

Citation: Martel (Re), 2023 BCRMB 6

Date: 2023-05-26

File No. INV23.101.46210

BC FINANCIAL SERVICES AUTHORITY

**IN THE MATTER OF THE *MORTGAGE BROKERS ACT*
RSBC 1996, c 313 as amended**

AND

IN THE MATTER OF

**GREGORY JOSEPH MARTEL
(142926)**

AND

**MY MORTGAGE AUCTION CORP. dba
SHOP YOUR OWN MORTGAGE**

SUSPENSION ORDER REASONS

(Pursuant to section 8(2) of the *Mortgage Brokers Act*)

[This Order and Reasons have been redacted before publication.]

Introduction

1. The B.C. Financial Services Authority ("BCFSA") brings an *ex parte* application for suspension orders pursuant to section 8(2) of the *Mortgage Brokers Act* (the "MBA").
2. Specifically, BCFSA seeks orders requiring that the registrations of Gregory Joseph Martel, a submortgage broker, and My Mortgage Auction Corp., doing business as Shop Your Own Mortgage ("SYOM"), a mortgage broker, be suspended on an interim basis until an investigation into the activities of Mr. Martel and SYOM can be completed, and a hearing into those activities can be held.
3. BCFSA says that the preliminary results of its investigations into Mr. Martel and SYOM have indicated that Mr. Martel misappropriated millions of dollars of bridge loan investments funds for personal benefit, failed to fulfill the terms of investment agreements, continued to seek new investments after already defaulting on existing loans, and failed to comply with multiple orders of the B.C. Supreme Court.

4. BCFSA further says that its preliminary investigatory results demonstrate that Mr. Martel was soliciting bridge loan investments in the name of SYOM, and as such the alleged activities were being done under the guise and legitimacy of being a broker registered under the MBA.
5. BCFSA takes the position on this application that Mr. Martel and SYOM have demonstrated a lack of sufficient honesty, integrity, and professionalism to be considered suitable for registration pursuant to section 4 of the MBA, and further that the alleged financial misconduct on the part of Mr. Martel and SYOM constituted the conducting of business in a manner that is prejudicial to the public interest as contemplated by section 8(1)(i) of the MBA.
6. BCFSA submits further that there is an ongoing risk to the public which requires interim intervention in the form of a suspension order pursuant to section 8(2) of the MBA, on the basis that the ongoing registration of Mr. Martel and SYOM represents a risk to the public's confidence in B.C.'s mortgage regulation scheme and financial services industries.

Issues

7. The issue is whether an order should be issued in respect of Mr. Martel and SYOM pursuant to section 8(2) of the MBA. In considering that issue, the following questions need to be answered:
 - Is there a *prima facie* case that supports a conclusion that Mr. Martel and SYOM engaged in activities which would disentitle them to registration if they were applicants for registration under section 4 of the MBA?
 - Is there a *prima facie* case that supports a conclusion that Mr. Martel and SYOM conducted business in a manner that was prejudicial to the public interest?
 - If so, are the circumstances of the *prima facie* case urgent such that the protection of the public interest requires the issuing of an order pursuant to section 8(2)?

Jurisdiction

8. BCFSA Hearing Officers are appointed to act for the Registrar of Mortgage Brokers (the "Registrar") in respect of orders under section 8 of the MBA, pursuant to a May 16, 2023 Acting Capacity instrument.

Background and Evidence

9. The evidence and information brought before me on this application was contained in the May 19, 2023 affidavit of [Investigator 1], Director of Investigations at BCFSA, and the exhibits attached to that affidavit.
10. Although I have reviewed all the information contained within those affidavits and exhibits, I will only refer here to that which is necessary to provide context to my decision.

Mr. Martel and SYOM

11. Mr. Martel was first registered as a submortgage broker on December 20, 2006. He is currently registered as a submortgage broker with My Mortgage Auction Corp., which does business as SYOM.
12. SYOM is currently registered as a Mortgage Broker, with a registration expiry date of December 5, 2023. Mr. Martel is the designated individual and is the sole director for SYOM.

