



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

-AND-

GOBI NAVA

CEASE and DESIST ORDER

(Pursuant to s.8(1.4) of the *Mortgage Brokers Act*)

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

Background

1. No person by the name of Gobi Nava ("Nava") has ever been registered as a mortgage broker or submortgage broker in British Columbia.

February 2011 Complaint

2. On February 1, 2011, Constable [REDACTED] of the Nanaimo RCMP contacted Staff by email about Nava. In support of his complaint, B [REDACTED] also provided a number of documents. The following is a summary of the information provided by B [REDACTED]:
- (a) He was investigating a mortgage Nava obtained by L [REDACTED] M [REDACTED] ("M [REDACTED]") for the purchase of [REDACTED] (the "[REDACTED] Property").
 - (b) The sale price of the [REDACTED] Property was \$350,000. M [REDACTED] was only able to secure financing for \$280,000, in addition to a down payment of \$10,000, which was placed in trust with the realtor, R [REDACTED] B [REDACTED] ("B [REDACTED]").
 - (c) As M [REDACTED] was unable to obtain sufficient financing for the purchase, the seller [who Staff learned was T [REDACTED] V [REDACTED] D [REDACTED] ("D [REDACTED]")] referred her to Nava for assistance.
 - (d) Nava initially represented himself as a mortgage broker.
 - (e) Nava brokered a deal whereby D [REDACTED] would provide a loan of \$62,000.00 to cover the balance of the sale price. M [REDACTED] agreed, and Nava asked her for a down payment of \$15,000, which he wanted deposited into a bank account in the name of "Mr. Troop". M [REDACTED] complied. [REDACTED] provided a Bank of Montreal receipt dated December 16, 2010 showing that a \$15,000 transfer had been made from "L [REDACTED] C [REDACTED] M [REDACTED]". The debit memorandum reads "DOWN PYMT FOR PRIVATE MORT." Handwritten notes read "To Mr. Toor."
 - (f) After several weeks of no activity, Nava advised M [REDACTED] that she had an outstanding cell phone bill, and asked her to send him \$2,500 so that he could "fix" her credit. [REDACTED] provided a Money Mart receipt dated December 9, 2010 showing this transfer from M [REDACTED] to Nava.
 - (g) More time passed, and there was still no financing in place.
 - (h) The completion date for the purchase of the [REDACTED] Property was pushed back several times. In the interim, M [REDACTED] was allowed to move into the [REDACTED] Property, agreeing to pay rent.

- (i) Nava contacted M [REDACTED] and asked that she pay the rent to him directly, in the amount of \$2,000. M [REDACTED] negotiated this amount down to \$1,250 and ended up transferring that amount to an HSBC account as directed by Nava. [REDACTED] provided two HSBC deposit slips, both dated January 18, 2011, showing deposits totaling \$1,250 being made into an account in the name of "NAVA G."
- (j) As more time passed, M [REDACTED] requested an update, at which time Nava told B [REDACTED] that he was not a mortgage broker, but rather had connections with private investors. Nava also indicated that M [REDACTED] needed to meet with him to cosign loan documents with the sellers of the [REDACTED] Property.
- (k) M [REDACTED] checked her credit report and determined that her outstanding cell phone bill had not been paid. She also determined that no money had been transferred to the sellers of the [REDACTED] Property for either the down payment or the rent.
- (l) On January 30, 2011, M [REDACTED] and B [REDACTED] contacted Nava. At that time, Nava indicated to B [REDACTED] that he was with a registered mortgage broker, securing a loan for M [REDACTED]. Nava assured B [REDACTED] that the money which M [REDACTED] had given to him was being held in trust.

Investigation

- 3. On May 14, 2012, Staff conducted a search of the records of the BC Land Titles Office and determined the following for the [REDACTED] Property:
 - (a) M [REDACTED] and G [REDACTED] M [REDACTED] C [REDACTED] ("C [REDACTED]") became registered owners on March 25, 2011.
 - (b) A first mortgage was registered by V.W.R. Capital Corp. ("VWR Capital") on March 25, 2011 in the amount of \$266,250.
 - (c) A second mortgage was registered by D [REDACTED] on March 25, 2011 in the amount of \$72,000.
- 4. On April 7, 2011, B [REDACTED] provided investigator Colin Chin ("Chin") with a series of emails he had exchanged with Nava in connection with M [REDACTED]' mortgage

application. The email provided indicated that Nava was collecting documents from B [REDACTED] to support M [REDACTED]' and O [REDACTED] mortgage application. Examples are as follows:

