



IN THE MATTER OF THE MORTGAGE BROKERS ACT
R.S.B.C. 1996, c. 313

-AND-

GORDON STEPHEN LEMON

SUSPENSION ORDER

-AND-

NORTHSTONE INVESTMENT FUND INC. AND GORDON
STEPHEN LEMON

CEASE AND DESIST ORDER

(Pursuant to ss. 8(1), 8(1.4) and 8(2) of the *Mortgage Brokers Act*)

I am advised and based on materials submitted by staff of the Registrar of Mortgage Brokers ("Staff"), I am of the opinion that:

Background

1. On February 28, 2012, MIC Canada Mortgage Investment Corp. (MICCAN), SWS Mortgage Investment Corp. (SWS) and TIB Mortgage Investment Corporation (BC0901508) (TIB) were registered as mortgage brokers under the *Mortgage Brokers Act (Act)*.

2. On February 28, 2012, Mr. Lemon was registered as the designated individual and sole sub-mortgage broker for MICCAN, SWS, and TIB under the *Act*.

3. Corporate registry records show that:
 - a. From January 27, 2011 to January 31, 2013, Mr. Lemon was a Director of TIB;
 - b. On January 27, 2011 [REDACTED] and [REDACTED] became Directors of SWS and MICCAN; and
 - c. On February 1, 2013 [REDACTED] ceased to be a Director of SWS and MICCAN.

4. On February 5, 2013, Mr. Lemon cancelled the registrations of MICCAN, SWS and TIB by filing "Form 17s" with the Registrar of Mortgage Brokers (Registrar).

5. On February 5, 2013, Mr. Lemon resigned from TIB and ceased to be TIB's designated individual.

6. On December 21, 2007, Accessible Mortgage Corp. was registered as a mortgage broker under the *Act*. On December 28, 2011, Accessible Mortgage Corp. changed its name to DominionGrand Financial Corporation dba: Dominion Lending Centres DominionGrand Financial (DGF). DGF is currently registered under the *Act* as DominionGrand Financial Corporation.

7. On February 6, 2013, Mr. Lemon was registered as a sub-mortgage broker with DGF under the *Act*.

8. On April 18, 2013, Northstone Investment Fund Inc. (NSIF) was incorporated with Directors Mr. Lemon, Matthew Bell, Robert Aird Fraser, and Kramer Wang.
9. At no point has NSIF been registered under the *Act*.

Applicable Legislation

10. Section 1 of the *Mortgage Brokers Act* provides the following definitions:

"mortgage" includes every instrument by which

- (a) land in British Columbia, or
- (b) for the purposes only of paragraphs (c) and (f) of the definition of "mortgage broker", sections 14.1 and 17.4 and Division 3 of Part 2, land, whether or not in British Columbia,

is, in any manner, conveyed, assigned, pledged or charged as security for the payment of money or money's worth to be reconveyed, reassigned or released on satisfaction of the debt, but does not include an agreement for sale of or a right to purchase land or an interest in land;

"mortgage broker" means a person who does any of the following:

- (a) carries on a business of lending money secured in whole or in part by mortgages, whether the money is the mortgage broker's own or that of another person;
- (b) holds himself or herself out as, or by an advertisement, notice or sign indicates that he or she is, a mortgage broker;
- (c) carries on a business of buying and selling mortgages or agreements for sale;
- (d) in any one year, receives an amount of \$1 000 or more in fees or other consideration, excluding legal fees for arranging mortgages for other persons;
- (e) during any one year, lends money on the security of 10 or more mortgages;
- (f) carries on a business of collecting money secured by mortgages;

"person" includes an individual, corporation, firm, partnership, association, syndicate, any unincorporated organization and an agent of any of them;

"registrar" means a person appointed by the Lieutenant Governor in Council to act as registrar or a person authorized by the registrar to perform the registrar's duties under this Act;

"submortgage broker" means any person who, in British Columbia, actively engages in any of the things referred to in the definition of mortgage broker and is employed, either generally or in a particular case, by, or is a director or a partner of, a mortgage broker;

"tribunal" means the Financial Services Tribunal under the *Financial Institutions Act*.

