FINANCIAL SERVICES COMMISSION OF ONTARIO – FSCO

ANATOL MONID EXECUTIVE DIRECTOR LICENSING AND MARKET CONDUCT DIVISION STATEMENTS ON FRAUD AND VOLUNTARY COMPLIANCE

FINANCIAL SERVICES TRIBUNAL DECISIONS

**FINANCIAL SERVICES TRIBUNAL**

Citation: MSF Group Inc. v. Ontario (Superintendent Financial Services), 2016 ONFST 16 Decision No. M0643-2015-1 Date: 2016/09/08

[21] With respect to Mr. Monid’s affidavit it was tendered to give background in respect of regulatory sanctions and to rebut the Applicants’ assertion that “no harm or loss” resulted from the Applicants’ conduct. It was admitted on that basis. We accept Mr. Monid’s evidence as simply standing for the proposition that the financial regulator in Ontario (FSCO) is concerned with mortgage fraud in the industry as being detrimental to public confidence in the regulated sector. We do not take issue with that proposition, nor is it our place to do so. Further we accept Mr. Monid’s statement as a general proposition that mortgage fraud is difficult to detect and so not surprisingly, statistical information on the extent and cost of mortgage fraud (real or attempted) to the industry and public does not currently exist within FSCO. However, other than providing support for these two broad propositions, the affidavit of Mr. Monid is of little assistance to the Tribunal.

**Why would a regulator state publicly to those he regulates “that mortgage fraud is difficult to detect”?**

**Would this not encourage mortgage fraud to be committed?**

**FINANCIAL SERVICES TRIBUNAL**

Citation: First Commonwealth Mortgage Corporation v. Ontario (Superintendent Financial Services), 2015 ONFST 13 Decision No. M0555-2014-1 Date: 2015/04/27

[14] Mr. Monid’s affidavit (at paragraphs 9, 11, 12, 14 and 49-51) provides important insight into the regulation of the “mortgage sector” and the setting of the AMPs for non-compliance with the legislative standards required of mortgage brokerages and mortgage brokers. We accept that portion of his affidavit, as follows:

Any system of regulation must be capable of being administered in a practical, cost effective way…Without a high rate of voluntary compliance, regulation becomes either prohibitively expensive or less effective because limited resources have to be spent to achieve non-voluntary compliance…

A low rate of voluntary compliance increases the cost of regulation. That increased cost must be paid by other licencees, including those fully in compliance, and inevitably by the public who will absorb some of those costs as higher fees.

…[the] requirements are designed to protect the public, as mortgages are major financial transactions involving significant amounts of borrowed money. Financial transparency of a transaction is key.

While some contraventions may be seen as “minor” or “inconsequential”, the Superintendent takes the position that each requirement is significant and has a purpose; otherwise, the Legislature would not have legislated them into law.

A mortgage brokerage’s failure to comply with seemingly “minor” regulations creates concern for the Superintendent that the mortgage brokerage lacks the minimum level of diligence required for mortgage brokering…

Accordingly, the amount of the AMPs proposed by the Superintendent are not trivial; instead [the AMPs] reflect the Superintendent’s exhortation to both the specific mortgage brokerage, and all mortgage brokerages in the industry, that such contraventions are unacceptable to meet the public’s trust. The amount of the AMPs are [sic] intended to have the effect of specific and general deterrence.

**Why would a regulator state publicly to those he regulates that “Any system of regulation must be capable of being administered in a practical, cost effective way…Without a high rate of voluntary compliance, regulation becomes either prohibitively expensive or less effective because limited resources have to be spent to achieve non-voluntary compliance…”?**

**Would this not help in encouraging mortgage fraud?**

**Is the regulator not really that concerned about protecting the public from being defrauded by parties it regulates?**

Based on Anatol Monid’s statements, do you think that the FSCO has been allocated sufficient resources by the province of Ontario to prevent mortgage fraud and to properly regulate the mortgage industry, or do you think that the province is creating the illusion that FSCO is protecting the public? Do you think that this applies to other regulators, including other provincial and federal regulator as well as other self-regulating bodies such as the law societies and the Institute of Chartered Accountants? [see link below concerning financial statements]

William Vasiliou, see who he is under the first link under Fraud, the former Registrar of Mortgages and Certified Fraud Examiner, comments:

“By making these statements it tends encourage bad behaviour.

The fraud triangle identifies 3 key components in the commission of fraud, pressure, opportunity and rationalization. Mr. Monid's comments promote opportunity and we have already witnessed the rationalization given the number or registrants engaged in the opportunity to commit mortgage fraud.

**My preference in defining fraud is "GONE". Greed, opportunity, need and expectations of getting caught. Mr. Mond has telegraphed the regulators position on this matter.**

**Imagine if the police made such a statement regarding murder, bank robbery, theft. We would be in a state of chaos.”**

<https://icc-ccs.org/talkfraud/protection-against-becoming-easy-prey-with-canadian-investments-lincoln>