- (a) On August 20, 2010, B [REDACTED] emailed Nava pay slips, tax information, CIBC Pre-Approved Mortgage Certificate and the listing for the [REDACTED] Property.
 - (b) On August 20, 2010, B [REDACTED] emailed Nava a copy of the contract of purchase and sale for the [REDACTED] Property.
 - (c) On August 22, 2010, B [REDACTED] emailed Nava a copy of a will, confirming M [REDACTED]' inheritance.
 - (d) On August 22, 2010, B [REDACTED] emailed Nava photocopies of C [REDACTED] and M [REDACTED] identification.
 - (e) On November 18, 2010, B [REDACTED] emailed Nava a Bank of Montreal "Customer Snapshot" for M [REDACTED]' account.
 - (f) On November 19, 2010, B [REDACTED] emailed Nava a copy of the "new" contract of purchase and sale for the [REDACTED] Property dated November 19, 2010.
 - (g) On December 14, 2010, B [REDACTED] emailed Nava the deficiency list and signed addendum for the [REDACTED] Property.
 - (h) On December 16, 2010, B [REDACTED] emailed Nava a copy of the certified cheque and deposit receipt for the \$10,000 down payment on the [REDACTED] Property.
 - (i) On December 22, 2010, Nava was copied on an email from an appraiser, attaching a copy of the appraisal report for the [REDACTED] Property.
 - (j) On December 23, 2010, B [REDACTED] emailed Nava a copy of two commitment letters (one from Cove Mortgage Ltd., and one from Antrim Investments Ltd.), both of which were signed by M [REDACTED] and C [REDACTED]
5. On April 7, 2011, Chin contacted V.W.R. Capital and was advised that M [REDACTED] application had been submitted to them by G [REDACTED] D [REDACTED] ("D [REDACTED]"), a registered submortgage broker in British Columbia with The Mortgage Group ("TMG").
 6. On April 8, 2011, Chin contacted Cove Mortgage Ltd. ("Cove") and was advised that Medeiros' application had been submitted to them by G [REDACTED] S [REDACTED]

[REDACTED] ("J [REDACTED]"), a registered submortgage broker in British Columbia with Centum Mortgage Concept Inc.

7. On April 8, 2011, Chin contacted Antrim Investments Ltd. and was told that they had no record of who submitted Medeiros' mortgage application to them.
8. On April 14, 2011, Chin met with B [REDACTED] who advised as follows:
 - (a) He was the listing realtor of the [REDACTED] Property.
 - (b) He advised the seller of the [REDACTED] Property that M [REDACTED] was having difficulty obtaining financing. The seller in turn gave B [REDACTED] Nava's phone number which he passed on to M [REDACTED].
 - (c) Nava initially told B [REDACTED] that he was a mortgage broker.
 - (d) Nava asked B [REDACTED] to obtain information from M [REDACTED] (such as photo identification, income tax returns, notices of assessment, bank statements) for him.
 - (e) Nava needed to know M [REDACTED]' address, date of birth and Social Insurance Number so that he could conduct a credit check.
 - (f) B [REDACTED] told Nava that M [REDACTED] was a caregiver and was also receiving Employment Insurance.
 - (g) When B [REDACTED] found out that Nava was not a mortgage broker, he called him. Nava's response was that he had "connections".
9. On April 14, 2011, Chin met with M [REDACTED] who advised as follows:
 - (a) Nava ultimately helped her obtain financing from VWR Capital, the holder of the first mortgage on the [REDACTED] Property. In addition, Nava brokered the arrangement with the seller, who holds the second mortgage on the [REDACTED] Property.
 - (b) It was M [REDACTED] understanding that the information she was providing to B [REDACTED] was being forwarded to Nava so that he could obtain financing on her behalf.
 - (c) When Nava instructed her to transfer \$15,000 into a bank account, she believed that the money would be given to the seller who was providing her with a private mortgage.
 - (d) She transferred \$2,500 to Nava so that Nava would pay off a telephone bill with Rogers. She later discovered that the bill was never paid.

