

**PROCEEDINGS AT HEARING  
OF  
FEBRUARY 24, 2021**

**COMMISSIONER AUSTIN F. CULLEN**

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**February 24, 2021**

**(Via Videoconference)**

**(PROCEEDINGS COMMENCED AT 9:30 A.M.)**

THE REGISTRAR: Good morning. The hearing is now resumed. Mr. Commissioner.

THE COMMISSIONER: Thank you, Madam Registrar. Yes, Ms. Patel.

MS. PATEL: Thank you, Mr. Commissioner. Today our witness -- we have one witness, a former mortgage broker, Mr. Jay Chaudhary. He's here and, as I understand, has chosen to affirm.

**JAY CHAUDHARY, a witness  
for the commission,  
affirmed.**

THE REGISTRAR: Please state your full name and spell your first and last name for the record.

THE WITNESS: Jay Kanth Chaudhary. Jay, J-a-y, last name C-h-a-u-d-h-a-r-y.

THE REGISTRAR: Thank you.

THE WITNESS: You're welcome.

THE COMMISSIONER: Yes, Ms. Patel.

**EXAMINATION BY MS. PATEL:**

Q Mr. Chaudhary, first -- sorry.

MS. PATEL: Madam Registrar, I think we're having some feedback issues with the audio. Is that

1                   just on my end or -- I wonder if we can address  
2                   that.

3           THE TECHNICIAN: That is correct. It's on your end.

4           MS. PATEL: Oh, okay. That's good.

5           Q     First of all -- Mr. Chaudhary, I first wanted to  
6                   confirm that you are here pursuant to a summons  
7                   issued by the commission; is that right?

8           A     That's correct.

9           Q     And I note that you're appearing remotely from  
10                  different locations today but also in attendance  
11                  is your counsel, Mr. Whysall.

12          A     That's correct.

13          Q     I'd like to start by asking questions about your  
14                  professional background. What is your highest  
15                  level of education?

16          A     I have a diploma from college.

17          Q     Okay. From which college?

18          A     From Douglas College.

19          Q     Okay. And what was your diploma in?

20          A     In advanced accounting.

21          Q     Are you currently employed or engaged in a  
22                  business?

23          A     No, I am not.

24          Q     You said that you have a diploma in accounting.  
25                  Have you been employed at times as --

1           A     As an accountant?

2           MS. PATEL:  Yeah.  Just -- pardon me, Mr. Chaudhary.

3                     Just a moment.  I'm getting a message from our

4                     IT person that there's an echo.

5                             Mr. Commissioner, I'm going for ask if we

6                             could please take a two- or three-minute recess

7                             to address the problem.

8           THE COMMISSIONER:  Yes, we'll do that, Ms. Patel.

9                     We'll take whatever time we need to address it

10                     but hopefully it will be two to three minutes.

11                     Thank you.

12           MS. PATEL:  Thank you.

13           THE REGISTRAR:  The hearing is stood down until

14                     9:35 a.m.  Please mute your mic and turn off

15                     your video.  Thank you.

16                             **(WITNESS STOOD DOWN)**

17                             **(PROCEEDINGS ADJOURNED AT 9:33 A.M.)**

18                             **(PROCEEDINGS RECONVENED AT 9:51 A.M.)**

19           THE REGISTRAR:  Thank you for waiting.  The hearing

20                     is resumed.  Mr. Commissioner.

21   **JAY CHAUDHARY, a witness**

22   **for the commission,**

23   **recalled.**

24           THE COMMISSIONER:  Yes.  Thank you, Madam Registrar.

25                     Yes, Ms. Patel.  I think the difficulties

1                   have been ironed out by our technical  
2                   coordinator along with Mr. Chaudhary. Thank  
3                   you.

4                   MS. PATEL: Yes. Thank you, Mr. Commissioner.

5                   **EXAMINATION BY MS. PATEL (continuing):**

6                   Q     Mr. Chaudhary, before we broke I was asking you  
7                   if you had ever been employed as an accountant.

8                   A     Yes, I have.

9                   Q     Okay. And for how long?

10                  A     I would say for a period of ten years.

11                  Q     Were you a certified -- a CPA or a CGA?

12                  A     No, I wasn't.

13                  Q     I also understand that you have been licensed as  
14                  a real estate agent in British Columbia; is that  
15                  correct?

16                  A     That is correct.

17                  Q     Do you recall the period that you were licensed  
18                  from?

19                  A     I believe it was the beginning of January of  
20                  2008 until end -- until probably October of  
21                  2008.

22                  Q     Okay. And did you work through a brokerage?

23                  A     Yes, I did.

24                  Q     What was that brokerage?

25                  A     It's Century 21 Apex International in Surrey.

1           Q     And did you in fact conduct transactions as a  
2                    real estate licensee?

3           A     As far as I recall, I don't think so -- there  
4                    was any, but probably there might have been one.  
5                    But as far as I recall, probably none.

6           Q     Okay. And during that same time that you were  
7                    licensed as a real estate agent you were also  
8                    registered as a mortgage broker in  
9                    British Columbia; is that correct?

10          A     That is correct.

11          Q     Okay. And do you recall the dates that you were  
12                    registered?

13          A     I don't recall the specific dates but it was  
14                    from 2007 to 2008. Probably early 2007 to late  
15                    2008.

16          Q     And do you recall what brokerages you were  
17                    registered with?

18          A     I started off with Global Mortgage. It was also  
19                    based out of Surrey. And then later joined  
20                    Finder Financial, office in Vancouver.

21          Q     How was that you came to the mortgage brokering  
22                    business?

23          A     It was a recommendation from one of my clients.  
24                    I had -- in early 2000 -- probably around 2003,  
25                    2004 I had an accounting firm in Surrey doing

1 bookkeeping, accounting and taxation work. And  
2 one of the clients referred -- encouraged me to  
3 become a mortgage broker. That's how I got my  
4 first introduction.

5 Q You said you were running an accounting business  
6 for about ten years. Do you recall what that  
7 period was?

8 A Yeah. It was not -- I was an employee for  
9 ten years, but my accounting business was  
10 probably for about six, seven years that I ran -  
11 I had a small office in Surrey, and I was  
12 running my accounting business from there.

13 Q So for six or seven years you ran your own  
14 business?

15 A That's right.

16 Q And then did you cease running that business  
17 when you became a registered mortgage broker?

18 A That is correct.

19 Q Now, do you recall that in October of 2008 your  
20 registration as a mortgage broker was suspended  
21 by the Registrar of Mortgage Brokers?

22 A That's correct.

23 MS. PATEL: Madam Registrar, I'm going to ask if you  
24 could please pull up a document. RMB302.

25 Q Mr. Chaudhary, do you recognize this document?

1 A Yes, I do.

2 Q And do you -- can you tell us what it is.

3 A It's a suspension order to -- for my licence,  
4 for my mortgage brokers licence.

5 MS. PATEL: Okay. And I'm just going to ask Madam  
6 Registrar if she could scroll to the last page.

7 Q And I just wanted to note the date there at the  
8 bottom. There's a signature line and there's a  
9 date that says:

10 "Dated at the City of Surrey, Province of  
11 British Columbia, this 16th day of  
12 October, 2008."

13 Do you see that?

14 A Yes, I do.

15 Q Okay. And does that accord with your  
16 recollection of when you were suspended?

17 A That is correct.

18 MS. PATEL: Okay. And Madam Registrar, if you could  
19 just scroll up again please to page 13.

20 Q Okay. And there's a recitation of facts earlier  
21 in this order, but I just wanted to draw your  
22 attention first to the first paragraph that  
23 starts with capital letters "I am therefore of  
24 the opinion." Do you see that?

