



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

-AND-

SOHEIL ARMAN KIA
aka SOHEIL ARMON KIA

NOTICE OF HEARING

(Pursuant to s. 8 of the *Mortgage Brokers Act*)

TO: SOHEIL ARMAN KIA aka SOHEIL ARMON KIA
Yespros Mortgages Inc.
#103 – 850 Harbourside Drive
North Vancouver, BC V7P 0A3

TAKE NOTICE that a hearing will be set to be heard at the offices of the Financial Institutions Commission of British Columbia at 2800 – 555 West Hastings Street, Vancouver, British Columbia before the Registrar of Mortgage Brokers ("Registrar") or her designate, to allow SOHEIL ARMAN KIA aka SOHEIL ARMON KIA ("Armon") an opportunity to be heard.

The hearing will commence at a date to be determined by the parties, and if no agreement is reached within one month of the date of this notice, the hearing date will be determined by the Registrar.

AND TAKE NOTICE that at the hearing it will be alleged as follows:

BACKGROUND

1. Armon is currently registered as a submortgage broker under the *Mortgage Brokers Act*, RSBC 1996, c. 313 ("*Act*") with registered mortgage brokerage

Yespros Mortgages Inc.

2. Yespros Mortgages Inc. has been a brokerage registered under the *Act* since July 14, 2011. Prior to that time, the brokerage operated and was registered under the names Verico Yespros Mortgages Inc. and Yespros Financials Inc.
3. In this notice, Verico Yespros Mortgages Inc., Yespros Financials Inc. and Yespros Mortgages Inc. are collectively referred to as "Yespros".
4. Armon has been registered as a submortgage broker since January 21, 1998 and has been registered with Yespros from June 5, 2005 to June 1, 2012 and from October 10, 2012 to the present.
5. Armon has been a company director of Yespros and has been the Designated Individual for Yespros from June 7, 2005 to May 10, 2012 and from April 28, 2014 to the present.

INVESTIGATION

6. On February 18, 2013, staff of the Registrar of Mortgage Brokers ("Staff") conducted an examination of Yespros' mortgage files. This examination identified a number of issues in relation to mortgage files handled by Armon.
7. As a result of the subsequent investigation, and following an interview of Armon conducted by Staff, the following has been determined:
 - a. In arranging mortgages on behalf of borrower [REDACTED], Armon prepared mortgage applications for submission to lenders where:
 - i. An application submitted to a lender to finance a property being purchased by the borrower identified that property as being owner occupied and identified another property owned by the borrower as a rental property;
 - ii. An application submitted on the same day to a different lender for the refinancing of the borrower's rental property identified that property as being owner occupied and failed to disclose that the borrower had arranged financing for the purchase of the property identified in 7(a)(i); and
 - iii. The annual earnings reported for the borrower in the application identified in 7(a)(i) were significantly different than the annual earnings reported for the borrower in the application identified in 7(a)(ii).

- b. In arranging mortgages on behalf of borrowers [REDACTED] and [REDACTED], Armon prepared mortgage applications for submission to lenders where:
- i. An application was submitted to a lender to finance a property being purchased by the borrowers as a rental property; and
 - ii. An application submitted on the same day to a different lender to refinance another property owned by the borrowers failed to disclose that the borrowers were seeking mortgage financing for the purchase of the property identified in 7(b)(i).
- c. In arranging mortgages on behalf of borrower [REDACTED] Armon prepared mortgage applications for submission to lenders where:
- i. An application was submitted to a lender to finance a property being purchased by the borrower;
 - ii. An application submitted three days later to a different lender to finance another property being purchased by the borrower failed to disclose that the borrower had arranged financing for the purchase of the property identified in 7(c)(i); and
 - iii. The annual earnings reported for the borrower in the application identified in 7(c)(i) were significantly different than the annual earnings reported for the borrower in the application identified in 7(c)(ii).
- d. In arranging mortgages on behalf of borrowers [REDACTED] and [REDACTED], Armon prepared mortgage applications for submission to lenders where:
- i. An application was submitted to a lender to finance a property being purchased by the borrowers as a rental property; and
 - ii. An application submitted approximately 16 months later to a different lender for the refinancing of the borrower's owner occupied property failed to disclose the mortgaged rental property identified in 7(d)(i).
- e. In arranging mortgages on behalf of borrowers [REDACTED] and [REDACTED], Armon prepared mortgage applications for submission to lenders, where there is evidence in the mortgage broker file that Armon was aware the borrowers owned four mortgaged properties, and where:
- i. An application was submitted to a lender to refinance a property owner occupied by the borrowers, showing no other properties owned by the borrowers;