Complaints to BCFSA

13. Commencing on April 5, 2023, BCFSA began to receive a number of complaints regarding Mr. Martel and SYOM.
14. On April 5, 2023 BCFSA received an email from [Complainant 1] regarding his investments with Mr. Martel and SYOM. In that email [Complainant 1] indicated that he was an investor with SYOM, in which he had provided loan funds to SYOM.
15. [Complainant 1] referenced a specific loan deal in which the funds loaned to SYOM were to be paid out to him by December 2, 2022, but that they had not. [Complainant 1] further indicated that a number of new payout dates had been promised to him from January 6, 2023 through March 31, 2023.
16. [Complainant 1] went on to explain that the above referenced loan deal was representative of several in which SYOM had missed payout dates, and indicated that he was aware of several investors in a similar situation with SYOM.
17. [Complainant 1] indicated that he was concerned that SYOM was engaged in a “ponzi scheme” and that:

I think that if we knew the money actually existed and we were going to be paid, we would not have as many concerns. One of our biggest fears is that Shop Your Own Mortgage has issued T5's for interest on the investment and they have not paid us the money which we owe to [Canada Revenue Agency].

18. On April 6, 2023, BCFSA received an email from [Individual 1]. In that email, [Individual 1] indicated that he was enquiring as to the current operating status of SYOM. [Individual 1] noted that investors into SYOM had attempted to withdraw funds, been told the funds would be released on specific dates, and then not received the promised funds. [Individual 1] further indicated that:

One of the investors attended the office location of My Mortgage Auction Corp 645 Tyee Rd. in Victoria and found the office vacant.

19. On April 18, 2023, BCFSA received a voicemail¹ from [Complainant 2]. [Complainant 2] indicated that they had invested in SYOM, that SYOM had issued them a T5 slip indicating that [Complainant 2] had received interest payments on that investment, but that [Complainant 2] had not in fact received any interest or received the return of their investment into SYOM. [Complainant 2] further indicated that Mr. Martel had promised, in writing, on a number of occasions that payment would be made by a specific date, but that payment had not in fact been received by [Complainant 2].
20. On April 24, 2023, BCFSA received a Registrar of Mortgage Brokers Complaint Information Form from [Complainant 3]. In that form [Complainant 3] indicated that he had been investing in what he believed to be short term mortgages or bridge loans with SYOM for three years. [Complainant 3] indicated that he believed that interest had been accumulating in his account, and that the interest had then been reinvested in new loans. [Complainant 3] noted on his complaint form a specific investment with SYOM on August 8, 2022, in which he invested \$90,152.30. [Complainant 3] indicated that investment was to mature on October 10, 2022, with a payout from SYOM in the amount of \$100,970.58.
21. [Complainant 3] in fact provided a copy of the investment agreement signed by himself and Mr. Martel, on behalf of SYOM which confirmed the above noted terms. That investment agreement further set out that SYOM would use the proceeds of [Complainant 3]'s investment for a bridge loan.
22. [Complainant 3] explained on his complaint form that:

When I requested a payout of one of these loans in October, I did not receive the money owing. Various excuses were offered. Now I have come to believe that the whole thing is a Ponzi scheme. This company has been issuing fraudulent T5's on this imaginary income, resulting in big tax bills for me and also OAS claw back.

¹ The voicemail was transcribed into email form by an automated system.