25 A Yes, I do.



1           Q     Okay. I just want to -- I'm going to read this  
2                   to you and to see if this accords with your  
3                   recollection.

4                   "I am therefore of the opinion that  
5                   Chaudhary has conducted business in breach  
6                   of the Act and in a manner that is  
7                   prejudicial to the public interest by  
8                   failing to conduct any due diligence or  
9                   'know your client' procedures and/or by  
10                  knowingly submitting false information to  
11                  lenders for them to act upon as if it were  
12                  genuine."

13                 And that's the part of the order that sets out  
14                  the reason for the suspension. Do you agree  
15                  with that?

16                 A     I do.

17                 MS. PATEL: Okay. Now, if we could go back up to  
18                  page 1, please, Madam Registrar.

19                 Q     At page 1, paragraph 4 of the suspension order  
20                   this gives a little bit of context on -- as to  
21                   how this matter came to the attention of the  
22                   Registrar. And I see -- do you see there  
23                   paragraph 4 it says that:

24                   "On June 16, 2008, office of the Registrar  
25                   of Mortgage Brokers ... received a

1 telephone complaint from an anonymous  
2 individual alleging that her colleague,  
3 Chaudhary, was involved in fraudulent real  
4 estate and mortgage transactions which  
5 included provision of false Canada Revenue  
6 Agency ... documents, such as Notices of  
7 Assessment ... T4s and T1 General forms."

8 Do you see that?

9 A Yes, I do.

10 Q Okay. And the next paragraph, paragraph 5 goes  
11 on to state that the following day, June 17th,  
12 2008:

13 "... staff of the Registrar ... received  
14 an email from Pierre McConnell, Senior  
15 Investigator at TD Canada Trust, advising  
16 that he had received information from an  
17 unidentified source who stated that  
18 Chaudhary was committing fraud by paying  
19 bank employees secret cash in exchange for  
20 deals."

21 Do you see that?

22 A Yes, I do.

23 Q Okay. And you recall that those were -- that  
24 was the basis of this suspension order against  
25 you? Or the basis of it.

1           A     I didn't -- well, that's the basis, yes. I  
2                    didn't agree to that statement, but yes, that  
3                    was the basis.

4           Q     Okay. The order sets out a number of issues  
5                    identified by the Registrar of Mortgage Broker  
6                    investigators?

7           MS. PATEL: And, Madam Registrar, if you could just  
8                    scroll down to page 2, paragraph 8. So just  
9                    there that's fine. Thank you.

10          Q     So do you see, Mr. Chaudhary, at paragraph 7  
11                    where it says:

12                    "In reviewing the mortgage files, Staff  
13                    identified inconsistencies and/or  
14                    discrepancies in documents filed in  
15                    support of many of the mortgage  
16                    applications. Details of the issues  
17                    identified are set out below."

18                    You see that?

19          A     Yes, I do.

20          Q     Okay. And then the order goes on to set out a  
21                    number of the issues that were identified by the  
22                    Registrar of Mortgage Brokers in their  
23                    investigation. At paragraph 8 -- and I'm  
24                    just -- I'm not going to take you through all of  
25                    these. I think I'm going to walk through the

1 first two mortgages that are reviewed; okay?

2 So there's a heading, and I may mispronounce  
3 this, I'm going to say Jacy Bonikowsky mortgage.

4 It says that:

5 "In April 2008, Chaudhary submitted a  
6 mortgage application to First National  
7 Financial LP ... on behalf of Bonikowsky  
8 which indicated that Bonikowsky had been a  
9 self-employed, full-time, recorder for  
10 Lost Souls Records for the past  
11 three years, earning \$95,000."

12 Now, first of all, do you recall -- and I know  
13 this is quite some time ago now, but do you  
14 recall this mortgage application?

15 A No, I don't.

16 Q Okay. Do you recall this client,  
17 Mr. Bonikowsky?

18 A I don't.

19 Q Okay. I just want to note -- do you recall that  
20 name Lost Soul Records at the bottom of  
21 paragraph 8?

22 A I don't recall that name.

23 Q So you don't recall submitting an application  
24 for Mr. Bonikowsky indicating his employer as  
25 Lost Soul Records?

1 A That is true.

2 Q Okay.

3 A It could have been -- I'm sorry, just sorry to  
4 intervene. He could have been my client, but I  
5 just don't recall the details.

6 Q Okay. So you're not saying that this is not  
7 true; you're saying you don't recall?

8 A That's right. That's correct.

9 Q At paragraph 9 the order goes on:

10 "In support of the mortgage application,  
11 Chaudhary submitted copies of Bonikowsky's  
12 2005 NOA --"

13 And NOA I understand to be notice of assessment.

14 A Yes.

15 Q You understand that as well? Okay.

16 "-- (dated May 30, 2006), showing income  
17 of \$77,446 and a 2006 NOA (dated April 26,  
18 2007), showing income of \$87,772, as well  
19 as Bonikowsky's personal bank statements  
20 for a three-month period from  
21 January-March 2008."

22 And I'll ask again if you recall making that  
23 mortgage application.

24 A I don't recall.

25 Q Okay. Paragraph 10, the -- it goes on to say





1           Q     Do you have any -- so you don't say that it's  
2                     not the case -- you're not saying that you  
3                     didn't submit this application; you're simply  
4                     saying you don't recall?

5           A     That's right. I most likely did submit this  
6                     application because it was part of my files, but  
7                     I just do not recall the details of the  
8                     application.

9           Q     Do you also agree that you most likely submitted  
10                    the application that we referred to above in  
11                    respect of Mr. Bonikowsky?

12          A     That's true.

13          Q     And then at paragraph 13:

14                    "In reviewing the mortgage file, Staff  
15                    noted the following."

16                    It says at (a):

17                    "Both the 2005 and 2006 [notices of  
18                    assessment] appear on the letterhead of  
19                    'Canada Customs and Revenue Agency.'"

20                    And again the author notes:

21                    "The Canada Customs and Revenue Agency  
22                    changed its name to 'Canada Revenue  
23                    Agency' on December 12, 2005, which change  
24                    ought to have been reflected in the  
25                    [notices of assessment] submitted.



1 (b):

2 "The mortgage application shows Alibeau's  
3 address as being 1304 - 7351 Halifax  
4 Street [in Burnaby] ... When Staff  
5 attended that address on October 3, 2008,  
6 they were advised by the building manager  
7 that the 13th floor of the building is  
8 generally referred to as the penthouse.  
9 The building manager further advised that  
10 he had been working at that address for  
11 18 months and did not know anyone by the  
12 name of Al or Atlin Alibeau."

13 And then (c):

14 "Al's Construction is not a business which  
15 is listed in the Telus directory, nor is  
16 it a company registered in British  
17 Columbia."

18 Do you recall any of these aspects of this  
19 particular mortgage application?

20 A No, I don't.

21 MS. PATEL: Madam Registrar, I would ask if we  
22 could -- before we take this down, sorry --  
23 Mr. Commissioner, I'd ask if we could make this  
24 the next exhibit, please.

25 THE COMMISSIONER: Yes. Very well. That will be the

1 next exhibit, which I think is 653.

