ mortgage

- The commitment letter from the lender (████████ Mortgage) indicated that a placement fee in the amount of \$2680 was payable to ██████████ Mortgage Ltd. from the proceeds.
- The Form 10, dated July 9, 2007, contains the following representation: "THE MORTGAGE ALLIANCE COMPANY...WILL RECEIVE [sic] A FEE DIRECTLY FROM THE LENDER. AN ADDITIONAL FEE OF \$2,680 IS CHARGED TO THE CLIENT BY THE LENDER AS COMMISSION."
- The Fixed Credit Disclosure Statement, which is undated, states that a lender fee of \$2,680 will be deducted from the proceeds of the mortgage. Of that, \$1,340 will be paid to the broker by the lender as a fee and \$1340 is a lender fee. Payment of an additional fee by the borrower to the broker, in the amount of \$2,000, is also disclosed.
- The Mortgage Alliance checklist, signed by Asadi, discloses receipt of a finder's fee in the amount of \$1,005. There was no indication on the Checklist of the receipt of an additional fee from the borrower.
- The mortgage file did not include a Form 10 to the lender disclosing the borrower fees received.

47. Staff interviewed ██████████ about fees charged by Asadi. ██████████ advised as follows:

- (a) she had dealt with Asadi in March and early April, 2008;
- (b) Asadi advised ██████████ that she was charging 1% of the mortgage as fees;
- (c) Asadi told ██████████ that she could either wire \$4,500 directly into an account or pay \$4,000 in cash;
- (d) ██████████ elected to pay cash, so Asadi advised her to put the \$4,000 in an envelope and give it to Asadi's lawyer;
- (e) Asadi's lawyer picked up the envelope from ██████████ home;
- (f) no receipt was ever provided for the money; and

- (g) some time after [REDACTED] wrote [REDACTED] complaining about this, a woman appeared at [REDACTED] work and presented her with a cheque for \$4,000 stating that it was from Asadi.
48. Asadi had been asked by [REDACTED] to explain the fees charged to [REDACTED]. In an email sent to [REDACTED] on April 23, 2008, Asadi provided the following explanation:
- (a) [REDACTED] needed to refinance her home quickly;
  - (b) Asadi told her that given the work which would be involved, together with the short time frame, she would be charging for the extra time and effort required;
  - (c) Asadi wrote to [REDACTED]: "I just throw a number at her. I even explained that once I get the approval I will collect the money then so she wont [sic] go shop around with my approval..."
  - (d) Asadi faxed [REDACTED]'s lawyer the letter of direction and disclosure statement indicating the amount she was required to pay;
  - (e) [REDACTED] advised she did not have time to go to the lawyer's office, so the lawyer went directly to [REDACTED] home to obtain her signature, at which time [REDACTED] refused to sign the disclosure statement saying that she wanted to pay cash and therefore would not sign. This is why, according to Asadi, there is no Form 10 in respect of this file;
  - (f) Asadi indicated that she charged fees from time to time as follows:  
  
"I only charge clients if I do any form of mortgage port or if I give extra services like going back and fort [sic] between client's house or work places many times to collect documents or if I am very busy and the client insist [sic] to work with me only. It has happened coupled [sic] of times in the past that I have charged the client who came to me few days before their closing date and I had to do fast closing so I have decided to charge them and they have been very understanding and happy at the end. I have always look [sic] at this career as a self employed business never thought or have been explained that if you work harder you can not charge more or if you do; you have to explain why?!!!"
49. Representatives of Mortgage Alliance have advised Staff that all fees charged by the mortgage broker or submortgage broker should be made payable to Mortgage Alliance and deposited into Mortgage Alliance's account, after which a broker will receive his or her share. In those circumstances where a submortgage broker receives fees directly from a borrower, the submortgage broker should immediately sign the cheque over to Mortgage Alliance. Representatives of Mortgage Alliance have

further advised that all fees received by a submortgage broker (be they from a lender or a borrower) should be recorded on the Mortgage Alliance Checklist.

50. By failing to remit fees received directly from borrowers to Mortgage Alliance, Asadi was depriving Mortgage Alliance of its share.
51. In addition, fees received from borrowers should be disclosed on a Form 10 and submitted to the lender. There was no evidence, on review of Asadi's files, of Form 10 disclosure to lenders in respect of these files.