23. On April 26, 2023, BCFSA received a voicemail from [Complainant 4], who indicated that she had invested money with My Mortgage Action Corp. and that she was having problems getting her money back.
24. On April 26, 2023, a lawyer contacted BCFSA and indicated that she had two clients who had lent money to SYOM, and that the lawyer was concerned that the mortgage company may not be legitimate and “may have been running a scam”. The lawyer noted that there were large amounts of money involved, and that she had done some searches and discovered a number of civil actions had been brought by other individuals against SYOM.
25. On May 4, 2023, BCFSA received a Registrar of Mortgage Brokers Complaint Information Form from [Complainant 5]. In that complaint form [Complainant 5] indicated that his understanding was that Mr. Martel would source money from investors to fund bridge loans and would pay interest to the investors once the bridge loan term was complete. [Complainant 5] indicated, however, that he now felt that Mr. Martel was operating a “ponzi scheme”, and noted that Mr. Martel and SYOM had defaulted on its repayment of the investment money he had provided and the interest he was owed, and had gone silent.
26. [Complainant 5] explained in his complain[t] form that on March 23, 2023 he had contacted SYOM to enquire as to the investment process. He indicated that he was provided with information to create a profile with SYOM, and that he was then provided with an investment offer. [Complainant 5] indicated that he had made a draft payable to SYOM, and deposited it into the SYOM account.
27. [Complainant 5] indicated that he had emailed SYOM to follow-up on April 26, 2023, as the bridge loan contract had matured and he was expecting repayment of the principal amount invested plus interest. He indicated that on April 28, 2023 he had received an email from SYOM indicating that there were no further opportunities to invest, but that the email from SYOM did not respond to his request for repayment. [Complainant 5] indicated that he had written SYOM again on May 4, 2023, but that the email had returned to him on the basis that the SYOM email was “disconnected”.
28. [Complainant 5] attached to his complaint a copy of an agreement between himself and SYOM, in which [Complainant 5] provided a \$100,000 investment to SYOM for the use of a bridge loan in respect of a mortgage. The loan term was to proceed from March 24, 2023 to May 3, 2023, with an interest rate payout of 14%. The agreement was signed by both [Complainant 5] and Mr. Martel on March 23, 2023. [Complainant 5] also provided a copy of the bank draft he had deposited with SYOM.

Receivership

29. In his affidavit, [Investigator 1] indicated that, on May 8, 2023, BCFSA had been notified by the Victoria Police Department that an investigation into Mr. Martel and SYOM had been initiated.
30. [Investigator 1] indicated that BCFSA staff then conducted open source searches into Mr. Martel and SYOM on May 7, 2023. Those searches found that:
- On May 4, 2023, a numbered company from Alberta filed a Notice of Application for receivership and had sought, on an ex parte basis, a receivership order in respect of all assets, undertakings, and property of SYOM. Mr. Martel and SYOM were named as the defendants in the May 4, 2023 Notice of Application.
 - On May 4, 2023, the B.C. Supreme Court had issued a receivership order in respect of SYOM;
 - On May 9, 2023 the numbered company from Alberta had made an application for an “Investigatory Powers Order” requiring that Mr. Martel, SYOM, and others provide access to information and offer co-operation to the receiver appointed in the May 4, 2023 order;
 - On May 9, 2023, the B.C. Supreme Court had issued the “Investigator Powers Order”
31. The May 4, 2023 Notice of Application for receivership alleged that the plaintiff had loaned sums of money to SYOM, with written investment agreements that SYOM would repay the principal sums and a fixed rate of interest. The principal of the loans was to be further loaned out by SYOM to third parties seeking short-term bridge financing on real estate in British Columbia, California, and elsewhere in the United States. The bridge loans were to be secured by mortgages registered against the recipient’s properties.
32. The May 4, 2023 Notice of Application noted that the plaintiff had filed a Notice of Civil Claim against SYOM and Mr. Martel on April 26, 2023. The plaintiff alleged that SYOM and Mr. Martel were, as of April 5, 2023, in default of repayment of principal and interest in respect of the investment agreements between them and the plaintiff, and that SYOM and Mr. Martel had failed to make any payments for amounts due despite several demands having been made in that respect. The plaintiff alleged, in the May 4, 2023 Notice of Application, that the amount SYOM and Mr. Martel were indebted to the plaintiff was, as of April 5, 2023, \$17,598,989.75.
33. The May 4, 2023 Notice of Application further alleged SYOM had failed to provide the plaintiff with the identities of the alleged recipients of the bridge loans, or the particulars of any mortgages in which the plaintiff had a legal beneficial interest.

