



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

-AND-

RANMINDER KAUR GILL
(also known as Rani Kaur Gill)

CEASE AND DESIST ORDER

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

Upon review of the evidence and submissions set out in:

1. The report submitted by staff of the Registrar of Mortgage Brokers ("Staff");
2. The investigation report submitted by an Investigation Firm; and
3. The transcript of an audio and video recording of a meeting conducted by an investigator with the Investigation Firm.

I MAKE THE FOLLOWING FINDINGS AND ORDER:

Background

1. Ranminder (Rani) Kaur Gill (Ms. Gill) is not currently registered as a submortgage broker under the Mortgage Brokers Act, (the "Act"), and she was not registered at all material

times as set out below. Ms. Gill was previously registered as a submortgage broker with [REDACTED], from November 27, 2009 through to November 25, 2013.

2. On January 21, 2015, Ms. Gill contacted the Office of the Registrar of Mortgage Brokers inquiring about whether an unregistered person could collect a referral fee from a mortgage broker, as she was having difficulty collecting a referral fee.
3. After an exchange of emails with Staff, it appeared that Ms. Gill might be carrying on business as a mortgage broker or submortgage broker without being registered as required by the Act. In an email to Staff dated February 17, 2015, Ms. Gill stated that she does most of the "client side" work, and the broker she refers business to submits the application to a lender and negotiates with the lender:

i (sic) do most of the work from the client side because most of them don't speak English. he (sic) just submit the application to the lender and speaking and negotiatiing (sic) with the lenders. i (sic) stay in touch with the client getting the paper work signed from them getting all the info from them.

4. On March 4, 2015, Ms. Gill advised Staff by email that she supplied a mortgage application to [REDACTED], a registered submortgage broker with [REDACTED] on behalf of [REDACTED], in relation to their property located in Vancouver, BC.
5. Staff then engaged the services of an Investigation Firm to assist with further investigation regarding Ms. Gill's activities as they related to the Act. The Investigation Firm assigned two private investigators to conduct the investigation (together the "Investigators" and individually the "Investigator").

Investigation

6. On May 28, 2015, the Investigators obtained copies of correspondence between [REDACTED] and Ms. Gill which stated that:

- a. [REDACTED] refused to compensate Ms. Gill in excess of \$1000 for a referral fee as any amount in excess of \$1000 would not be in accordance with FICOM Bulletin 10-004; and
 - b. [REDACTED] advised Ms. Gill that she should be registered under the Act.
7. The Investigator also obtained a copy of the [REDACTED] mortgage application and appraisal that was emailed to [REDACTED] from Ms. Gill on November 18, 2014.
8. On June 2, 2015, Staff conducted an internet search and found an advertisement dated February 14, 2015. The advertisement was placed in the "Indo-Canadian Voice Realty" by Ms. Gill and [REDACTED], a real estate licensee. The advertisement included Ms. Gill's photograph, her name (Rani Gill) and her contact information. It also included the following statements:
 - a. When everyone says "NO" Call Rani Gill and get your mortgage done;
 - b. For all your mortgage needs;
 - c. Private Mortgage, First, 2nd, & 3rd Mortgage;
 - d. Commercial loan 3.53%;
 - e. New Immigrants, First time home Buyers, Self Employed, Low Income, Bad Credit?;
and
 - f. We do it all.
9. [REDACTED] has been licensed with the Real Estate Council of British Columbia since September 9, 2011.
10. On June 4, 2015 the Investigator contacted [REDACTED] on the pretext that he was looking to purchase a rental property. Subsequently, the Investigator arranged to meet with [REDACTED] who stated that [REDACTED], Ms. Gill, a mortgage broker, would also attend. The Investigator recorded the meeting. At the meeting on June 19, 2015:

- a. The Investigator stated he wished to purchase an investment property, that he would rent to others;
- b. Ms. Gill stated that on the mortgage application, she would disclose to the lender that the Investigator intended to live in the investment property, even though the Investigator stated he did not intend to live in the property. She advised the Investigator to change his mailing address, "in the papers". Ms. Gill stated to the Investigator that by doing so, he would save money when he went to sell the investment property, and he would get a better deal from the bank if he stated he intended to live there;
- c. Ms. Gill further advised the Investigator that if he was "going to be short [on the down payment] and you need to borrow, then we tell them, okay, then we make a gift letter. Then we tell them my parents, or whatever, they're going to give us a gift";
- d. Ms. Gill held herself out to the Investigator as if she was a registered submortgage broker and carrying on the business of a submortgage broker by:
 - i. Stating that she is a mortgage broker;
 - ii. Stating that she currently works for [REDACTED];
 - iii. Stating that she is paid by lenders;
 - iv. Discussing various mortgage products available, including various rates and terms, and the required down payment needed;
 - v. Asking for identification from the Investigator and attempting to take a mortgage application from him;
 - vi. Stating that if financing was not available from a bank, she would be able to obtain financing from a private lender;

