
**IN THE MATTER OF THE
Mortgage Brokers Act,
RSBC 1996, c. 313 as amended
and**

**IN THE MATTER OF ARMAN ESMAILI
(Pursuant to sections 8 and 8 (1.2) of the *Mortgage Brokers Act*)**

CONSENT ORDER

WHEREAS ARMAN ESMAILI (“Mr. Esmaili”) was at all material times registered as a submortgage broker with Bayfield Mortgage Professionals Ltd. under the *Mortgage Brokers Act*, RSBC 1996, c. 313 (the “Act”), Mr. Esmaili’s registration terminated on April 9, 2019, and he is no longer registered under the Act;

AND WHEREAS the Registrar of Mortgage Brokers (the “Registrar”) issued a Notice of Hearing (the “Notice of Hearing”) pursuant to sections 8 and 8(1.2) of the Act to Mr. Esmaili on December 18, 2019;

AND WHEREAS the following agreement has been reached between Mr. Esmaili and the Staff of the Registrar (the “Staff”), and the Registrar makes the following findings and agrees to the following terms of a consent order;

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

A. FINDINGS

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

1. Contrary to section 8(1)(i) of the Act, while registered as a submortgage broker, Mr. Esmaili conducted business in a manner prejudicial to the public interest by facilitating the unregistered mortgage broker activities of Jay Kanth Chaudhary (“Mr. Chaudhary”) in the years 2015, 2016, and 2017 by:
 - a. Permitting Mr. Chaudhary to direct the course of 20 mortgage applications on behalf of 18 borrowers,

- b. Accepting personal information of the 18 borrowers from Mr. Chaudhary for the purposes of obtaining mortgage financing on their behalf,
 - c. Obtaining documents and information from Mr. Chaudhary to support the 18 borrowers' mortgage applications, and
 - d. Paid remuneration to Mr. Chaudhary in excess of \$1,000 during any one year for arranging mortgages.
2. Contrary to section 8(1)(i) of the Act, Mr. Esmaili conducted business in a manner prejudicial to the public interest by submitting to lenders in 2015, 2016, and 2017, income and banking documents and employment information including: Notices of Assessment, T1 General Income Tax and Benefit Returns, banking statements, incorporation and other company financial records and accounting records, in support of mortgage applications on behalf of one or more of 17 borrowers and 19 mortgage applications when Mr. Esmaili ought to have known that the documents and information were false and not genuine;
3. Contrary to section 8(1)(i) of the Act, Mr. Esmaili conducted business in a manner prejudicial to the public interest by submitting to a lender, in February 2016, income and banking documents and employment information including: Notices of Assessment, T1 General Income Tax and Benefit Returns, banking statements, incorporation and other company financial records and accounting records, in support of a mortgage application submitted on behalf of a borrower for the purchase of property in North Vancouver, BC, when Mr. Esmaili knew that the documents and information were false and not genuine;
4. Contrary to section 8(1)(i) of the Act, Mr. Esmaili conducted business in a manner prejudicial to the public interest in arranging a mortgage for a borrower, in October 2016, to purchase property in Port Coquitlam, when he ought to have known that another mortgage application to finance that same borrower's property in Port Moody was being submitted to a different lender with the assistance of another registered submortgage broker on the same day that Mr. Esmaili submitted an application for a mortgage. Mr. Esmaili did not disclose to the lender that the borrower's other property was being refinanced, and, therefore, provided inaccurate information to the lender.

B. ORDERS AND PENALTY

Pursuant to section 8 (1.2) of the Act, Mr. Esmaili hereby consents to and the Registrar hereby makes the following orders:

1. Mr. Esmaili, currently unregistered, is not eligible to apply, and agrees to never re-apply for registration under the Act, as either a mortgage broker or a submortgage broker, and the Registrar will not accept an application for registration by Mr. Esmaili under the Act;
2. Pursuant to section 6(9) of the Act, Mr. Esmaili will pay partial investigation costs in the amount of \$15,000.00; and
3. All payments will be made by cheque, bank draft, or money order payable to the BC Financial Services Authority 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*, RSBC 1996, c. 138.