34. The May 4, 2023 Notice of Application further indicated that in addition to the plaintiff's own April 26, 2023 Notice of Civil Claim, seven other actions had been commenced in B.C. Supreme Court against SYOM and Mr. Martel for payments due pursuant to investment agreements, with the total claimed amounts being over \$25.7 million. The Notice of Application further alleged that Mr. Martel had, on February 24, 2023, informed investors that SYOM was unable to repay the loan sums that had been recently requested by investors.
35. Of note, in an affidavit filed in respect of the May 4, 2023 Notice of Application, [Individual 2] indicates that he, through his holding company, was an investor in SYOM. [Individual 2] described in his affidavit that he had set up a profile with SYOM in February 2023, and that he had advanced a total of \$318,704.60 to SYOM from March 9 through March 28, 2023. [Individual 2] indicated that he had not been informed by SYOM staff that, at the time he was advancing those funds, SYOM was already in default to its investors and had ceased paying principal and interest on previous investments.
36. [Individual 2] further indicated that he continued to be solicited by SYOM for further investments through April 2023, and provided copies of emails from SYOM on April 18, 2023, which offered new investment opportunities.
37. The court appointed receiver provided its first report to the court on May 9, 2023. In that report, the receiver advised that it had been unsuccessful in communicating with Mr. Martel about SYOM's operations or bookkeeping.
38. The receiver's "Second Report to Court", also dated May 9, 2023, indicated that SYOM's general ledger showed that shareholder funds advanced to Mr. Martel had been used to fund a variety of personal expenses, including private jets, luxury apartment rentals, vehicle purchases, and home escrow payments.
39. The receiver also noted that it had visited SYOM's offices in both Victoria and Toronto, and had found that they were vacated.
40. In the receiver's "Third Report to Court", dated May 16, 2023, the receiver indicated that Mr. Martel had failed to respond to requests for information, contrary to the orders of the Court, and that Mr. Martel had sought to move funds from one of his bank accounts, in contravention of the Court's order of May 9, 2023.

Relevant Law

41. Section 4(a) of the MBA sets out that the Registrar must grant registration or renewal of registration to an applicant if, in the opinion of the Registrar, the applicant is suitable for registration and the proposed registration is not objectionable.

42. Section 8(1) of the MBA sets out that the Registrar may take various enforcement actions against a person registered under the MBA, including suspending or canceling a person's registration, if, in the opinion of the Registrar, any of the following paragraphs under section 8 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).

43. Section 8(1) of the MBA requires prior to the Registrar taking enforcement actions provided for in that section, the person registered under the Act must be provided with an opportunity to be heard.

44. However, section 8(2) of the MBA sets out that where the Registrar is of the opinion that the length of time that would be required to give a person the opportunity to be heard in an enforcement action under section 8 would be "prejudicial to the public interest", the Registrar may make an order under section 8(1) without giving a person an opportunity to be heard.

Discussion

45. I find that, pursuant to section 8(2) of the MBA, a suspension order should be issued in respect of Mr. Martel and SYOM. My reasons for having reached this conclusion follow.

46. As I indicated in *Stewart (Re)*, 2023 BCRMB 2, I consider that there are two questions must be answered in determining whether to issue an order pursuant to section 8(2) of the MBA.
47. The first of those questions is whether there is a *prima facie* case showing that the person registered under the MBA engaged in activities contemplated by section 8(1)(e) through 8(1)(h).
48. In the event that such a *prima facie* case is established, the next question to be answered is whether the circumstances of the *prima facie* case are urgent, such that the public must be protected by the issuing of an interim order pursuant to section 8(2).
49. I turn to a consideration of those questions.
Is there a prima facie case that supports a conclusion that Mr. Martel and SYOM engaged in activities which would disentitle them to registration if they were applicants for registration under section 4 of the MBA?
50. As the Supreme Court of Canada has noted in *Cooper v. Hobart*, 2001 SCC 79 (CanLII), at para. 49, the Registrar of Mortgage Brokers is required, by the MBA, to instill public confidence in the regulatory scheme and system of mortgage financing by determining who is suitable and whose proposed registration as a broker is not objectionable. The overall duty of care is owed not exclusively to investors, but to the public as a whole.
51. With that context in mind, I find, based on the information and evidence before me on this application, that BCFSA has demonstrated a *prima facie* case that Mr. Martel and SYOM have engaged in activities that would disentitle them to registration if they were applicants under section 4 of the MBA.
52. In my view, the act of being in default of written investment commitments, with those commitments having been made specifically in the context of making investments for the purposes of mortgage loans, is a sufficient basis upon which to conclude that Mr. Martel and SYOM have engaged in activities that would disentitle them to registration. I do not consider that individuals who are in default of their mortgage investment commitments would likely be found by the Registrar to be suitable for registration. Rather, I consider that if Mr. Martel and SYOM applied for registration in the current circumstances, there is little doubt that the Registrar would find their registration to be objectionable.
53. In reaching this conclusion, I note that I consider that being in default of written investment commitments to be similar to the failure to repay judgments discussed in

*In the Matter of the Mortgage Brokers Act and Get Acceptance Corporation et al.*², where, at page 38, the hearing panel noted that:

If someone wants to own and profit from a regulated financial business, he must conduct himself in a fiscally responsible manner. Failure and refusal to pay judgments, and especially judgments which relate to one's licensed activity, reflect negatively on one's integrity and professionalism, qualities that are essential in determining whether a person is suitable to be registered under the Act which governs them.

