



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

-AND-

AYAZ DHANANI
(also known as Michael Lee, Alex Nebris, Paul Dhanani, and
Samuel Ramos)

CEASE AND DESIST ORDER

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

Upon review of the evidence and report submitted by staff of the Registrar of Mortgage Brokers ("Staff"), I make the following findings and order:

The Complaint

1. On February 21, 2014, the Registrar received a complaint from [REDACTED], also known as [REDACTED] (the "Complainant") alleging that Geneva Consulting Group ("GCG") and Ayaz Dhanani obtained \$100,000 from the Complainant, in relation to a required down-payment for a mortgage Mr. Dhanani purportedly arranged for the Complainant while holding himself out as being a mortgage broker when he was not registered under the *Mortgage Brokers Act* ("Act"). The Complainant stated that:
 - (a) She met [REDACTED] (the "Realtor"), a real estate agent with [REDACTED] at an open house sometime between November and December 2013.
 - (b) She stayed in contact with the Realtor while she actively looked for a new home to purchase.

- (c) She found a house that she was interested in purchasing and applied for a mortgage through a bank.
- (d) The bank declined her mortgage application and she advised the Realtor of this.
- (e) The Realtor subsequently introduced her to Mr. Dhanani. The Realtor told her that Mr. Dhanani could help her obtain a mortgage.
- (f) On January 23, 2014, she and the Realtor met with Mr. Dhanani. During the meeting, she verbally provided personal financial information to Mr. Dhanani, who she says told her that she could borrow more than 50% if she uses her condominium as equity. Mr. Dhanani provided her a mortgage application bearing GCG letterhead to complete.
- (g) On January 27, 2014, she sent Mr. Dhanani her mortgage application by way of email attachment.
- (h) On January 28, 2014, Mr. Dhanani arranged for an appraiser to appraise her condominium located at [REDACTED], Vancouver.
- (i) On January 30, 2014, she met with Mr. Dhanani, who:
 - i. provided her a copy of the appraisal and a "mortgage payment plan";
 - ii. told her that she was approved for a \$750,000 mortgage from [REDACTED] (the "Credit Union");
 - iii. he could help her refinance her existing condo and obtain a \$100,000 second mortgage; and
 - iv. told her that she needed to prove to the Credit Union that she had \$100,000 available for her down payment.
- (j) On February 3, 2014, Mr. Dhanani asked her to open an account at the Credit Union and asked that a bank draft in the amount of \$100,000 be made payable to the Credit Union. Mr. Dhanani told her to deposit the bank draft and it would be deposited by the Credit Union's mortgage department into the Credit Union's main mortgage account and when the mortgage is approved by the Credit Union they will move the deposit to her personal account.
- (k) On February 4, 2014 she met with Mr. Dhanani and gave him the bank draft.
- (l) On February 5, 2014, she requested a receipt from Mr. Dhanani.

- (m) On February 5, 2014, Mr. Dhanani told her that the bank draft would be deposited the next day and that she would receive a mortgage commitment letter along with a receipt for the bank draft.
- (n) On February 8, 2014, the Realtor told her that Mr. Dhanani did not want to "do this deal anymore".
- (o) She asked the Realtor that the money she gave to Mr. Dhanani be returned.
- (p) The Realtor provided her with a number of assurances that the money would be returned, however, her money has not been returned to her to date.

2. The complaint against Mr. Dhanani is supported by the following documents:

- (a) Copy of the Complainant's [REDACTED] bank draft made payable to the Credit Union in the amount of \$100,000, which shows that it was deposited on February 5, 2014, into the Credit Union account number [REDACTED].
- (b) Emails to and from Mr. Dhanani, in which he appears to be conducting mortgage brokering activities by:
 - i. Providing assurances to the Complainant that she would be approved "with the best possible rate";
 - ii. Sending her a mortgage application form;
 - iii. Requesting the following information "before he can send [her mortgage application] for approval":
 - a) her existing balance mortgage;
 - b) the source of her down payment; and
 - c) the assessed value of her current residence.
- (c) Completed mortgage application on GCG letterhead which was provided by and returned to Mr. Dhanani.
- (d) Copy of contract of purchase and sale the Complainant provided to Mr. Dhanani.