- (e) Nava provided M [REDACTED] with the following documents relating to the mortgage for the [REDACTED] Property: a consent form which she signed and returned to Nava; a Fixed Credit Disclosure Statement; a Form 10 Conflict of Interest Disclosure Statement which she signed and returned to Nava; and a commitment letter from VWR Capital which was signed and return to Nava.
 - (f) Nava told M [REDACTED] that he was not "licensed", but that he had been arranging mortgages for 20 years.
 - (g) The information contained on the mortgage application dated February 4, 2011, found in the file of the mortgage broker who arranged the financing with VWR Capital, was incorrect in two aspects. Specifically, M [REDACTED] did not work as an accountant, nor did she have \$90,000 in savings.
10. Chin obtained a copy of the Buyers' Statement of Adjustments and the Amended Buyers' Statement of Adjustments. The first, showing a completion date of February 18, 2011, indicated that a \$17,500 deposit had been paid directly to the sellers. The second, showing a completion date of March 25, 2011 showed both a deposit of \$17,500 paid directly to the sellers, as well as "Payment of Funds received from Gobi Nava on behalf of Buyes [sic]" in the amount of \$2,000.

Mortgage application submitted to Cove Mortgage on behalf of M [REDACTED] and C [REDACTED]

11. On April 26, 2011, Chin and investigator Scott Wallace ("Wallace") met with J [REDACTED] who advised as follows:
- (a) M [REDACTED] was referred to him by an insurance salesman.
 - (b) J [REDACTED] contacted M [REDACTED] who in turn asked him to contact Nava.
 - (c) J [REDACTED] contacted Nava, who provided him with M [REDACTED]' personal information.
 - (d) J [REDACTED] met with M [REDACTED] and C [REDACTED] at E [REDACTED] office in Nanaimo.
 - (e) Once he learned that M [REDACTED] had given \$15,000 to Nava, J [REDACTED] advised M [REDACTED], B [REDACTED] and Nava that he would no longer process M [REDACTED]' mortgage application.

- (f) Nava never explicitly asked to be compensated for the referral of M [REDACTED] mortgage, however, Nava did suggest that J [REDACTED] should increase his fees so that Nava could be paid for future referrals.

Mortgage application submitted to VWR Capital on behalf of M [REDACTED] and C [REDACTED]

12. On August 22, 2011, Chin and Wallace met with D [REDACTED] and with V [REDACTED] C [REDACTED] ("C [REDACTED]"), a registered submortgage broker who works with D [REDACTED] at TMG.
13. In his interview of August 22, 2011, C [REDACTED] advised Chin and Wallace as follows:
- (a) He thought that the first mortgage application he received from Nava was for D [REDACTED]. In fact, C [REDACTED] had a mortgage application in his possession for D [REDACTED] as well as a job letter and pay stub. The information on D [REDACTED] mortgage application and the job letter came from Nava.
 - (b) Nava dealt primarily with C [REDACTED] colleague, D [REDACTED]
 - (c) Nava did not indicate that he was a mortgage broker, but he did state that he receives mortgage referrals from various sources.
 - (d) M [REDACTED] mortgage application was referred to them by Nava, and ended up being processed by D [REDACTED]
 - (e) He thinks that Nava spoke with D [REDACTED] about being compensated for his mortgage referrals.
 - (f) C [REDACTED] paid Nava roughly \$1,000 to \$1,200 in cash which he believes was compensation for the M [REDACTED] mortgage referral.
 - (g) D [REDACTED] mortgage never funded so Nava was not paid a referral fee in respect of it.
14. In his interview of August 22, 2011, D [REDACTED] advised Chin and Wallace as follows:
- (a) C [REDACTED] is his business partner, and it was a friend of C [REDACTED] who introduced them to Nava.

- (b) Nava asked to be paid 25% of the commission paid to them by lenders for his referrals.
 - (c) Nava referred them a total of five mortgage applications, only the following two of which funded: the M [REDACTED] and Q [REDACTED] mortgage and the [REDACTED] M [REDACTED] E [REDACTED] ("B [REDACTED]") mortgage.
 - (d) The information found on M [REDACTED] mortgage application, which D [REDACTED] had in his file, came from Nava.
 - (e) When D [REDACTED] contacted M [REDACTED] for the first time, she advised him to contact Nava.
 - (f) D [REDACTED] provided Nava with a consent form, which Nava returned to him with M [REDACTED] and C [REDACTED] signatures.
 - (g) D [REDACTED] provided Nava with a copy of M [REDACTED] and C [REDACTED] commitment letter from VWR Capital. Nava returned the commitment letter with M [REDACTED] and C [REDACTED] signatures.
 - (h) D [REDACTED] provided Nava with a copy of M [REDACTED] and C [REDACTED] Fixed Credit Disclosure Statement which Nava returned with their signatures.
 - (i) D [REDACTED] thought that either he or C [REDACTED] paid cash to Nava for the referral of M [REDACTED] and C [REDACTED] mortgage application.
 - (j) With respect to the B [REDACTED] mortgage, the information on the mortgage application came from Nava.
 - (k) When D [REDACTED] contacted B [REDACTED] about the mortgage application, she told him to contact Nava.
15. On August 23, 2011, D [REDACTED] emailed Chin and advised as follows:
- (a) He had paid Nava approximately \$1,000 for the M [REDACTED] mortgage referral and \$700 for the B [REDACTED] mortgage referral.
 - (b) Nava had also referred another mortgage application to him in the name of J [REDACTED] K [REDACTED] ("K [REDACTED]"), but that mortgage did not fund.