2 THE REGISTRAR: Yes, exhibit 653.

3 **EXHIBIT 653: Suspension Order in the matter of**  
4 **the *Mortgage Brokers Act* and Jay Kanth**  
5 **Chaudhary - October 16, 2008**

6 MS. PATEL: Thank you. And, Madam Registrar, we can  
7 take this down now.

8 Q Mr. Chaudhary, would you -- do you agree, even  
9 though you may not recall the specifics of these  
10 transactions, these mortgage applications set  
11 out in the suspension order, that they set out a  
12 series of investigative findings that allege a  
13 pattern of you having submitted mortgage  
14 applications to lenders with critical details  
15 such as income and bank balances, places of  
16 employment and places of residence of the  
17 borrowers having been altered?

18 A I do agree on the income and bank statements,  
19 but I don't agree probably of places where they  
20 lived or where -- for what mortgage they were  
21 qualifying for, the place for the mortgage they  
22 were qualifying for.

23 Q And you're jumping ahead to my next question.  
24 So I was just establishing what the order sets  
25 out, but I take it that you're agreeing with the

1 findings set out here that you did submit  
2 applications where details such as income and  
3 bank balances were altered?

4 A That is true.

5 Q Okay. And -- sorry, and just so I have it  
6 clear. Do you agree that you submitted  
7 applications with places of employment that were  
8 altered or falsified?

9 A I don't recall that. I don't think so -- agree  
10 with that.

11 Q And when you submitted these applications, did  
12 you -- were you aware that those details were  
13 altered? The ones that --

14 A Yes, I am aware. Yes.

15 Q And to be fair, you've said that you don't think  
16 that you changed -- that you knew that places of  
17 employment or places of residence were altered.  
18 But did you know that details such as income and  
19 bank balances were altered?

20 A Yes, I do.

21 Q And did you make those alterations?

22 A Yes, I did.

23 Q Okay. Did you make those alterations of your  
24 own initiative or did you do it on the  
25 instructions of your client? And by "client"

1                   here I mean the borrower.

2           A        It was -- most of the time it's a mutual -- a  
3                   mutually agreed change.

4           Q        So this would be something that you would  
5                   discuss with the borrower before making the  
6                   application?

7           A        That's correct.

8           Q        And usually would the practice be that you would  
9                   suggest the change or would the borrower request  
10                  the change?

11          A        It would be either/or.  Sometimes I would  
12                  suggest, sometimes borrowers would -- most of  
13                  the time when borrowers come to me they know  
14                  that they are not qualified and they know that I  
15                  can help them to achieve to get a mortgage.  So  
16                  yeah, sometimes it's recommended by the borrower  
17                  and sometimes I do make the recommendation.

18          Q        You said that when most of the time -- I think  
19                  you said most of the time when borrowers came to  
20                  you they knew that they were not qualified.  Is  
21                  that what you said?

22          A        That is correct.  That is correct.

23          Q        And why would they come to you?

24          A        Through referrals that -- through referrals that  
25                  they understand they do not qualify in the

1                   traditional way. And through my referrals  
2                   they -- the -- sorry, just one second, please.  
3                   Sorry. So it's through my referrals the -- my  
4                   referrals, normally I let them know that they  
5                   have somebody that could qualify them for a  
6                   mortgage, so they are aware before they come and  
7                   see me.

8                   Q     And did you have the impression that when they  
9                   came to see you they were aware that you would  
10                  help them qualify by altering their supporting  
11                  documents?

12                 A     Yeah. They were not aware of all the details,  
13                  but they knew that I was going to help them in a  
14                  way that probably not a normal mortgage broker  
15                  could help them out. So they did not know  
16                  what -- the full details of what I would be  
17                  doing.

18                 Q     But when -- after they came to you, would you  
19                  have a discussion about how you proposed to  
20                  proceed with their application?

21                 A     That is correct.

22                 Q     And just to make sure that we're -- all the  
23                  bases are clear. What is the purpose of  
24                  altering these supporting documents on a  
25                  mortgage application?

1           A     To qualify the clients to get the mortgage.

2           Q     It'll -- would it cause a lender to approve a  
3                 mortgage that they otherwise would not approve?

4           A     That is correct.

5           Q     When -- and here I'm speaking about this period  
6                 that precedes the suspension order, so 2007,  
7                 2008, when you were a registered mortgage  
8                 broker. Did you charge your clients additional  
9                 fees for altering the documents?

10          A     As far as I recall, no.

11          Q     How would you be compensated for these  
12                 transactions?

13          A     Through the banks. Through bank commissions.

14          Q     And can you just remind us how mortgage brokers  
15                 are usually compensated by lenders?

16          A     It's based on the mortgage amount. So usually  
17                 it's -- an example would be 1 percent of the  
18                 mortgage amount. So if it's -- the mortgage  
19                 amount is 500,000, then it would be 5,000. And  
20                 then the brokerage itself takes a certain  
21                 percentage. It depends on your split and  
22                 agreement with the brokerage company. And  
23                 then -- most of the time it's -- let's say it's  
24                 80/20, so 80 percent goes to the mortgage  
25                 broker -- submortgage broker and 20 percent goes

1 to the brokerage.

2 Q When you were a registered mortgage broker, were  
3 you an employee of or a contractor with the  
4 brokerages you worked with?

5 A I think usually it's the same for everyone. I  
6 think it's a contract.

7 Q So you were working on a contract basis as well?

8 A That's right, yes.

9 Q And so the details of the contractual  
10 arrangement between a mortgage broker and the  
11 brokerage can be different depending on the  
12 individual -- the submortgage broker and the  
13 brokerage?

14 A Exactly. Yes.

15 Q Okay.

16 A Yeah.

17 Q Do you -- you made a reference to your clients  
18 finding you by way of referral. Who were your  
19 referral sources at that time?

20 A Well, it started off with the word of mouth and  
21 then it just grew from there. And then later it  
22 became to -- it went to realtors and developers,  
23 anyone that was related with this real estate  
24 industry and that needed help in getting  
25 financing. So yeah, so those were realtors, I

1                   would say.

2           Q       Mostly realtors. But you mentioned also  
3                   developers?

4           A       Yeah, it could be developers and -- yeah, not so  
5                   much as developers, but mostly just realtors,  
6                   real estate agents.

7           Q       And how did you become acquainted with these  
8                   realtors who would refer business to you?

9           A       When I started off I'd helped many clients.  
10                   Because I was an accountant, I had a list of  
11                   clients that -- through my accounting list --  
12                   through my accounting business. So I started  
13                   off that way and then the news probably spread  
14                   out that, you know, I could do -- I'm able to  
15                   get mortgages, and so their realtors  
16                   apparently -- my clients realtors then, that's  
17                   where they approached me. And so that is how it  
18                   all started.

19          Q       The realtors who referred you business, do you  
20                   know if they were aware that you would alter  
21                   documents to get applications through?

22          A       Some of them, yes. Some of them initially maybe  
23                   not. Maybe later they found out but some of  
24                   them I did not have discussion. They thought I  
25                   could do something special and so they just



1                   referred me the client and they never chose to  
2                   ask how I did it. Yeah.

3           Q       With those who knew what you were doing, did you  
4                   have direct conversations with them, telling  
5                   them that you -- how you were doing it?

6           A       Yes. Yes.

7           Q       And so to be clear, you would tell these  
8                   realtors who referred you business that you  
9                   would alter documents to qualify borrowers?

10          A       That is correct.

11          Q       And are you aware if at any point any of these  
12                   referral sources ever made a report to the  
13                   Registrar of Mortgage Brokers or any other  
14                   authority about what you were doing?