- vii. Advising how long it would take to obtain financing, depending on how straightforward the application was; and
 - viii. Stating that she deals with lenders across Canada and has been in the mortgage industry for 8 years, that she does not work for a bank, but has connections with various banks.
- e. During the meeting the Investigator obtained the following documents from Ms. Gill:
- i. Ms. Gill's business card, indicating she is a "mortgage professional" with [REDACTED]; and
 - ii. Promotional fridge magnet indicating that Ms. Gill is a mortgage specialist with [REDACTED] (Ms. Gill clarified in the meeting that she no longer works for [REDACTED], but currently works for [REDACTED]).
11. On June 20, 2015 the Investigator received an email from Ms. Gill which attached a [REDACTED] mortgage application.
12. On November 5, 2015, Staff obtained a copy of an advertisement featuring Ms. Gill in the October 31, 2015 edition of the "Indo-Canadian Voice Realty". The advertisement invited readers to "Call Ms. Gill and get your mortgage done" and had the word "Mortgage" in large font.

Applicable Legislation

13. **Section 1** of the Act provides the following definitions:

"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.

“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.

14. **Section 21(1)** of the Act provides as follows:

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.

15. **Section 11** of the Act provides:

- (1) The registration provisions of this Act do not apply to any of the following while acting as mortgage brokers or submortgage brokers under their proper names:
 - a. insurance companies;
 - b. savings institutions;
 - c. a member of the Law Society of British Columbia entitled to practice as a solicitor in British Columbia if the loan transaction is made in the course of and as part of the members practice;
 - d. any person acting for the government or for an agency of the government;
 - e. a liquidator, receiver, trustee in bankruptcy or a person acting under the authority of any court or an executor or trustee acting under the terms of a will or marriage settlement.
- (2) The registrations provisions of this Act do not apply to any of the following:
 - a. an employee, or director, or a person exempted from registration under subsection (1) (a) or (b) or paragraph (b) of this subsection;
 - b. a person lending money, directly or indirectly, on the security of land to provide housing for the person's employees;
 - c. any other person or class of persons exempted from registration by the registrar.

16. **Section 8(1.4)** of the Act provides:

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.

17. **Section 8(2)** of the Act provides that:

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).

18. **Section 8(3)** of the Act states:

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

19. The regulatory framework set out in the Act ensures that the public is protected from certain conduct. Only those individuals suitable for registration are entitled to be registered under the Act, and once registered they are subject to the provisions of the Act.

20. Section 21 prohibits a person from carrying on business as a mortgage broker or submortgage broker without being registered under the Act. Both "mortgage broker" and "submortgage broker" are defined terms as set out above.

21. Two decisions of the Commercial Appeals Commission, *Legge (c.o.b. Mortgageline) v. British Columbia (Registrar of Mortgage Borkers)*, [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 ("Horizon") have considered the meaning of "arranging mortgages" for the purpose of determining whether certain activities fell within the definition of submortgage broker in the Act. In Horizon, the Commission found that:

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.

22. Some of the indicia of arranging mortgages in both cases were: promotion of services, direct communication with clients explaining mortgages, mortgage products, mortgage documents and/or disclosure statements, taking mortgage applications, and obtaining supporting documentation.
23. Staff provided clear evidence that Ms. Gill was carrying on business as a mortgage broker or submortgage broker and holding herself out as a mortgage broker or submortgage broker. The evidence is very clear that Ms. Gill engaged in many activities that would be considered "arranging mortgages".
24. On two occasions, Ms. Gill placed an advertisement in a local newspaper advertising her business and services as a mortgage professional and a mortgage specialist. The advertisements, (one as recent as October 31, 2015) clearly invite the public to contact Ms. Gill "For all of your mortgage needs" and further state, "When everyone says "No" call Rani Gill and get your mortgage done." Both advertisements offer services in respect of:
 - a. Private mortgages;
 - b. First, 2nd, and 3rd Mortgages;
 - c. Commercial Loans 3.53%; and
 - d. New Immigrants, First time Home buyers, Self Employed, Low Income, Bad Credit.
25. Ms. Gill provided Staff with information that she was making referrals to a submortgage broker for which she expected to be paid. However, documents received from the

submortgage broker show that Ms. Gill was arranging the mortgage, not simply making a referral.