Mortgage application submitted on behalf of B [REDACTED]

16. On August 23, 2011, D [REDACTED] emailed Chin a copy of B [REDACTED] mortgage file which included the following documents:
- (a) B [REDACTED] mortgage application dated May 9, 2011. The application was for a second mortgage (specifically, an equity take out) in the amount of \$70,000 on property owned by B [REDACTED] at [REDACTED] in Port Coquitlam, BC (the [REDACTED] Property"). The application identified the responsible agent as D [REDACTED] of TMG.
 - (b) A Dominion Lending Centres ("DLC") Mortgage Application dated April 5, 2011, bearing the name of G [REDACTED] C [REDACTED] ("C [REDACTED]"), a registered submortgage broker with DLC.
 - (c) A mortgage commitment letter from Nories Holdings Ltd. addressed to D [REDACTED] and dated May 8, 2011. Under the terms of the letter, Normak Investments Ltd., was prepared to offer a second mortgage to B [REDACTED] in the amount of \$70,000.
17. B [REDACTED] did obtain mortgage financing from Normak Investments Ltd., and a second mortgage was registered on title to the [REDACTED] Property on May 18, 2011.
18. As noted above, Nava received a \$700 referral fee for the B [REDACTED] mortgage.

Mortgage application for K [REDACTED]

19. On August 24, 2011, D [REDACTED] contacted Chin and advised as follows:
- (a) Nava had contacted him to ask if K [REDACTED] mortgage had funded.
 - (b) Nava wanted to meet with D [REDACTED]
 - (c) D [REDACTED] told Nava he would call him back.
 - (d) D [REDACTED] immediately contacted Chin after speaking with Nava.
 - (e) Nava had brought K [REDACTED] to D [REDACTED] office.

- (f) D [REDACTED] took K [REDACTED] mortgage application, and obtained all supporting documents from K [REDACTED]
 - (g) The mortgage application for K [REDACTED] did not fund as K [REDACTED] obtained financing elsewhere.
20. On September 2, 2011, Chin met with C [REDACTED] of DLC who advised that he had never met Nava, but that he knew E [REDACTED] as she had been his client. He told Chin that E [REDACTED] had wanted a second mortgage, but that he had been unable to help her obtain this financing.

Telephone discussion and interview of Nava

21. On May 31, 2012, Chin called Nava. In that conversation, Nava described himself as a "referral person", and said that he had been in the business of "referring mortgages" for the past 10 years. He denied, however, being a mortgage broker.
22. On June 14, 2012, Nava met with Chin to discuss his referral activities. In that discussion, Nava advised as follows:
- (a) He is paid a referral fee for referring prospective mortgage applicants.
 - (b) He does not advertise his mortgage referral business.
 - (c) In the last three years, he has referred only one mortgage.
 - (d) D [REDACTED] paid him \$500 for referring the M [REDACTED] and C [REDACTED] mortgage.
 - (e) In 2010, he earned \$5,000 from mortgage referrals.
 - (f) In 2011 he did not earn any money from mortgage referrals (although he had earlier indicated that he had received \$500 from the M [REDACTED] transaction which took place entirely in 2011).
 - (g) He has earned no money for mortgage referrals in 2012.
 - (h) He only collects mortgage documents on behalf of the mortgage broker if instructed to do so by the mortgage applicant.
 - (i) He does not discuss rates or terms with his clients.
 - (j) He has never helped a mortgage applicant renew a mortgage.

