

BC FINANCIAL SERVICES AUTHORITY

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

AND

IN THE MATTER OF

**STYLES WILLIAM STEWART
(144577)**

AND

FIRST EXPANSE FINANCIAL CORP.

Decision on Liability

[This Decision has been redacted before publication.]

Date of Hearing: February 12 - 16, 2024
Counsel for BCFSA: Meredith MacGregor
Respondents: Self-represented
Hearing Officer: Andrew Pendray

Introduction

1. On July 13, 2023, a Notice of Hearing was issued against Styles William Stewart and First Expanse Financial Corp. ("First Expanse").
2. Mr. Stewart, having been formerly registered as a mortgage broker, was alleged in the Notice of Hearing to have carried on business as a mortgage broker or submortgage broker without being registered to do so from approximately July 13, 2022 to February 3, 2023, contrary to section 8(1.4) of the *Mortgage Brokers Act* (the "MBA").
3. The Notice of Hearing further alleged that First Expanse had carried on business as a mortgage broker without being registered, during the same period of time.
4. The Notice of Hearing identified 27 mortgage applications in which Mr. Stewart and First Expanse had allegedly engaged in mortgage broker business without being registered to do so. At the outset of the hearing off this matter, BCFSA clarified that it was proceeding in respect of only 24 of those properties.
5. This matter was heard by way of an oral hearing. BCFSA was represented by legal counsel, while Mr. Stewart was self-represented.

Issues

6. The issues are:
 - Did Mr. Stewart breach section 8(1.4) of the MBA by carrying on business as a mortgage broker or submortgage broker without being registered as required by the MBA, as described at item 1 of the Notice of Hearing?
 - Did First Expanse breach section 8(1.4) of the MBA by carrying on business as a mortgage broker or submortgage broker without being registered as required by the MBA, as described at item 2 of the Notice of Hearing?

Jurisdiction and Procedure

7. BCFSA Hearing Officers are appointed to act for the Registrar of Mortgage Brokers (the “Registrar”) in respect of orders under section 8 of the MBA, pursuant to a January 10, 2024 Acting Capacity Instrument.
8. BCFSA must prove its case on the balance of probabilities, that is, BCFSA must prove that it is more likely than not that the facts as alleged occurred. In order to make a finding against the respondents, I must find that the evidence is “sufficiently clear, convincing and cogent” to satisfy that test: *FH v McDougall*, 2008 SCC 53, [2008] 3 S.C.R. 41.
9. Evidence is generally considered as a matter of procedure.¹ As an administrative tribunal the Registrar is not bound by court rules of evidence, and in the absence of any statutory provision to the contrary, may consider any evidence it considers relevant, including hearsay evidence: *Adams v. British Columbia (Superintendent of Motor Vehicles)*, 2019 BCCA 225 (CanLII).
10. Further, the fact that the legislation may provide for a formal structure for enforcement proceedings does not preclude hearsay evidence from being admitted at a hearing.² There is no provision in the MBA which imports civil or criminal rules of evidence into the administrative proceedings held by the Registrar. The Registrar may, however, draw upon principles underlying court rules of evidence to exclude or assess evidence.
11. The Registrar must also afford procedural fairness to a respondent where a decision may affect his or her rights, privileges or interests. This right includes a right to be heard. The Registrar affords every respondent an opportunity to respond to the case against him or her by ensuring that advance notice is provided to the respondent regarding the issues and the evidence, and providing an opportunity for the respondent to present evidence and argument. The Registrar must determine facts, and decide issues set out in the notice of hearing, based on evidence. The Registrar may, however, apply its individual expertise and judgment to how it evaluates or assesses evidence.

Notice of Hearing

12. The Notice of Hearing sets out the following allegations against Mr. Stewart:
 1. Contrary to section 8(1.4) of the MBA, Mr. Stewart, having been formerly registered, carried on business as a mortgage broker or submortgage broker without being registered to do so, and without being exempt from registration pursuant to section 11 of the MBA, in that from approximately July 13, 2022 to February 3, 2023 he carried out one or more of the following mortgage broker activities generally and/or in respect of at least one of the mortgage applications set out in the attached Schedule “A”:

¹ *Cambie Hotel (Nanaimo) Ltd. v. British Columbia (General Manager, Liquor Control and Licensing Branch)*, 2006 BCCA 119, para. 38.

² *Cambie Hotel*, paragraph 38.

- a. Carrying on a business of lending money secured in whole or in part by mortgages;
- b. Holding out as, or by an advertisement, notice or sign indicates that Mr. Stewart is, a mortgage broker;
- c. Carrying on a business of buying and selling mortgages or agreements for sale;
- d. In any one year, receiving an amount of \$1,000 or more in fees or other consideration, excluding legal fees, for arranging mortgages for other persons;
- e. During any one year, lending money on the security of 10 or more mortgages; and
- f. Carrying on a business of collecting money secured by mortgages.

13. The allegations against First Expanse were set out in the Notice of Hearing as follows:

2. Contrary to section 8(1.4) of the MBA, First Expanse carried on business as a mortgage broker in British Columbia without being registered to do so, and without being exempted from registration pursuant to section 11 of the MBA in that, from approximately July 13, 2022 to February 3, 2023, it carried out one or more of the following mortgage broker activities generally and/or in respect of at least one of the mortgage applications set out in the attached Schedule "A":

- a. Carrying on a business of lending money secured in whole or in part by mortgages;
- b. Holding out as, or by an advertisement, notice or sign indicates that First Expanse is, a mortgage broker;
- c. Carrying on a business of buying and selling mortgages or agreements for sale;
- d. In any one year, receiving an amount of \$1,000 or more in fees or other consideration, excluding legal fees, for arranging mortgages for other persons;
- e. During any one year, lending money on the security of 10 or more mortgages;
- f. Carrying on a business of collecting money secured by mortgages; and
- g. Permitting Mr. Stewart to hold himself out as a mortgage broker with First Expanse while neither was registered under the MBA.

14. Schedule "A" to the Notice of Hearing identified 27 properties in respect of which the respondents were alleged to have carried on mortgage broker business while not registered. BCFSA proceeded with allegations in respect of only 24 of the 27 properties identified:

- [Property 1], Coquitlam
- [Property 2], Richmond
- [Property 3], Surrey
- [Property 4], Rosedale
- [Property 5], Keats Island
- [Property 6], Surrey
- [Property 7], Maple Ridge

- [Property 8], Lake Country
- [Property 9], Burnaby
- [Property 10], Maple Ridge
- [Property 11], Abbotsford
- [Property 12], Surrey
- [Property 13], Mission
- [Property 14], Mission
- [Property 15], Mission
- [Property 16], Langley
- [Property 17], Prince Rupert
- [Property 18], Delta
- [Property 19], Keats Island
- [Property 20], Langley
- [Property 21], Saltspring Island
- [Property 22], Surrey
- [Property 23], Comox
- [Property 24], Chase

15. As a whole, I will reference the above noted list as the “Properties”.

Background and Evidence

16. The evidence and information before me consisted of a significant number of documents from a book of documents, as well as the evidence of a number of witnesses: [Investigator 1], BCFSA investigator; [Lender 1], a registrant under the MBA and private lender; and Mr. Stewart.
17. I have reviewed all of the evidence and information before me. The following is intended to provide context for my reasons.