26. In an email to Staff, Ms. Gill stated that she does most of the work from the client side because most clients do not speak English. Ms. Gill stated that she stays in touch with the clients, gets paper work signed, and collects all of the information from them.
27. The evidence provided by an Investigation Firm further supports that Ms. Gill was engaging in activities for which registration under the Act is required:
 - a. Ms. Gill stated to the Investigator that she was a mortgage broker, was currently working with [REDACTED], was paid by lenders, and worked with various lenders across Canada;
 - b. Ms. Gill provided the Investigator with a business card advertising herself as a mortgage professional with [REDACTED];
 - c. Ms. Gill provided the Investigator with a fridge magnet advertising herself as a mortgage specialist with [REDACTED];
 - d. Ms. Gill explained various mortgage products available to the Investigator; and
 - e. Ms. Gill provided a copy of a [REDACTED] mortgage application to the Investigator, and discussed the supporting documentation required to complete the application.
28. Therefore I find Ms. Gill to be carrying on business as a mortgage broker or submortgage broker, in contravention of section 21 of the Act. As such, her conduct may be subject to the orders set out in section 8(1.4) of the Act.
29. There is no evidence to suggest that Ms. Gill would be exempt from the registration requirements under section 11 of the Act.
30. In addition, I find that the following actions by Ms. Gill were particularly egregious and that her conduct places the public at further risk:

- a. Offering to falsely disclose to a lender that a potential borrower would reside in the property when she knew the borrower had no intention of doing so; and
 - b. Offering to provide a gift letter to submit to the lender, indicating that down payment funds were a gift, and not a loan, when she knew this would be false.
31. I agree with Staff that this conduct demonstrates a willingness to deceive lenders when submitting mortgage applications to them. Not only are lenders put at risk of providing mortgage funds based on inaccurate information, but borrowers may find themselves in a mortgage they cannot afford.
32. Ms. Gill's conduct is more concerning given that she was a prior registrant, and therefore ought to know and understand not only the registration requirements of the Act, but also the obligations of registrants to ensure that disclosure to lenders is true, plain and not misleading. Ms. Gill not only demonstrated a willingness to be deceitful, dishonest, and misleading with lenders, she encouraged a potential client to do so as well.
33. Ms. Gill has continued to advertise her mortgage broker services as recently as October 31, 2015. As a former registrant she knows or ought to know that she must be registered to provide these services. Ms. Gill was also advised by a registered mortgage broker from whom she was seeking a referral fee that she required registration, and he provided her with a bulletin issued by the Registrar outlining those requirements. Despite this information, she has continued to offer her services as a mortgage broker or submortgage broker by advertisement.
34. I agree with Staff that a hearing into Ms. Gill's conduct would require a number of witnesses and at least three days of hearing which could not be realistically scheduled for approximately three months. Given Ms. Gill's promotion of her services through public advertisements, and her willingness to engage in deceitful conduct, I find that a delay would be prejudicial to the public interest. This supports an order to be made pursuant to section 8(2) of the Act.

I AM THEREFORE OF THE OPINION THAT the length of time that would be required to hold a hearing and make orders under section 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.

AND I AM THEREFORE OF THE OPINION it is in the public interest to make a summary order under section 8(1.4)(a) and 8(2) of the Act so the public is protected against further non-compliance with the Act.

I HEREBY ORDER, pursuant to sections 8(1.4)(a) and 8(2) of the Act that Ranminder Kaur Gill, also known as Rani Gill:

CEASE AND DESIST engaging in unregistered mortgage broker activity in the Province of British Columbia, effective immediately, unless and until she becomes registered to do so under the provisions of the Act.

TAKE NOTICE THAT: Ranminder Kaur Gill, also known as Rani Gill, may under section 9 of the Act, appeal this Order to the Financial Services Tribunal.

Issued this 22nd day of January, 2016
At Vancouver, British Columbia

A handwritten signature in black ink, appearing to be 'Chris Carter', written over a horizontal line.

Chris Carter
Registrar of Mortgage Brokers,
Acting under designation, dated December 11, 2015

Notice to: Ranminder Kaur Gill,
also known as Rani Gill



Notice to: Financial Services Tribunal
4th Floor – 747 Fort Street
Victoria, BC V8W 9V1