15          A       As far as I think, no, none of them.

16          Q       Okay. Can you -- and, again, I'm asking you  
17                   about things that happened in 2007, 2008, but  
18                   can you recall what the size of your referral  
19                   network was back then?

20          A       I really don't recall, but I think it was not as  
21                   big as later on. But I would assume maybe four,  
22                   five real estate agents.

23          Q       Four or five real estate agents?

24          A       Yes.

25          Q       Did any of the realtors who referred business to

1                   you express concern that you were falsifying  
2                   documents to support mortgage applications?

3           A     No.

4           Q     And was it the case that -- what was the  
5                   relationship of the realtors who referred you  
6                   business to the borrowers that they referred to  
7                   you?

8           A     I don't know what the relationships were  
9                   specifically, but I thought probably it was just  
10                  the clients. So I don't know if they were  
11                  family members or they would have been just a  
12                  client from anywhere. I have no idea their  
13                  relationship.

14          Q     But sometimes were you aware that they were  
15                  clients of the realtors?

16          A     No, I -- sorry, I probably misunderstood your  
17                  previous question. So yeah, definitely they  
18                  were -- they would phone me and they would give  
19                  me the client's name. The realtors would phone  
20                  me and give me the client's name, so I knew when  
21                  the client phones me where the referral source  
22                  was coming from.

23          Q     I see.

24          A     Does that answer the question.

25          Q     Yeah. What I was actually getting at was

1                   whether the borrowers were also clients of the  
2                   realtors. They were --

3           A       Yes, yes.

4           Q       So the realtors who would refer you clients were  
5                   working with that borrower to close a  
6                   transaction?

7           A       Exactly.

8           Q       Okay. With respect to your referral network,  
9                   did you have any -- and again I'm asking you  
10                  about that period, 2007 to 2008. Did you have  
11                  any business arrangement or referral fee  
12                  arrangement with those referral sources?

13          A       Yes, I did.

14          Q       And can you explain what the nature of those  
15                  arrangements were.

16          A       In that period 2007, 2008, it would be probably  
17                  20 to 25 percent of my commission.

18          Q       And -- sorry, and who would be paying who?

19          A       I would. Myself as the mortgage broker would be  
20                  paying the realtors for sending me the clients.

21          Q       And it would be 20, 25 percent of your  
22                  commission? Was that your evidence?

23          A       That's right.

24          Q       Were you ever paid referral fees for getting --  
25                  for obtaining financing for a client? Sorry,

1                   that was a poorly phrased question. Let me  
2                   start again.

3                   Were you ever paid a referral fee by a  
4                   realtor for getting financing for their client?

5           A       No.

6           Q       The suspension order that we looked at mentioned  
7                   an allegation -- an anonymous caller who made an  
8                   allegation that you paid bribes to bank  
9                   employees. Did you pay bribes to bank employees  
10                  in connection with loan applications?

11          A       No, I didn't.

12          Q       Now, what lenders were you submitting  
13                  applications to in this period 2007, 2008?

14          A       I think most of my applications went to First  
15                  National, MCAP. I believe some would be TD.  
16                  Bajorta [phonetic] bank. But I don't recall.  
17                  It's been a long time.

18          Q       And how would it come about that you would have  
19                  one or two lenders or three lenders that you  
20                  would refer mortgage applications to?

21          A       It's normally you just deal with a few lenders.  
22                  Each lender would provide a different type of --  
23                  they would have different type of programs. So  
24                  whichever the client fits in certain programs,  
25                  that's where we send the deals to.

1                   For example, some lender might have a low  
2                   interest rate, they're giving some interest rate  
3                   discounts. So if the client's looking for a low  
4                   interest rate, so we choose to send it to that  
5                   lender. Others might have some better rental  
6                   programs and -- so wherever we could get the  
7                   clients qualified.

8           Q     Is the decision -- was your decision to send  
9                   applications to particular lender, was that  
10                  based on -- at all on personal relationships or  
11                  connections with -- personal or professional  
12                  relationships with people at the lender?

13          A     No.

14          Q     Going back to the mortgage loan applications,  
15                  can you tell us what is typically involved in  
16                  an -- like what kind of paperwork is involved in  
17                  an application package that goes to the lender?

18          A     It depends on the -- it depends on the  
19                  occupation of the client. If a client is as far  
20                  as -- if the client is employed, then you  
21                  require a job letter and a pay stub. And if  
22                  self-employed, then it depends if it's a sole  
23                  proprietorship business -- type of business,  
24                  then you need a T1 general and notice of  
25                  assessments. And that would be for income. And

1                   then for down payment it would be most likely 90  
2                   days of bank statement. Those are the two major  
3                   documentations required.

4           Q        Okay. And would lenders require a credit check  
5                   or is that something they'd do themselves?

6           A        Yes. No, they do require a credit check. Yes.  
7                   But that's all done through the Filogix  
8                   software.

9           Q        And so is the credit check, is that something  
10                   that you as a mortgage broker would provide to  
11                   the lender, or is that something they would --  
12                   they'd source on their own?

13          A        No, we would provide the credit check.

14          Q        Okay. And with respect to those documents that  
15                   you've just mentioned being part of the  
16                   application package, which of those were you  
17                   typically applying alterations to?

18          A        Mostly the income documentation.

19          Q        So that would be --

20          A        Either the job letter -- sorry, the pay stub,  
21                   job letter, T1 generals and the notice of  
22                   assessments.

23          Q        For job letters, how would you make the  
24                   alterations?

25          A        Sometimes the clients that used to come to me,

1                   they would already be -- they would be working  
2                   for someone that they knew. For example,  
3                   working for their -- a family member that they  
4                   mention to me, they would tell me that, you  
5                   know, they could increase the income. So that  
6                   was something that I could adjust -- I would  
7                   adjust and prepare appropriate pay stub for the  
8                   change of income.

9                   Q     What about T1s and notices of assessment? How  
10                   would you apply changes to those documents?

11                  A     The T1s, I would prepare a new set of T1s right  
12                   from the get-go using tax preparing software and  
13                   notice of assessment I would just change into --  
14                   in Adobe PDF.

15                  Q     So you would -- the notice of assessment you  
16                   would scan in and then make a change right in  
17                   Adobe?

18                  A     Yes.

19                  Q     Okay. Was this difficult to do?

20                  A     It's not easy. Yes.

21                  Q     It's not easy?

22                  A     No, it's not easy. It's difficult, yeah.

23                  Q     Can you explain what part of it is difficult.

24                  A     In order to manipulate or alter any document, I  
25                   think it is not as easy as it looks. It's

1                   difficult. And it just needs time and effort,  
2                   but it can be done and -- but I don't know how  
3                   to explain, answer your question, though.

4           Q        I guess -- let me ask, is it difficult from a  
5                   technical perspective from operating -- for  
6                   example, from knowing how to operate Adobe  
7                   software to make the document look as it ought  
8                   to, is that the difficulty?

9           A        No, I think it's not as difficult -- I mean, if  
10                   somebody has basic knowledge of the software,  
11                   they will be able to alter it. It might not  
12                   be -- the difficult problem mostly comes if they  
13                   also know how to prepare T1s to have the numbers  
14                   correspond to the notice of assessment.

15          Q        I see. And so did your background in accounting  
16                   assist you with altering these documents in a  
17                   believable way?

18          A        That is true.

19          Q        And that comes to my next question. How -- when  
20                   preparing altered documents to support mortgage  
21                   applications, how would you come to determine  
22                   what the numbers should be?

