



REGARDING the *Mortgage Brokerages, Lenders and Administrators Act, 2006*, S.O. 2006, c.29 (the “Act”), in particular sections 7, 19, 21, 38 and 39

AND REGARDING Joseph Picciani (“Picciani”)

INTERIM ORDER TO SUSPEND LICENCE
and
NOTICE OF PROPOSAL TO REVOKE LICENCE
and
**NOTICE OF PROPOSAL TO IMPOSE AN ADMINISTRATIVE
MONETARY PENALTY**

Picciani is licensed as a mortgage brokerage under the Act.

INTERIM ORDER TO SUSPEND LICENCE

Section 19(1) of the Act provides that the Superintendent of Financial Services (“Superintendent”) may, in appropriate circumstances, revoke a mortgage brokerage licence. Section 21 of the Act provides that where the Superintendent proposes to revoke a licence, the Superintendent shall give written notice of the proposal to the mortgage brokerage, including reasons for the proposal. A notice of proposal to revoke Picciani’s licence is set out below.

Section 19(3) of the Act provides that, if in the Superintendent’s opinion the interests of the public may be adversely affected by any delay in the revocation of a licence as a result of the steps required by section 21, the Superintendent may, without notice, make an interim order suspending the licence.

In the Superintendent’s opinion, the interests of the public may be adversely affected by any delay in the revocation of Picciani’s licence for the following reasons:

1. Mortgage brokerages are required to have errors and omissions (“E&O”) insurance pursuant to section 7(4) of the Act and section 42 of Regulation 188/08;
2. The Superintendent has approved a number of insurers for providing E&O coverage to brokerages under the Act. The Superintendent conducted an audit and found that Picciani does not have E&O coverage from one of the approved providers;

3. The Superintendent requested further information from Picciani regarding Picciani's E&O coverage in light of the Superintendent's findings, by email sent December 14, 2010 and by registered mail sent February 4, 2011;
4. Picciani informed the Financial Services Commission of Ontario on two occasions between March 14 and March 31, 2011 that he wished to surrender his mortgage brokerage licence voluntarily, because his mortgage brokerage has been inactive ever since it was licensed;
5. A FSCO representative sent a Surrender of Licence Declaration form to Picciani on April 19, 2011. However, Picciani failed to either complete the form and return it to FSCO, or to provide proof of E&O insurance to FSCO;
6. Picciani does not have the required E&O insurance and has thereby contravened a requirement established under the Act;
7. E&O insurance is a statutorily-mandated measure to protect the public against potential errors and omissions committed by a brokerage and its brokers and agents. The absence of E&O insurance during any period in time puts the public directly at risk of not being able to recover for losses arising from errors and omissions occurring during that period;
8. As long as the licence is not suspended, Picciani continues to be authorized to deal or trade in mortgages with the public;
9. The Superintendent therefore is of the opinion that the public is at risk and will continue to be at risk until Picciani's licence is suspended or Picciani obtains E&O insurance; and accordingly that a delay in the revocation of Picciani's licence would adversely affect the public interest.

INTERIM ORDER

IT IS ORDERED THAT the mortgage brokerage licence of Paul Charles Picciani is immediately suspended, pursuant to section 19(3) of the Act.

NOTICE OF PROPOSAL TO REVOKE LICENCE

TAKE NOTICE THAT pursuant to sections 19 and 21 of the Act, the Superintendent is proposing to revoke the mortgage brokerage licence of Picciani.

The reasons for the proposal to revoke the licence will be served with this Notice.

AND TAKE NOTICE THAT section 21(3) of the Act provides that the mortgage brokerage may request a hearing before the Tribunal in respect of this Notice **within**

15 days after this Notice is received, or deemed to have been received. The request for a hearing shall be in writing (Form 1, Request for Hearing, sent to you along with this Notice) and shall be mailed or delivered:

TO: Financial Services Tribunal
5160 Yonge Street, Box 85
14th Floor
Toronto ON M2N 6L9

Attention: Registrar

Fax: 416.226.7750

AND TO: Superintendent of Financial Services
Relationship Manager, Market Conduct Compliance Unit
Licensing and Market Conduct Division
5160 Yonge Street, Box 85
Toronto ON M2N 6L9

If you do not request a hearing or do not make the request in accordance with section 21(3), section 21(7) of the Act provides that the Superintendent may carry out the proposal to revoke the licence.