**Concerns raised by lenders**

52. At least three lenders have expressed concerns regarding Asadi's dealings as a mortgage broker.
53. In November 2006, Asadi was attempting to arrange a mortgage for [REDACTED]
54. On November 24, 2006, [REDACTED] approved the [REDACTED] mortgage.
55. On December 5, 2006, [REDACTED] wrote Asadi, declining the application because "we have been informed by the broker that she didn't feel comfortable approaching the client and asking him to sign the Rev Can request form." The request form in question would have authorized [REDACTED] to obtain [REDACTED] tax information directly from the CCRA.
56. A member of the Staff spoke with [REDACTED] on July 31, 2008 and was advised as follows:
  - (a) [REDACTED] only requests a mortgage applicant to provide a Rev Can request form when they detect inconsistencies in employment information provided in support of a mortgage application;
  - (b) [REDACTED] had concerns about the [REDACTED] application when the signature on the mortgage commitment letter struck them as familiar; and
  - (c) [REDACTED] conducted its own searches and determined that [REDACTED] was not a director of [REDACTED].
57. In April 2008, Asadi was attempting to arrange a mortgage for [REDACTED] with [REDACTED]

58. In support of [REDACTED] mortgage application, which indicated that [REDACTED] had been the self-employed owner of [REDACTED] Dental Supplies for the past 3 ½ years earning \$87,000, Asadi submitted the following documents:
- (a) Notices of Assessment for [REDACTED] from 2005 and 2006 showing an annual income of \$87,327 and \$87,614 respectively;
  - (b) Notice of Articles of Incorporation for [REDACTED], indicating that [REDACTED] had been incorporated on November 22, 2006 and had four directors, all of whom bore the name "[REDACTED]."
59. [REDACTED] file notes indicate that they had the following concerns about the information received:
- (a) [REDACTED] Dental Supplies had no 411 or web listing;
  - (b) the corporate registration documents and business bank statements provided related to a different entity; and
  - (c) the corporate records did not confirm that the business had been operating for at least 2 years (as indicated in the mortgage application).
60. [REDACTED] wrote Asadi on April 8, 2008 requesting certified true copies (certified by a lawyer) of the 2005 and 2006 NOAs provided in support of [REDACTED] mortgage application, as well as a current reprint of the 2005 NOA certified to be true by the CCRA. In response, Asadi wrote the following email on April 18, 2008:
- "PLEASE CANCEL ALL FUTURE DEALS WE HAVE WITH YOU. IT WAS A PLEASURE WORKING WITH YOU BOTH, THANKS FOR EVERYTHING. ONCE AGAIN PLEASE MAKE SURE ALL FUTURE DEALS TOGETHER ARE CANCELLED."
61. Staff spoke with [REDACTED] on July 31, 2008 and was advised as follows:
- (a) [REDACTED] requested notarized NOAs from [REDACTED] because those submitted appeared to have been altered; and
  - (b) [REDACTED] grew suspicious because the 2005 NOA did not have enough dots in the deductions line and because the font used for the numbers appeared to be "off."
62. On June 20, 2008, Staff contacted [REDACTED], Manager of Credit Analysis at [REDACTED] who advised as follows:



- (a) Asadi had submitted a mortgage application on behalf of herself and on behalf of [REDACTED], in support of which NOAs on behalf of both were provided;
- (b) [REDACTED] declined the mortgage application because, based on their experience, the NOAs submitted appeared fraudulent.

**General**

- 63. [REDACTED] advised Staff that he had suspended Asadi. However, her registration has not been turned in and, as of today's date, she continues to advertise her services as a mortgage broker.
- 64. Staff has made the following efforts to meet with Asadi:
  - (a) On June 17, 2008 a message was left for Asadi, asking that she call back.
  - (b) On July 4, 2008 Asadi's lawyer returned the June 17, 2008 call, advising Staff that Asadi was on vacation, likely to return on July 7<sup>th</sup>.
  - (c) On or about July 9, 2008 Staff called Asadi's counsel who advised he had not yet heard from his client.
  - (d) On July 25, 2008, not having heard back from Asadi or her counsel, Staff attempted to serve a summons on Asadi, requiring her presence at the Registrar's office on Monday, July 28, 2008. Her counsel advised that he was not available the week of July 28, 2008 but that he and his client would be available on August 11, 2008.