11.

12. Section 8 of the Act provides the following:

- (1) After giving a person registered under this Act an opportunity to be heard, the registrar may do one or more of the following:
- (a) suspend the person's registration;
 - (b) cancel the person's registration;
 - (c) order the person to cease a specified activity;
 - (d) order the person to carry out specified actions that the registrar considers necessary to remedy the situation,
- if, in the opinion of the registrar, any of the following paragraphs apply:
- (e) the person would be disentitled to registration if the person were an applicant under section 4;
 - (f) the person is in breach of this Act, the regulations or a condition of registration;
 - (g) the person is a party to a mortgage transaction that is harsh and unconscionable or otherwise inequitable;
 - (h) 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;
 - (i) the person has conducted or is conducting business in a manner that is otherwise prejudicial to the public interest;
 - (j) 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).
- (1.1) After giving a person registered under this Act an opportunity to be heard, the registrar may order the person to pay an administrative penalty of not more than \$50 000 if, in the opinion of the registrar any of paragraphs (f) to (i) of subsection (1) apply.
- (1.2) After giving a person who was formerly registered under this Act an opportunity to be heard, the registrar may do one or both of the following:
- (a) order the person to carry out specified actions that the registrar considers necessary to remedy the situation;
 - (b) order the person to pay an administrative penalty of not more than \$50 000,
- if, in the opinion of the registrar, any of paragraphs (f) to (i) of subsection (1) applied to the person while the person was registered.
- (1.3) After giving a person registered under this Act an opportunity to be heard, the registrar may do one or more of the following:
- (a) suspend the person's registration;
 - (b) cancel the person's registration;
 - (c) order the person to cease a specified activity;
 - (d) order the person to carry out specified actions that the registrar considers necessary to remedy the situation,
- if the person
- (e) has been convicted of an offence in Canada or another jurisdiction arising from business, a transaction or a course of conduct related to mortgages, mortgage brokerage, real estate, insurance or securities, or

- (f) has been found by a regulator or court in Canada or another jurisdiction to have contravened the laws of the jurisdiction respecting mortgages, mortgage brokerage, real estate, insurance or securities.
- (1.4) After giving a person an opportunity to be heard, the registrar may do one or more of the following:
- (a) order the person to cease a specified activity;
 - (b) order the person to carry out specified actions that the registrar considers necessary to remedy the situation;
 - (c) order the person to pay an administrative penalty of not more than \$50 000,
- if, in the opinion of the registrar, the person was or is carrying on business as a mortgage broker or submortgage broker without being registered as required by this Act.
- (2) If the length of time that would be required to give a person an opportunity to be heard under subsection (1), (1.2), (1.3) or (1.4) would, in the registrar's opinion, be prejudicial to the public interest, the registrar may, without giving the person an opportunity to be heard, suspend a registration under subsection (1) (a) or (1.3) (a) or make an order under subsection (1) (c) or (d), (1.2) (a), (1.3) (c) or (d) or (1.4) (a) or (b).
- (3) If under subsection (2) the registrar suspends registration or makes an order without giving a person an opportunity to be heard, the registrar must promptly send written notification of the suspension or order to the person and to the tribunal.

13. Section 21 of the *Act* provides as follows:

- (1) Unless exempted under section 11, a person must not do any of the following:
- (a) carry on business as a mortgage broker or submortgage broker unless the person is registered under this Act;
 - (b) carry on business as a mortgage broker otherwise than in the person's registered name or elsewhere than at or from the person's registered address;
 - (c) advertise or in any other way indicate that the person is a mortgage broker or submortgage broker other than under the registered name of the mortgage broker;
 - (d) employ as a submortgage broker any person not registered under this Act.

Complaint

14. On November 22, 2013, Staff received a complaint against Mr. Lemon.

The information provided to Staff included the following:

- a. Mr. Lemon had misappropriated investor funds, altered bank draft and failed in his fiduciary duty (as Director, designated individual, and sole sub-mortgage broker) to TIB; and
- b. Mr. Lemon filed Form 17 wind-up documents for TIB without consultation or endorsement of shareholders and the other Director of TIB.

