



**IN THE MATTER OF THE *MORTGAGE BROKERS ACT*,
RSBC 1996, c. 313 as amended**

-AND-

IN THE MATTER OF GABRIEL JASON HOFFART AND JOHN STEPHEN MCKAY

CONSENT ORDER

(Pursuant to sections 8 and 8(1.4) of the *Mortgage Brokers Act*)

WHEREAS John Stephen McKay has never been a registered mortgage broker or submortgage broker under the *Mortgage Brokers Act*, R.S.B.C. 1996, c. 313 (the "MBA");

AND WHEREAS Gabriel Jason Hoffart ("Mr. Hoffart") has been a registered submortgage broker under the MBA since August 25, 2008;

AND WHEREAS at all material times Mr. Hoffart was concurrently registered with, and was the Designated Individual for, Symmetry 2 Mortgage Investment Corporation ("Symmetry 2 MIC") and Hoffart Metro Financial Group Ltd., dba: The Mortgage Centre – Metro Financial Group;

AND WHEREAS the Registrar of Mortgage Brokers (the "Registrar") issued a Notice of hearing on January 16, 2018;

AND WHEREAS the following agreement has been reached between Mr. McKay and Mr. Hoffart and the Staff of the Registrar;

AND WHEREAS the Registrar agrees to the following terms of a consent order:

A. FINDINGS

The Registrar makes the following findings against Mr. Hoffart, and Mr. Hoffart accepts the following findings made against him:

1. Mr. Hoffart conducted business in a manner that is prejudicial to the public interest contrary to section 8(1)(i) of the MBA in that, in his capacity as the sole submortgage broker at Symmetry 2 MIC, he:
 - a. Facilitated the unregistered mortgage broker activities of Mr. McKay by failing to conduct the day to day operation and oversight of all business matters regarding Symmetry 2 MIC and in particular by failing to supervise and oversee the mortgage broker activities of Mr. McKay, who arranged for Symmetry 2 MIC to lend money to 17 borrowers (the "Borrowers"), secured in whole or in part by mortgages (the "Mortgages"), between approximately June 14, 2013 to January 16, 2016. In particular Mr. Hoffart failed to:
 - i. ensure that all financial and mortgage records of Symmetry 2 MIC were accurate and up to date;
 - ii. ensure that the Borrowers in 17 of Symmetry 2 MIC's Mortgage files were provided with Form 10 Conflict of Interest Disclosure Statements and cost of credit disclosure statements as required by the MBA; and
 - iii. take conduct of the arrangement of new Symmetry 2 MIC Mortgages and to administer and renew existing Symmetry 2 MIC Mortgages.
2. Mr. Hoffart, in his capacity as a submortgage broker, made a statement in a record filed or provided under the MBA that was false or misleading contrary to section 8(1)(h), by providing in support of Symmetry 2 MIC's registration with the Registrar a management agreement between Symmetry 2 MIC and Hoffart Metro Financial Group Ltd. ("Hoffart Metro Financial"), a registered broker, dated June 14, 2013, which stated that Hoffart Metro Financial would provide Symmetry 2 MIC with day to day operation and oversight of all business matters when Mr. Hoffart knew or ought to have known that Hoffart Metro Financial would not provide those services to Symmetry 2 MIC.

The Registrar makes the following findings against Mr. McKay, and Mr. McKay accepts the following findings against him:

3. Mr. McKay carried on business as a mortgage broker or submortgage broker by arranging for the lending of money to the 17 Borrowers on behalf of Symmetry 2 MIC from approximately June 4, 2013 to January 16, 2016, secured in whole or in part by the Mortgages, without being registered to do so as required by section 21 and 8(1.4) of the MBA and without being exempt under section 11 of the MBA.

B. ORDERS AND PENALTY

Pursuant to sections 8(1.1), 8(1.4) and 6(9) of the MBA, Mr. Hoffart hereby consents to, and the Registrar hereby makes, the following orders:

4. Pursuant to section 8(1.1) of the MBA, Mr. Hoffart shall pay an administrative penalty of \$12,500;
5. Pursuant to section 6(9) of the MBA, Mr. Hoffart shall pay partial investigation costs in the amount of \$2,500;
6. Pursuant to section 8(1.4) of the MBA, Mr. McKay shall pay an administrative penalty of \$17,500;
7. Pursuant to section 6(9) of the MBA, Mr. McKay shall pay partial investigation costs in the amount of \$2,500;
8. Mr. McKay and Mr. Hoffart are jointly and severally liable for the full investigation costs in the amount of \$5,000.
9. All payments will be made by cheque, bank draft or money order payable to the Minister of Finance and all amounts outstanding thirty (30) days following execution of this Order will represent a debt owing and be subject to interest pursuant to the *Financial Administration Act*, R.S.B.C. 1996, c. 138.