23          A        We just did the basic calculation. We have --  
24                   in the mortgage brokerage to qualify clients we  
25                   have the two ratios that we look at, the GDS and



1                   the TDS. And so then we take these -- we try to  
2                   create an income that will fit these ratios and  
3                   qualify the clients to get them approved.

4           Q        Could you repeat the names of those two ratios.

5           A        GDS, which is gross debt service ratio.

6           Q        Okay.

7           A        And TDS, which is the total debt service ratio.

8           Q        So you would do some calculation to determine  
9                    what would be required to qualify this borrower  
10                   for the loan that they required?

11          A        That's right.

12          Q        And you'd adjust their --

13          A        Income.

14          Q        Okay. When -- and I'm still in 2007, 2008. Did  
15                    you ever have a transaction -- a loan  
16                    application where the lender sought verification  
17                    of income documents from the CRA, and again that  
18                    you know of?

19          A        Yes, I do recall. Yes.

20          Q        Okay. And what would happen when this occurred?

21          A        We would just -- I would just not proceed with  
22                    the deal and just get it declined, so -- and  
23                    then we will just -- decline to just not get a  
24                    mortgage.

25          Q        Was it a possibility to just make an application

1 to a different lender?

2 A Most of the time I would probably not do that  
3 just because maybe the clients have been red  
4 flagged, and -- but they could be a possibility  
5 that I might have sent it somewhere else.

6 Q At the time that you were doing this in 2007,  
7 2008, was there an ability for a lender to  
8 independently verify income with the CRA that  
9 you are aware of?

10 A I don't think so -- they could.

11 Q Okay. Did you ever have a lender come back to  
12 you and say, we'd like to look at the originals  
13 of these documents?

14 A As far as I recall, no.

15 Q Do you recall lenders performing any kind of due  
16 diligence and checks on the mortgage  
17 applications that you were sending in?

18 A I don't think so.

19 Q Again referring to the period when you were a  
20 registered mortgage broker, 2007, 2008, I want  
21 to ask you a couple of questions about the  
22 level -- the supervision and oversight that your  
23 brokerage exercised over your activities. What  
24 was the kind of oversight that was applied to  
25 your applications and to your business

1 activities by the brokerage?

2 A None. They did not ever look at anything.

3 Basically once the deal was done, submitted,

4 approved, the only -- then we package it and

5 then send it to the brokerage where it's -- they

6 check after the fact.

7 Q Were your -- are you aware if your applications

8 and your supporting documents were ever reviewed

9 by the brokerage or by its designated

10 individual?

11 A Probably they did because they check marked the

12 items that I gave them because they would send

13 me a report. And that's how we get paid after

14 they have check marked that -- they have a list

15 of documents required for their fulfillment --

16 document fulfillment requirements. And so I

17 believe they go through that they have all the

18 paperwork that they need, but as far as -- but

19 that happens after the fact. That happens after

20 the deal is closed and then it's done with and

21 then we submit all the document paperwork to the

22 brokerage. And then after then we get paid.

23 Q And in that check of documents would the

24 brokerage verify things like you put in the

25 notice of assessment, you'd put in the T1?

1           A     Yes, that's correct.

2           Q     And just going back, do you recall that on the  
3                   suspension order it sets out that on certain  
4                   notices of assessment there was an error  
5                   referring to the Canada Revenue Agencies, the  
6                   Canada Customs and Revenue Agency?

7           A     Yes.

8           Q     You recall that. So that would have been  
9                   apparent to anybody reviewing your mortgage  
10                  application at the brokerage; is that right?

11          A     That is correct.

12          Q     Okay. And did anyone ever raise this  
13                  discrepancy with you?

14          A     No.

15          Q     Do you have any recollection of anybody at  
16                  either brokerage that you worked at ever  
17                  approaching you or questioning you about the  
18                  contents of an application that you had  
19                  submitted?

20          A     Never.

21          Q     Do you recall anyone at either brokerage ever  
22                  asking to see originals of your documents?

23          A     No.

24          Q     Do you recall anybody or are you aware of  
25                  anybody at either brokerage ever independently

1                   reaching out to a borrower to confirm details on  
2                   a mortgage application?

3           A       Never.

4           Q       In your opinion would such a review or spot  
5                   check have detected the alterations that you  
6                   were making?

7           A       Yes.

8           Q       And specifically what kind of review do you  
9                   think would have caused these alterations to be  
10                  caught?

11          A       I believe the managing broker, whoever is  
12                  reviewing the documentation, probably a call to  
13                  the clients and just to go over the application  
14                  again, I mean, could have caught some of the  
15                  discrepancies. Could have caught -- you know,  
16                  could have signalled something. And -- but as  
17                  far as the documentation goes, I mean, sometimes  
18                  you know, if someone looks at it thoroughly,  
19                  they could have caught it. But if the documents  
20                  is done perfectly, then probably they would have  
21                  not. So yeah.

22          Q       So a thorough review of the documents might have  
23                  assisted and also confirming directly with the  
24                  borrowers?

25          A       Yes.

1           Q     If lenders -- again I'm asking you for your  
2                    opinion.  If lenders had had the ability to  
3                    verify notices of assessment and income directly  
4                    with the CRA, would that have prevented your  
5                    ability to engage in this activity of  
6                    successfully altering documents?

7           A     A hundred percent, yes.  Yes.

8           MS. PATEL:  Madam Registrar, I'm going to ask you to  
9                    please pull up a document.  RMB0257.

10          Q     Mr. Chaudhary, I'm not sure that you're familiar  
11                   with this document.  Have you seen this before?

12          A     I just saw this, I think, yesterday.

13          Q     Okay.  But before -- and you don't need to tell  
14                   me any discussions with your counsel, but I take  
15                   it that you hadn't seen this from any source but  
16                   the commission prior to last couple of days?

17          A     That's correct.

18          Q     Okay.  And I'm -- on review of it are you able  
19                   to tell me what it is?

20          A     Yeah, these were the files that were the  
21                   mortgage applications that I did while I was a  
22                   mortgage broker in 2007, 2008, I believe.

23          Q     Okay.  And we can see that there it says "table  
24                   of contents" and underneath it says "client file  
25                   analysis."  And we see the first two names are

1 the names --

2 A Yeah.

3 Q -- of the borrowers that we previously reviewed  
4 in the suspension order. Do you see that?

5 A That's right. Yes.

6 Q Okay. So it looks like this is some kind of a  
7 report on your -- a sample of loans -- loan  
8 applications that you made while you were a  
9 mortgage broker. Would you agree?

10 A I agree.

11 MS. PATEL: Okay. Can we scroll down to page 2,  
12 please, Madam Registrar.

13 And it says -- yeah. There we can see under  
14 "synopsis" it says:

15 "Jay Chaudhary has been registered in  
16 British Columbia as a licensed real estate  
17 representative since January 30, 2008.  
18 His current registration is due to  
19 expire."

20 And then it says, paragraph 3:

21 "Chaudhary has been registered in  
22 British Columbia as a submortgage broker  
23 since April 25th, 2007."