Investigation – Gordon Stephen Lemon

15. On January 27, 2014, Staff interviewed the complainant and received the following information:

- a. Mr. Lemon was introduced to shareholders of TIB by [REDACTED] and [REDACTED] on or about July 13, 2010;
- b. Despite multiple requests by the complainant at informational meetings which took place on the last Thursday of each month, [REDACTED] and Mr. Lemon did not disclose to shareholders the status of mortgage investments being made by TIB;
- c. On June 26, 2013, an Annual General Meeting was held for TIB, SWS and MICCAN; at which time the complainant requested access to financial records; and
- d. Upon review of the financial records, and discussion with the companies' bookkeeper, the complainant concluded that investor funds may be at risk and began contacting other shareholders to advise of his concerns.

16. During the interview, the complainant confirmed that on October 30, 2013, he called a special shareholders meeting for the shareholders of TIB and during the meeting the following financial concerns were discussed:

- a. On March 22, 2012, [REDACTED] as the borrower, and Mr. Lemon as the underwriter, approved a loan for \$154,000.00 that was purported to be secured against multiple properties owned by [REDACTED]. One of those properties was never owned by [REDACTED]. That property was briefly owned by [REDACTED] between May 4, 2011 and November 30, 2011.
- b. The Mortgage Commitment document was signed by [REDACTED] and dated September 20, 2012.
- c. No mortgage has ever been registered on title by TIB against any of the properties.
- d. On March 31, 2012, Mr. Lemon made an \$82,000.00 payment to [REDACTED] from TIB's bank account.
- e. On May 1, 2012, Mr. Lemon obtained a \$20,000.00 bank draft from TIB's bank account payable to [REDACTED], which is owned by [REDACTED]. The complainant stated further that TIB had no business with [REDACTED] and no invoice or contract has been produced.
- f. On June 12, 2012, Mr. Lemon as the underwriter facilitated a TIB Mortgage Commitment for \$154,000.00 with [REDACTED] as the borrower. The Mortgage Commitment dated June 12, 2012 reveals:
 - Loan Amount Advanced Prior to this Commitment (April 2, 2012): \$82,000.00; and
 - Loan Amount (Final Advance): \$72,000.00.
- g. On June 22, 2012, Mr. Lemon made a \$72,000.00 payment to [REDACTED]'s company, [REDACTED], from TIB's bank account. [REDACTED] was not a borrower on the June 12, 2012 Mortgage Commitment.

17. During the interview with Staff the complainant confirmed that on October 31, 2013, the complainant assumed a Director position with

TIB and researched the financial records in an attempt to determine where TIB's money, property and mortgages were located. The complainant confirmed the following:

- a. The complainant has spoken at length with [REDACTED] regarding the affairs of TIB;
- b. The complainant concluded that [REDACTED], who resides in Manitoba, did not closely monitor TIB activities;
- c. [REDACTED] told the complainant that he was not aware of a consultancy agreement which Mr. Lemon signed with [REDACTED]'s company ([REDACTED]), obliging TIB to pay for marketing services;
- d. The complainant questioned [REDACTED] about the results of marketing efforts at the June 2013 Annual General Meeting and learned that no investor funds had been raised by [REDACTED]; and
- e. [REDACTED] was not aware of the transfer of \$154,000.00 to [REDACTED] from TIB by Mr. Lemon.

18. The complainant provided copies of documents verifying the financial transactions described above, including bank drafts and receipts. The complainant also provided copies of the three Mortgage Commitments which contained Mr. Lemon's signature on behalf of TIB and identify [REDACTED] as borrower.

19. During the interview, the complainant alleged to Staff that as a result of Mr. Lemon's actions, TIB lost an estimated \$174,000, effectively draining all of TIB's assets.

20. On December 18, 2013, Staff conducted B.C. title searches for Mortgage Investment Corporations in British Columbia for which Mr. Lemon was the designated individual, including, TIB, MICCAN, and

SWS. No mortgages have ever been registered in favour of TIB and MICCAN. Only one mortgage was registered in favour of SWS and it involved a related party, and more specifically, one of the Directors of TIB.