- (e) GCG business card which indicated the following:

Ayaz Dhanani - President

[REDACTED] Vancouver British Columbia;

C: [REDACTED]

F: [REDACTED]

www.genevaconsulting.com

Email: [REDACTED]

- (f) Text messages between the Complainant and Mr. Dhanani in which Mr. Dhanani appears to be conducting mortgage brokering activities, specifically by:

- i. requesting documents such as a gift letter and Notice of Assessment in support of the Complainant's mortgage application;
- ii. providing assurances that he could get her approved for a mortgage at the Credit Union;
- iii. he would have a mortgage pre-approval ready for her to sign;
- iv. telling her that she needed to place her bank draft (\$100,000) into a "mortgage trust account" with the Credit Union, and not her personal account at the Credit Union;
- v. making statements such as "[a]pplication all sent off. Waiting to hear from underwriters from the approval"; and
- vi. telling her that a "few things had to be changed to accommodate the approval. "Ica n (sic) have it probably all done before noon tmrw" (sic).

- (g) Information sheet given to the Complainant by Mr. Dhanani outlining various mortgage payment scenarios.
- (h) Property appraisal dated January 30, 2014, ordered by Mr. Dhanani of GCG, on the Complainant's behalf.

The Investigation

3. The Realtor, also known as [REDACTED], was licensed by the Real Estate Council to provide trading services with [REDACTED] doing business as [REDACTED] from July 4, 2013 to February 25, 2014.

- 4. The records of the Registrar of Mortgage Brokers confirm that neither GCG nor Mr. Dhanani are registered as a mortgage broker or submortgage broker in British Columbia.
- 5. A company was incorporated in 2009 in British Columbia under the name Geneva Consulting Group Inc. It was dissolved in 2012 for failure to file. The company information is as follows:

Incorporation number: BC0853666
Incorporation date: June 4, 2009
Dissolved date: July 30, 2012

Registered Office Information: [REDACTED]
Richmond, BC
[REDACTED]

Director Information: [REDACTED]
Vancouver, BC
[REDACTED]

- 6. According to the corporate registry, Mr. Dhanani was never listed as an officer or director of GCG.
- 7. It is not known if Mr. Dhanani is associated with the above mentioned British Columbia incorporated company. However, Mr. Dhanani is the subject of a civil claim in which it is alleged that he provided a cheque to the claimant drawn on GCG's account which did not contain sufficient funds. The alleged cheque contained the following contact information:

www.genevagroup.ca
Tel: [REDACTED]
[REDACTED] Richmond BC

- 8. As noted above, the business card the Complainant was given by Mr. Dhanani listed the GCG website as www.genevaconsulting.com (not www.genevagroup.ca). Staff conducted a search of the internet and found the website www.genevaconsulting.com. Under the section "About Us" it states:

Geneva Consulting Group, Inc. is a provider of temporary and permanent information technology personnel to leading companies in a range of industries across the United States and in Canada.

- 9. Under the section "Contact Us" it provides contact information in the United States. On March 14, 2014, Staff contacted [REDACTED] of Geneva Consulting Group Inc. who confirmed that Geneva Consulting

Group Inc. (USA) is a staff augmentation and consulting company, does not do business in Canada, and does not employ or otherwise know of Mr. Dhanani or Mr. [REDACTED]

10. On March 19, 2014, Staff members met with the Complainant who reiterated her initial complaint, provided further documentation to substantiate her complaint and stated that:
 - (a) She contacted the Credit Union and was advised by an employee that they never received a mortgage application in her name; and
 - (b) The money she gave to Mr. Dhanani has not been returned to her.

