

## *MORTGAGE BROKERS – The USE of TRADE NAMES*

### REGISTRATION INFORMATION

The *Mortgage Brokers Act* requires the Registrar of Mortgage Brokers to maintain a register containing the legal name of every mortgage broker, and any trade name used by a broker to carry on business.

Under section 14(2) of the Act, a mortgage broker must publish the name under which he or she is registered in every advertisement, circular, pamphlet or other similar material used in connection with his or her business. In addition, under section 21(1)(b), **it is an offence for a mortgage broker to carry on business other than in its registered name.**

#### Mortgage Broker Organizations and Names

Persons who carry on mortgage brokering business without any formal legal organization are sole proprietors, and their legal name is simply their full legal name. If two or more persons carry on business together without any formal legal organization, they will create a partnership. The Registrar requires that all partnerships register a firm name with the Registrar of Companies, and obtain mortgage broker registration under its firm name. Most mortgage brokers carry on business in the form of a company, which has been incorporated under provincial or federal legislation. The legal name of a mortgage broker company is its incorporated name, which will always include the words “incorporated”, “limited”, “company”, “corporation”, or their abbreviations.

A mortgage broker that wants to identify itself in writing and verbally by its **legal name only** is not required to take any further action with respect to the registration of trade names.

#### Trade Name

If a mortgage broker wants to identify itself by a name that is different from its legal name, it must register that name with the Registrar of Companies **and** the Registrar of Mortgage Brokers. The alternate name is sometimes known as a “trade name”, “a doing business as name”, a “firm name”, a “carrying on business as name” or a “business name”. For ease of reference we will refer to this name as a trade name.

Further information on registering a trade name may be obtained by contacting:

**Registrar of Companies**

PO Box 9431

STN PROV GOVT

Victoria BC V8W 9V3

Telephone: 250-356-8648

Trademark

Trademarks may be one word, multiple words, slogans, designs, letters, numbers, symbols or any combination of these. Trademarks are generally used only in printed materials and not verbally.

**A trademark should not be confused with a trade name.** A trademark is a symbol used to distinguish the goods and services of a business from those of another, whereas a trade name is used to identify the business.

Trademarks are registered under the Canadian *Trade-marks Act*. Further information on registering a trademark can be obtained by contacting:

**Canadian Intellectual Property Office (CIPO)**

Industry Canada

Place du Portage I

50 Victoria Street, Room C-114

Gatineau, Quebec K1A 0C9

Client Service Centre: (819) 997-1936

Trademark and Legal Name

If a mortgage broker either owns a trademark or is authorized to use a trademark by the trademark owner, it may use a trademark **in addition to** its legal name. A mortgage broker that uses a trademark **and** identifies itself in writing and verbally by its **legal name only** is not required to take any further action with respect to the registration of names. All printed material must show the legal name of the mortgage broker in addition to the trademark.

For example, ABC Mortgage Corporation may be authorized to use the registered trademark:

§ ECONOMY MORTGAGE

Accordingly, ABC Mortgage Corporation may have a business card or advertisement that contains both the legal name and the trademark:

§ ECONOMY MORTGAGE

John Smith	1234 Oak Street
Submortgage Broker	Princeton BC
<b>ABC Mortgage Corp.</b>	V0X 1J0

It would not be permissible for the company to identify itself with just the trademark alone as the mortgage broker's legal name must appear in all written material. Furthermore, the mortgage broker's telephone must be answered "ABC Mortgage" and **not** "Economy Mortgage".

#### Trademark and Trade name

In the event that the mortgage broker wishes to use a trade name that is contained in a trademark or part of a trademark, then the mortgage broker must ensure that it registers the trade name with both the Registrar of Companies and the Registrar of Mortgage Brokers. Once registered, the company can answer the telephone using either the legal name or trade name and the trademark may be used in advertisements along with either the legal name or trade name.

