

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

**AND**

**IN THE MATTER OF**

**CLIVE SUSHILL MASIH  
Registration 119761**

**AND**

**ASARI MORTGAGE SOLUTIONS LTD. dba ASARI MORTGAGE SOLUTIONS POWERED BY THE  
MORTGAGE CENTRE  
Registration X300169**

**CONSENT ORDER PROPOSAL (the “Proposal”)  
(Pursuant to section 8(1.2) of the *Mortgage Brokers Act*)**

**[This Order has been redacted before publication.]**

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**WHEREAS** Clive Sushill Masih (“Mr. Masih”) was registered as a submortgage broker from July 20, 1997 to July 22, 2020;

**AND WHEREAS** Asari Mortgage Solutions Ltd. dba Asari Mortgage Solutions Powered by the Mortgage Centre (the “Brokerage”) was registered as a mortgage broker from April 23, 2013, until terminating its registration on April 23, 2021;

**AND WHEREAS** the Registrar of Mortgage Brokers (the “Registrar”) issued a Notice of Hearing to Mr. Masih on January 19, 2022;

**AND WHEREAS** the following agreement has been reached between Mr. Masih, the Brokerage, and the Staff of the Registrar (“Staff”);

**AND WHEREAS** the Designate of the Registrar of Mortgage Brokers (the “Registrar’s Designate”) agrees to the following terms of a consent order:

**FINDINGS**

1. The Registrar’s Designate makes the following findings against Mr. Masih and the Brokerage, and Mr. Masih and the Brokerage accepts the following findings made against them:
  - a. Mr. Masih conducted mortgage business in British Columbia in a manner prejudicial to the public interest contrary to section 8(1)(i) of the *Mortgage Brokers Act* (the “Act”) when:

- i. in or around July to August 2019 he misled an investor into believing his funds would be used to fund a mortgage (the "Mortgage") when in fact the funds were misappropriated for Mr. Masih's business and/or personal use;
  - ii. he failed to deposit the investor's funds into a trust account; and
  - iii. he provided the investor with a false promissory note in that it was never signed by the borrower and in fact was signed by Mr. Masih himself without a mortgage being required by the borrower and without a mortgage ever being registered and was provided to the investor in circumstances where Mr. Masih knew or ought to have known the investor would rely on it as if it were genuine.
- b. In relation to the Mortgage and funds received from the investor, the Brokerage:
- i. failed to provide the Registrar with a completed Form 14 and a completed Form 15 for the handling of trust funds, contrary to section 6(c) of the *Mortgage Brokers Act Regulations* (the "Regulations");
  - ii. failed to maintain up to date trust records, contrary to section 6(e) of the Regulations;
  - iii. failed to retain all documents relating to the Mortgage, including but not limited to bank statements, property assessment, paystub, and employment letter, contrary to section 6(a) of the Regulations;
  - iv. failed to provide copies of cheques drawn from the Brokerage's operating account to BC Financial Services Authority (the "BCFSA"), contrary to section 6(a) of the Regulations; and
  - v. failed to provide the investor with a Form 9 – investor/Lender Statement in relation to the Mortgage, contrary to section 17.1 of the Act.

## **ORDERS**

Pursuant to section 8 (1.2) of the Act, Mr. Masih and the Brokerage hereby consent to, and the Registrar hereby makes the following orders:

1. Mr. Masih and the Brokerage are not eligible to apply, and agree never to re-apply for registration under the Act as either a mortgage broker or submortgage broker, and the Registrar will not accept an application for registration from Mr. Masih or the Brokerage under the Act;
2. Pursuant to section 6(9) of the Act, Mr. Masih shall pay full investigative costs of \$5,474.95; and
3. All payments will be made by cheque, bank draft, or money order, payable to the BC Financial Services Authority and all amounts outstanding sixty (60) days following execution of this Order will represent a debt owing and be subject to interest pursuant to the *Financial Administration Act*, RSBC 1996, c 138.

## **AGREED FACTS**

1. Mr. Masih (119761) was registered as a submortgage broker from July 20, 1997, to July 22, 2020. He was last registered with the Brokerage.
2. The Brokerage (X300169) first registered as a mortgage broker on April 23, 2013 and terminated its registration on April 23, 2021.