C. AGREED FACTS

As a basis for this Consent Order, Mr. McKay and Mr. Hoffart acknowledge the following facts as correct and make the following admissions:

10. Symmetry 2 MIC was registered as a mortgage brokerage under the MBA from May 5, 2004 to January 19, 2016. At all material times, Mr. John McKay served as the President of Symmetry 2 MIC.
11. Mr. McKay has never been registered as a submortgage broker under the MBA.
12. Between May 6, 2004 and October 9, 2012 [REDACTED] was the Designated Individual and sole registered submortgage broker at Symmetry 2 MIC.
13. Between approximately October 11, 2012 and February 18, 2013, there was no Designated Individual or registered submortgage broker associated with Symmetry 2 MIC.
14. Mr. Hoffart has been a registered mortgage broker under the MBA since August 25, 2008.
15. Between approximately June 14, 2013 and January 16, 2016, Mr. Hoffart was the Designated Individual and sole registered submortgage broker at Symmetry 2 MIC.

16. Since January 2, 2013, Mr. Hoffart has also been registered as a submortgage broker with his own brokerage, Hoffart Metro Financial. Mr. Hoffart is the President of Hoffart Metro Financial.
17. On June 14, 2013, Mr. Hoffart signed a Broker Management Agreement between Symmetry 2 MIC and Hoffart Metro Financial (the "broker"), which stated that "the broker would be responsible for the underwriting of all mortgages into which [Symmetry 2 MIC] would invest and the continued administration and management thereafter" (the "Agreement").
18. The Agreement further stated that the broker would provide "the day to day operation and oversight of all business matters related to the ongoing operation of the MIC" and that "[t]he MIC will be "passive" and the all mortgage dealings will be dealt exclusively through the broker."
19. On or about June 15, 2013, the Agreement was filed with the Registrar.
20. Between June 14, 2013 and January 16, 2016, Mr. Hoffart and his brokerage, Hoffart Metro Financial, did not satisfy the terms of the Agreement. Mr. Hoffart and Hoffart Metro Financial were not actively involved in the business operation or lending activities of Symmetry 2 MIC.
21. Mr. Hoffart knew or ought to have known that Hoffart Metro Financial would not provide the services described in the Agreement to Symmetry 2 MIC.
22. Between June 14, 2013 and January 16, 2016, Mr. McKay arranged 17 mortgages (the "Mortgages") without being registered to do so as required by section 21 and 8(1.4) of the MBA and without being exempt under section 11 of the MBA.
23. Mr. McKay did not provide the Borrowers involved in the Mortgages with Form 10 Conflict of Interest Disclosure Statements and cost of credit disclosure statements as required by the MBA.
24. Between June 14, 2013 and January 16, 2016, Mr. Hoffart failed to supervise and oversee Symmetry 2 MIC's ongoing day to day operations and mortgage lending activities, including the arrangement and renewal of the Mortgages. In particular, Mr. Hoffart failed to:
 - a. ensure that all financial and mortgage records of Symmetry 2 MIC were accurate and up to date;
 - b. ensure that the Borrowers in 17 of Symmetry 2 MIC's Mortgage files were provided with Form 10 Conflict of Interest Disclosure Statements and cost of credit disclosure statements as required by the MBA;
 - c. take conduct of the arrangement of new Symmetry 2 MIC Mortgages and to administer and renew existing Symmetry 2 MIC Mortgages.

25. Mr. Hoffart did not meet with the Borrowers involved in the Mortgages or know that Mr. McKay was continuing to arrange mortgages without Mr. Hoffart's involvement or oversight.
26. Mr. Hoffart did not receive compensation from Symmetry 2 MIC during his tenure as the Designated Individual for Symmetry 2 MIC.
27. Mr. Hoffart cooperated fully with the investigation conducted by the Registrar's Staff.
28. Mr. Hoffart has no disciplinary history with the Registrar.

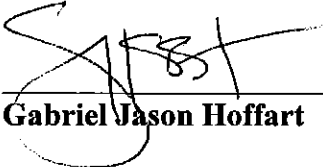
D. WAIVER

29. Mr. McKay and Mr. Hoffart waive their right to a hearing under sections 4 and 8 of the MBA and waive their right to appeal under section 9 of the MBA.


E. COUNTERPARTS

30. This Order may be executed in any number of counterparts, each of which shall be deemed to be an original, and all such counterparts, when executed and taken together, shall constitute one and the same instrument.


Approved as to form and content by:


_____ this 2nd day of July, 2019
Gabriel Jason Hoffart

_____ this _____ day of _____, 2019
John Stephen McKay


_____ this 5th day of July, 2019
Mark Witten
Legal Counsel for the Staff of the
Registrar of Mortgage Brokers

Issued this 12 day of July
at Vancouver, British Columbia



Chris Carter, Acting Registrar
of Mortgage Brokers
Province of British Columbia



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A. FINDINGS

The Registrar makes the following findings against Mr. Hoffart, and Mr. Hoffart accepts the following findings made against him:

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D. WAIVER

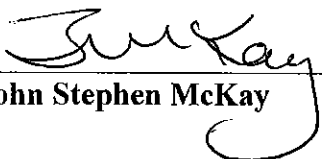
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Approved as to form and content by:

_____ this _____ day of _____, 2019
Gabriel Jason Hoffart

 this 19th day of June, 2019
John Stephen McKay

_____ this _____ day of _____, 2019
Mark Witten
Legal Counsel for the Staff of the
Registrar of Mortgage Brokers

Issued this ___ day of _____
at _____, British Columbia

Chris Carter, Acting Registrar
of Mortgage Brokers
Province of British Columbia