For example, ABC Mortgage Corporation may be authorized to use the trademark, § ECONOMY MORTGAGE and may wish to identify itself in writing or verbally as, "Economy Mortgage". Once ABC Mortgage Corporation registers the trade name "Economy Mortgage" with the Registrar of Companies and the Registrar of Mortgage Brokers, they may have a business card or advertisement that contains the trade name and the trademark:

§ ECONOMY MORTGAGE

John Smith	1234 Oak Street
Submortgage Broker	Princeton BC
<b>Economy Mortgage</b>	V0X 1J0

Or alternatively, this business card or advertisement may contain the legal name and the trademark:

**\$ ECONOMY MORTGAGE**

John Smith	1234 Oak Street
Submortgage Broker	Princeton BC
<b>ABC Mortgage Corp.</b>	VOX 1J0

ABC Mortgage Corporation may answer their telephone as either “ABC Mortgage” or “Economy Mortgage”.

Similar Names – Franchise Arrangements

The Registrar of Mortgage Brokers will not register a trade name or legal name that so nearly resembles the name of another mortgage broker that, in the opinion of the Registrar, it is likely to confuse or mislead the public.

Accordingly, in the context of franchised operations, where the franchisee wants to identify itself with the franchise name (verbally and/or in writing), it must add a distinctive identifier, such as the geographical location or some other distinctive element, and register this as a trade name with both the Registrar of Companies and the Registrar of Mortgage Brokers.

For example there may be two LIONS LENDING franchises operating as mortgage brokers in British Columbia, Prince George Mortgage Brokers Inc. and 123456 BC Ltd. If both were doing business as “LIONS LENDING”, the public would not be able to identify which of the LIONS LENDING franchises they were dealing with. Accordingly, each must add a distinctive identifier to “LIONS LENDING” such as:

- Prince George Mortgage Brokers Inc. doing business as “LIONS LENDING -Prince George”
- 123456 BC Ltd. doing business as “LIONS LENDING – Select”

Neither mortgage broker company may answer its telephone as, “LIONS LENDING”. Each must identify itself with either its full legal name or its registered trade name as outlined above.

A franchisee, such as Prince George Mortgage Brokers Inc., that has registered a trade name and is permitted by the owner to use the “LIONS LENDING” trademark, may have either of the following business cards or advertisements:



## **LIONS LENDING**

Martha Phillips                      6789 Granville St  
Submortgage Broker              Prince George BC  
**LIONS LENDING – Prince George**      VOX 1J0



## **LIONS LENDING**

**Prince George Mortgage Brokers Inc.**  
Martha Phillips                      6789 Granville St  
Submortgage Broker              Prince George BC VOX 1J0

### [Registration Instructions - Registering a Trade Name with the Registrar of Mortgage Brokers](#)

#### *At Time of Application for Registration as a Mortgage Broker*

If you wish to use a trade name at the time of application, you must:

- Register the trade name with the Registrar of Companies.
- Indicate on an Application for Mortgage Broker Registration in Form 1, that you wish to operate with a trade name that is different from your legal name and state the trade name.
- Provide a copy of Declaration for Registration of General Partnership or Sole Proprietorship that has been stamped as “received” by the Registrar of Companies.
- If the trade name will include a franchise name, provide a letter from the franchisor authorizing the franchisee to use its franchise name.

#### *Currently Registered*

If you are currently registered and wish to add a trade name with the Registrar of Mortgage Brokers, you must:

- Register the name with the Registrar of Companies.
- Provide written advice that you intend to operate as a mortgage broker using the trade name.
- If the trade name will include a franchise name, provide a letter from the franchisor authorizing the franchisee to use its franchise name.
- Provide a copy of Declaration for Registration of General Partnership or Sole Proprietorship that has been stamped as “received” by the Registrar of Companies. If you are changing your trade name you must attach a copy of Dissolution or Change of Partnership or Proprietorship Registration stamped “received” by the Registrar of Companies.
- Return the original mortgage broker certificates for the company, its branches and all submortgage brokers.
- Remit filing fees in the amount of \$200.00 for each replacement certificate.

Should you have any questions regarding the use or registration of trade names with the Registrar of Mortgage Brokers, please contact:

**Financial Institutions Commission**

Suite 1200 – 13450 102<sup>nd</sup> Ave.

Surrey, BC V3T 5X3

Telephone: 604-953-5200