Agreement Regarding Conflict of Interest Between Clients

WHY YOU ARE RECEIVING THIS FORM

Your mortgage broker is working with you and another client whose interest conflicts with your interest in the same deal. Mortgage brokers in BC cannot represent both sides like this (called "dual agency") except in certain cases, and this situation does not qualify.

This form explains the situation and what your options are. BC Financial Services Authority (BCFSA) recommends that you seek independent professional advice before deciding how to proceed.

WHAT IS A CONFLICT OF INTEREST BETWEEN CLIENTS?

Mortgage brokers must always act in their clients' best interests. A conflict of interest happens when a mortgage broker cannot fully act in your best interest because they also have responsibilities to someone else. In this case, your mortgage broker cannot fairly represent both clients at once, so they cannot continue acting for both of you.

HOW CAN THIS CONFLICT BE RESOLVED?

Your mortgage broker must choose one of the following options:

1. Release both clients: the broker stops representing both you and the other client in this transaction.
2. Release one client: one client agrees to be released (the Released Client), and the broker continues to represent the other (the Continuing Client).

This requires both clients to agree and sign the Agreement Regarding Conflict of Interest Between Clients. If either client does not agree, the broker must release both clients

WHAT HAPPENS IF YOU ARE THE CONTINUING CLIENT?

Your broker will continue to represent you and owes you the following legal duties:

- Act only in your best interest
- Avoid situations and potential conflicts that could affect their duties to you
- keep your personal information confidential
- Provide full disclosure and tell you anything that could affect your decisions

WHAT HAPPENS IF YOU ARE THE RELEASED CLIENT?

Your broker will no longer represent you in this transaction. They:

- Cannot give you advice or negotiate for you
- No longer owe you loyalty, conflict avoidance, or full disclosure

However, they must continue to keep your personal information confidential, unless you give them permission to share it with other people.

In the situation where you have been released as a client, you can be represented by a different mortgage services licensee in the transaction. You should consider getting representation before continuing with the mortgage transaction because this reduces your exposure to additional risks.

NEXT STEPS

- Ask your broker any questions you have about this situation.
- Carefully consider your options.
- If you agree to proceed, you and the other client must sign the Agreement Regarding Conflict of Interest Between Clients.

AGREEMENT REGARDING CONFLICT OF INTEREST BETWEEN CLIENTS

This agreement explains what that means and what your options are. BCFSA recommends that you seek **independent professional advice** before deciding how to proceed.

Property Address:__________________________________

The Continuing Client is:__________________________________

The Released Client is:__________________________________

AGREEMENT TERMS

This agreement is made under section 79 of the Mortgage Services Rules. It must be signed by all parties to take effect.

1. **Conflict Disclosure:** the mortgage broker has disclosed that there is a conflict between the Continuing Client and the Released Client due to:

   ____

2. **Dual Agency Prohibited:** the mortgage broker cannot represent both the Continuing Client and the Released Client in the mortgage transaction because this would be "dual agency," which is prohibited by section 76 of the Mortgage Services Rules. This is not a situation where dual agency is allowed under sections 77 or 78 of the Mortgage Services Rules.
3. **Continuing Client Representation:** the mortgage broker will continue to represent the Continuing Client and will:
   a. Provide advice and negotiate on their behalf
   b. Owe them legal duties including loyalty, full disclosure, and conflict avoidance and disclosure
4. **Released Client Status:** the mortgage broker will no longer represent the Released Client and will:
   c. Not provide advice or negotiate on their behalf
   d. No longer owe them legal duties such as loyalty, full disclosure, or conflict avoidance and disclosure
5. **Confidentiality:** the mortgage broker will keep all previously shared confidential information from the Released Client private, even if it would be useful to the Continuing Client. This means the broker may be limited in what they can share with the Continuing Client.
6. **Independent Advice:** both clients have been advised to seek independent professional advice before signing this agreement.

SIGNATURES

Mortgage Broker(s)

Name(s): ______________________ Date: ______________

Brokerage name(s): ______________________

Signature(s): ______________________

Continuing Client(s)

Name(s): ______________________ Date: ______________

Signature(s): ______________________

Released Client(s)

Name(s): ______________________ Date: ______________

Signature(s): ______________________

This disclosure was provided by:

(select option)

◯ Email ◯ In-person ◯ Other (describe): ______________________

The mortgage brokerage must keep a copy of this disclosure form and provide it to BC Financial Services Authority upon request.

BC Financial Services Authority (BCFSA) is the legislated regulatory agency that works to ensure mortgage services licensees have the skills and knowledge to provide you with a high standard of service. All mortgage services licensees must follow rules that help protect consumers, like you. We are here to help you understand your rights. For additional information on mortgage services, or to ask us a question or file a complaint, visit us online at www.bcfsa.ca, email us at servicecentre@bcfsa.ca, or call us at 604 660 3555 or 1 866 206 3030. You can submit an anonymous tip through BCFSA's website.