Registration Status of Mr. Stewart and First Expanse

18. Mr. Stewart was initially registered under the MBA as a submortgage broker in July 2008. He was last registered as a submortgage broker on December 7, 2021.
19. First Expanse has never been registered under the MBA. First Expanse is an incorporated company, and Mr. Stewart is the sole owner and director of First Expanse.
20. Mr. Stewart’s career as a submortgage broker, from July 2008 until December 2021 was with one mortgage brokerage, [Brokerage 1].
21. On November 12, 2021, Mr. Stewart submitted a request to BCFSA to transfer his registration to a new mortgage brokerage, [Brokerage 2].
22. Also on November 12, 2021, [Individual 1], a vice president and director with [Brokerage 1], wrote to BCFSA. In his letter of that date [Individual 1] informed BCFSA that he had terminated Mr. Stewart’s registration as a submortgage broker with [Brokerage 1], for cause, after having performed an audit which indicated “serious regulatory breaches and secret commissions”.
23. [Individual 1] explained in his November 12, 2021 letter that he had determined that Mr. Stewart, while registered as a submortgage broker with [Brokerage 1], had brokered and closed three mortgages through a new company that Mr. Stewart had formed, First Expanse. [Individual 1]

indicated that Mr. Stewart and/or First Expense appeared to have charged brokerage and lender fees from [Brokerage 1] files without the knowledge or approval of [Brokerage 1].

24. [Individual 1] further noted that Mr. Stewart had set up a Facebook page advertising First Expense as a mortgage broker while First Expense was not registered under the MBA.
25. As a result of his termination from [Brokerage 1], Mr. Stewart's registration under the MBA became inoperative on November 15, 2021. This is due to the fact that section 3(8) of the MBA provides that the termination of the employment of a submortgage broker with a mortgage broker operates as a suspension of the registration of a submortgage broker until employment with another registered mortgage broker is approved by the Registrar.
26. BCFSA did, on December 7, 2021, approved the transfer of Mr. Stewart's registration to [Brokerage 2].
27. However, on December 8, 2021, BCFSA wrote to Mr. Stewart at his email address with [Brokerage 1], informing him that the transfer of his registration to [Brokerage 2] had been processed in error, and to inform him that he in fact remained unregistered. The December 8, 2021 email indicated to Mr. Stewart that as he was currently unregistered, he needed to ensure that he did not conduct any submortgage broker activity.
28. Of note, Mr. Stewart testified at the hearing of this matter that he did not have access to his [Brokerage 1] email address as of December 8, 2021, as he had already been terminated from his position at that brokerage.
29. Mr. Stewart did eventually become aware of BCFSA's position that his registration had not in fact been approved to be transferred to [Brokerage 2] in December 2021, and that as a result he remained unregistered.
30. On May 30, 2022, [Individual 2], BCFSA's manager of registration for mortgage brokers, sent a message to [Designated Individual 1], the designated individual for [Brokerage 2]. In that message [Individual 2] indicated that the transfer of Mr. Stewart's registration remained under review.
31. [Designated Individual 1] replied on June 1, 2022. In that email he noted that his understanding was that the transfer had been approved on December 7, 2021. [Individual 2] informed [Designated Individual 1] that the registration had not in fact been transferred due to a suitability review into Mr. Stewart.
32. In an email to BCFSA dated June 2, 2022, [Designated Individual 1] informed [Individual 2] that in light of the suitability review, [Brokerage 2] had decided to terminate the transfer of Mr. Stewart's registration.
33. Also on June 2, 2022, Mr. Stewart filed an appeal with the Financial Service Tribunal ("FST") in respect of BCFSA's decision not to approve the transfer of his registration to [Brokerage 2]. In his notice of appeal Mr. Stewart argued that as BCFSA had initially approved his transfer to [Brokerage 2], it was *functus officio* with respect to that transfer and was not able to reverse the transfer as it purported to have done on December 8, 2021.
34. BCFSA wrote to Mr. Stewart's then legal counsel on June 21, 2022. In that letter BCFSA noted that the Registrar was prepared to approve a transfer of Mr. Stewart's registration, on the understanding that the investigation into the allegations regarding his suitability for registration would remain ongoing.
35. On June 23, 2022, Mr. Stewart applied to withdraw his appeal to the FST.
36. Mr. Stewart exchanged a number of emails with [Individual 2] from June 28 to June 30, 2022 regarding how to reinstate his registration. Mr. Stewart specifically enquired, in a June 29, 2022 email whether it would be possible to reinstate his registration and start a new brokerage himself.
37. In a June 30, 2022 email [Individual 2] wrote to Mr. Stewart and provided the following information:

- In order to register a new brokerage Mr. Stewart would have to register a name with the BC Registry, and submit an application to BCFSA for a new brokerage. It would likely take BCFSA 6 to 8 weeks to process such an application, or longer due to Mr. Stewart's "circumstances";
 - A new brokerage registration would not be considered a reinstatement but a new registration for the brokerage and a new registration for Mr. Stewart as the designated individual and submortgage broker. Both applications would require an assessment under section 4 of the MBA to confirm that Mr. Stewart was suitable to register as a designated individual, that the proposed brokerage was suitable to be registered with Mr. Stewart as the designated individual, and that both his registration as a designated individual and the company's registration as a brokerage were not objectionable.
 - Given the important responsibilities of a designated individual, the Registrar may determine that a decision under section 4 could not be made until the current investigation into Mr. Stewart and any associated hearing was concluded.
38. There was no further communication between Mr. Stewart and BCFSA regarding a further application for registration. He remained unregistered at the time of the hearing.
 39. Mr. Stewart met with BCFSA investigators for an interview on July 13, 2022.
 40. At that interview Mr. Stewart acknowledged that while he worked at [Brokerage 1] he had processed mortgage files through First Expanse. Mr. Stewart acknowledged that he ought to have set up a mortgage broker registration for First Expanse when he first established that company.
 41. Of note, Mr. Stewart indicated in his July 13, 2022 interview with BCFSA investigators that he was unsure of the last time he had put a mortgage deal through First Expanse. He suggested that it may have been "last year – but I don't exactly know."

