

FINANCIAL SERVICES TRIBUNAL

IN THE MATTER OF the *Mortgage Brokers Act*, R.S.O. 1990, Chapter M. 39 as amended by the *Financial Services Commission of Ontario Act*, 1997, S.O. 1997, c.28 (the "Act");

IN THE MATTER OF the Superintendent's Notice of Proposal to Revoke the registration of Global Mortgage Link Corp.;

AND IN THE MATTER OF a request for hearing pursuant to subsection 7(2) of the Act.

BETWEEN:

**PETER CHATT
GLOBAL MORTGAGE LINK CORP.**

Applicant

-and-

SUPERINTENDENT OF FINANCIAL SERVICES

Respondent

BEFORE:

Ms. Martha Milczynski
Chair

APPEARANCES:

For Peter Chatt and Global Mortgage Link Corp.
Mr. H. J. Doan

For the Superintendent of Financial Services
Mr. Stephen Scharbach

HEARD:

March 4, 2003

ORDER

Introduction

Global Mortgage Link Corp. (the "Applicant") has requested this hearing before the Financial

Services Tribunal (the "Tribunal" or "FST") in respect of the Superintendent of Financial Services' (the "Superintendent") Notice of Proposal dated September 18, 2002 (the "NOP") to revoke the registration of the Applicant under the provisions of the *Mortgage Brokers Act*, R.S.O. 1990, c.M.39.

The Superintendent's grounds for issuing the NOP relied upon the conviction of Mr. Peter Chatt of the charge of theft over \$5000, in that Mr. Chatt was found to have stolen some \$125,000 from a business partner. Mr. Chatt is the sole shareholder and director of the Applicant corporation. Section 5 of the *Mortgage Brokers Act* provides that in the case of a corporation, the Superintendent may suspend or revoke a registration:

...where the past conduct of its officers or directors affords reasonable grounds for belief that its business will not be carried on in accordance with law and with integrity and honesty.

Motion for Stay of FST Proceedings

Following his conviction but prior to sentencing, Mr. Chatt brought a motion to the court seeking a stay of the proceedings before the court pursuant to subsections 11(b) and 24 of the *Canadian Charter of Rights and Freedoms*. Mr. Chatt relies upon delay in the time charges were laid and prosecuted in support of this motion.

Pending disposition of Mr. Chatt's delay motion, the Applicant has brought a motion before the Tribunal for a stay of the hearing respecting the Superintendent's NOP to revoke the Applicant's registration.

For the reasons set out below, the Applicant's request for a stay of the FST proceedings is denied, and the Applicant's motion is dismissed.

Discussion

Under the *Financial Services Commission of Ontario Act*, 1997, S.O., c.28, (the "FSCO Act") one of the purposes of the Commission is to "provide regulatory services that protect the public interest and enhance public confidence in the regulated sectors".

With respect to the Applicant, its sole shareholder and director has been convicted of a serious criminal offence involving dishonesty and theft. Mr. Chatt's evidence was described as "entirely untrustworthy", in respect of which the Court noted:

- "Mr. Chatt's evidence appears vague and evasive on numerous occasions."
- "The accused, I find, deliberately attempted to mislead the court in falsely asserting that he and his family resided at...which was merely a letter drop mailing address, whereas his home and residence was at...Chatt clearly showed that he was fully prepared to lie to the court".
- "Such evidence in cross-examination by the accused left the very clear impression that the

accused was deliberately attempting to deceive the court, or at best to be conveniently vague when it suited his interests".

- "I can only find that Chatt's evidence throughout shows the imprint of a plethora of deceit and falsehoods. I reject his evidence as entirely untrustworthy".

Notwithstanding Mr. Chatt's outstanding motion for a stay of the court's proceedings, a conviction is operative from the moment it is imposed. The Tribunal also recognizes that Mr. Chatt may also appeal from his conviction and/or sentence. Pending the final disposition of Mr. Chatt's motion for a stay and his appeal rights, however, the conviction remains operative.

In this case therefore, the Tribunal must consider that Mr. Chatt has been convicted of a serious criminal offence involving the theft of a significant amount of money and findings by the court that relate directly to his honesty and integrity. The Tribunal also recognizes, however, that to deny the Applicant's motion for a stay of these proceedings will have a severe and negative impact on its ability to carry on the business of mortgage brokering, and may in fact cause it to cease.

The Tribunal must weigh these competing interests carefully. Having taken into account the requirements of the *Mortgage Brokers Act* and the purposes of the *FSCO Act* and all of the facts and surrounding circumstances of this case as presented to the Tribunal, the Tribunal concludes that the interest of the public must be protected, particularly having regard to the trust placed in mortgage brokers and their dealing with third party funds or financial interests.

Order

Accordingly, as noted above, the Applicant's motion for a stay of the FST proceedings is dismissed.

DATED at the City of Toronto, this Monday April 7, 2003.

"M. Milczynski"

Martha Milczynski
Chair