54. I consider that similarly, here, the failure to repay written investment agreements reflects negatively on Mr. Martel and SYOM's integrity and professionalism, which are qualities that are essential in determining whether they are suitable to be registered under the MBA.
55. In reaching that conclusion, I acknowledge that the claims made against Mr. Martel and SYOM have not yet been proven, both in respect of the complaints brought directly to BCFSA, and in the allegations set out in the civil claims brought before the B.C. Supreme Court.
56. As I have indicated above, however, I consider the test for the issuing of an order pursuant to section 8(2) is not whether the allegations have been proven, but whether a *prima facie* case has been demonstrated.
57. In my view, the number of complaints received by BCFSA as well as the significant sums of money involved, along with the level of detail provided, including written investment agreements that appear to be in default, provide an indication, at first glance, that Mr. Martel and SYOM have engaged in activities that would likely make them unsuitable for registration.
58. The information in those numerous complaints, along with the similar and even more detailed allegations set out in the civil claims, must additionally be combined with the fact that, according to B.C. Supreme Court documents, Mr. Martel and SYOM have yet to provide the information required of them under B.C. Supreme Court orders. Mr. Martel has in fact, through a May 12, 2023 letter from his legal counsel, admitted to not being in compliance with B.C. Supreme Court orders associated with the receivership orders.
59. I consider, again on a *prima facie* basis, that the nature of the complaints against Mr. Martel and SYOM, which involve significant allegations that Mr. Martel and SYOM are in default of written investment commitments, along with the fact of non-compliance with B.C. Supreme Court orders would, more likely than not, disentitle

² January 25, 2008 decision of the Registrar of Mortgage Brokers.

Mr. Martel and SYOM to registration if they were applicants under section 4 of the MBA. Simply put, I consider that a *prima facie* case has been demonstrated that Mr. Martel and SYOM have demonstrated “a lack of sufficient honesty, integrity, and professionalism” to be considered suitable for registration”³.

Is there a prima facie case that supports a conclusion that Mr. Martel and SYOM conducted business in a manner that was prejudicial to the public interest?

60. The record before me contains detailed allegations which support a conclusion, on a *prima facie* basis, that Mr. Martel and SYOM misappropriated bridge loan investments funds for personal benefit, failed to fulfill the terms of numerous investment agreements, and failed to comply with multiple B.C. Supreme Court Orders.
61. I note that the record before me makes clear that the nature of Mr. Martel and SYOM's alleged conduct clearly involves the mismanagement of investments funds, that those investment funds were provided by members of the public in relation to investment opportunities that were described by SYOM as relating to providing bridge financing in respect of mortgage loans, and that Mr. Martel and SYOM were engaged in the solicitation and management of those investment funds while registered as submortgage and mortgage brokers under the MBA.
62. I consider the complaints received by BCFSA to be indicative of the fact that investors were relying, at least to a degree, on the fact that Mr. Martel and SYOM were registered with BCFSA as being indicative that investing with SYOM was investing with a regulated entity, and as such likely provided the investors with confidence. I note in particular in this respect that in his April 5, 2023 complaint, [Complainant 1] indicated that his view was that Mr. Martel and SYOM's actions were being “done under the guise and legitimacy of being a broker registered with the BCFSA.”
63. In my view, all of the above leads to a conclusion that there is a *prima facie* case that supports a conclusion that Mr. Martel and SYOM conducted business in a manner that was prejudicial to the public interest.

Are the circumstances of the prima facie case urgent such that the protection of the public interest requires the issuing of an order pursuant to section 8(2)?