Investigation post July 13, 2022

[Investigator 1]

42. [Investigator 1] is a senior investigator with BCFSA. He indicated that his general role involved investigations into those who may have breached the MBA, including investigations into unregistered activity.
43. [Investigator 1] noted that he had conducted, along with another investigator, the interview with Mr. Stewart on July 13, 2022.
44. [Investigator 1] noted that during that interview Mr. Stewart had admitted using three email addresses, including an email address for First Expanse.
45. Subsequent to the July 13, 2022 interview, BCFSA issued two summonses for documents to Mr. Stewart, requesting records relating to First Expanse and a list of all mortgage related transactions arranged through First Expanse.
46. [Investigator 1] noted that Mr. Stewart had not responded to those summonses.
47. [Investigator 1]'s investigation into Mr. Stewart's activities continued into the fall of 2022. Eventually, those investigative activities led to BCFSA issuing an order, on February 2, 2023, that Mr. Stewart and First Expanse cease and desist from carrying on business as a mortgage broker or submortgage broker immediately and unless and until they became registered to do so (Stewart (RE), 2023 BCRMB 2, the "cease order").
48. The cease order noted that BCFSA had received a complaint from a designated individual, [Designated Individual 2] who had been reviewing a file of one of her submortgage brokers, [Registrant 1], and had become concerned about Mr. Stewart's registration status. The cease order indicated that documents had been obtained which included commitment letters from First Expanse dated September 17, 2022, as well as a variety of documents including emails from Mr. Stewart dated September, 12, 2022 indicating that he could arrange mortgages.

49. [Investigator 1] indicated in his evidence at the hearing that subsequent to the issuing of the cease order, he had arranged for Mr. Stewart to be personally served with a summons for records on February 8, 2023.
50. [Investigator 1] stated that subsequently, Mr. Stewart had permitted a lawyer, [Lawyer 1], to provide BCFSA with some transaction documents related to mortgage transactions engaged in by Mr. Stewart and First Expanse through [Lawyer 1]'s law firm.
51. Ultimately, [Investigator 1] obtained evidence from a number of individuals involved in mortgage transactions with Mr. Stewart and First Expanse, including the registrants [Designated Individual 2], [Registrant 1], [Registrant 2] and [Registrant 3]; [Lawyer 1]; as well as private lenders [Lender 1],³ [Lender 2], and [Lender 3].
52. The documents provided by those individuals included the following relevant information regarding the mortgage transactions Mr. Stewart and First Expanse are alleged to have been involved in while unregistered.

Mortgage Applications

[Property 1], Coquitlam

53. This was the transaction that led to [Designated Individual 2] contacting BCFSA in November 2022. BCFSA received evidence regarding this transaction from [Registrant 1], [Lender 1], and [Lawyer 1].
54. That evidence indicates that in or about September to November 2022, Mr. Stewart and First Expanse were engaged in arranging a mortgage with respect to [Property 1], Coquitlam (the "[Property 1] property").
55. Specifically, on September 12, 2022 [Registrant 1] wrote to Mr. Stewart by email and enquired as to whether Mr. Stewart had "any small deals" he could send to [Registrant 1]. [Registrant 1] also enquired as to whether Mr. Stewart did third mortgages. The enquiry regarding the third mortgage related to the [Property 1] property.
56. On September 17, 2022 First Expanse issued a mortgage commitment letter, on First Expanse letterhead and signed by Mr. Stewart, for a \$200,000 mortgage for the borrower, [Borrower 1], with a \$4,000 brokerage fee, and a \$4,000 lender fee, in relation to the [Property 1] property.
57. On September 20, 2022 Mr. Stewart signed a Fixed Credit Disclosure Statement in his own name, identifying First Expanse as the mortgage broker and lender, for the [Property 1] property.
58. On October 1, 2022 [Registrant 1] sent Mr. Stewart an updated appraisal of the [Property 1] property.
59. Mr. Stewart emailed [Lender 1] on October 7, 2022. In that email Mr. Stewart indicated that he had a client who was looking for a \$200,000 third mortgage on a house in Coquitlam. Mr. Stewart noted that the yield would be 10.95% with a 1% lender fee available, and requested that [Lender 1] let him know if he was interested.
60. [Lender 1] made some enquiries of Mr. Stewart regarding the borrower. After receiving responses to those enquiries, [Lender 1] indicated that he was prepared to do the deal. [Lender 1] also noted, in an October 7, 2022 email to Mr. Stewart, that he could not find Mr. Stewart's registration status with BCFSA. [Lender 1] noted in that email that if Mr. Stewart's registration status was not finalized, that [Registrant 1] could provide the documentation for the mortgage.
61. [Lender 1] followed up with Mr. Stewart on October 11, 2022 to confirm whether the mortgage on the [Property 1] property was proceeding. In that email [Lender 1] queried whether he would receive the mortgage documents from [Registrant 1].

³ As noted above, [Lender 1] is also a registrant. His involvement with Mr. Stewart was related to his engagement as a private lender.

62. On October 11, 2022 Mr. Stewart replied to [Lender 1] and indicated that he would prefer to proceed through his company and wrote that:
- I know I don't show up when you search for me as a registered broker. It is some glitch on the BCFSA's end since I started this company. I am attempting to have them fix it. They provided me that business authorization that I attached to my last email in the meantime....
- If that is really not ok, I guess I can broach the subject with [[Registrant 1]] and get him to send you the file.
63. The business authorization document referenced by Mr. Stewart in his above noted email was in evidence.
64. In his testimony, [Investigator 1] indicated that, to the best of his knowledge, the business authorization document is not an accurate printout of what would have been available on BCFSA's system to indicate whether or not Mr. Stewart was registered as a submortgage broker in October 2022. [Investigator 1] noted that the business authorization document did not appear to match Mr. Stewart's education history, and that the registration number in the business authorization document Mr. Stewart had provided to [Lender 1] did not match Mr. Stewart's actual registration number with BCFSA.
65. In an October 11, 2022 email to Mr. Stewart, [Lender 1] noted that as he was also a registrant, he wanted to ensure that the transaction was occurring properly, and enquired as to whether Mr. Stewart could have BCFSA email [Lender 1] confirmation of Mr. Stewart's registration. Mr. Stewart replied on October 14 and indicated to [Lender 1] that he had emailed BCFSA but that they were not responding quickly enough, and as a result he would have [Registrant 1] send [Lender 1] the transaction documents.
66. When asked at the hearing about the business authorization document Mr. Stewart had provided to him, [Lender 1] indicated that he had been skeptical of the document and the legitimacy of it. [Lender 1] noted that he had never heard of BCFSA having an issue with showing someone who was registered, and that in his view the business authorization document did not appear to be a real BCFSA document, noting that it was not on letterhead. [Lender 1] indicated that as he was skeptical of the authenticity of the document and was not prepared to take any chances of dealing with someone who was not registered properly, he determined to proceed with the mortgage transaction with [Registrant 1].
67. [Lender 1] indicated that he was aware that Mr. Stewart had an arrangement to share a brokerage fee with [Registrant 1], and that although he was not certain that Mr. Stewart received a fee, his understanding is that Mr. Stewart would have.
68. [Lender 1] noted that the transaction went through [Law Firm 1], with [Lawyer 1] as the lawyer.
69. On October 18, 2022 [Registrant 1] wrote to [Lawyer 1], indicating that in respect of the [Property 1] transaction, a \$2,000 fee was to be paid to Mr. Stewart, as well as a \$395 documentation fee. On October 20, 2022, a paralegal from [Law Firm 1] sent an email to [Lender 1] and [Lawyer 1] indicating that Mr. Stewart had already received a "\$1000 good faith deposit" and that as a result his fees were reduced to \$1,000.