- ii. An application submitted five days later to a different (second) lender to refinance the same owner occupied property identified two rental properties owned by the borrowers;
- iii. An application submitted the day following the date in 7(e)(ii) to a different (third) lender to refinance the same owner occupied property identified one rental property owned by the borrowers; and
- iv. An application submitted five days after the date in 7(e)(iii) to a different (fourth) lender to refinance the same owner occupied property identified three rental properties owned by the borrowers.

REGULATORY SCHEME

- 8. The *Act* establishes a regulatory scheme for the arranging of mortgages in British Columbia by requiring mortgage brokers to be registered with the Registrar of Mortgage Brokers, be suitable persons, and meet the requirements of the *Act* including conduct and disclosure requirements.
- 9. The following provisions of the *Act* are relevant to this matter:

Definitions

1. In this Act:

...

"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;

Granting of registration by registrar

4 The registrar

...

- (c) may, in the registrar's discretion, attach to the registration or renewal of registration terms, conditions or restrictions the registrar considers necessary.

Procedure and powers of registrar for inquiry

6 ...

- (g) if the inquiry discloses a contravention of this Act or the regulations or orders or directions of the registrar, the registrar may order the costs to be paid by the person.

Registrar's orders — registration and compliance

- 8 (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;

(l) 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 (l) of subsection (1) apply.

BREACHES ALLEGED

10. Staff allege that contrary to s. 8(1)(l) of the Act, Armon conducted his business in a manner that is otherwise prejudicial to the public interest by:

- a. Failing to disclose in mortgage applications for submission to lenders that borrowers owned other properties when he knew or ought to have known that the borrowers owned other properties;
- b. Failing to disclose in mortgage applications for submission to lenders that borrowers were concurrently seeking financing for the purchase other properties;
- c. Preparing mortgage applications for submission to lenders on the basis that the properties would be owner occupied by borrowers, when he knew or ought to have known that the properties would not be owner occupied; and
- d. Preparing mortgage applications for submission to different lenders over a short period of time, for the same borrower, which contained significant and unexplained variation in income.

11. Staff submit that submortgage brokers and mortgage brokers have a responsibility to conduct reasonable due diligence with respect to information they provide to lenders. Failure to disclose known material facts or knowingly misrepresenting facts to a lender places borrowers at risk of being placed in mortgages that they cannot afford and places lenders at risk of making mortgage loans that they would not otherwise have made with full disclosure of the borrower's circumstances.


TAKE NOTICE that if the allegations above are substantiated and the Registrar or her designate is of the opinion that Armon conducted business in a manner that is prejudicial to the public interest pursuant to s. 8(1)(l) of the Act, or are otherwise in breach of the Act, the Registrar or her designate may make orders as follows with respect to Armon:

1. pursuant to s. 4(o) of the Act, attach to his registration terms, conditions or restrictions which the Registrar considers necessary;
2. pursuant to s. 8(1) of the Act, cancel or suspend his registration;
3. pursuant to s. 8(1.1) of the Act, impose administrative penalties of not more than \$50,000; and
4. pursuant to s. 6(9) of the Act, order the payment of investigation and hearing costs.

AND TAKE NOTICE that you may be represented by legal counsel at the hearing and may make representations, cross-examine witnesses and lead evidence. If you fail to appear at the hearing, orders may be made in your absence.

NOTICES OF HEARING Issued by the Registrar of Mortgage Brokers include allegations which will be considered at a discipline hearing. Please note that the allegations contained in a Notice of Hearing are unproven allegations until the Registrar of Mortgage Brokers or her designate has determined their validity.

ISSUED at Vancouver, British Columbia, this 9 day of January, 2015.



Chris Carter
Acting Registrar of Mortgage Brokers
Province of British Columbia