



IN THE MATTER OF THE FINANCIAL INSTITUTIONS ACT
R.S.B.C. 1996, C. 141, AS AMENDED

- AND -

IN THE MATTER OF 439288 B.C. LTD.
CARL GLENN ANDERSON,
GORDON ANTHONY SHANKS, AND
DOUGLAS VICTOR MONTALDI

ORDER UNDER SECTIONS 244(2) AND 238
AND
NOTICE OF RIGHT OF HEARING OR APPEAL
UNDER SECTIONS 238(2) AND 242

WHEREAS it appears to the Superintendent of Financial Institutions (the "Superintendent") that:

1. 439288 B.C. Ltd. ("439288") was incorporated in British Columbia on January 15, 1993 under the *Company Act*, R.S.B.C. 1996, c. 62 with registration number 0439288.
2. The officers and directors of 439288 of record are:
 - a) Carl Glenn Anderson ("Anderson")
[REDACTED]
Director/Secretary
 - b) Douglas Victor Montaldi ("Montaldi")
[REDACTED]
Director/President
 - c) Gordon Anthony Shanks ("Shanks")
[REDACTED]

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3. On April 29, 2002 the Superintendent ordered an investigation of 439288, Anderson, Montaldi and Shanks. The investigation resulted from information received on April 24, 2002 by the Superintendent from the British Columbia Securities Commission.
4. The registered office for 439288 is located at 2375 Burrard Avenue, Box 1489, Vanderhoof, British Columbia, V0J 3A2 and the records office for 439288 is located at 310 Yellowhead 16, Burns Lake, British Columbia, V0J 1E0.
5. 439288 is also a registered mortgage broker and has been registered as such since November 19, 2001. Shanks is the sole sub-mortgage broker registered with 439288 under the provisions of the *Mortgage Broker Act*, R.S.B.C. 1996, c. 313. Shanks is the Designated Individual for 439288.
6. As a result of the continuing investigation the following activities appear to be taking place:
 - a) 439288 is in the business of receiving money on deposit from individuals and companies (the "Depositors") in the Burns Lake area.
 - b) Anderson and Montaldi give personal guarantees to the Depositors of amounts owing from 439288 to the Depositors in the form of "promissory notes" (the "Notes"). The Notes set out the terms of repayment of the amounts owed by 439288 to the Depositors. The majority of the Notes have a one year term to maturity and provide for a 12% rate of interest.
 - c) 439288 pays interest monthly to the Depositors and issues T5 slips.
 - d) There appears to be in excess of 300 Depositors that hold Notes. The value of the Notes as of December 31, 2001 was \$35,973,467. The Depositors hold the Notes in amounts ranging from \$190.00 to \$2,000,000. On May 1, 2002 Anderson and Montaldi advised the investigators that the aggregate amount of deposits and Notes issued had increased to approximately \$40,000,000.
 - e) There are no financial statements for 439288 for the year ended December 31, 2001. The financial statements for the year ended December 31, 2000 were prepared by Marmon Financial Management Co. Ltd. the sole director of which is Montaldi. These financial statements are unaudited.
 - f) The financial statements of 439288 for the period ending December 31, 2000 indicate that 439288 holds long term investments valued at \$4,405,078.
 - g) 439288 holds a bank account at the Canadian Imperial Bank of Commerce in Burns Lake with a balance of approximately \$600,000.

- h) The records of 439288 show that there are approximately 1,400 borrowers with aggregate borrowings as of December 31, 2001 of \$24,033,625.
- i) Of the loans made by 439288, approximately \$1,700,000 have had no payment of principal or interest made ("non-performing") for a period of between 6 to 12 months; \$520,000 have been non-performing for a period of between 12 to 18 months; and \$850,000 have been non-performing for a period exceeding 18 months.
- j) The records of 439288 indicate that the directors of 439288 have borrowed heavily from 439288. The extent of their indebtedness to 439288 is:

| | | | |
|------|--------------------------|----------------|--------------------|
| i) | Anderson | Personal Loans | \$1,137,898 |
| ii) | Anderson | Joint Loans | \$851,416 |
| iii) | Montaldi | Personal Loans | \$2,913,125 |
| iv) | Montaldi | Joint Loans | \$690,351 |
| v) | Shanks | Personal Loan | \$118,000 |
| vi) | Montaldi/Anderson/Shanks | | \$468,164 |
| | | | \$6,177,954 |