Investigation – NSIF

21. In the course of investigating the complaint against Mr. Lemon, Staff discovered Mr. Lemon was involved with NSIF.

22. On January 27, 2014, Staff confirmed that NSIF is not registered as a mortgage broker under the *Act*.

23. On January 28, 2014, NSIF's offering memorandum (OM) dated December 20, 2013 was reviewed by Staff. Staff obtained the OM from the British Columbia Securities Commission (BCSC) public website. The OM states the company is in the business of investing in mortgages and will operate as Mortgage Investment Corporation:

- a. The Issuer is a company incorporated pursuant to the *Business Corporation Act* of British Columbia on April 18, 2013 under Incorporation number BC 0967808 and will operate in the mortgage lending business as a Mortgage Investment Corporation ("MIC") pursuant to section 130 of the *Income Tax Act* (Canada). The Issuer's registered and records offices are located at #500 - 900 West Hastings Street, Vancouver, British Columbia V6C 1E5. The Issuer's head office is located at # 500 - 900 West Hastings Street, Vancouver, British Columbia V6C 1E5.
- b. The Issuer is in the business of investing in mortgages granted as security for loans, to builders, developers and owners of commercial, industrial and residential real estate located in Canada. Our objective is to obtain a secure stream of income by optimizing our investment portfolio within the MIC criteria mandated by the Tax Act. We intend to invest primarily in first and second mortgages having a principal amount which, when added to the principal amount of prior mortgages is not more than 85% of the appraised value of the property against which they are secured.

- c. The Issuer's Manager, NorthStone Asset Management Inc. (the "Manager"), either itself, through its personnel or through its wholly owner subsidiary NorthStone Financial Services Inc., which is licensed under the Mortgage Brokerage Act (BC), has many years of experience and has an in-depth professional experience in realty, property management, mortgage brokerage, property development, project management, and in arranging the financing of various business enterprises. These qualifications and experience place the Manager in an advantageous position to provide MIC-related management, administrative, advisory, development, real estate marketing and mortgage brokering and financing services to the Issuer, and the Issuer has engaged the Manager to do so...
- d. The Issuer intends to maintain its qualification as a Mortgage Investment Corporation under section 130 of the *Income Tax Act* (Canada). Its principal business is to obtain a stable source of income by investing in a portfolio of residential, commercial and other mortgages. As a Mortgage Investment Corporation under the *Income Tax Act* (Canada), the Issuer is allowed a deduction from income in respect of dividends it pays. The Issuer intends to pay out substantially all of its net income and net realized capital gains as dividends, and does not anticipate paying any income tax.
- e. We actively seek or originate mortgages for investment, and we rely on the expertise of the Manager for a regular flow of investment opportunities. The Tax Act's MIC criteria permit revenue sources other than mortgages, including, among other things, equity investments in real estate and investments in stock and securities of Canadian companies. It is the Issuer's policy to primarily invest in mortgages secured by Canadian real estate property. In addition the Issuer may seek investments in real estate related assets and investments in stock and securities of Canadian companies. A MIC's only permitted undertaking under the Tax Act criteria is the investing of its funds, and it is specifically prohibited from managing or developing real estate property.
- f. We intend to conduct business in the Province of British Columbia and Alberta. We may extend our business into other provinces, and if so we will apply, if necessary, to be registered under any corporate, securities and applicable mortgage brokering legislation in order to carry on business as a MIC in such Provinces.

24. On February 6, 2014, NSIF's website stated:

The Northstone Investment Fund Inc. is a Mortgage Investment Corporation (MIC) as defined by Section 130.1 of the Canadian Tax Act

25. On February 6, 2014, NSIF's website stated:

As a qualified MIC, Northstone Investments operates within the regulatory environment of:

- Canada Revenue Agency (CRA)
- British Columbia Financial Institutions Commissions (FICOM)
- Mortgage Brokers Act
- British Columbia Securities Commission (BCSC)

26. On February 7, 2014, NSIF's website stated:

NorthStone Investment Fund, Inc. only funds mortgages that are in accordance with our pre-determined lending guidelines and are individually approved by our highly experienced brokerage team;...

