

An order that is made regarding a licence holder reflects a situation at a particular point in time. The status of a licence holder can change. Readers should check the current status of a person's or entity's licence on the [Licensing Link](#) section of FSCO's website. Readers may also wish to contact the person or entity directly to get additional information or clarification about the events that resulted in the order.



REGARDING the *Mortgage Brokerages, Lenders and Administrators Act, 2006*, S.O. 2006, c.29 (the “Act”), in particular sections 10, 19 and 21, and Ontario Regulations 193/08 and 189/08

AND REGARDING Lexxco Investment Services Corporation

AMENDED ORDER TO FREEZE ASSETS AND TRUST FUNDS (#2)

Lexxco Investment Services Corporation (“Lexxco Investment”) is licensed as a mortgage administrator under the Act. It has been licensed since January 30, 2009. The Superintendent of Financial Services (“Superintendent”) notified Lexxco Investment that the Superintendent proposes to revoke its mortgage administrator licence and made two interim orders suspending the licence because the Superintendent is of the opinion that the interests of the public may be adversely affected by any delay in making an order to revoke the mortgage administrator’s licence held by Lexxco Investment.

Lexxco Investment is the designated person under section 36 of the Act.

Section 36(2) of the Act provides that the Superintendent may make orders under section 36 without notice to the designated person if the Superintendent believes it to be in the public interest to do so.

Section 36(3) of the Act authorizes the Superintendent to order a third party to hold any assets or trust funds of the designated person that it has on deposit or controls.

Section 36(4) of the Act authorizes the Superintendent to order the designated person to refrain from withdrawing assets or trust funds from another person or entity who has them on deposit or controls them.

Section 36(5) of the Act authorizes the Superintendent to order the designated person to hold assets or trust funds of another person or entity in trust for the person or entity entitled to them.

The Superintendent made an Order to Freeze Assets and Trust Funds on July 28, 2011 that:

- (a) directed Lexxco Investment to refrain from withdrawing assets or trust funds from another person or entity who has them on deposit or controls them;
- (b) directed Lexxco Investment to hold assets or trusts funds of any person or entity that it has on deposit or controls, in trust for the person or entity entitled to them; and
- (c) directed André Lewis, the sole director and officer of Lexxco Investment, to hold assets or trust funds of Lexxco Investment.

The Superintendent made an Order to Freeze Assets and Trust Funds (#2) on August 5, 2011 that directed the Toronto Dominion Bank, including its subsidiaries and affiliates:

- (a) to hold assets or trust funds on deposit to the credit of Lexxco Investment;
- (b) without limiting the generality of the foregoing, to hold assets or trust funds in the following accounts:
 - 1309 – 5210675
 - 1309 – 5210691
 - 1309 – 5211590

and in any other account that has a common signatory with any of the preceding three accounts, or has André Lewis as a signatory;

until the Superintendent or the Financial Services Tribunal cancels the order in whole or in part, or until the Superior Court of Justice makes a decision for the disposition of the asset or trust fund.

Section 36(6) of the Act authorizes the Superintendent to make an Order to Freeze Assets and Trust Funds subject to such conditions as the Superintendent considers appropriate.

Section 21.2(1) of the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S. 22 authorizes the Superintendent to confirm, vary, suspend or cancel an Order to Freeze Assets and Trust Funds.

ORDER

It is further ordered pursuant to section 36(6) of the Act and pursuant to section 21.2(1) of the *Statutory Powers Procedure Act*, that the Order to Freeze Assets and Trust Funds (#2) that the Superintendent made on August 5, 2011 be varied by adding the following as subparagraph (c) immediately after subparagraph (b):

- (c) that the Toronto Dominion Bank, including its subsidiaries and affiliates, provide the Superintendent or his delegate with copies of all books and records, correspondence and memoranda relating to the bank accounts that are referred to in the Order to Freeze Assets and Trust Funds (#2) dated August 5, 2011, from January 29, 2009 to the date of this Order, and thereafter when requested by the Superintendent or his delegate;

until the Superintendent or the Financial Services Tribunal cancels this order in whole or in part, or until the Superior Court of Justice makes a decision for the disposition of the asset or trust fund.

AND TAKE NOTICE THAT section 36(11) of the Act provides that a person or entity in receipt of this order may apply to the Superior Court of Justice if the person or entity is in doubt whether the order applies to a particular asset or trust fund.

AND TAKE NOTICE THAT section 36(12) of the Act provides that a person or entity who claims an interest in an asset or a trust fund that is subject to this order may apply to the Superior Court of Justice for a decision concerning the disposition of the asset or trust fund.

AND TAKE NOTICE THAT section 36(15) of the Act provides that Lexxco Investment Services Corporation and André Lewis may apply to the Financial Services Tribunal for cancellation of this order in whole or in part and the Tribunal may, by order, do so after a hearing if the Tribunal is satisfied that the order or the part of the order is not required in the public interest. The application for cancellation should be mailed or delivered:

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

Fax: 416.226.7750

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

Pursuant to sections 48(4) and 49(1) and (2) of the Act, every person who fails to comply with an order made under this Act is guilty of an offence and every individual convicted of an offence under the Act is liable to a fine of not more than \$100,000 or imprisonment for a term of not more than a year or both a fine and imprisonment. Every corporation convicted of an offence under the Act is liable to a fine of not more than \$200,000.00.

Pursuant to section 48(5) of the Act, every director or officer of a corporation that commits an offence under this Act who directed, authorized, assented to, acquiesced in or participated in the commission of the offence, or who failed to take reasonable care to prevent the corporation from committing the offence, is guilty of an offence, whether or not the corporation is prosecuted or convicted.

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.

DATED at Toronto, Ontario, September 13, 2011.

Philip Howell
Superintendent of Financial Services

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