[Property 16], Langley

70. On August 2, 2022 [Registrant 4], a registered mortgage broker, wrote Mr. Stewart regarding a mortgage for the property at [Property 16], Langley (the "[Property 16] property"). [Registrant 4] indicated that the clients had approval for a mortgage with a loan to value ratio of 80%, and that they were seeking a second mortgage with a loan to value ratio of 85%.
71. After some discussion, Mr. Stewart indicated, in an August 5, 2022 email, that he had a lender interested at a 13.95% rate with a \$5,000 lender fee including Mr. Stewart's fee.

72. On or about August 17, 2022 Mr. Stewart and First Expense issued a mortgage commitment for a \$100,000 mortgage for the borrowers, [Borrower 2] and [Borrower 3], for [Property 16]. The commitment letter indicates a lender fee of \$12,500.
73. Mr. Stewart and First Expense also prepared a fixed credit disclosure statement for [Property 16] on August 22, 2022. That disclosure statement identifies the lender as First Expense or an assignee, and the mortgage broker as Mr. Stewart, and identifies a lender fee of \$12,500.
74. On August 22, 2022 Mr. Stewart and [Registrant 4] exchanged emails about the borrowers providing a legal retainer. Mr. Stewart requested that the money for the retainer either be e-transferred to his First Expense email or for the borrowers to use [Law Firm 1]'s credit card portal.
75. On August 24, 2022 Mr. Stewart sent an email to [Lender 3], a private lender. In that email he indicated to [Lender 3] that the mortgage was a \$100,000 second mortgage at a 13.95% rate, and that Mr. Stewart would provide [Lender 3] with a 3% lender fee. Mr. Stewart enclosed various documents including borrower T4s, an appraisal of [Property 16], a contract of purchase and sale for [Property 16] and a mortgage application for the borrowers' purchase of [Property 16].
76. On August 25, 2022 Mr. Stewart wrote to [Lawyer 1]. In that email he indicated that the mortgage amount was increasing by \$10,000 and that [Lender 3]'s fee would be increasing by \$2,000 as well. In an August 24, 2022 email attached to that same email, Mr. Stewart had written that he had collected a commitment fee directly from the client and had therefore reduced his fee in kind by \$3,000. Mr. Stewart indicated that First Expense's lending fee was \$6,500, with a \$395 administration fee, and that [Lender 3]'s lender fee would be \$5,000.
77. A cheque from [Law Firm 1] to First Expense, in the amount of \$6,895.00, was issued on August 26, 2022.

[Property 2], Richmond

78. On October 6, 2022 Mr. Stewart forwarded a mortgage application and information to [Lender 2], a private lender, regarding a mortgage request for the property located at [Property 2]. In the forwarded email Mr. Stewart explained that the clients would accept an 11.5% rate, and the original mortgage request, which was sent to Mr. Stewart from [Registrant 5], a registrant, was for a mortgage of \$308,000.
79. The information provided by Mr. Stewart to [Lender 2] included an appraisal, contract documents, a mortgage application and a title search.

[Property 4], Rosedale

80. On October 28, 2022 Mr. Stewart emailed [Lender 2] information regarding a mortgage request on [Property 4]. In that email Mr. Stewart indicated that the clients were seeking a \$115,000 first mortgage, and that Mr. Stewart would split the 1% fee he had agreed to with the borrowers with [Lender 2]. Mr. Stewart indicated that the yield would be 8.45%.
81. Prior to writing [Lender 2], Mr. Stewart had, on October 21, 2022, issued a commitment letter on First Expense letter head for the mortgage on [Property 4]. The lender fee was noted to be \$1,150, with an administration fee of \$395.00.

[Property 5], Keats Island

82. On November 8, 2022 Mr. Stewart issued a commitment letter on First Expense letter head for the mortgage on [Property 5]. The lender fee was noted to be \$3,500 with an administration fee of \$395.00.
83. On November 15, 2022 [Lender 2] received a email notification from DocuSign, which included a message from Mr. Stewart indicating that all parties had completed the Form 9 and Form 10 in relation to [Property 5], and requesting that [Lender 2] sign and return the documents. The Form 9 Lender Disclosure Statement was indicated to have been completed by First Expense, and was signed by Mr. Stewart. The Form 10 Conflict of Interest Disclosure Statement identifies the mortgage broker as First Expense and was signed by Mr. Stewart.

84. Mr. Stewart wrote to [Law Firm 1] on November 15, 2022 providing instructions on the [Property 5] mortgage. In that email Mr. Stewart indicated that First Expense's lender fee was \$3,250, with an administration fee of \$395; while [Lender 2]'s lender fee was \$250 and the co-broker fee was \$1,500.
85. On November 23, 2022 a cheque from [Law Firm 1] to First Expense in the amount of \$3,645.00 was issued.

[Property 6], Surrey

86. On December 6, 2022 Mr. Stewart sent [Lender 2] an email inquiring about his interest in providing a \$36,000 loan on [Property 6], Surrey (the "[Property 6]"). Mr. Stewart set out the loan to value ratio and indicated that there was an interest rate of 15.95% with a 1% fee to the direct end lender ([Lender 2]). Mr. Stewart attached a number of documents including the mortgage investment summary, mortgage request, mortgage application and appraisal.
87. On December 10, 2022 [Lender 2] received an email notification from DocuSign, which included a message from Mr. Stewart indicating that all parties had completed the Form 9 and Form 10 in relation to [Property 6], and requesting that [Lender 2] sign and return the same. The Form 9 Lender Disclosure Statement was indicated to have been completed by First Expense, and was signed by Mr. Stewart. The Form 10 Conflict of Interest Disclosure Statement identifies the mortgage broker as First Expense and was signed by Mr. Stewart.