24 And sorry, I'm just reviewing that to establish  
25 that you're the subject of this report.

1 THE WITNESS: M'mm-hmm.

2 MS. PATEL: And I'd like to scroll down, Madam  
3 Registrar, to page 3, paragraph 8.

4 Q And the report sets out there that:

5 "On June 25, 2008, Nick Parente ...  
6 Analyst, Compliance and Examinations, with  
7 the Mortgage Broker/Real Estate Division  
8 of the Financial Institutions Commission  
9 of BC ('FICOM'), attended the Finder  
10 office --"

11 And finders was one of the brokerages you worked  
12 at; is that right?

13 A That is true.

14 Q "-- for the purpose of conducting an  
15 examination. He removed 29 client files  
16 from that office including 20 files for  
17 which Chaudhary was the submortgage  
18 broker."

19 MS. PATEL: And if we can scroll down, Madam  
20 Registrar.

21 Paragraph 9 sets out the review that  
22 Mr. Parente did of a number of mortgage files  
23 noting suspicious notices of assessment. And  
24 then if we could scroll down to this next page,  
25 to paragraph 14. I'm just noting there -- at



1 paragraph 14 it's noted that:

2 "Based on the foregoing, Chin was assigned  
3 to investigate this matter on July 3,  
4 2008."

5 So it just shows that an investigator was  
6 assigned to this matter.

7 At paragraph 15 it says:

8 "On September 11, 2008, the Investigator  
9 Robin Blair ... was assigned to continue  
10 the investigation."

11 Paragraph 16:

12 "The investigation into Chaudhary's files  
13 was not yet complete. This report  
14 constitutes a preliminary review of the  
15 most obvious discrepancies identified by  
16 Staff in twelve of the files it has  
17 seized."

18 So I'm just referring to that last  
19 paragraph there to give you some context for  
20 what is about to follow.

21 Scrolling down to page 8 of the document,  
22 please, Madam Registrar. If you could scroll  
23 down. Sorry. I think it's -- there's ... Down  
24 please. It's page 8 of the document itself. So  
25 this next one. I'm sorry. I'm on wrong page,

1                   so just a moment, Madam Registrar, while I find  
2                   my reference.

3                   I think we are looking for page 9 of the  
4                   internal. Thank you very much.

5           Q       Mr. Chaudhary, do you see there it says at the  
6                   top of the page "Client File Analysis?"

7           A       Yes, I do.

8           Q       And the first name is the name of the first  
9                   borrower who appeared on the suspension order.  
10                   Do you agree with that?

11          A       Yes, I do.

12          Q       Okay. And, again, do you recall this particular  
13                   borrower and this particular application?

14          A       No, I don't.

15          Q       Okay. And it just -- the analysis here sets out  
16                   that -- the property address on Howe Street in  
17                   Vancouver, paragraph 23. And this is, again,  
18                   some of the same information we saw in the  
19                   suspension order. It states that:

20                   "Chaudhary submitted a mortgage  
21                   application to First National stating that  
22                   Bonikowsky was a self-employed recorder  
23                   for Lost Souls Recording for the past  
24                   three years and eight months, earning  
25                   \$95,000."

1                   It sets out in the next paragraph that he did  
2                   obtain mortgage approval from First National in  
3                   the amount of \$427,093.88.

4                   At paragraph 25 we see a reference to a  
5                   notice of assessment that was -- contained the  
6                   wrong name. It that contained the name of the  
7                   Canada Customs and Revenue Agency, not the  
8                   Canada Revenue Agency. Do you see that?

9           A       Yes, I do.

10          Q       At paragraph 26 it says:

11                   "There is no letter of employment or pay  
12                   stubs from Lost Souls Recording."

13                   Do you see that?

14          A       Yes, I do.

15          Q       And again, do you have any recollection of that  
16                   matter, of there being no pay stubs for  
17                   Mr. Bonikowsky or employment letter?

18          A       Did this individual own the business?

19          Q       It says he was a self-employed recorder for Lost  
20                   Souls Recording.

21          A       If he was self-employed, then why would someone  
22                   need a bank -- an employment letter and a pay  
23                   stub?

24          Q       But in any event do you have any recollection of  
25                   this matter?

1           A     No, I don't.

2           Q     Okay. At paragraph 27 it says:

3                     "On July 21, 2008, Chin reviewed the file  
4                     upon completion of Parente's analysis. It  
5                     is Chin's belief that the 2005 and 2006  
6                     NOAs had been altered as the font used to  
7                     type the name is different than the font  
8                     usually found on documents completed by  
9                     CRA."

10          MS. PATEL: And then, Madam Registrar, if you could  
11                     scroll down.

12          Q     And paragraph 28 and 29 we see information,  
13                     summaries of findings about bank balances. And  
14                     then what I wanted to draw your attention to  
15                     paragraph 30.

16          MS. PATEL: Madam Registrar, and you can scroll down.  
17                     Thank you. And you can scroll down just a bit  
18                     more, please. That's fine. Thank you.

19          Q     At paragraph 30 it says:

20                     "A review of the Contract of Purchase and  
21                     Sale reveals that the seller of the  
22                     property was Jason Klotz."

23                     And below there note. It says:

24                     "Klotz in fact is the subject of a  
25                     criminal investigation being conducted by



1                   business premises did not show any signs  
2                   of being active or occupied. All  
3                   person(s) interviewed who had Lost Souls  
4                   Records listed as their place of  
5                   employment confirmed they had never worked  
6                   there and did not know if it actually  
7                   existed."

8                   When you would prepare -- and I appreciate you  
9                   don't have recollection of the specific  
10                  application. When you would prepare loan  
11                  applications, would you conduct any due  
12                  diligence on a borrower's stated employer or  
13                  place of employment?

14                A     Yes, I would.

15                Q     Okay. What was that due diligence?

16                A     Sometimes specifically maybe with this case, for  
17                  example, it could have been that they might have  
18                  brought the paperwork with them that -- stating  
19                  they would have provided initially. When I take  
20                  applications whatever their actual current  
21                  employment is I do require them to bring me a  
22                  job letter, pay stub, their T1s, their notice of  
23                  assessment, so that I can get a clear picture of  
24                  what their existing situation is. And for some  
25                  clients -- maybe this client could have been one

1                   of those that did provide me -- maybe they did  
2                   make some alterations themselves before they  
3                   came to me. And so sometimes I had issues like  
4                   that before as well.

5                   But as far as my due diligence would go, I  
6                   mean, once I was looking at the bank statements,  
7                   looking at the deposits in the account to  
8                   ensure -- to see if -- you know, if someone was  
9                   working somewhere, is the payroll deposits going  
10                  in the bank -- in the bank statement or if the  
11                  T1s and the T4s match with the employer's name.  
12                  But just creating a job letter out of cold and  
13                  when something doesn't exist, I was not into  
14                  that.

15                Q    Was it part of your practice to make phone calls  
16                    or to Google the names of businesses to  
17                    determine if they actually existed?

18                A    Yes. Yeah. I normally Googled the name,  
19                    ensured that -- Google the client's name, ensure  
20                    that they were -- you know, they were in good  
21                    standing in Google. So, you know, check the  
22                    Equifax report to see if everything was clean.  
23                    And there would be no way for me to tell whether  
24                    this individual is working there or not working  
25                    there apart from, you know, just the client





1                   the manager of that building who advised  
2                   the building has a 13th floor, but it is  
3                   referred to as the penthouse. He also  
4                   advised he has been working there for  
5                   18 months and does not know anyone by the  
6                   name of Al or Atlin Alibeau."

7                   And you will recall that that was set out in the  
8                   suspension order?

9                   A     Yes.

10                  Q     And then it says that:

11                             "Investigator Clemons conducted a reverse  
12                             address search for 1305-7351 Halifax  
13                             Street, Burnaby in the name of Alibeau  
14                             which yielded no results. However, a  
15                             telephone number --"

16                   And I won't read it out. But:

17                             "... a telephone number ... was located  
18                             for that name at 12502 - 99 Avenue,  
19                             Surrey, British Columbia."