- k) All of the directors' borrowings from 439288 set out in paragraph (j) above appear to be unsecured.
- l) The loans of Anderson and Montaldi have been on the books of 439288 since 1994. The loans have increased consistently since that time. There have been infrequent payments of either principal or interest on any of the directors loans.
- m) The accounting records of 439288 have not been reconciled since the middle of 2001. The record keeping has not been kept up to date and the recording of both deposits and payments and interest or principal from borrowers may not be accurate.
- n) It appears that 439288 cannot meet its monthly interest payment obligations to Depositors without receiving additional deposits on an ongoing basis.
- o) It is the consistent practice of the Depositors to roll over the Notes as they come due.

- p) 439288 has insufficient assets to pay out the principal sums owing to the Depositors, as evidenced by the Notes, as they come due.
 - q) Anderson and Montaldi have insufficient assets to meet their personal guarantee obligations as provided by the Notes.
7. The *Financial Institutions Act*, R.S.B.C. 1996, c. 141 (the "FIA") defines deposit business as follows:
- "Deposit business" means the business of receiving on deposit money that is repayable
- a) on demand
 - b) after notice,
 - c) on the expiry of a specified term, or
 - d) at specified intervals for a specified term..."
8. Section 81 of the FIA provides as follows:
- "A person must not carry on deposit business in British Columbia unless the person is
- a) a trust company or extraprovincial trust corporation that has a business authorization to carry on deposit business,
 - b) a credit union that has a business authorization to carry on deposit business,
 - c) a bank, or
 - d) a corporation that is a subsidiary of a bank and is a loan company to which the *Trust and Loan Companies Act* (Canada) applies."
9. 439288 has not filed an application for a business authorization under the FIA to carry on deposit business in the Province of British Columbia and the Financial Institutions Commission has not issued a business authorization to 439288. 439288 is not a bank or a corporation that is a subsidiary of a bank.
10. The investigation into the affairs of 439288, Anderson, Shanks and Montaldi is ongoing. On May 3, 2002 a search warrant was executed at the office of 439288 to secure the books and records of 439288.

AND WHEREAS the Superintendent is of the opinion that by the above acts or conduct, 439288, Anderson, Shanks and Montaldi, are carrying on deposit business in British Columbia while prohibited from carrying on deposit business in British Columbia pursuant to Section 81 of the FIA, and are accordingly committing an act or pursuing a course of conduct that does not comply with the FIA.

AND WHEREAS the Superintendent considers, pursuant to Section 238(1) of the FIA, that the length of time that would be required to hold a hearing would be detrimental to the due administration of the FIA.

NOW THEREFORE the Superintendent orders pursuant to Section 244(2) and 238 that 439288 B.C. Ltd., Carl Glenn Anderson, Gordon Anthony Shanks, and Douglas Victor Montaldi cease from either directly, or indirectly, carrying on deposit business, including, without limiting the generality of the foregoing, inviting, offering or soliciting the investing or depositing of monies.

TAKE NOTICE THAT 439288 B.C. Ltd., Carl Glenn Anderson, Gordon Anthony Shanks and Douglas Victor Montaldi have a right to a hearing or an appeal under Sections 238(2) and 242 of the FIA.

Dated at the City of Vancouver, Province of British Columbia, this 3RD day of MAY, 2002.



W. Alan Clark
Superintendent of Financial Institutions
Province of British Columbia

TO: 439288 B.C. Ltd.
Carl Glenn Anderson
Gordon Anthony Shanks
Douglas Victor Montaldi