

Information Bulletin

Bulletin Number: MB 10-006

Topic: GUIDELINES ON PUBLICATION OF ORDERS, DECISIONS AND NOTICES OF HEARING ON THE INTERNET

Issue Date: AUGUST 2010

1. Disciplinary action undertaken by the Registrar of Mortgage Brokers may result in an order being made. Such an order may be made on an urgent basis without a hearing, by consent or following a hearing.
2. When disciplinary action results in an order, that order will be published on the website of the Financial Institutions Commission at www.fic.gov.bc.ca (the "FICOM Website").
3. The length of time that an order will remain published on the FICOM Website will depend on the nature of the disciplinary action taken.

Orders involving registered mortgage brokers and/or registered submortgage brokers

4. Orders which result in the permanent cancellation or suspension of registration shall remain posted on the FICOM Website in perpetuity.
5. Orders which result in the cancellation or suspension of registration for one year or more shall remain posted on the FICOM Website for a period of ten years from the date of the order.
6. Orders which result in the cancellation or suspension of registration for less than one year shall remain posted on the FICOM Website for a period of five years from the date of the order.
7. Orders which do not result in the cancellation or suspension of registration, but which result in other forms of sanction (including, but not limited to, administrative penalties, cease and desist orders and/or orders requiring a registrant to carry out specified remedial action(s)) shall remain posted on the FICOM Website for a period of three years, except as follows:
 - (a) If a part of the sanction contained in the order extends for a period of more than three years, then the order shall remain posted for the duration. For example, if the order includes a term pursuant to which the registrant is required to submit to and pay for a series of examinations over a period of four years, then the order shall remain posted for four years and not three; and

- (b) If the order requires payment of an administrative penalty and/or costs, then the order shall not be removed from the FICOM Website after three years unless and until the money owing has been paid.
8. Orders and/or reasons for decision which dismiss all allegations shall remain posted on the FICOM Website for a period of three years from the date of the order.
 9. Consent orders involving registered mortgage and submortgage brokers shall be posted on the FICOM Website after they have been signed by all parties, and been approved and signed by the Registrar.
 10. Orders and/or reasons for decision involving registered mortgage and submortgage brokers, made following a hearing, shall only be posted on the FICOM Website after the applicable appeal period has lapsed.

Orders made in respect of non-registrants, including former registrants under the *Mortgage Brokers Act*

11. Orders which require a person formerly registered under the *Mortgage Brokers Act* to either carry out specified actions or to pay an administrative penalty and/or costs shall remain posted on the FICOM website for a period of three years.
12. Orders which require a non-registered mortgage broker or submortgage broker to cease a specified activity and/or carry out remedial action and/or pay an administrative penalty and/or costs shall remain posted on the FICOM website for a period of three years.
13. Consent orders involving former or non-registered mortgage and submortgage brokers shall be posted on the FICOM Website after they have been signed by all parties, and been approved and signed by the Registrar.
14. Orders and/or reasons for decision involving former or non-registered mortgage and submortgage brokers, made following a hearing, shall only be posted on the FICOM Website after the applicable appeal period has lapsed.

Suitability hearings involving non-registered mortgage or submortgage brokers

15. A Registrar's decision on suitability in respect of a non-registered mortgage or submortgage broker shall be posted on the FICOM Website for a period of two years from the date of the decision unless the decision reached bars the applicant from applying for registration for a period longer than two years. In such a case, the decision shall remain posted until the application bar period established by the Registrar has lapsed. For example, if the Registrar decides that an applicant is ineligible to apply for registration for a period of five years, then the Registrar's decision shall remain posted on the FICOM Website for five years, and not two.

Orders made in urgent circumstances, without notice

16. Orders made in urgent circumstances (including summary suspension and freeze orders) shall remain posted on the FICOM Website until either a decision made following a hearing, or a consent order approved by the Registrar, has been posted.
17. Orders made in urgent circumstances shall be posted on the FICOM Website immediately after being made.

Notices of Hearing

18. In the event a Notice of Hearing is issued, it shall be published on the FICOM Website at least 60 days prior to the hearing date. The Notice of Hearing will be removed from the FICOM Website as follows:
 - (a) Upon the allegations having been withdrawn;
 - (b) After a hearing has taken place, and an order made and posted on the FICOM Website; or
 - (c) After a consent order, approved by the Registrar, has been executed by all parties and posted on the FICOM Website.

Public access to all records

19. The foregoing are FICOM's guidelines relating to the publication of orders, decisions and notices of hearing on the FICOM Website. However, these, and all other decisions remain available for review by the public, and may also be shared with affected parties as determined by the Registrar, in accordance with section 8 of the *Mortgage Broker Act Regulation*, which reads as follows:

Every direction, decision, order or ruling of the registrar refusing registration, refusing to renew registration, suspending registration or cancelling registration shall be made in writing and shall be open to public inspection, and a copy of any such reasons shall be supplied by the registrar to any person who applies therefore, or who, in the opinion of the registrar, may be affected thereby.

20. Where circumstances warrant, the Registrar may deviate from these guidelines.

At the office of the Registrar of Mortgage Brokers, we issue information bulletins to provide technical interpretations and positions regarding certain provisions contained in the *Mortgage Brokers Act, Business Practices and Consumer Protection Act* and Regulations. While the comments in a particular part of an information bulletin may relate to provisions of the law in force at the time they were made, these comments are not a substitute for the law. The reader should consider the comments in light of the relevant provisions of the law in force at the time, taking into account the effect of any relevant amendments to those provisions or relevant court decisions occurring after the date on which the comments were made. Subject to the above, an interpretation or position contained in an information bulletin generally applies as of the date on which it was published, unless otherwise specified.