

**IN THE MATTER OF THE *SECURITIES ACT*,  
R.S.O. 1990, c. S.5, AS AMENDED**

**- AND -**

**MONEY GATE MORTGAGE INVESTMENT CORPORATION,  
MONEY GATE CORP., MORTEZA KATEBIAN  
and PAYAM KATEBIAN**

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**NOTICE OF APPLICATION  
(Application to Issue a Temporary Order)**

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The applicant, Staff of the Ontario Securities Commission (“Staff”) will make an application to the Ontario Securities Commission (the “Commission”) at the offices of the Commission at 20 Queen Street West, 17<sup>th</sup> Floor, Toronto, Ontario, on a date to be set by the Secretary’s Office.

**THE APPLICATION IS FOR:**

- (a) An order pursuant to subsection 127(5) and paragraph 2 of subsection 127(1) of the *Securities Act*, R.S.O. 1990, c. S.5 (the “Act”), that all trading in securities of Money Gate Mortgage Investment Corporation (“MGMIC”) shall cease;
- (b) An order pursuant to subsection 127(5) and paragraph 3 of subsection 127(1) of the Act that any exemptions contained in Ontario securities law do not apply to MGMIC,

Money Gate Corp. (“MGC”), Morteza (Ben) Katebian (“Ben”) and Payam Katebian (“Payam”) (collectively, the “Respondents”); and

(c) Such further and other relief as Staff may request and the Commission deems just.

**THE GROUNDS FOR THE APPLICATION ARE:**

1. MGMIC operates as a mortgage investment entity, which raises capital from investors and invests it in a pool of mortgages. Investors receive preferred shares from MGMIC in return for their investments. The distribution of MGMIC preferred shares has been conducted solely by MGMIC;
2. MGC operates as a mortgage brokerage and as a mortgage administrator for MGMIC, finding and servicing the mortgages MGMIC lends on. It receives a fee from MGMIC for performing these services;
3. Ben is a director and officer of MGMIC and the sole director of MGC;
4. Payam is a director and officer of MGMIC and is the son of Ben;
5. MGMIC, MGC, Ben and Payam have never been registered with the Commission in any capacity. MGMIC and MGC are not reporting issuers in Ontario and have never filed a prospectus in Ontario;
6. It appears that MGMIC, while unregistered, has been continuously raising capital since August 2014, but for a brief period in 2015 when it agreed to cease trading at the request of Staff. During the period from August 12, 2014 to March 23, 2017, MGMIC raised approximately \$10,200,000 from approximately 140 investors through the sale of preferred shares of MGMIC, contrary to section 25 of the Act. All but two of those investors are residents of Ontario;
7. MGMIC has prepared five offering memoranda dated August 1, 2014, May 5, 2015, May 13, 2016, May 30, 2016 and January 31, 2017 (collectively the “OMs”) in connection with the sale of its preferred shares to investors;

8. The initial OM dated August 1, 2014 does not appear to have been delivered to the Commission as required by section 5.4 of OSC Rule 45-501 - *Ontario Prospectus and Registration Exemptions* (“OSC Rule 45-501”). A later OM dated May 5, 2015 appears to have been delivered more than 10 days after the initial distribution in which it was provided to investors, contrary to section 5.4 of OSC Rule 45-501;
9. MGMIC has filed Reports of Exempt Distribution (the “Reports”) with the Commission with respect to distributions of its preferred shares, beginning in April 2015 and continuing until March 2017. In the Reports, it has purported to rely on certain exemptions from the prospectus requirement in Ontario securities law. However, it appears that the exemptions claimed were not always available in the circumstances. MGMIC may therefore have engaged in trading of securities that would constitute a distribution without a prospectus or an applicable exemption from the prospectus requirement, contrary to section 53 of the Act;
10. The Respondents may have made misrepresentations to investors in the OMs contrary to section 122(1)(b) of the Act and may have engaged in deceit, falsehood or other fraudulent means that placed investors’ investments in MGMIC at risk contrary to section 126.1(1)(b) of the Act by engaging in the following conduct:
  - a. Although Ben and Payam are the sole officers and directors of MGMIC, it appears that Arash Missaghi (“Missaghi”) and Sai Mohammad (“Mohammed”) may be exercising control over decision making at MGMIC. Missaghi has been criminally charged with fraud in relation to one of the properties on which MGMIC has lent investor funds. The involvement of Missaghi and Mohammed has not been disclosed to investors in the OMs;
  - b. The OMs provide that MGMIC has established an Investment Committee which is responsible for adjudicating and advising on transactions involving potential conflicts of interest. However, it appears that the Investment Committee did not adjudicate on transactions involving potential conflicts of interest, contrary to the disclosure provided to investors. MGMIC has invested in a number of mortgages

on properties owned directly or indirectly by Ben, Payam, Missaghi and Mohammed that raise conflict of interest concerns; and

- c. It appears that some of mortgages lent by MGMIC to related parties carried risks that were not consistent with the disclosure provided to investors in the OMs and/or with MGMIC's commitment to lend, thereby placing investors' investments in MGMIC at risk.
11. Staff's investigation into this matter is continuing;
12. The order sought by Staff is necessary to protect the public interest in light of the serious and ongoing potential breaches of Ontario securities law being committed by the Respondents;
13. Subsections 127(1) and 127(5) of the Act;
14. Such further and other grounds as counsel may advise and the Commission may permit.

**THE FOLLOWING DOCUMENTARY EVIDENCE** will be used at the hearing of the Application:

- (a) The affidavit of Louisa Fiorini, senior investigator in the Enforcement Branch of the Commission, sworn April 4, 2017, together with the Exhibits attached thereto; and
- (b) Such further and other materials as counsel may advise and the Commission may permit.

**Date:** April 7, 2017

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