**Applicable sections of the Mortgage Brokers Act, Mortgage Brokers Act Regulations and Bulletins**

- 65. Relevant sections of the *Mortgage Brokers Act*, RSBC 1996, c. 313 are set out below:

**Suspension or cancellation of registration**

8(1) After giving a person registered under this Act an opportunity to be heard, the registrar may suspend or cancel the person's registration if, in the opinion of the registrar, any of the following paragraphs apply:

- (a) the person would be disentitled to registration if the person were an applicant under section 4;
- (b) the person is in breach of this Act, the regulations or a condition of registration;
- (c) the person is a party to a mortgage transaction which is harsh and unconscionable or otherwise inequitable;
- (d) the person has made a statement in a record filed or provided under this Act that, at the time and in the light of the circumstances under which the statement was made, was false or misleading with respect to a material fact or that omitted to state a material fact, the omission of which made the statement false or misleading;
- (e) the person has conducted or is conducting business in a manner that is otherwise prejudicial to the public interest;
- (f) the person is in breach of a provision of Part 2 or 5 of the *Business Practices and Consumer Protection Act* prescribed under section 9.1(2).

...

(2) If the length of time that would be required to give the person an opportunity to be heard under subsection (1) would, in the registrar's opinion, be prejudicial to the public interest, the registrar may suspend registration without giving the person an opportunity to be heard.

(3) If under subsection (2) the registrar suspends registration without giving the person an opportunity to be heard, the registrar must promptly send written notification of the suspension to the person and to the tribunal.

**Conflict of interest – disclosure to lenders for mortgages on land in B.C. or elsewhere**

17.4(1) Every mortgage broker who acts in a mortgage transaction in which there is an interest as described in subsection 2(a) must, within the prescribed time, provide to every person who is a lender under a mortgage in that transaction a written disclosure statement that meets the requirements of subsection (2).

- (2) The disclosure statement referred to in subsection (1) must
  - (a) disclose any direct or indirect interest the mortgage broker or any associate or related party of the mortgage broker has or may acquire in the transaction,
  - (b) include the prescribed contents and be accompanied by any documents that are prescribed,
  - (c) be dated and signed by the mortgage broker, and

(d) contain disclosure that is true, plain and not misleading of the matters in the prescribed contents referred to in paragraph (b).

66. Relevant sections of the *Mortgage Brokers Act Regulations* are below:

**Prescribed forms**

1.1 The following forms attached to this regulation are prescribed:

(e) Form 10 as the written disclosure statement required by sections 17.3 and 17.4 of the Act.

67. The Form 10 – Conflict of Interest Disclosure Statement must be signed by the mortgage broker and asks that the following be disclosed:

“Describe any direct or indirect interest the mortgage broker has or, as currently contemplated, may acquire in the transaction for which this disclosure statement is provided.”

68. The Registrar periodically issues Bulletins for the information of mortgage brokers and submortgage brokers registered in BC. Portions of relevant Bulletins are set out below:

**Bulletin Number MB04-005 – Misleading Information (October 2004)**

“Increasingly this office is being made aware of occasions where mortgage brokers are failing to verify client information that is being passed on to lenders. As a result, instances where lenders are receiving misleading or false information is becoming more frequent...”

Mortgage brokers need to recognize that lenders rely on the information they receive regarding potential borrowers. Mortgage brokers cannot say that it is not their responsibility to verify the information being given to them during the application process. Lenders indicate they assume that mortgage brokers have verified the information before forwarding it on. This office takes the position that a mortgage broker has a duty to ensure the information being sent to a lender has been verified.

Although no one is suggesting that mortgage brokers need to conduct in-depth investigations of every transaction that they process, reasonable due diligence must be undertaken to ensure that the information being passed on to lenders is accurate. Applications containing errors or omissions need additional verification and under no circumstances should brokers be referring applications that have been shown by another mortgage broker or lender to contain false or inaccurate information. If mortgage brokers do not verify the information they are forwarding to lenders, then mortgage brokers should advise the lenders in writing that none of the information has been verified...”

**Bulletin Number MB07-002 – Providing Conflict of Interest Disclosure (January 4, 2007)**

“All mortgage broker registrants have an obligation to provide disclosure of conflicts of interest to borrowers and lenders. Form 10 is the Conflict of Interest Disclosure Statement prescribed pursuant to sections 17.3 and 17.4 of the *Mortgage Brokers Act*. Those sections require every broker, who acts in a mortgage transaction in which the

broker or any associate or related party of the broker has or may acquire a direct or indirect interest, to disclose that conflict of interest to the borrower or lender as the case may be.