- (k) He would still refer someone to a mortgage broker if he or she needed help obtaining financing.
- (l) M██████ is the last person he helped to obtain financing.
- (m) M██████ realtor contacted him to see if he could help her obtain financing.
- (n) Nava contacted J██████ and told him M██████ would be contacting him shortly to discuss her financing needs.
- (o) Nava referred M██████ to D██████ after M██████ asked to be referred to another broker, as she was unhappy with the terms J██████ obtained from lenders.
- (p) He did not give M██████ any mortgage documents to sign.
- (q) M██████ did not give him any signed documents to give to D██████.
- (r) He collected \$15,000 from M██████ for the down payment, which he passed on to the owner.
- (s) M██████ gave Nava \$2,500 to fix her credit, but she ended up fixing her credit herself. He understood this amount was put towards the purchase price.
- (t) He denied collecting \$1,250 in rent from M██████.
- (u) He never told anyone he was a mortgage broker.
- (v) He has never taken documents from a mortgage applicant and then supplied them to a mortgage broker. Similarly, he has not taken a client's documents from a realtor, and then forwarded them to a mortgage broker. The mortgage broker in these transactions gets all information directly from the client.

Applicable legislation

23. Section 1 of the Act provides the following definitions:

“mortgage” includes every instrument by which

- (a) land in British Columbia,

(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;

24. Section 8(1.4) of the Act provides as follows:

8(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.

25. Section 8(2) of the Act provides as follows:

8(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).

26. Section 21(1)(a) of the Act provides as follows:

21(1) Unless exempted under section 1, 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;

...

AND WHEREAS I AM THEREFORE OF THE OPINION THAT:

1. In 2011, Nava received fees in excess of \$1,000 for arranging mortgages for others. Specifically, he was paid between \$1,000 and \$1,200 for his part in arranging a mortgage for M [REDACTED] and C [REDACTED], and \$700 for his part in arranging a mortgage for B [REDACTED]. This fact alone places Nava within the definition of "mortgage broker" in section 1 of the Act.
2. Nava held himself out as a mortgage broker to B [REDACTED]. This fact places Nava within the definition of "mortgage broker" in section 1 of the Act.
3. By accepting fees in excess of \$1,000 and by holding himself out as a mortgage broker, Nava is conducting mortgage broker activity in British Columbia without being registered to do so, contrary to section 21 of the Act. In addition to receiving fees for arranging these mortgages, and holding himself out as a mortgage broker, I note that Nava has also engaged in the following essential aspects of that mortgage transaction:
 - (a) Nava indicated that he could arrange a mortgage for M [REDACTED].
 - (b) Nava obtained necessary information from M [REDACTED] and C [REDACTED] (i.e. their identification, tax information and income information) in support of the mortgage being sought.
 - (c) Nava provided D [REDACTED] with the information contained in the B [REDACTED] mortgage application.
 - (d) Nava sought mortgage financing on behalf of M [REDACTED] and C [REDACTED] from at least two registered submortgage brokers (J [REDACTED] and C [REDACTED] / D [REDACTED]).

I THEREFORE CONSIDER THAT Nava is conducting himself in a manner that would enable me to make an order under section 8(1.4).

I AGREE with Staff that a hearing of this matter would involve at least six witnesses, and would take approximately five days to complete and could not be held for at least four months due to scheduling of the parties, witnesses, counsel and the hearing officer.

I FIND that the length of time that would be required to hold a hearing in order to make an order under section 8(1.4) would be detrimental to the due administration of the Act. Nava, by engaging in unregistered mortgage broker activity (as set out in paragraphs 1-3 above), has undermined the integrity of the mortgage broker industry in British Columbia. I note in particular the following:

- (a) The evidence suggests that Nava has been brokering mortgages for many years while not being registered to do so. He himself admits that he has been providing referral services for the last ten years.
- (b) In the course of his activity, he has taken advance fees from at least one borrower (M██████). Not only are advanced fees not permitted in the mortgage broker industry, but the fees Nava took were not even placed into trust.
- (c) Contrary to Nava's assertions, it appears that most, if not all, of the information provided to the registered submortgage brokers in support of the M██████/O██████ and B██████ mortgage applications, came from Nava himself. In the case of the M██████ mortgage application, the information provided was inaccurate on two key issues, namely, M██████ occupation and the value of the assets she held.

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

I THEREFORE ORDER, pursuant to sections 8(1.4)(a) and 8(2) of the Act that Gobi Nava:

Cease and desist engaging in unregistered mortgage broker activity in the Province of British Columbia, effective immediately, unless and until he becomes registered to do so under the provisions of the Act.

TAKE NOTICE that Nava may, under section 9 of the Act, appeal this Order to the Financial Services Tribunal.

Issued this 11 day of July, 2012
at Vancouver, British Columbia



Carolyn Rogers
Registrar of Mortgage Brokers
Province of British Columbia

TO: Gobi Nava

