

Citation: Avery (Re), 2025 BCRMB 9

Date: 2025-07-03

File # INV23.067.53201

BC FINANCIAL SERVICES AUTHORITY

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

AND

IN THE MATTER OF

**RYAN STEWART AVERY
(501998)**

CONSENT ORDER

(Pursuant to sections 8 (1.1) of the *Mortgage Brokers Act*)

[This Order has been redacted before publication.]

WHEREAS Ryan Stewart Avery, ("Mr. Avery") was at all material times registered as a submortgage broker under the *Mortgage Brokers Act*, RSBC 1996, c 313 ("MBA");

AND WHEREAS the Registrar of Mortgage Brokers (the "Registrar") issued a Notice of Hearing to Mr. Avery, on September 5, 2024 ("Notice of Hearing");

AND WHEREAS the following agreement has been reached between Mr. Avery and the staff of the Registrar ("Staff");

AND WHEREAS the Registrar agrees to the following terms of a consent order (the "Consent Order"):

I. FINDINGS

The Registrar makes the following findings against Mr. Avery, and Mr. Avery accepts the following findings made against them:

1. In their capacity as a submortgage broker, Ryan Stewart Avery conducted mortgage business in British Columbia in a manner prejudicial to the public interest, contrary to section 8(1)(i) of the MBA with respect to the property located at [Property 1] by:
 - a. Failing to adequately inform the borrowers of the terms and conditions of their mortgage commitment; and/or
 - b. Failing to provide the borrowers with a copy of any or all commitment letters from the lenders.

II. ORDERS AND PENALTY

Pursuant to section 8(1.1) of the MBA, Mr. Avery hereby consents to, and the Registrar hereby makes the following orders:

1. Pursuant to section 8(1.1) of the MBA, Mr. Avery shall pay an administrative penalty of \$25,000;
2. Pursuant to section 6(9) of the MBA, Mr. Avery shall pay investigation costs in the amount of \$4,773; and
3. All amounts are due and payable within thirty (30) calendar days of the issuance of the Consent Order, and all payments must be made by cheque, bank draft, or money order, payable to the BC Financial Services Authority. This order may be filed with the court pursuant to the MBA, and steps to enforce this order may be taken if payment is not made in full within thirty (30) calendar days.

III. PURPOSE

Mr. Avery has agreed to this Consent Order to resolve the proceeding commenced against him in the Notice of Hearing and for the purpose of entering into a Consent Order with the BC Financial Services Authority ("BCFSA"), but not for any other purpose.

IV. AGREED FACTS

As a basis for this Consent Order, Mr. Avery acknowledges the following facts as correct and makes the following admissions:

A. Background

1. Mr. Avery has been registered as a submortgage broker since June 15, 2016.
2. At all relevant times, Mr. Avery was registered with [Corporation 1].
3. On October 25, 2022, [Buyer 1] contacted Mr. Avery to discuss financing for the purchase of the property located at [Property 1]. During their conversation, [Buyer 1] advised Mr. Avery that she had previously sought financing for the purchase of the [Property 1] through another mortgage broker, who was unable to secure financing. Mr. Avery informed [Buyer 1] that he would assist her with applying for financing as her mortgage broker for the purchase of the [Property 1].
4. [Buyer 1] intended to be the primary borrower for the financing on the [Property 1] and her common law partner, [Buyer 2] would be a co-borrower. The purchase price for the [Property 1] was initially \$680,000. Explained below, the price was subsequently reduced to \$650,000.
5. At the time, [Buyer 1] owned the following two properties:
 - a. [Property 2]; and
 - b. [Property 3].
6. [Buyer 1] intended to use financing, along with the proceeds from the sale of the [Property 2] and refinancing of the [Property 3] to fund the purchase of the [Property 1].
7. On October 25, 2022, Mr. Avery submitted an application to a [Lender 1] on behalf of [Buyer 1] for financing for the [Property 1].

