



MBABC

Code of Ethics and Standards of Professional Conduct

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FORWARD

The Code of Ethics is directed primarily at ensuring and safeguarding the quality of professional services provided by the Members of The Mortgage Brokers Association of British Columbia (MBABC) to the public it serves; secondly, it is directed at achieving orderly and courteous professional conduct among Members of the MBABC in the provision of mortgage brokering services.

The Code of Ethics provides a set of standards which Members can regard as a minimum level of acceptable professional conduct. The Code clarifies the nature of behaviour professional colleagues deem essential to maintain the reputation of the profession. The Code provides assurance to the public, that the MBABC is imposing on its Members high professional standards by which they are willing to be judged. Further, the Code forms the basis of disciplinary procedures through which allegations of professional misconduct are addressed.

DEFINITIONS

“Code”: means the Code of Ethical Principles and Professional Conduct.

“MBABC”: means the Mortgage Brokers Association of British Columbia.

“Association”: means the Mortgage Brokers Association of British Columbia.

“Act”: means the Mortgage Brokers Act of British Columbia

“Registrar” means the Registrar of the Mortgage Brokers Act of British Columbia

“Regulations”: means the Mortgage Brokers Act Regulations.

“Amendments”: means the Mortgage Brokers Act Amendments.

“Board”: means the Board of Directors of the MBABC.

“Client”: The person or entity engaging a member for the performance of professional services.

“Member”: an individual who holds membership in good standing within MBABC.

GENERAL PRINCIPLES

The standards established by this Code are premised on a number of general principles - fundamental statements of acceptable professional conduct required of a Member of the MBABC - which can be stated as follows:

- (i) Members shall conduct themselves at all times in a manner which will maintain the good reputation and integrity of the profession and the MBABC and their ability to serve the public interest.
- (ii) Members shall not engage in conduct or perform any act relevant to the practice of the profession that, having regard to all of the circumstances, would reasonably be regarded by Members as disgraceful, dishonourable or unprofessional.
- (iii) Members shall perform their professional services with integrity, good faith and due care and shall sustain their professional competence by keeping informed of, and complying with, developments in practice standards.
- (iv) Members who are engaged to provide professional services where there is an expectation of independence shall hold themselves free of any influence, or interest in respect of the client's affairs, which impairs their professional judgment or objectivity or which, from a public perspective, may reasonably be perceived to have that effect.
- (v) Members have a duty of confidentiality in respect of the affairs of any client or former client and shall not disclose, without proper cause, any information obtained in the course of one's duties, nor shall they in any way exploit such information to their advantage.
- (vi) The development of a Member's practice shall be founded upon a reputation for professional excellence. The use of methods of advertising which do not uphold professional good taste, or are misleading are not in keeping with this principle.
- (vii) A Member shall treat other Members with the courtesy and consideration due between professional colleagues and which, in turn, the Member would wish to be accorded by the other Member.

200 GENERAL STANDARDS OF CONDUCT

201 COMPLIANCE WITH BY-LAWS, REGULATIONS AND CODE

201.1

Members shall comply with the By-laws, Regulations, and the Code of Ethics and Standards of Professional Conduct of the MBABC as they may be constituted from time to time and with any order or resolution passed by the MBABC.

Members will conduct business within the applicable laws of the Province of British Columbia and Canada and the governing regulations of the Financial Institutions Commission

202 REPUTATION OF THE PROFESSION

202.1

Members shall conduct themselves at all times in a manner which will maintain the good reputation of the profession and of the MBABC and their ability to serve the public interest.

202.2

Members shall not engage in conduct or perform any act relevant to the practice of the profession that, having regard to all of the circumstances, would reasonably be regarded as disgraceful, dishonourable or unprofessional.

203 INTEGRITY AND DUE CARE

203.1

Members shall perform their professional services with integrity, good faith and due care.

203.2

Members have a duty, in the practice of their profession, to be competent, conscientious, knowledgeable, diligent, and efficient.

204 MAINTAINING PROFESSIONAL COMPETENCE

Members shall maintain professional competence by keeping informed of, and complying with, developments in the MBABC's Practice Standards and Recommendations in all functions in which they practice. Members shall not undertake to provide professional services which they are not competent to provide by virtue of training or experience or are unable to become competent without undue delay, risk or expense to the client.

205 FALSE OR MISLEADING DOCUMENTS AND ORAL REPRESENTATIONS

Members shall not:

- (i) sign or associate themselves with any letter, report, statement or representation which they know, or should know, is false or misleading, or
- (ii) make any oral report, statement or representation which they know, or should know, is false or misleading.
- (iii) knowingly omit information that would be relevant to the decision making ability of the user of such information

206 COMPLIANCE WITH THE CODE OF ETHICS AND STANDARDS OF PROFESSIONAL CONDUCT

206.1

Members shall perform their professional services in accordance with the generally accepted standards of the practice of the profession, including the Code of Ethics as adopted by the MBABC from time to time.

206.2

Members shall encourage a company with which the Member is associated as a partner, principal, director or officer to abide by the Code of Ethics.

206.3

Members who employ or retain and directly supervise non-members (including for the provision of professional services) shall be responsible for any failure of such non-members to abide by the Code of Ethics

207 CONFIDENTIALITY OF INFORMATION

207.1

A Member shall hold in strict confidence all information concerning the business and affairs of a client acquired in the course of the professional relationship. No such information shall be disclosed to others except with the consent of such client or where required by law to do so. In addition, such information shall not be used by the Member for personal advantage or the advantage of any other person.