When you invest with Northstone Investments you become a shareholder. As a shareholder, you become a part owner of the pool of money that is used to fund mortgages for carefully selected real estate borrowers but without the burden of real estate ownership...

NorthStone invests substantially all, if not all, of its funds in the Provinces of British Columbia and Alberta. By investing in high growth regions such as British Columbia and Alberta, the MIC will be able to invest in mortgages paid by qualified individuals and families living in British Columbia and Alberta on properties located in a stable and ascending real estate market. The MIC can also make limited investment in income producing real estate; and...

27. On February 7, 2014, the NSIF website

(<http://www.northstoneinvestments.com/>) lists the following

Management Team:

Afshin Doust – President, Director, Chief Executive Officer

Robert Fraser – Director

Gordon Lemon – Director

Matthew S J Bell – Director

Kramer Wang – Director

Advisory Board

Daniel D. Veniez – Director

Tina Mak – Director

David Walters – Director

Brokerage Team

Alexis Mills – Mortgage Broker

Matthew Bell – Mortgage Broker

28. NSIF is a sponsor and scheduled presenter at the Investment Alternatives Conference (<http://investment-alternatives.com>) to be held at the Edgewater Casino, Vancouver, B.C. on February 15, 2014.

AND WHEREAS I find that:

With Respect to NSIF

29. On December 20, 2013, NSIF filed an OM with the BCSC identifying the company as a Mortgage Investment Corporation. The NSIF OM states the company will operate as a Mortgage Investment Corporation. An excerpt from the OM states: “under Incorporation number BC 0967808 and will operate in the mortgage lending business as a Mortgage Investment Corporation (“MIC”).

30. NSIF describes itself on its website as a Mortgage Investment Corporation and identifies business activities consistent with that of a Mortgage Investment Corporation which lends money on the security of mortgages. NSIF is also a sponsor and is associated with the Investment Alternatives Conference scheduled to be held February 15, 2014 in Vancouver, British Columbia.

31. Based on the above activities, NSIF is holding itself out as engaging in activities which fall within the definition of mortgage broker under s. 1 of the *Act*. The *Act* requires that NSIF be registered to undertake those activities.

32. NSIF's description on its website of the regulatory environment in which it operates, including identification of “British Columbia Financial Institutions Commissions (FICOM)” and “Mortgage Brokers Act”, indicates knowledge of the *Act*'s registration requirements.

33. On January 27, 2014, Staff confirmed that NSIF is not registered as a mortgage broker under the *Act*.

34. NSIF is not exempt from the requirements to be registered as a mortgage broker under the *Act*.

35. NSIF is sponsoring and presenting at the Investment Alternatives Conference scheduled for February 15, 2014 at the Edgewater Casino, Vancouver, British Columbia. It is reasonable to conclude that NSIF and its management team will be promoting investment opportunities in NSIF, an unregistered mortgage broker (Mortgage Investment Corporation), to the public at this conference.

36. There is evidence of serious misconduct involving Mr. Lemon, who is a controlling mind of NSIF.

I AM THEREFORE OF THE OPINION that NSIF has been conducting mortgage broker activity, which requires registration under the *Act*, by holding itself out as a mortgage broker (Mortgage Investment Corporation).

AND WHEREAS I find that:

With Respect to Mr. Lemon

37. Mr. Lemon was a Director of TIB between January 27, 2011 and January 31, 2013, and designated individual and sole sub-mortgage broker of TIB between February 28, 2012 and February 5, 2013.

38. The evidence the Staff received from the complainant regarding Mr. Lemon's past conduct are relevant to Mr. Lemon's ongoing suitability

to be registered as a sub-mortgage broker under the *Act*. These include:

- a. Evidence of serious misconduct in relation to the TIB Mortgage Investment Corporation, including the misappropriation of investor funds to related parties; and
- b. Mr. Lemon has been designated individual of registered Mortgage Investment Corporations (MICCAN, SWS, TIB) that have held out to be in the business of investment in mortgages but in fact have conducted no such business save and except for one mortgage in the name of SWS to a party related to SWS.