64. Counsel for BCFSA casts the issuing of an order pursuant to section 8(2) of the MBA as the issuing of an interim order. Counsel referred to the cases of *Scott v College of Massage Therapists of British Columbia*, 2016 BCCA 180, and *Kalia v Real Estate*

³ *In the Matter of the Mortgage Brokers Act and Get Acceptance Corporation et al.*, page 41

Council of Alberta, 2021 ABQB 950 (CanLII) as providing some principles to be considered in the imposition of an interim order in the context of a professional body.

65. In *Scott*, the court identified a number of guidelines to assist in determining whether to issue an interim order against a registrant in a professional body. I consider that the following basic principles can be taken from *Scott*:
 - For an interim order to be necessary for the protection of the public, the inquiring body must be satisfied that there is a real risk to the public if an order is not made. It is not enough for the panel to consider that an order is merely desirable; and
 - Consideration should be given to the seriousness of the allegation, the nature of the evidence, and the likelihood of the alleged conduct being repeated if an interim order were not imposed.
66. In *Kalia*, the court set out a list of factors to be considered in weighing the balance of convenience on an application for a stay of an interim or temporary suspension. Those factors included consideration of:
 - the nature and gravity of the impugned conduct;
 - the circumstances in which the impugned conduct occurred;
 - whether interim relief remains necessary to protect the public from a real risk of harm;
 - the likelihood of the impugned conduct being repeated; and
 - the overall passage of time in the conduct proceedings, including the likely timeline until the conclusion of the proceedings.
67. I consider the evidence before me to indicate that there is a real risk to the public if an order is not made in this case.
68. It is clear, from the record before me, that the gravity of the impugned conduct in this case is substantial. On the record before me, a significant number of investors have not been repaid, and the unpaid investment funds total more than \$27,000,000. As I have indicated above, the record indicates that Mr. Martel and SYOM were seeking investments specifically related to mortgage loan bridge financing.
69. While I agree with the submission of BCFSA that the publicity that has been associated with the civil actions against Mr. Martel and SYOM has likely lessened the risk of SYOM successfully soliciting further bridge loan investment funds, I also agree that the Registrar's continued association with Mr. Martel and SYOM in the form of active registration represents a risk to the public in the form of creating a risk in the public's confidence in B.C.'s mortgage regulation scheme, and in the regulation of financial industries more broadly.

70. In my view, the instillation of public confidence in the MBA regulatory scheme is a core component of the protection of the public that the regulatory scheme is intended to provide. I consider that without confidence in the regulatory scheme, the public would be left unsure as to whom it can trust in respect of mortgage financing activities.
71. As a result, while it may well be true that Mr. Martel and SYOM are unlikely to be able to successfully solicit further investment funds, I consider their ongoing registration would detract the public's confidence in the regulatory scheme as a whole, which would create an overarching risk to the public.
72. This is not simply a situation of considering that an order of suspension is desirable. Rather, I consider that an interim suspension order is required in the circumstances in order to ensure public confidence in the regulatory scheme.
73. I agree with the submissions of BCFSA that there is no other means available to adequately protect the public that is less restrictive than the proposed suspension, due particularly to the fact that Mr. Martel is the sole director of SYOM, and that Mr. Martel and SYOM's impugned conduct was done in the context of mortgage brokering, rather than in the actual performance of mortgage brokering activities. In such circumstances, I do not consider that a supervision condition would provide sufficient protection to the public.
74. Finally, I consider that the time that would be required to give Mr. Martel and SYOM the opportunity to be heard under section 8(1) would be prejudicial to the public interest. Complaints regarding this matter have been received as recently as May 4, 2023, and BCFSA's investigation into the matter remains in its initial stages. Given the gravity of the circumstances, I consider that the time required to give Mr. Martel and SYOM the opportunity to be heard prior to issuing an order under section 8(2) would be prejudicial to the public interest.
75. I note, again, in this respect, that although I consider that Mr. Martel and SYOM are unlikely to be able to solicit further funds due to the publicity now surrounding the associated civil actions, the information before me shows that Mr. Martel and SYOM were able to solicit further funds as recently as March 2023 (from [Complainant 5]), and that it continued to send investment solicitation emails into April 2023. In my view, failing to issue a suspension in the current circumstances would leave open the possibility that Mr. Martel and SYOM would be able to solicit further funds "under the guise and legitimacy" of being registered with BCFSA, which would present a significant risk to the public.
76. In reaching the conclusion that an interim order should be issued pursuant to section 8(2), I note that I have considered the impact that a suspension order would have on

Mr. Martel and SYOM. I do not consider the record before me to suggest that there would be significant harm, in the circumstances, to either Mr. Martel or SYOM. The reality of this case is that SYOM is in receivership, and the suspension would not interrupt any activities that would otherwise be occurring. Both Mr. Martel and SYOM will have an opportunity to be heard, likely prior to the conclusion of the related receivership and related civil proceedings.