[Property 19], Keats Island

88. On September 6, 2022 Mr. Stewart emailed [Lender 2] to enquire about his interest in providing a loan of \$110,000 for [Property 19]. Mr. Stewart provided [Lender 2] with documents including the borrowers' mortgage application, credit reports, and an appraisal of the property.
89. Mr. Stewart also provided a Mortgage Investment Summary document which appears to indicate that it was prepared by First Expense.
90. Also on September 6, 2022 Mr. Stewart, on First Expense letterhead, issued a commitment letter in respect of [Property 19]. That commitment letter indicates that there would be a lender fee of \$2,000, as well as an administration fee of \$395.00.
91. On September 12, 2022 Mr. Stewart wrote to [Lawyer 1] and [Law Firm 1] providing instructions on the [Property 19] mortgage. Mr. Stewart indicated that First Expense's lending fee would be \$5,750, plus a \$395.00 administration fee. A \$1,250 lender fee was identified for [Lender 2].
92. On September 20, 2022, Mr. Stewart sent a DocuSign request to [Lender 2] requesting that [Lender 2] sign the Form 9 and Form 10.
93. On September 21, 2022, [Law Firm 1] issued a cheque to First Expense in the amount of \$6,145.00.

[Property 7], Maple Ridge

94. On November 8, 2022 Mr. Stewart, on First Expense letterhead, issued a mortgage commitment letter for a \$70,000 mortgage for [Property 7]. That commitment letter identified a lender fee of \$3,500 and an administration fee of \$395.00.
95. Mr. Stewart emailed [Lender 2] enquiring as to his interest in providing funds for the [Property 7] mortgage. Mr. Stewart attached the mortgage application, the borrowers' credit bureau report, and a property appraisal.
96. On November 25, 2022 Mr. Stewart signed a Form 9 lender disclosure statement indicating that First Expense was the mortgage broker for the [Property 7] mortgage. Mr. Stewart also signed a Form 10 conflict of interest disclosure statement indicating that First Expense would be charging an \$8,000 brokerage fee, with \$4,500 to be paid to the borrowers' broker, \$395 to First Expense for an administration fee, \$550 to the lender [Registrant 1], and \$150 to the lender [Lender 2].

97. On December 19, 2022 Mr. Stewart signed an updated Form 9 and Form 10 relating to the [Property 7] mortgage, with an updated co-lender. Mr. Stewart requested that [Lender 2] sign the updated documents, which included an increased fee for [Lender 2].

[Property 3], Surrey

98. In October 2022, Mr. Stewart engaged in a Facebook messenger discussion with [Registrant 2], a registered mortgage broker. In that discussion, Mr. Stewart indicated to [Registrant 2] that he had started his own firm, that he could likely assist with mortgage transactions, and that [Registrant 2] could email him at [Email Address Redacted].
99. On October 21, 2022 Mr. Stewart, on First Expanse letterhead, issued a mortgage commitment for a \$120,000 second mortgage for the property located at [Property 3]. Mr. Stewart also completed a fixed credit disclosure statement for that property, as well as a Form 10 conflict of interest disclosure statement which indicated that First Expanse would be charging a \$7,200 fee on the transaction, as well as a \$395 administration fee, with \$3,600 to be paid as a referral fee to [Registrant 2].
100. Mr. Stewart and [Registrant 2] exchanged emails regarding the [Property 3] mortgage from October 18, 2022 to November 17, 2022.

[Property 8], Lake Country

101. On November 16, 2022 Mr. Stewart, on First Expanse letterhead, issued a mortgage commitment for a \$197,000 mortgage for [Property 8]. Mr. Stewart also completed a fixed credit disclosure statement, and a Form 10 conflict of interest disclosure statement in which he indicated that First Expanse would be charging a \$9,875 fee, as well as a \$395 administration fee, with \$3,950 to be paid to [Registrant 2] who represented the borrowers.

[Property 9], Burnaby

102. On October 18, 2022 Mr. Stewart, on First Expanse letterhead, issued a mortgage commitment for a \$100,000 mortgage for the property located at [Property 9]. Mr. Stewart also completed a fixed credit disclosure statement, and a Form 10 conflict of interest disclosure statement in which he indicated that First Expanse would be charging a \$9,500 fee, as well as a \$395 administration fee, with \$3,000 to be paid to [Registrant 6] who was representing the borrowers.

[Property 10], Maple Ridge

103. On October 28, 2022 Mr. Stewart, on First Expanse letterhead, issued a mortgage commitment for a \$550,000 mortgage for the property located at [Property 10]. Mr. Stewart, on behalf of First Expanse, completed a fixed credit disclosure statement, and completed a Form 10 conflict of interest disclosure statement in which he indicated that First Expanse would be charging a \$22,000 fee on the transaction, as well as a \$395 administration fee, with \$11,000 to be paid to [Registrant 6], who was representing the borrowers.

[Property 11], Abbotsford

104. On July 15, 2022 Mr. Stewart, on First Expanse letterhead, issued a mortgage commitment letter for a \$370,000 mortgage for the property located at [Property 11].
105. On July 20, 2022 Mr. Stewart emailed [Lawyer 1] and [Law Firm 1] with instructions on the mortgage, indicating brokerage fees of \$5,550 for First Expanse, as well as an administration fee of \$395.
106. On July 28, 2022 [Law Firm 1] issued a cheque to First Expanse in the amount of \$5,945 in relation to the [Property 11] mortgage.

[Property 12], Surrey

107. On July 13, 2022, the same date upon which he attended for an interview with BCFSA investigators, Mr. Stewart, on First Expanse letterhead, issued a mortgage commitment letter for a mortgage of \$110,000 for the property located at [Property 12].

108. On July 15, 2022 Mr. Stewart emailed [Lawyer 1] and [Law Firm 1] with instructions on the mortgage, including indicating that the fees to be paid to First Expense were a \$5,000 lending fee as well as a \$395.00 administration fee.

109. On July 29, 2022 [Law Firm 1] issued a \$5,645 cheque to First Expense in relation to the [Property 12] mortgage.

[Property 13], Mission

110. On July 19, 2022 Mr. Stewart issued a mortgage commitment letter for a mortgage in the amount of \$75,000 for [Property 13]. In that commitment letter Mr. Stewart indicated that First Expense was prepared to arrange a second mortgage through a private lender or assignee.