A conflict of interest exists where a broker has competing personal or business interests in a mortgage transaction...

Brokers should ensure that the Form 10 clearly explains the nature of the conflict. We have found that many brokers complete Form 10s in a perfunctory manner, using boilerplate language which may have little meaning to the borrower or lender...

...Brokers should always act cautiously and disclose all potential conflicts of interest, even if the conflict appears to be remote.”

**Bulletin Number MB 07-005 – Due Diligence of Mortgage Brokers Who Arrange Stated Income Mortgages (July 26, 2007)**

“Self employed borrowers may qualify for a stated income mortgage by relying on the income stated in their mortgage application or in a separate declaration form. These borrowers usually do not have to prove the value of their income with supporting documentation, such as income tax returns or bank statements. However, they may have to document the source of their income by providing a business licence to the mortgage broker or lender. Stated income mortgages are intended for self employed persons, who may write off significant amounts of their gross income with business expenses. The income they are asked to declare is neither their gross income nor their net income, but a “reasonable” estimate of their actual income...”

The lack of supporting documentation required for stated income mortgages may lead some borrowers to provide misleading information about the source of their income or the amount of their income...

Please be aware that mortgage brokers must undertake reasonable due diligence to ensure that the information being passed on to lenders is accurate and not misleading, even if it appears that the lender encourages or tolerates misleading statements from borrowers about the source or amount of income on stated income applications. Exercising due diligence for stated income mortgages would require mortgage brokers to ensure that the borrower knows to state only truthful information in the mortgage application. Remember that if a stated income mortgage results in default or foreclosure, the lender may look for evidence of fraud. If there are any misrepresentations about the amount or source of income, lenders may place responsibility for the misrepresentations on the mortgage broker who submitted the application, while borrowers may blame the mortgage broker for counseling them to provide false information.

In addition, the Registrar of Mortgage Brokers may seek to impose regulatory penalties against any mortgage broker who does not exercise due diligence in ensuring that information contained in stated income mortgages is accurate and not misleading...”

I AM THEREFORE OF THE OPINION that Asadi has conducted business in breach of the *Act* and in a manner that is prejudicial to the public interest by failing to conduct any due diligence or “know your client” procedures and/or by knowingly submitting false information to lenders for them to act upon as if it were genuine, by failing remit broker fees she has received to her employer

when require to do so, and by failing to disclose receipt of broker fees to lenders as required under the *Act*.

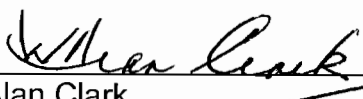
I AM THEREFORE OF THE OPINION that the length of time that would be required to give Asadi an opportunity to be heard under section 8(1) of the *Act* would be prejudicial to the public interest. Asadi has undertaken a course of conduct that undermines the integrity of the mortgage broker industry. Submitting documents in support of an application which she knows, or ought to know, are false is prejudicial to the public interest, failing to disclose received to her employer when she was required to do so and failing to meet legislated disclosure requirements is conduct from which the public needs immediate protection.

I HEREBY SUSPEND Asadi, pursuant to section 8(2) of the *Act*, until the investigation into the conduct and activities of Asadi is completed and a determination is made by the Registrar, after Asadi has had an opportunity to be heard, as to whether the registration of Asadi should be suspended or cancelled pursuant to s.8(1) of the *Act*.

THIS SUSPENSION ORDER will remain in force for a period of one hundred and twenty (120) days from the date of this Order or until the determination referred to above is made by the Registrar, whichever is sooner. In the event that the determination referred to above is not made by the Registrar within one hundred and twenty (120) days of this Order, the staff of the Registrar may apply for a further Order under s.8(2) of the *Act*.

TAKE NOTICE that Asadi may, under section 9 of the *Act*, appeal this Order of Suspension to the Financial Services Tribunal.

Dated at the  
City of Surrey,  
Province of British Columbia  
this 1<sup>st</sup> day of August, 2008.

  
\_\_\_\_\_  
W. Alan Clark  
Registrar of Mortgage Brokers  
Province of British Columbia

TO: Maryam Asadi



TO: Mortgage Alliance of Canada  
505 – 4211 Kingsway  
Burnaby, BC  
V5H 1Z5