3. Mr. Masih described the Brokerage as a “one man operation”, with himself being the sole operator and the only broker producing business.
4. On or around July 24, 2019, [Borrower 1] (the “Borrower”) spoke with Mr. Masih about obtaining financing for purchasing a property (the “Mortgage”). By July 26, 2019, she told Mr. Masih that she would not need the Mortgage as her offer was not accepted.
5. In support of receiving financing for the Mortgage from a private lender, [Investor 1] (the “Investor”), Mr. Masih drafted a promissory note dated August 10, 2019 (the “Note”). Mr. Masih forged the Borrower’s signature on the Note and gave a copy to the Investor.
6. On August 10, 2019, the Investor transferred \$45,000 to the Brokerage’s account to fund the Mortgage. These funds were transferred into the Brokerage’s business account and not a trust account.
7. A statement of the Brokerage’s bank account shows that prior to the Investor’s \$45,000 deposit, the account had a balance of \$1,506.35. Shortly after the Investor’s deposit, most of the funds were withdrawn from the account. By the end of the month, only \$123.46 remained in the account.
8. On August 10, 2019, and August 13, 2019, two e-transfers were made from the Brokerage’s account to Mr. Masih’s personal account totaling \$6,000.
9. Mr. Masih could not recall when the rest of the Investor’s funds were withdrawn and where they were deposited.
10. According to the Note, the Mortgage was to be repaid by October 10, 2019, and by that date the Investor had not been paid back. The Investor contacted Mr. Masih and the Brokerage and eventually directly contacted the Borrower on January 10, 2020.
11. The Borrower told the Investor that she never needed financing as her offer to purchase a property was not accepted. The Investor learned that the Note given to him by Mr. Masih was not signed by the Borrower and no mortgage was ever registered against the Borrower’s property.
12. The Borrower was not aware that the Investor provided funds to Mr. Masih intended to fund her Mortgage until the Investor contacted her on January 10, 2020.
13. The Investor contacted Mr. Masih again and demanded repayment of the outstanding balance. Mr. Masih subsequently repaid the Investor in full for the Mortgage on January 11, 2020.
14. In his interview with Staff on September 30, 2020, Mr. Masih described the Note as fraud. He confirmed he signed it and not the Borrower, and that he never presented the Note to the Borrower. He confirmed that no financing was required when he gave the Note to the Investor.
15. Mr. Masih sent an apology letter dated January 17, 2020, to the Investor and Borrower, expressing remorse and regret for his actions.
16. On January 20, 2020, the Registrar received a complaint from the Investor who stated that Mr. Masih deceived him into believing that the Borrower needed \$45,000 for a mortgage, and that the Investor deposited \$45,000 into the Brokerage’s bank account believing that it would be used to fund the mortgage.
17. The Investor alleged that Mr. Masih misappropriated the funds and used the money for purposes other than funding the mortgage.

18. Staff requested a copy of the Borrower's Mortgage file from Mr. Masih, but a number of the documents provided by the Investor to the Registrar were not included in the Mortgage file provided to Staff by Mr. Masih, including a copy of the Borrower's bank statement, property assessment, paystub, and job letter.
19. The Brokerage was also required to provide a Form 9 – Investor/Lendor Statement ("Form 9") to the Investor and retain a copy. A Form 9 was not found in the mortgage file provided by Mr. Masih, and the Investor confirmed that he was never provided a Form 9.
20. The following factors are relevant to the assessment of penalty:

Aggravating factors:

- At the time of the incident, Mr. Masih had been registered as a submortgage broker for approximately 22 years. He was an experienced registrant in the industry and was the sole director of the Brokerage directing all of its activities.
- Mr. Masih used his position of trust to mislead the Investor into funding a loan that he knew was not required by the Borrower and instead misappropriated the funds for his own benefit.
- The Investor's money was never held in trust.
- The nature and gravity of the misconduct was serious and unethical as it involved fraud, dishonesty, and deception for Mr. Masih's own personal gain.
- The affected persons were both vulnerable as a result of the nature of their relationships with Mr. Masih and the Brokerage.

Mitigating factors:

- Neither Mr. Masih nor the Brokerage has a prior discipline history.
- The Investor's mortgage was eventually repaid in full. The damage and extent of harm to the Investor and Borrower is limited.
- Mr. Masih appears to be remorseful and takes full responsibility for his actions. He has closed down the Brokerage and has indicated his intention to leave the industry.

#### **ACKNOWLEDGEMENTS AND WAIVER OF APPEAL RIGHT**

1. Mr. Masih and the Brokerage acknowledge and understand that the BCFSA may accept or reject the Proposal. If the Proposal is rejected by the BCFSA, the matter may be referred to a disciplinary hearing.
2. Mr. Masih and the Brokerage acknowledge that they have been urged and given the opportunity to seek and obtain independent legal advice with respect to the disciplinary process, the allegations contained in the Notice of Discipline Hearing, and the execution and submission of the Proposal to the BCFSA; and, that they have obtained independent legal advice or has chosen not to do so, and that they are making the Proposal with full knowledge of the contents and the consequences if the Proposal is accepted.
3. Mr. Masih and the Brokerage acknowledge and are aware that the Proposal and/or the Consent Order may be posted on CanLII, a website for legal research, and that BCFSA may publish the

Proposal and the Consent Order or summaries thereof on BCFSAs website and in such other places and by such other means as BCFSAs in its sole discretion deems appropriate.

4. If the Proposal is accepted and/or relied upon by the Registrar, Mr. Masih and the Brokerage will not make any public statements inconsistent with the Proposal and its contents. Nothing in this section is intended to restrict Mr. Masih and the Brokerage from making full answer and defence to any civil or criminal proceeding.
5. If this Proposal is accepted, Mr. Masih and the Brokerage hereby waives their right to a hearing under sections 4 and 8 of the Act and waives their right to appeal under section 9 of the Act.

Approved as to form and content by:

"CLIVE SUSHILL MASIH"

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**CLIVE SUSHILL MASIH**

Dated 20 day of June, 2022

"CLIVE SUSHILL MASIH"

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**CLIVE SUSHILL MASIH, Authorized Signatory  
for Asari Mortgage Solutions Ltd. dba Asari  
Mortgage Solutions Powered by the Mortgage  
Centre**

Dated 20 day of June, 2022

"DESIREE LEE"

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**DESIREE LEE**

**Legal Counsel for the Staff of the  
Registrar of Mortgage Brokers**

Dated 20 day of June, 2022

Issued this 20 day of June, 2022 at Vancouver, British Columbia.

"CHRIS CARTER"

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**CHRIS CARTER**

**Acting Registrar of Mortgage Brokers  
Province of British Columbia**