Conclusion

77. I find that there is a *prima facie* case that supports a conclusion that Mr. Martel and SYOM were engaged in activities that would disentitle them to registration if they were applicants for registration under section 4 of the MBA.
78. I further find that there is a *prima facie* case that supports a conclusion that Mr. Martel and SYOM conducted business in a manner that was prejudicial to the public interest.
79. Finally, I find that the circumstances of the *prima facie* case are urgent such that the protection of the public requires the issuing of an order pursuant to section 8(2) prior to providing Mr. Martel and SYOM the opportunity to be heard.
80. As a result, I will order that:
- Gregory Joseph Martel is suspended from acting as a submortgage broker in British Columbia, and from conducting any submortgage broker activity, effective immediately.
 - My Mortgage Auction Corp., doing business as Shop Your Own Mortgage, is suspended from acting as a mortgage broker in British Columbia, effective immediately.
81. The above orders will remain in force until the investigation into the conduct and activities of Mr. Martel and My Mortgage Auction Corp. is completed, and a determination is made by the Registrar of Mortgage Brokers, after Mr. Martel and My Mortgage Auction Corp. have had an opportunity to be heard, as to whether any orders should be made under section 8(1) of the MBA.
82. A copy of the signed order is attached to these reasons.

Issued at Kelowna, British Columbia, this 26th day of May, 2023

“ANDREW PENDRAY”

Andrew Pendray
Chief Hearing Officer

Citation: Martel (Re), 2023 BCRMB 6

Date: 2023-05-25

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**MY MORTGAGE AUCTION CORP. dba
SHOP YOUR OWN MORTGAGE**

SUSPENSION ORDER

(Pursuant to section 8(2) of the *Mortgage Brokers Act*)

Upon reading the sworn Affidavit of [Investigator 1], and upon reading the written submissions Laura Forseille, counsel for the BC Financial Services Authority ("BCFSA"), I am satisfied that the requirements under section 8(2) of the *Mortgage Brokers Act*, RSBC 1996, c 313 ("MBA") have been met as follows:

1. There has been conduct on the part of Gregory Joseph Martel and My Mortgage Auction Corp., including conduct which would disentitle them to registration if they were applicants under section 4 of the MBA, and conducting business in a manner prejudicial to the public, in respect of which the Registrar of Mortgage Brokers could make an order under section 8(2) of the MBA;
2. The length of time required to conduct an investigation or hold a hearing under section 8(1) of the MBA, or both, would be prejudicial to the public interest; and
3. It is in the public interest to make an order under section 8(2) of the MBA against Gregory Joseph Martel and My Mortgage Auction Corp.; AND

I THEREFORE ORDER pursuant to section 8(2) of the MBA as follows:

1. Gregory Joseph Martel is suspended from acting as a submortgage broker in British Columbia, and from conducting any submortgage broker activity, effective immediately.
2. My Mortgage Auction Corp., doing business as Shop Your Own Mortgage, is suspended from acting as a mortgage broker in British Columbia, effective immediately.
3. The above orders will remain in force until the investigation into the conduct and activities of Gregory Joseph Martel and My Mortgage Auction Corp., doing business as Shop Your Own Mortgage, is completed and a determination is made by the Registrar of Mortgage Brokers, after Mr. Martel and My Mortgage Auction Corp. have had an opportunity to be heard, as to whether any orders should be made under section 8(1) of the MBA, as to whether any orders should be made under sections 8(1) to 8(1.4) of the MBA.

TAKE NOTICE that Gregory Joseph Martel and My Mortgage Auction Corp., or both, may appeal these orders to the Financial Services Tribunal under section 9 of the MBA.

This Order is made this 25th day of May, 2023, at the City of Kelowna, British Columbia.

"ANDREW PENDRAY"

Andrew Pendray
Chief Hearing Officer