

**FINANCIAL SERVICES TRIBUNAL**

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

**BETWEEN:**

LEE DOUGLAS BUSSEY and 0707543 B.C. LTD. dba  
VERICO 1<sup>ST</sup> LANDMARK MORTGAGE

**APPELLANTS**

**AND:**

STAFF OF THE REGISTRAR OF MORTGAGE BROKERS

**RESPONDENT**

**BEFORE:** JOHN B. HALL, Presiding Member

**APPEARANCES:** LEE DOUGLAS BUSSEY, on his  
own behalf  
KAREN HORSMAN, for the  
Respondent

**DATE OF FINAL SUBMISSION:** April 27, 2009

**DATE OF CORRIGENDUM:** May 8, 2009

**CORRIGENDUM**

I issued a decision dated March 31, 2009 that, among other matters, dealt with Mr. Bussey's appeal from a penalty decision by the Registrar of Mortgage Brokers. The Registrar had suspended Mr. Bussey's registration as a submortgage broker for a period of five years and ordered the Appellants to pay \$20,000 in costs. The penultimate paragraph of my appeal decision concluded as follows:

The appeal succeeds in part. The Registrar's hearing decision of January 8, 2008 is confirmed under Section 242.2 (11) of the *Financial Institutions Act*. The penalty decision of March 27, 2008 is varied by substituting a suspension of Bussey's registration for a period of three (3) years from the date of that decision, and by reducing to \$5,000.00 the costs to be paid by the Appellants. (p. 32; underlining added)

I subsequently received a letter from counsel for the Staff of the Registrar of Mortgage Brokers seeking clarification of what was intended by the underlined portion of the above paragraph. The Tribunal then gave the Appellants and the Respondent an opportunity to address the request for clarification.

In his submission, Mr. Bussey states for the first time (at least on the record before the Tribunal) that he voluntarily resigned his license on March 23, 2008 and "... it was sent to FICOM a few days following that. This was done in part with a view to starting the period of suspension so it would not be delayed by the Appeal". He argues that starting the period as of the appeal decision will effectively result in a four year suspension.

The Respondent's final submission advises there was no agreement to permit the suspension to begin before the Tribunal released its appeal decision. Rather, "... FICOM received Mr. Bussey's registration from his then-employer in early April 2008, along with the explanation that Mr. Bussey's employment had been terminated". The Respondent also argues that a registrant's voluntary decision to give up registration cannot be equated with a compulsory period of suspension ordered by a regulator.

If one reads the entirety of the appeal decision (especially the reasoning at pages 24-31 regarding penalty), it should be readily apparent that I intended to vary the duration of the suspension imposed by the Registrar by reducing the period from five years to three years. Regrettably, and inadvertently, the language used in the penultimate paragraph does not produce that outcome given Section 9(2) of the *Mortgage Brokers Act*.

I agree with the Respondent that voluntary relinquishment of registration cannot be equated with an imposed suspension -- particularly where, as here, the step was done “*in part* with a view to starting the period” (emphasis added). Had Mr. Bussey wanted to begin serving his suspension, he might have sought the Registrar’s concurrence at the time. Alternatively, he could have applied to the Tribunal under Section 242.2(10)(a) of the *Financial Institutions Act* to lift the automatic stay of the suspension brought about by Section 9(2) of the *Mortgage Brokers Act*. But he did not take either route.

It is also noteworthy that Mr. Bussey did not raise the fact that he had surrendered his license at any stage of the appeal process, even though the Appellants’ original appeal submission was filed *after* his voluntary resignation. The “new evidence” which he now wishes to rely upon could (and should) have been put before the Tribunal before submissions closed. As the Respondent notes, the point could then have been considered by the Tribunal in determining the appropriate period of suspension.

In all of the circumstances, I decline to alter the period of suspension intended by my appeal decision. For purposes of clarification, the penultimate paragraph is amended under Section 53 of the *Administrative Tribunals Act* and pursuant to the authority of a tribunal to correct inadvertent error (see *Chandler v. Alberta Association of Architects*, [1989] 2 S.C.R. 848) to read:

The appeal succeeds in part. The Registrar’s hearing decision of January 8, 2008 is confirmed under Section 242.2 (11) of the *Financial Institutions Act*. The penalty decision of March 27, 2008 is varied by substituting a suspension of Bussey’s registration for a period of three (3) years from the date of this decision, and by reducing to \$5,000.00 the costs to be paid by the Appellants.

With a view to hopefully avoiding any further uncertainty, this amendment means that Mr. Bussey's suspension began as of March 31, 2009; that is, the date of the appeal decision.

DATED at Vancouver, British Columbia, this 8th day of May 2009.

FOR THE FINANCIAL SERVICES TRIBUNAL

A handwritten signature in black ink, appearing to read "J. Hall", written over a large, circular scribble.

JOHN B. HALL  
PRESIDING MEMBER