C. AGREED FACTS

As a basis for this Consent Order, Mr. Esmaili acknowledges the following facts as correct and makes the following admissions:

Background

1. Mr. Esmaili was first registered as a submortgage broker under the Act on April 14, 2011.
2. At all material times, Mr. Esmaili was registered as a submortgage broker with Bayfield Mortgage Professionals Ltd. His registration expired on April 9, 2019. Mr. Esmaili was previously also registered as a licensee under the *Real Estate Services Act*, SBC 2004, c. 42, but his license has terminated.
3. At all material times, Mr. Chaudhary was not registered as a mortgage broker or a submortgage broker.

Facts

4. On September 27, 2017, the Staff received a complaint that Mr. Esmaili and others were facilitating the unregistered mortgage broker activities of Mr. Chaudhary.

5. Mr. Esmaili facilitated Mr. Chaudhary's unregistered mortgage broker activities as set out in above-listed paragraphs A.1 (a) – (d) in respect of 18 borrowers and 20 mortgage applications in the years 2015, 2016, and 2017 to various lenders. The collective value of the mortgage applications for which Mr. Esmaili obtained financing on the 20 applications totaled \$13,242,947.
6. Mr. Esmaili:
 - a. Permitted Mr. Chaudhary to meet the borrowers, collect documents from the borrowers, and sign all documents with the borrowers;
 - b. Permitted Mr. Chaudhary to direct the course of the mortgage applications by accepting information regarding the loan to value of the mortgage from Mr. Chadhaury, permitted Mr. Chadhaury to determine the potential loan amount, and permitted Mr. Chadhaury to determine which lenders to submit mortgage applications to on behalf of the borrowers;
 - c. In many cases, Mr. Chaudhary provided the income, banking, and employment documents to Mr. Esmaili that supported the mortgage applications. Mr. Esmaili did not confirm the accuracy or veracity of many of these documents, and, therefore, did not exercise proper, if any, due diligence in carrying out his duties as a submortgage broker;
 - d. Compensated Mr. Chadhaury by paying him a portion of the commissions Mr. Esmaili received from lenders; and
 - e. Never met the clients referred to in paragraph A1(a).
7. Mr. Esmaili submitted false employment information and income and other banking documents to lenders on behalf of 17 borrowers that overstated the borrowers' income significantly. Mr. Esmaili ought to have known that the documents or some of them were false or not genuine.
8. The overstatements in income ranged from a 67% overstatement to an overstatement of 4,183%.
9. In one instance, Mr. Esmaili knew he provided false documents to the lender that overstated the income by approximately 80% and 72% in those years because the borrower provided him with genuine income documents.

10. In another instance, Mr. Esmaili's mortgage broker file had banking records that indicated a balance ranging from approximately \$509,000 to \$545,000 in a borrower's account. This amount was incorrect as the correct balance ranged from approximately -\$900 to approximately \$19,900.

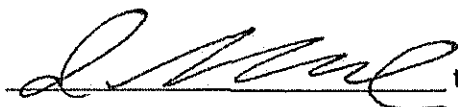
11. Mr. Esmaili submitted a mortgage application in which he did not disclose to the lender that another property owned by the borrower was being refinanced and provided incorrect information regarding the occupancy of the property, when he ought to have known this was the case, and, therefore, Mr. Esmaili provided inaccurate information to the Lender.

12. Mr. Esmaili has no discipline history with the Registrar.

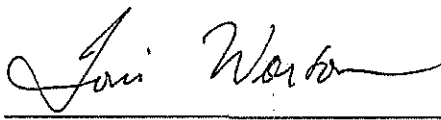
D. WAIVER

1. Mr. Esmaili waives his right to a hearing under sections 4 and 8 of the Act and waives his right to appeal under section 9 of the Act.

Approved as to form and content by:

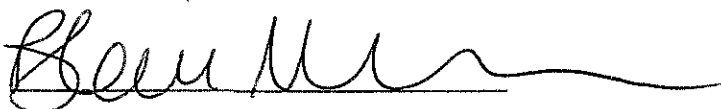
 this 9th day of December 2020.

JEREMY E. SHRAGGE
Counsel for Arman Esmaili

 this 9th day of December 2020.

JONI WORTON
Counsel for the Staff of the Registrar of Mortgage Brokers

Issued this 11th day of December, 2020, at Vancouver, British Columbia.



Blair Morrison, Registrar of Mortgage Brokers
Province of British Columbia