111. Mr. Stewart emailed [Lawyer 1] and [Law Firm 1] in order to provide instructions on the mortgage on July 21, 2022. Those instructions included that First Expense was to be paid a lender fee of \$3,500, and an administration fee of \$395.00.

112. On August 3, 2022 [Law Firm 1] issued a cheque to First Expense in the amount of \$3,895 in relation to the [Property 13] mortgage.

[Property 14], Mission

113. On July 19, 2022 Mr. Stewart, on First Expense letterhead, issued a mortgage commitment letter for a mortgage of \$170,000 on [Property 14]. Mr. Stewart also, on July 21, 2022, provided instructions to [Lawyer 1] and [Law Firm 1] regarding the mortgage, including indicating that First Expense would be receiving lender fees of \$2,550 and administration fees of \$395, and that [Lender 2] would be receiving a lender fee of \$850.

114. Mr. Stewart also completed a Form 9 Lender Disclosure Statement, and Form 10 conflict of interest disclosure statement in respect of [Property 14], which he requested that [Lender 2] sign on July 22, 2022.

115. On August 5, 2022 [Law Firm 1] issued a cheque to First Expense in the amount of \$2,645.00 to First Expense in relation to the [Property 14] mortgage.

[Property 15], Mission

116. On August 18, 2022 Mr. Stewart, on First Expense letterhead, issued a mortgage commitment letter for a \$175,000 mortgage for the property at [Property 15] (the "[Property 15] property").

117. On August 19, 2022, Mr. Stewart sent [Lawyer 1] and [Law Firm 1] instructions regarding the mortgage, including that First Expense would receive a lending fee of \$1,500, as well as an administration fee of \$395. In those instructions Mr. Stewart noted that First Expense's fee had been reduced by \$2,000 to account for a commitment fee that had already been received.

118. [Law Firm 1] issued a cheque to First Expense in the amount of \$1,895 on August 25, 2022 in relation to the [Property 15] mortgage.

[Property 17], Prince Rupert

119. On August 18, 2022 Mr. Stewart, on First Expense letterhead, issued a mortgage commitment letter for a \$205,000 mortgage for the property at [Property 17]. Mr. Stewart sent [Lawyer 1] and [Law Firm 1] an email providing instructions regarding the mortgage on August 19, 2022. In that email Mr. Stewart indicated that First Expense would receive a fee in the amount of \$1,050 (reduced by \$1,000 due to a commitment fee payment having already been received), and an administrative fee of \$395.

120. [Law Firm 1] issued a cheque to First Expense in the amount of \$1,445 on August 31, 2022, in relation to the [Property 17] mortgage.

[Property 18], Delta

121. On August 26, 2022 Mr. Stewart, on First Expense letterhead, issued a mortgage commitment letter for a \$100,000 mortgage for the property located at [Property 18]. Mr. Stewart sent [Lawyer

1] and [Law Firm 1] an email providing instructions regarding that mortgage on September 1, 2022. In that email Mr. Stewart noted that First Expense would be receiving a lending fee of \$3,500 and an administration fee of \$395.

122. [Law Firm 1] issued a cheque to First Expense in the amount of \$3,895 on September 20, 2022, in relation to the [Property 18] mortgage.

[Property 20], Langley

123. On September 22, 2022 Mr. Stewart, on First Expense letterhead, issued a mortgage commitment letter for a \$90,000 mortgage for the property at [Property 20]. Mr. Stewart sent [Lawyer 1] and [Law Firm 1] an email providing instructions regarding that mortgage on October 1, 2022. In that email Mr. Stewart noted that First Expense would be receiving a lending fee of \$4,400 (reduced by \$1,000 due to having already received a commitment fee), and an administration fee of \$395.

124. [Law Firm 1] issued a cheque to First Expense in the amount of \$4,795 on October 19, 2022 in relation to the [Property 20] mortgage.

[Property 21], Saltspring Island

125. On October 17, 2022, Mr. Stewart, on First Expense letterhead, issued a mortgage commitment letter for a \$15,000 mortgage for the property at [Property 21]. Mr. Stewart then, on October 20, 2022, sent [Lawyer 1] and [Law Firm 1] an email providing instructions regarding that mortgage. In that October 20, 2022 email, Mr. Stewart instructed [Lawyer 1] that First Expense would receive lending fees of \$1,500, and an administration fee of \$395.

126. On November 10, 2022, [Law Firm 1] issued a cheque to First Expense in the amount of \$1,895, in relation to the [Property 21] mortgage.

[Property 22], Surrey

127. On October 6, 2022 Mr. Stewart, on First Expense letterhead, issued a mortgage commitment letter for a \$65,000 mortgage for the property at [Property 22].
128. Mr. Stewart then, on October 20, 2022, wrote [Lawyer 1] and [Law Firm 1] to provide instructions regarding that mortgage. In his October 20, 2022 email Mr. Stewart instructed [Law Firm 1] that First Expense was to receive a lending fee of \$950, and an administration fee of \$395.
129. On October 27, 2022, [Law Firm 1] issued a cheque to First Expense in the amount of \$1,345, in relation to the [Property 22] mortgage.

[Property 23], Comox

130. On October 11, 2022 Mr. Stewart, on First Expense letterhead, issued a mortgage commitment letter for a \$100,000 mortgage for the property at [Property 23].
131. On October 18, 2022 Mr. Stewart wrote to [Lawyer 1] and [Law Firm 1] in order to provide instructions regarding that mortgage. In his instruction email Mr. Stewart indicated that First Expense would not be receiving a lending fee due to having already received a "good faith deposit", and that First Expense would be receiving a \$105 administration fee, which had also been reduced as a result of having received a good faith deposit.
132. [Law Firm 1] issued a cheque to First Expense, in the amount of \$105, in relation to the [Property 23] mortgage, on October 31, 2022.

[Property 24], Chase

133. On November 9, 2022 Mr. Stewart, on First Expense letterhead, issued a mortgage commitment letter for a \$300,000 mortgage for the property at [Property 24]. That commitment letter was signed by the borrowers on November 12, 2022.
134. Mr. Stewart subsequently wrote to [Lawyer 1] and [Law Firm 1], on November 15, 2022, in order to provide instructions regarding that mortgage. In his instruction email, Mr. Stewart indicated

that First Expense would receive a lending fee of \$6,000, along with an administration fee of \$395.

135. On December 2, 2022, [Law Firm 1] issued a cheque to First Expense in the amount of \$6,395, in relation to the [Property 24] mortgage.