39. Staff's investigation into Mr. Lemon's current involvement with NSIF is relevant to Mr. Lemon's ongoing suitability to be a registered sub-mortgage broker under the *Act*:

- a. Mr. Lemon is currently a Director of NSIF;
- b. NSIF is not registered under the *Act*; and
- c. NSIF is holding itself out as a mortgage broker (Mortgage Investment Corporation) in filings with the BCSC, on its public website, and in its sponsorship and association with the Investment Alternatives Conference scheduled to be held February 15, 2014 in Vancouver, British Columbia.

I AM THEREFORE OF THE OPINION that Mr. Lemon is unsuitable and his registration as a sub-mortgage broker is objectionable because of the following:

- a. Evidence of his past misconduct in relation to Mortgage Investment Corporations; and
- b. His ongoing involvement with NSIF which is holding itself out as a mortgage broker (Mortgage Investment Corporation) while it is not in fact registered as a mortgage broker.

I AGREE with Staff that hearings in relation to Mr. Lemon's suitability and NSIF's unregistered mortgage broker activity would require more time than is available between now and February 15, 2014, when Mr. Lemon and NSIF are expected to promote investment opportunities in NSIF to the public at the Investment Alternatives Conference.

I AM THEREFORE OF THE OPINION that the length of time that would be required to hold hearings to make orders under ss. 8(1) or 8(1.4) of the *Act* would be detrimental to the due administration of the *Act* given that it would likely result in further non-compliance with the provisions of the *Act* and therefore significant further potential risk to the public.

Of particular concern is the evidence against Mr. Lemon regarding his involvement with Mortgage Investment Corporations and his role as a controlling mind in NSIF, an unregistered mortgage broker (Mortgage Investment Corporation). NSIF appears to be preparing to solicit investment from the public. By stating on its website that NSIF operates within a regulatory environment which includes "British Columbia Financial Institutions Commissions (FICOM)" and "Mortgage Brokers Act", NSIF leaves the impression it is operating in compliance with this legislation when it is not.

Suspension of Mr. Lemon's registration and a Cease and Desist Order in relation to NSIF is an appropriate response to imminent and ongoing risk of harm to the public and provides Staff with an opportunity to undertake further investigation to which Mr. Lemon and NSIF will have an opportunity to respond.

I AM OF THE OPINION that it is in the public interest to make a summary order as permitted by s. 8(2) of the *Act* for an under ss. 8(1) and 8(1.4) of the *Act* so that the public is protected against further non-compliance with the *Act*.

I HEREBY SUSPEND Mr. Lemon, pursuant to s. 8(2) and 8(1) of the *Act*, from acting as sub-mortgage broker in British Columbia until the investigation into the conduct and activities of Mr. Lemon has been completed; Mr. Lemon has been provided with an opportunity to be heard; and a determination is made by the Registrar as to whether his registration be further 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 eighty (180) 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 eighty (180) days of this Order, Staff may apply for a further Order under s. 8(2) of the *Act*.

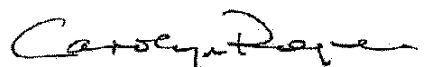
I HEREBY ORDER Mr. Lemon to cease promoting NSIF in the Province of British Columbia, effective immediately, until NSIF becomes registered under the *Act*, pursuant to ss. 8(1) and 8(2) of the *Act*.

I HEREBY ORDER NSIF pursuant to ss. 8(1.4) and 8(2) of the *Act* as follows:

1. NSIF cease and desist holding itself out as a mortgage broker in any capacity, including, but not limited to, holding itself out as a Mortgage Investment Corporation in British Columbia; and
2. NSIF cease and desist engaging in unregistered mortgage broker activity in the Province of British Columbia, effective immediately, unless and until it becomes registered to do so under the provisions of the *Act*.

TAKE NOTICE THAT each of Mr. Lemon and NSIF may, under section 9 of the *Act*, appeal this Order to the Financial Services Tribunal.

Dated at the City of Vancouver,
Province of British Columbia
this 11th day of February, 2014

A handwritten signature in cursive script, appearing to read "Carolyn Rogers", written in black ink on a white background.

Carolyn Rogers
Registrar of Mortgage Brokers
Province of British Columbia