20                   And, Mr. Chaudhary, is that address familiar to  
21                   you.

22                   A     No.

23                   MS. PATEL: Madam Registrar, if you could scroll  
24                   down.

25                   Q     Okay. It says at paragraph 37:

1 "Investigator Clemons conducted a BC  
2 Online search of 12502 - 99 Avenue, Surrey  
3 which revealed the property is currently  
4 owned by Hasan Beka and has been since  
5 May 9, 2008. Prior to that date, the  
6 property was owned by Reka Chaudhary who  
7 is the spouse of the subject of this  
8 complaint."

9 Does that assist your recollection with respect  
10 to that address?

11 A I do recall there was a property -- there was  
12 two properties. One was our principal residence  
13 and there was a rental property that we owned,  
14 but I do not recall the specific address of that  
15 property. This was a long time ago and I just  
16 don't recall the -- yeah.

17 Q Okay. Did you -- do you recall having a client  
18 by the name of Alibeau?

19 A I don't recall.

20 Q Did you ever have a tenant by that name?

21 A I don't recall. Definitely Alibeau was my  
22 client because it came from my files, but I just  
23 don't recall the client. I've done so many  
24 clients and -- I had so many clients. I just  
25 don't recall this particular one.

1 Q Okay. And do you recall how it came to be that  
2 he had a telephone number that was associated  
3 with a residence that you previously owned?

4 A I have no idea. I don't recall.

5 MS. PATEL: Mr. Commissioner, I'm going to ask that  
6 this be marked as the next exhibit.

7 THE COMMISSIONER: Very well. That will be the next  
8 exhibit.

9 THE REGISTRAR: Exhibit 654.

10 **EXHIBIT 654: Investigation report on client**  
11 **files of Jay Chaudhary**

12 MS. PATEL: Thank you. And, Madam Registrar, we can  
13 take this document down now.

14 Q I'm going to turn now, Mr. Chaudhary, to the  
15 period after the suspension order was made. And  
16 do you recall that the suspension order was made  
17 under the Registrar's power to make such an  
18 order without a hearing? That there was no  
19 hearing before the order was made?

20 A Sorry, can you repeat that again, please.

21 Q That was sorry. Do you recall -- the suspension  
22 order that we looked at at the beginning, the  
23 one dated October 16th, 2008 --

24 A Yes.

25 Q -- do you recall -- okay. Do you recall that it

1                   was made without a hearing?

2           A     I believe it was made without a hearing, but I  
3                   don't recall.

4           Q     And do you recall if you ever applied -- if you  
5                   appealed the order?

6           A     That was the -- that was a little bit -- I was a  
7                   little bit confused at that time because I just  
8                   became a mortgage broker for, like, two years,  
9                   and so I was not aware of the process. They did  
10                  give me this order stating that they will get  
11                  back to me, but then I never heard anything  
12                  back. I did -- made a couple of calls to see to  
13                  maybe get a consent, but then no one ever  
14                  contacted me from FICOM. And then later on I  
15                  just decided not to pursue with it.

16          Q     Did you ever apply to reinstate your  
17                  registration as a mortgage broker? As a  
18                  submortgage broker, sorry.

19          A     No, I didn't.

20          Q     Okay. So after October 16th, 2008, what did you  
21                  do as -- for employment?

22          A     Well, I went back to my accounting business.  
23                  And then for probably -- I don't recall for how  
24                  long. It could be just a few months or maybe  
25                  six months. Then the calls started to come in

1                   to see if I could still help people out to get  
2                   mortgage and stuff. And I was a little bit  
3                   struggling with my accounting business and  
4                   things were going -- not going that great for me  
5                   financially. So then I decided to get into this  
6                   business again, but this time just using the  
7                   help of other mortgage brokers to send my  
8                   applications and to get -- and from that time I  
9                   started charging clients for the service I  
10                  provided.

11                Q    So you continued mortgage brokering activities  
12                   but unregistered?

13                A    That is true.

14                Q    Okay. And how was it that you would make  
15                   applications as an unregistered person?

16                A    Well, I would make alliances with registered  
17                   mortgage brokers and just took a normal  
18                   application from clients and did all the  
19                   legwork. Collected documents, took applications  
20                   and then would package it all up and send it to  
21                   the mortgage broker who would then input it in  
22                   the system and submit it to the bank.

23                Q    And you said that six months or so after you  
24                   ceased being a registered broker you started  
25                   receiving calls from people asking if you could

1                   assist with financing; is that right?

2           A       That is correct, yes.

3           Q       And who were those calls coming from?

4           A       Mostly -- some would be repeat clients from  
5                   before.  Other would be -- others would be  
6                   realtors.  Real estate agents.

7           Q       The same realtors who were referring you  
8                   business before your suspension?

9           A       That is correct.

10          Q       Do you know if they were aware that you'd been  
11                   suspended?

12          A       Yes, they were.

13          Q       How do you know that they were aware that you'd  
14                   been suspended?

15          A       Because I spoke to them, all of them.  They  
16                   knew.  I had told them myself personally.  And I  
17                   think -- I am not sure, but I do think the  
18                   suspension order goes out to real estate agents  
19                   as well, if I'm not aware -- if I'm correct.  
20                   The alert, the industry alert that once a  
21                   suspension happens they send it to all mortgage  
22                   brokers.  And I believe the realtors receive  
23                   those suspension notices as well, so they could  
24                   have just seen it from there.

25          Q       Okay.  And who were the realtors who continued

1                   to refer you business after your suspension  
2                   knowing that you were suspended?

3           A     You mean like specific names?

4           Q     Are there any realtors that you recall referred  
5                   you business prior to your suspension and then  
6                   continued to refer you business after you had  
7                   told them that you had been suspended?

8           A     Yes. Yes, there were. Yeah.

9           MR. WHYSALL: I have a small concern and a small  
10                   objection to this. I'm quite happy for  
11                   Ms. Patel to continue in the generalities that  
12                   realtors continued to refer him clients, but I  
13                   object to her asking for specific names. And I  
14                   do that because Mr. Chaudhary is the subject of  
15                   an ongoing investigation and there is a search  
16                   warrant been executed on him and the CRA is  
17                   investigating and that manner is in charge  
18                   approval. And we'd like to preserve as much as  
19                   possible his ability to have a fair hearing at a  
20                   later date. So I'd ask my friend to keep her  
21                   questions general in this area, please.

22           THE COMMISSIONER: All right. Ms. Patel.

23           MS. PATEL: Mr. Commissioner, I'd simply submit  
24                   Mr. Chaudhary is here pursuant to a summons. I  
25                   think that's -- I've made that clear on the

1 record the basis on which he is giving  
2 information to the commission. We are a  
3 commission of inquiry and looking at  
4 specifically issues of money laundering in the  
5 real estate sector. And I think that the  
6 topic -- the issue of whether there were  
7 realtors who continued to refer business to  
8 Mr. Chaudhary despite knowing that he had been  
9 suspended is a matter of interest to the  
10 commission.

11 THE COMMISSIONER: And their specific identities, is  
12 that part of your submission? As I understand  
13 it, Mr. Whysall was not objecting to your asking  
14 generally about this question but was objecting  
15 to the actual names of the realtors. I'm not  
16 passing on that one way or the other, but -- if  
17 I misunderstood his objection, then he can  
18 restate it, but I think that is what he was  
19 saying.