If you request a hearing, section 21(4) of the Act provides that the Tribunal may, by order, direct the Superintendent to carry out the proposal, with or without changes, or substitute its opinion for that of the Superintendent and the Tribunal may impose such conditions as it considers appropriate in the circumstances.

At the hearing, the good character, propriety of conduct or competence of the officers or directors or the partners or the proprietor of the brokerage may be in issue.

The hearing before the Tribunal will proceed in accordance with the Rules of Practice and Procedure of the Tribunal made under the authority of the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S. 22. The Rules of Practice and Procedure are available at the website of the Tribunal: www.fstontario.ca. Alternatively, a copy can be obtained by telephoning the Registrar of the Tribunal at 416.590.7294, or toll free at 1.800.668.0128 ext. 7294.

**NOTICE OF PROPOSAL TO IMPOSE
AN ADMINISTRATIVE MONETARY PENALTY**

Section 38 of the Act provides that an administrative monetary penalty may be imposed under section 39 for either of the following purposes: 1. To promote compliance with the requirements established under the Act; 2. To prevent a person or entity from deriving, directly or indirectly, any economic benefit as a result of contravening or failing to comply with a requirement established under the Act.

The Act provides at section 39(1) that the Superintendent may in appropriate circumstances, impose an administrative monetary penalty. Section 39(2) of the Act provides that where the Superintendent proposes to impose an administrative monetary penalty, the Superintendent shall give written notice of the proposal, including details of the contravention or failure to comply, the amount of the penalty and the payment requirements.

TAKE NOTICE THAT pursuant to section 39 of the Act, the Superintendent is proposing to impose administrative monetary penalties on Picciani as follows:

1. The Superintendent is satisfied that from July 1, 2009 to the present Picciani contravened or did not comply with a requirement under the Act, namely the requirement to have errors and omissions insurance pursuant to section 7(4) of the Act and section 42 of Regulation 188/08. The Superintendent proposes an administrative monetary penalty in the amount of **\$1,500**; and
2. The Superintendent is satisfied that Picciani failed to respond to the regulator pursuant to section 29(2) of the Act and proposes an administrative monetary penalty in the amount of **\$1,500**.

The details of the contraventions or failures to comply will be served with this Notice.

AND TAKE NOTICE THAT sections 39(2) and 39(5) of the Act provide that the mortgage brokerage may request a hearing before the Tribunal in respect of this Notice **within 15 days** after this Notice is received, or deemed to have been received. The request for a hearing shall be in writing (Form 1, Request for Hearing) and shall be mailed or delivered to the Tribunal at the address provided above, and to the Superintendent of Financial Services, Relationship Manager, Market Conduct Compliance Unit, at the address provided above.

If you do not request a hearing or do not make the request in accordance with section 39(5), section 39(7) of the Act provides that the Superintendent may carry out the proposal to impose an administrative monetary penalty. If so, the Superintendent will issue an Order imposing an administrative monetary penalty, which will be payable within 30 days of receipt of the Order or such longer time as may be specified in the Order. You will also receive information as to where and how to make your payment.

If you request a hearing, section 39(6) of the Act provides that the Tribunal may, by order, direct the Superintendent to carry out the proposal, with or without changes, or substitute its opinion for that of the Superintendent.

The hearing before the Tribunal will proceed in accordance with the Rules of Practice and Procedure of the Financial Services Tribunal.

You may be furnished with further or other particulars in respect of any matter herein or in respect of any other matter, including further grounds to revoke the licence or to impose administrative monetary penalties.

DATED at Toronto, Ontario, _____, 2011.

Philip Howell
Superintendent of Financial Services

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AND TO: Stephen Scharbach
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