Discussion

Applicable Law

136. Section 1 of the MBA defines “mortgage broker” as a person who does any of the following:

(a) carries on a business of lending money secured in whole or in part by mortgages, whether the money is the mortgage broker's own or that of another person;

(b) holds himself or herself out as, or by an advertisement, notice or sign indicates that he or she is, a mortgage broker;

(c) carries on a business of buying and selling mortgages or agreements for sale;

(d) in any one year, receives an amount of \$1 000 or more in fees or other consideration, excluding legal fees for arranging mortgages for other persons;

(e) during any one year, lends money on the security of 10 or more mortgages;

(f) carries on a business of collecting money secured by mortgages

137. “Submortgage broker” is also defined at section 1 of the MBA, to mean any person who actively engaged in any of the things referred to in the definition of mortgage broker and is employed, either generally or in a particular case, by, or is a director or a partner of, a mortgage broker.

138. Section 21(1) of the MBA prohibits carrying on business as a mortgage broker or submortgage broker without registration; carrying on business as a mortgage broker otherwise than in the person's registered name; carrying on business other than at a person's registered address; advertising other than under the person's registered name; and employing a submortgage broker who is not registered.

139. Although the prohibitions in section 21 are categorized as offences, section 8 of the MBA permits the Registrar to take enforcement actions against unregistered individuals for carrying on business as a mortgage broker or submortgage broker without being registered; and against registered persons for various conduct including where a registered mortgage or submortgage broker carries on business in breach of the MBA, its regulations, or a condition of registration; or otherwise conducts business in a manner prejudicial to the public interest.

140. Specifically, section 8(1.4) sets out that if the Registrar is of the opinion that a person “was or is carrying on business as a mortgage broker or submortgage broker without being registered as required” by the MBA, the Registrar may order the person to cease a specified activity; order the person to carry out specified actions that the Registrar considers necessary to remedy the situation; and may order the person to pay an administrative penalty of up to \$50,000.

141. Section 11 of the MBA provides that the registration provisions of the MBA do not apply to a number of entities and individuals acting as mortgage brokers or submortgage brokers, including insurance companies, savings institutions, and members of the Law Society of British Columbia if the loan transaction is made in the course of and part of the member's practice.

Did Mr. Stewart carry on business as a mortgage broker or submortgage broker without being registered to do so, and without being exempted from registration from July 13, 2022 to February 3, 2023?

Did First Expense carry on business as a mortgage broker or submortgage broker without being registered to do so, and without being exempted from registration from July 13, 2022 to February 3, 2023?

142. I find that both Mr. Stewart and First Expense carried on business as a mortgage broker or submortgage broker without being registered to do so, and without being exempt from registration from July 13, 2022 to February 3, 2023. My reasons for having reached this conclusion follow.
143. At the outset, I note that there is no dispute that Mr. Stewart and First Expense were not registered as mortgage brokers or submortgage brokers during the time period in question. Had Mr. Stewart disputed that point, I would have found the evidence to show that First Expense had not, at any point in time, been registered under the MBA, and that Mr. Stewart was not only not registered during the period of time in question, but that he was acutely aware of that fact as a result of BCFSA's investigation.
144. I note further that neither Mr. Stewart nor First Expense have taken the position that they were exempt from registration pursuant to section 11. I do not consider that any of the exemptions from registration apply in this case.
145. I turn to the question of whether Mr. Stewart and First Expense carried on business as a mortgage broker or submortgage broker without being registered to do.
146. I find the evidence to overwhelmingly indicate that Mr. Stewart and First Expense were carrying on business as a submortgage broker or mortgage broker throughout the period from July 13, 2022 to February 3, 2023.
147. In reaching that conclusion, I note that in addition to the definition of mortgage broker set out at section 1 of the MBA, I have also taken into consideration previous decisions regarding the types of conduct that may constitute arranging mortgages as contemplated at item (d) of the definition of mortgage broker.
148. In my view, activities such as promoting one's services as a mortgage broker, soliciting mortgage business from the public; taking mortgage applications; obtaining documents which support a mortgage application; engaging in direct communication with clients including activities such as explaining mortgages, mortgage products, mortgage documents and/or disclosure statements; obtaining client signatures on forms; and providing instructions to legal counsel regarding distribution of mortgage funds, all constitute activities which are captured by item (d): see *Pham (Re)*, 2024 BCRMB 1, at para 100-103; *Horizon Financial Services Ltd. v. British Columbia (Registrar of Mortgage Brokers)*, [1990] BCCO No. 4, page 5.
149. I note that, in the circumstances of this case, I do not consider it necessary to consider the actions of Mr. Stewart and First Expense independently. Mr. Stewart is the sole director and officer of First Expense. As set out above, he regularly signed correspondence and forms on behalf of First Expense, and First Expense was the mortgage broker referenced in all of the transactions set out in Schedule A of the Notice of Hearing.
150. I have summarized above the documentary evidence obtained by BCFSA through its investigation into Mr. Stewart. Again, that documentary evidence was obtained from [Law Firm 1], via permission from Mr. Stewart; from [Lender 1], a registrant and private lender; from the registrants [Registrant 2], [Registrant 3], [Designated Individual 2] and [Registrant 1]; and from [Lender 2] and [Lender 3], private lenders.
151. I am satisfied that the documents that have been entered into evidence before me are reliable and are entitled to significant weight. In his testimony and submissions at the hearing of this matter Mr. Stewart did not indicate that he was of the view that any of the documentary evidence which appeared to indicate that he and First Expense were involved, throughout the period from July 13, 2022 to February 3, 2023, in mortgage broker and submortgage broker activities, were not reliable. Rather, Mr. Stewart admitted the authenticity of those documents.