8. On November 1, 2022, a mortgage loan commitment from the [Lender 1] was issued to [Buyer 1] and sent to Mr. Avery via email (the "First Commitment"). The First Commitment detailed the requirements of financing from the [Lender 1] which included, among other things, that the funds from the sale of the [Property 2] be used to pay off [Buyer 1] existing debt, including a car loan. [Buyer 1] told Mr. Avery that she did not want to pay off her car loan.
9. On November 1, 2022, Mr. Avery sent an email to [Buyer 1] confirming that she was approved for a mortgage for the [Property 1]. The email did not contain details of the financing commitment or the name of the lender. Mr. Avery and [Buyer 1] had a call the next day, on November 2, 2022, to discuss the approval of the mortgage, being the First Commitment.
10. At no point in time did Mr. Avery provide [Buyer 1] or [Buyer 2] with a copy of the First Commitment from the [Lender 1]. They never executed the First Commitment. The First Commitment remained open until December 15, 2022.
11. On November 25, 2022, [Buyer 1] and [Buyer 2] reached an agreement with the seller of the [Property 1] to remove a number of items as inclusions in the purchase of the property (the "Excluded Items"). As a result, the purchase price for the [Property 1] was reduced to \$650,000.
12. [Buyer 1] and [Buyer 2] intended to purchase the Excluded Items separately using [Buyer 2] \$50,000 line of credit.
13. On November 25, 2022, Mr. Avery was informed by [Buyer 1] and [Buyer 2] realtor, [Individual 1], via text that [Buyer 1]'s [Property 2] was going to be sold for \$313,000, being approximately \$42,000 less than the listing price. Mr. Avery responded asking whether the buyers were 100%, as a previous sale had fallen through, and indicated he would need a copy of the waiver of confirming the sale was binding on the parties. Mr. Avery did not advise of any concerns or changes in financing for the [Property 1].
14. Later that day subjects were removed for the purchase of the [Property 1] and for the sale of the [Property 2].
15. On November 29, 2022, Mr. Avery sent [Buyer 1] an email which stated, "we have begun the underwriting process" and "her file was moving forward!" This email related to financing being sought for the [Property 1] through [Lender 2]. [Buyer 1] believed that financing was still available through the [Lender 1].
16. On November 30, 2022, Mr. Avery submitted applications to private lenders on behalf of [Buyer 1] and [Buyer 2] including an application to [Lender 2].
17. Mr. Avery had calls with [Buyer 1] and [Buyer 2] on December 1 and 2, 2022.
18. On or around December 7, 2022, [Buyer 1] met with her notary. They discussed that the mortgage for the [Property 1] was now being sought through a private lender. [Buyer 1] did not want a private lender.
19. On or around December 9, 2022, [Buyer 1] asked Mr. Avery for a call to discuss who their lender would be and what their mortgage payments would look like.
20. The same day, which was a Friday, the [Lender 2] issued a mortgage loan commitment (the "Second Commitment"). The total amount of the mortgage under the Second Commitment was \$642,900. Once lender, broker and legal fees were deducted, the net mortgage amount was \$610,619.40.

21. The Second Commitment provided for:

- a. an annual interest rate of 11.24% compounded monthly;
- b. monthly payments of \$6,021.83; and
- c. a 12-month term.

22. Mr. Avery had a call with [Buyer 1] and [Buyer 2] on Friday, December 9, 2022.

23. Mr. Avery had another call with [Buyer 1] and [Buyer 2] on Sunday, December 11, 2022.

24. On Monday, December 12, 2022, Mr. Avery sent [Buyer 1] a text message that said:

Lender is

[Lender 2]

[Lender 2 address]

25. The same day, Mr. Avery provided [Buyer 1] with the signing package for the Second Commitment, which was executed by [Buyer 1] and [Buyer 2].

26. On or around December 14, 2022, [Buyer 1] and [Buyer 2] while at their notary's office reviewed the breakdown of the mortgage payments and the terms of financing and determined that they had not received enough funding from the Private Lender, [Lender 2] to close on the [Property 1] and that the funding from the Private Lender, [Lender 2] was contingent on [Buyer 1] paying off certain debts.

27. When Mr. Avery was informed by [Individual 1] that [Buyer 1] and [Buyer 2] did not receive enough money to complete the purchase, Mr. Avery responded via text to [Individual 1] with a picture of a handwritten note. The handwritten note provided a breakdown of how Mr. Avery believed that the [Property 1] could be financed which included using [Buyer 2]'s \$50,000 line of credit and [Buyer 1] paying off her car loan.

28. At no point in time did Mr. Avery adequately explain the terms of the Second Commitment to [Buyer 1] and [Buyer 2]. [Buyer 1] and [Buyer 2] were forced to back out of the purchase of the [Property 1].

B. Other Factors

29. Mr. Avery has no discipline history.

V. WAIVER

Mr. Avery waives his right to a hearing under s and 8(1.1) of the MBA and waives his right to appeal under s 9 of the MBA.

Approved as to form and content by:

"Originally signed by Ryan Stewart Avery"

_____ this 27th day of June, 2025.

RYAN STEWART AVERY

"Originally signed by Jenna Graham"

_____ this 27th day of June, 2025.

Jenna Graham

Legal Counsel for the Staff of the
Registrar of Mortgage Brokers

Issued this 27th day of June, 2025 at the City of Victoria, British Columbia.

"Originally signed by JONATHAN VANDALL"

Jonathan Vandall

Acting Registrar of Mortgage Brokers
Province of British Columbia