11. On March 20, 2014, Staff obtained the following documents from the Credit Union with respect to account number [REDACTED] (the account into which the Complainant's bank draft was deposited):
 - (a) Membership application for account number [REDACTED] indicating that the name of the account holder is the Realtor.
 - (b) New account questionnaire completed by the Realtor.
 - (c) Photocopy of a British Columbia driver's license in the name of the Realtor.
 - (d) Receipt confirming the deposit of \$100,000 on February 5, 2014, into the Realtor's account.
 - (e) Two electronic transfers from the Realtor's account at the Credit Union to [REDACTED] on February 7, 2014 totalling \$5,000.
 - (f) Bank statement showing various transactions from February 5, 2014 to February 8, 2014.
 - (g) The Credit Union bank draft number [REDACTED] written on February 8, 2014, in the amount of \$27,500 payable to [REDACTED].
 - (h) The Credit Union bank draft number [REDACTED] in the amount of \$20,000 payable to [REDACTED] dated February 6, 2014 with the handwritten note on the top left hand corner: "Dhanani [REDACTED]". ([REDACTED] refers to [REDACTED] (the "Currency Exchange").)
 - (i) The Credit Union bank draft number [REDACTED] in the amount of \$20,000, payable to the Currency Exchange dated February 7, 2014 with the handwritten note on the top left hand corner "Dhanani [REDACTED]". [The back of the bank draft indicates that it was redeemed by the purchaser.]

- (j) The Credit Union bank draft number [REDACTED], in the amount of \$20,000, payable to the Currency Exchange dated February 7, 2014 with the handwritten note on the top left hand corner "Dhanani [REDACTED]".
- (k) The Credit Union bank draft number [REDACTED] in the amount of \$20,000, payable to the Currency Exchange dated February 6, 2014 with the handwritten note referencing the Realtor "[REDACTED]".
12. On March 21, 2014, Staff attended the office of the Currency Exchange and met with the Director of Foreign Exchange. During the meeting the Director stated that:
- (a) The Currency Exchange requires their clients to provide ID if the transaction is \$3,000 or over; and
- (b) The numbers ([REDACTED] and [REDACTED]) written on top of the Credit Union drafts [REDACTED], and [REDACTED] refer to the Currency Exchange's transaction number.
13. Staff further obtained the following documents:
- (a) Record for transaction number [REDACTED], which confirmed that Mr. Dhanani converted \$19,999.70 CDN into \$17,975 USD.
- (b) Record for transaction number [REDACTED], which confirmed that the Realtor converted \$19,999.42 CDN into \$17,911 USD.
- (c) Record for transaction number [REDACTED], which confirmed that Mr. Dhanani converted \$19,999.93 CDN to \$17,971 USD.
14. The following information was collected by the Currency Exchange respect to the following transactions:
- (a) Transaction [REDACTED]
 [Name of Realtor]
 [REDACTED]
 Richmond, British Columbia
 Canada, [REDACTED]
 British Columbia Driver's License: [REDACTED]
 Date of Birth: [REDACTED]
- (b) Transaction [REDACTED]
 Ayaz Dhanani
 [REDACTED]
 Richmond, British Columbia
 Canada, [REDACTED]
 British Columbia Driver's License: [REDACTED]
 Date of Birth: [REDACTED]

15. Searches by Staff show that the identification for Mr. Dhanani used with the Currency Exchange is current and that he has also used the following aliases: Michael Lee, Alex Nebris, Paul Dhanani and Samuel Ramos.
16. On March 26, 2014, the Credit Union confirmed that they never received a mortgage application in the name of the Complainant.
17. The Credit Union confirmed that it does not require mortgage applicants to place their down payment in a "mortgage trust account" or any other account at the Credit Union as part of the mortgage application process.

Applicable Legislation

18. Section 1 of the Act provides the following definition:

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

...

- (b) holds himself or herself out as, or by an advertisement, notice or sign indicates that he or she is, a mortgage broker;

...

- (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;...

19. 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.

20. Sections 8(1.4) and (2) of the Act provide the following:

(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.

Conclusions

21. What constitutes arranging mortgages (and in turn holding out as a mortgage broker who arranges mortgages) has been considered by the Commercial Appeals Commission, which is the predecessor to the Financial Services Tribunal. See *Legge (c.o.b. Mortgage) v. British Columbia (Registrar of Mortgage Brokers)*, [1995] B.C.C.O. No. 13, and *Horizon Financial Services Ltd. v. British Columbia (Registrar of Mortgage Brokers)*, [1990] B.C.C.O. No. 4:

The Commission is satisfied that the intent of the Act is to licence every person and company involved in an essential way in the process of arranging mortgages.