207.2

Notwithstanding Rule 207.1, a Member shall be entitled to disclose information which is otherwise confidential in order to defend the Member or the associates, partners or employees of such Member against alleged professional misconduct, or in any legal proceeding for recovery of unpaid professional fees and disbursements, or by court order, but only to the extent necessary for such purpose.

208 DUTY TO REPORT BREACH

A Member shall notify the Board, or its delegated authority, of any apparent breach of the Code of Ethics and Standards of Professional Conduct, or any event which calls into question the competence, reputation or integrity of a Member.

209 ADVERTISING AND ENDORSEMENTS

209.1

A Member shall not engage in advertising or solicitation of professional engagements using unwarranted, inaccurate or misleading claims or promises. The development of a Member's practice shall be founded upon a reputation for professional excellence.

209.2

A Member shall not advertise, directly or indirectly, in any manner

- (i) which the Member knows, or should know, is false or misleading,
- (ii) which contravenes professional good taste or fails to uphold normal professional courtesy,
- (iii) which make unfavourable reflections on the competence or integrity of the profession, the MBABC or any Member thereof, or
- (iv) which involves a statement, the contents of which the Member cannot substantiate.

209.3

All advertising must be in accordance with requirements of the Mortgage Brokers Act, any advertising bulletin or directive issued by the Registrar of Mortgage Brokers, and/or any other applicable legislation.

210 REFERENCE TO MEMBERSHIP

Members of the MBABC may make reference to their affiliation with the MBABC but shall, at all times, ensure that such reference accurately reflects the association with the MBABC.

300 RELATIONS WITH FELLOW MEMBERS

301 COURTESY AND CONSIDERATION

A Member shall treat other Members with the courtesy and consideration due between professional colleagues and which, in turn, the Member would wish to be accorded by the other Members.

302 FALSE OR MALICIOUS STATEMENTS

A Member shall not injure or attempt to injure by false or malicious statements, or by innuendo, the professional reputation or prospects of any Member.

303 LEGAL ACTION AGAINST ANOTHER MEMBER

A Member shall, having commenced a legal action against another Member which might tend to bring the profession or the MBABC into disrepute, inform the MBABC of the general details the action, subject to advice of counsel.

400 ORGANIZATION AND CONDUCT OF A PROFESSIONAL PRACTICE

401 TERMS OF ENGAGEMENT

It is good practice to have a written contract between the Member and client, covering the nature of the assignment, the subject matter of the assignment, scope of work, and nature or basis for the fees.

401.1

A member may charge fees provided the following conditions are met

- the nature of fees payable to the Member must be discussed with the borrower at the onset of negotiations, and;
- The amount of the fees to be charged may take into account the borrower's credit standing, employment, overall financial stability, the value and condition of the property to be mortgaged, general market conditions, and;
- A Member must not take advantage of the borrower's situation by charging more than is reasonable given the circumstances of the transaction, and;
- A Member shall provide written disclosure to the borrower of all fees payable by the borrower that are relevant to the mortgage transaction, including fees payable by the borrower to the mortgage broker and/or the lender, in the prescribed form and within the time frame required under the Act and/or as may be required under any other applicable legislation.

401.2

A Member shall provide written disclosure to the borrower of the source of all referral fees received by the Member, or fees of a similar kind that are relevant to the mortgage transaction. This disclosure is to be provided in the prescribed form and within the time frame required under the Act and/or as may be required under any other applicable legislation.

402 WITHDRAWAL OF SERVICES

A Member must immediately terminate the Member's relationship with a client if:

- (i) the client instructs the Member to do so, subject to terms and conditions of any written or oral agreement between the borrower and the member
- (ii) the client instructs the Member to do anything that is illegal

- (iii) the client has provided false information that could deceive a lender or other person

A Member shall advise any parties relevant to the mortgage transaction that the Member is no longer acting on behalf of the client.

404 CONFLICT OF INTEREST

Members shall inform their clients of any business connections, any affiliations, and any interest of such Members and of any firm or entity in which they have an interest, of which the client might reasonably expect to be informed.

500 DISCIPLINE PROCEDURE

501 VIOLATION OF BY-LAWS, CODE OF ETHICS AND STANDARDS OF PROFESSIONAL CONDUCT

Disciplinary action against any Member may be taken in the event of any violation of specific provisions of the MBABC's By-Laws, Regulations, Code of Ethics and Standards of Professional Conduct, or the spirit and intent set forth therein.

502 JURISDICTION OF ETHICS COMMITTEE

The Discipline Procedure falls under the jurisdiction of the Ethics Committee as appointed by the Board.

503 CONVICTION OF CRIMINAL OR REGULATORY OFFENCE

Any Member who has been convicted of any criminal or regulatory offence or has pleaded guilty to any such offence must disclose the conviction or plea to the MBABC. The Member may be charged with professional misconduct by the MBABC and disciplinary procedures commenced as provided in the By-Laws of the MBABC.

504 DISCIPLINARY ACTIONS

Members violating this Code may be subjected to one or more of the following as decided by Ethics Committee and ratified by the Board.

- a) Suspension of membership in the MBABC
- b) Permanent expulsion from the MBABC
- c) Written reprimand from the Ethics Committee
- d) Referral of the matter to the Registrar.

505 HEARING AND APPEAL

Members that are under review by the Ethics Committee for possible violation of this Code, and who may be subject to disciplinary action as per section 504, are entitled to a

hearing with the Ethics Committee prior to any decision being finalized and may further appeal any decision of the Ethics Committee to the Board.