152. Mr. Stewart, in his testimony, went so far as to indicate that he was willing to admit that he and First Expanse had breached section 8(1.4) of the MBA by carrying on business as a mortgage broker or submortgage broker without being registered as required by the MBA.
153. Regardless of Mr. Stewart's admissions in his testimony, I consider the documents provided by the above noted individuals over the course of the investigation into Mr. Stewart and First Expanse make it exceedingly clear that throughout the period of time in question, Mr. Stewart was actively seeking to fund and place mortgages with private lenders. In short, I consider the documentary evidence to make show that Mr. Stewart was both arranging and holding himself and First Expanse out as mortgage brokers.
154. First, I consider the evidence to lead to a conclusion that Mr. Stewart was actively holding himself and First Expanse out to other registrants as being available to carry on the business of a mortgage broker.
155. I note first in this regard, the October 2022 email exchange with [Registrant 2], in which Mr. Stewart clearly indicates to [Registrant 2] that he is available to assist in arranging a mortgage and that he was working out of his own firm that he had started. Similarly, I note the September 12, 2022 email exchange with [Registrant 1], in which Mr. Stewart indicated that he was able to arrange "smaller deals quite regularly" and that he could do third mortgages, as well as providing potential rates for such mortgage transactions.
156. I further find that Mr. Stewart was holding himself, and First Expanse, out as a mortgage broker, when he provided the purported business authorization document to [Lender 1].
157. That purported business authorization document specifically indicated that Mr. Stewart was a registered submortgage broker, and that he was registered with First Expanse. Given the evidence from [Investigator 1], which was that Mr. Stewart was not registered at the time he provided the business authorization document to [Lender 1], as well as the fact that the business authorization document contained an incorrect registration number for Mr. Stewart and an incorrect summary of his education history, I am satisfied that this document was a fabrication, and that Mr. Stewart, in providing it to [Lender 1], was intending to hold himself out as a registered mortgage broker, when he knew he was not in fact registered, contrary to section 8(1.4) of the MBA.
158. In addition to holding himself out to other registrants as being a mortgage broker, I consider that in repeatedly issuing commitment letters and fixed credit disclosures statements, completing forms required by the Registrar such as a Form 9 and Form 10, providing advice to lenders on the merits of applications, communicating with borrowers and their agents with respect to mortgages, and in providing instructions on mortgage payouts, Mr. Stewart was not only holding himself and First Expanse out as a mortgage broker, but he was arranging mortgages for other persons.
159. In my view, in each transaction in which Mr. Stewart issued, on behalf of First Expanse, a commitment letter, or in which he completed a Form 9 and Form 10 and signed it as a mortgage broker, Mr. Stewart and First Expanse must be found to have been holding themselves out as a mortgage broker and arranging mortgages.
160. I note, in reaching that conclusion, that the evidence before me on all but one of the 24 transactions proceeded on by BCFSA contains either a commitment letter signed by Mr. Stewart on behalf of First Expanse, or a Form 9 or a Form 10 signed by Mr. Stewart on behalf of First Expanse, or both.
161. The only property of the 24 transactions brought forward by BCFSA in this hearing which did not have documentary evidence of a mortgage commitment letter or a signed Form 9 or Form 10 was the transaction involving [Property 2] (the "[Property 2] property").
162. With respect to [Property 2], Mr. Stewart emailed [Lender 2] setting out the terms of a mortgage that the borrowers would accept, and included information including a property appraisal, contract of purchase and sale documents, a mortgage application and a title search. I am satisfied,

having regard to all of the circumstances that Mr. Stewart, in writing [Lender 2] to enquire as to whether he would be interested in funding the mortgage for [Property 2], was holding himself out as a mortgage broker.

163. It is not, however, clear to me that [Lender 2], would have considered from the information provided to him by Mr. Stewart in respect of [Property 2], that First Expense was involved in the transaction at all. I note that Mr. Stewart used his personal email, rather than his First Expense email, when he contacted [Lender 2] in respect of [Property 2]. As a result of the limited information provided by Mr. Stewart to [Lender 2], and the limited information before me regarding this transaction, I am not satisfied that BCFSA has proven that First Expense was engaged in mortgage broker activities with respect to [Property 2].
164. Finally, the documentary evidence before me further makes clear that Mr. Stewart was in fact successful in his endeavours to hold himself and First Expense out as mortgage brokers, and in arranging mortgages in a manner which led to him receiving fees well in excess of \$1,000 in any one year.
165. As described above, the evidence before me set out a significant number of transactions in which the mortgage transactions in fact completed, and for which Mr. Stewart, by way of First Expense, received payment. Specifically, I note that the cheques from [Law Firm 1] to First Expense during the period from July 13, 2022 to February 3, 2023 total at least \$56,000.

Conclusion

166. I find that the allegations against Mr. Stewart and First Expense have been proven on a balance of probabilities.

167. Specifically with respect to Mr. Stewart I find that:

- Contrary to section 8(1.4) of the *Mortgage Brokers Act*, Mr. Stewart, having been formerly registered, carried on business as a mortgage broker or submortgage broker without being registered to do so, and without being exempt from registration pursuant to section 11 of the MBA, in that from approximately July 13, 2022 to February 3, 2023 he carried out one or more of the following mortgage broker activities generally and with respect to all of the 24 properties identified at paragraph 14 of this decision:
 - i. Carrying on a business of lending money secured in whole or in part by mortgages;
 - ii. Holding out as, or by an advertisement, notice or sign indicating that Mr. Stewart is, a mortgage broker;
 - iii. Carrying on a business of buying and selling mortgages or agreements for sale;
 - iv. In any one year, receiving an amount of \$1,000 or more in fees or other consideration, excluding legal fees, for arranging mortgages for other persons;
 - v. During any one year, lending money on the security of 10 or more mortgages;
and
 - vi. Carrying on a business of collecting money secured by mortgages.

168. With respect to First Expense I find that:

- Contrary to section 8(1.4) of the *Mortgage Brokers Act*, First Expense carried on business as a mortgage broker in British Columbia without being registered to do so, and without being exempt from registration pursuant to section 11 of the MBA in that, from approximately July 13, 2022 to February 3, 2023, it carried out one or more of the following mortgage broker

activities generally and with respect to 23 of the 24 properties identified at paragraph 14 of this decision:

- i. Carrying on a business of lending money secured in whole or in part by mortgages;
- ii. Holding out as, or by an advertisement, notice or sign indicating that First Expanse is, a mortgage broker;
- iii. Carrying on a business of buying and selling mortgages or agreements for sale;
- iv. In any one year, receiving an amount of \$1,000 or more in fees or other consideration, excluding legal fees, for arranging mortgages for other persons;
- v. During any one year, lending money on the security of 10 or more mortgages;
- vi. Carrying on a business of collecting money secured by mortgages; and
- vii. Permitting Mr. Stewart to hold himself out as a mortgage broker with First Expanse while neither was registered under the MBA.

Penalty

169. I retain jurisdiction to determine issues of penalty and costs.

170. BCFSA and Mr. Stewart must advise the Hearing Coordinator, by April 26, 2024 of any request for an in-person hearing respecting penalty and costs, and why an in-person hearing is necessary or desirable. If an in-person hearing is directed, the Hearing Coordinator will contact the parties to arrange a suitable hearing date.

171. Unless an in-person hearing is directed, any further evidence will be received through affidavits, and submissions respecting penalty and costs will be received in writing. If no in-person hearing is requested by April 26, 2024, the Hearing Coordinator will contact the parties with a submission schedule.

Issued at Kelowna, British Columbia, this 16 day of April, 2024.

“Original signed by Andrew Pendray”

Andrew Pendray
Chief Hearing Officer