Mortgage Bankers were employed by the Appellant to develop a working relationship with real estate agents for the purpose of obtaining mortgage referrals; to receive referrals for real estate agents and take instructions from the agent and the borrower; to generally solicit mortgage business from the public and to meet with the borrowers to discuss their requirements and assist in the completion of application forms. It is the opinion of the Commission that these functions clearly establish that these Mortgage Bankers are participating in an essential way in the process of arranging mortgages. (Horizon Financial services Ltd.)

22. It is clear to me based on the evidence provided, that Mr. Dhanani has, with the assistance of a licensed realtor, and acting under the unauthorised guise of a dissolved company whose name is the same of an unrelated foreign company, deceived the Complainant into thinking he was a mortgage broker who could arrange a mortgage for her. Instead,

he arranged to divert her purchase down payment into a payment for himself and others.

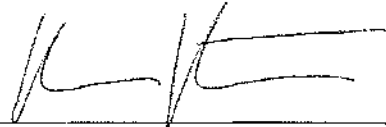
23. I find that Mr. Dhanani, and Mr. Dhanani purportedly doing business for the dissolved Geneva Consulting Group Inc., conducted mortgage broker activities in British Columbia, while not being registered when required, under the *Mortgage Brokers Act*, by holding himself out as a mortgage broker, by:
- (a) Offering to arrange a mortgage on the Complainant's behalf;
 - (b) Providing a mortgage application to the Complainant on GCG letterhead and receiving it back for the stated purpose of his obtaining mortgage financing on her behalf;
 - (c) Ordering an appraisal on behalf of the Complainant;
 - (d) Requesting documents from the Complainant in support of her mortgage application;
 - (e) Providing a number of assurances that the Complainant's mortgage application would be approved; and
 - (f) Advising the Complainant that he had obtained a mortgage loan approval from the Credit Union on her behalf.
24. Based on the above activities, Mr. Dhanani, who is not a registered mortgage broker or submortgage broker, is holding himself out as a mortgage broker, which is in contravention of section 21 of the *Act* and may attract remedies provided under section 8(1.4) of the *Act*.
25. Mr. Dhanani's conduct in this transaction is extremely serious in nature as his deception has resulted in the diversion of significant funds. It is reasonable to assume that Mr. Dhanani may continue to deceive others in a similar way for his personal gain.
26. I agree with Staff that a hearing in relation to Mr. Dhanani's conduct would require a number of witnesses and at least three days of hearing, and I am of the opinion that it could not realistically be scheduled until, at the earliest, later in the month of May.
27. I find that such a delay would be prejudicial to the public interest given that the conduct found here took place only a few weeks ago and there is no indication that Mr. Dhanani will not commit similar deceitful acts.

I AM THEREFORE OF THE OPINION that the length of time that would be required to hold hearings to make any orders under s. 8(1.4) of the *Act* would likely result in further non-compliance with the provisions of the *Act* and therefore be prejudicial to the public interest.

I HEREBY ORDER Ayaz Dhanani, also known as Michael Lee, Alex Nebris, Paul Dhanani, and Samuel Ramos, pursuant to ss. 8(1.4) and 8(2) of the *Act*, to immediately cease and desist from carrying on business as a mortgage broker or submortgage broker and from acting as or holding himself out in British Columbia as a mortgage broker or submortgage broker in any capacity unless and until he becomes registered to do so under the provisions of the *Act*.

TAKE NOTICE THAT Ayaz Dhanani 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 2 day of April, 2014



Chris Carter
Registrar of Mortgage Brokers,
acting under designation dated
April 2, 2014.

Notice to: Ayaz Dhanani
[REDACTED]
Richmond, BC [REDACTED]

Financial Services Tribunal
4th Floor, 747 Fort Street
Victoria, BC V8W 3E9