20 MS. PATEL: On reflection, Mr. Commissioner, I don't  
21 think it's necessary that we have specific  
22 names. I think I can get at the issues from  
23 maybe a couple of different questions to  
24 Mr. Chaudhary which I don't think that  
25 Mr. Whysall will find objectionable.



1 THE COMMISSIONER: All right. I'll leave that to  
2 you, then. Thank you.

3 MS. PATEL:

4 Q Mr. Chaudhary, so just going back to the issue  
5 of the realtors who were referring you business  
6 knowing that you'd been suspended, how many of  
7 them were there that you can recall?

8 A I think -- I believe it was two as far as I  
9 recall. There was two main ones. Yeah.

10 Q Okay. And to your knowledge are those realtors  
11 still licensed realtors in British Columbia?

12 A One of them is still.

13 Q And the other one?

14 A The other one unfortunately passed away.

15 Q Okay.

16 A Yeah.

17 Q You mentioned -- so there were two realtors who  
18 continued to refer business to you after your  
19 suspension knowing that you were suspended. Did  
20 your referral network expand from those two?

21 A Yes, it did.

22 Q Okay. And how did you expand that referral  
23 network?

24 A I believe that the market grew, I think there  
25 was some progress in the market and I think the

1                   difficulty of clients getting mortgages, the  
2                   restrictions of the bank reporting on clients,  
3                   it became more strict and then the demand for  
4                   someone like myself increased. And I think that  
5                   combined with the booming market probably saw a  
6                   large influx of clients, you know, wanting to  
7                   get my service.

8                   Q       And that's -- you're explaining why there was  
9                   more demand for your services. My question was  
10                  more aimed at how did you develop your referral  
11                  network?

12                 A       It was again through clients that start coming  
13                  to me. One realtor, you know, could be friends  
14                  with another realtor and they could have shared  
15                  information with them and it just multiplied  
16                  after that, yeah. But I personally was not  
17                  running around and going realtor, realtor to ask  
18                  them for business. No. They normally just came  
19                  to me.

20                 Q       Okay. Can you -- and I appreciate -- can you  
21                  give us -- give the Commissioner an idea of the  
22                  period of time in which you were engaged in  
23                  unregistered activity. You think that maybe you  
24                  started, you've said, you know, six months or so  
25                  after your suspension. And when -- how long did

1                   you carry on?

2           A        Until around 2018 until I got raided and until  
3                   the cease and desist.

4           Q        So for approximately ten years?

5           A        Yes.

6           Q        And so the answer to this might vary depending  
7                   on, you know, what period in that ten years you  
8                   look at. But do you have an idea of -- you  
9                   started out with -- I understand that you  
10                  started out with a small referral circle, one or  
11                  two realtors; is that right?

12          A        That's correct.

13          Q        And what size did your referral circle grow to?  
14                   Do you have an estimate?

15          A        I think, you know, some realtors came, some  
16                   went, but at one time I would have probably  
17                   around 15 to 20 real estate agents.

18          Q        And again, I've asked you about realtors. Was  
19                   there -- were there other professionals in your  
20                   referral network?

21          A        No. Just real estate agents and mortgage  
22                   brokers.

23          Q        Okay. And with respect to the realtors, did you  
24                   have business arrangements with them with  
25                   respect to the referrals?

1           A     Yes, I did.  Yes.

2           Q     Okay.  And what was the nature of those business  
3                   arrangements?

4           A     As far as the part of the commission that I  
5                   would collect from the clients, the borrowers, I  
6                   would give them a second percentage for  
7                   referring me the clients.  So -- yeah, so I  
8                   would charge the client because I was no longer  
9                   a registered mortgage broker, so the banks were  
10                  not paying.  So my fees would come from the  
11                  clients directly.  And --

12          Q     And a percentage of those fees would be paid to  
13                  the realtor who referred them?

14          A     That's right.  About 20, 25 percent of that.

15          Q     What was the size of the fee that you were  
16                  charging your clients?

17          A     1 percent of the mortgage amount.

18          Q     And what percentage of that would you pay to the  
19                  referring realtor?

20          A     20 to 25 percent of that.

21          Q     Of those 15 to 20 realtors which came to form  
22                  your referral network, do you have any idea how  
23                  many of them are still licensed realtors?

24          A     I would say about 80 percent of those.

25          Q     I asked you about your business arrangements

1                   with realtors. But you also -- of course you  
2                   had a network of brokers -- of mortgage brokers  
3                   that you worked with; is that right?

4           A       That's correct.

5           Q       And how -- can you just -- sorry if I'm being  
6                   repetitive. Can you explain why it was you  
7                   needed a registered broker in order to carry on  
8                   your business?

9           A       In order to get the deal submitted to the banks  
10                   you need a mortgage broker.

11          Q       What is it that a mortgage broker has access to  
12                   that allows them to make an application to a  
13                   lender?

14          A       So they use software, Filogix software, where  
15                   they put the information in and the software is  
16                   then -- they submit. And then the bank, the  
17                   mortgage industry receive this information and  
18                   that's how they process it.

19          Q       And is this -- the Filogix software, does it  
20                   have -- is there a, like, a user name and  
21                   password particular to every mortgage broker?

22          A       Exactly. Yes.

23          Q       Okay. So it's supposed to be only that mortgage  
24                   broker who uses the password and the user ID to  
25                   access the software?

1           A     Correct.  Correct.

2           Q     And when you first started out in 2008, 2009,  
3                 with your unregistered activity, how many  
4                 mortgage brokers were assisting you?

5           A     None.

6           Q     Okay.  And how did you come to -- did you come  
7                 to have mortgage brokers assist you with your  
8                 activity?

9           A     Sorry, how did I come -- how did I get this --

10          Q     Yeah, my first question is did you get mortgage  
11                 brokers to assist you with your unregistered  
12                 activity?

13          A     Yes, I did.

14          Q     Okay.  And how did it come about that you got  
15                 people to help you?

16          A     In the beginning the first individual -- first  
17                 mortgage broker I approached, I laid out my plan  
18                 that this -- I have lots of clients and I would  
19                 like to get the mortgages done for my clients,  
20                 and I set out a plan that this is what I'd like  
21                 to do and if he was interested.  So it worked  
22                 out.  He said he wanted to do it with me.  I  
23                 told him the risk that was involved, and he was  
24                 still willing to continue.  So then I made an  
25                 arrangement with him and so that's how it

1                   started.

2                   And then later on through word of mouth or  
3                   whatever I might have approached some other  
4                   individuals, one or two other individuals myself  
5                   and added them to my team of mortgage brokers  
6                   that I would use to submit deals.

7           Q       And what was the nature of the arrangement that  
8                   you would have with the mortgage brokers?

9           A       They would -- most of them I would do all the  
10                   paperwork, all the legwork. Meeting the  
11                   clients, getting the clients, giving them all  
12                   the documentations they need to input it in  
13                   their Filogix system and get the approval. And  
14                   for all that service that I do, they would pay  
15                   me back 25 to 30 percent of their commission.

16          Q       And how would they make the payments to you?

17          A       In cash.

18          Q       And then -- by cash do you mean physical cash?

19          A       Yes. Physical cash, yes.

20          Q       And how would you deal with the cash that you  
21                   received?

22          A       I would deposit it in my bank account most of  
23                   the time.

24          Q       Did you have a single bank account or did you  
25                   use more than one?

1           A     I used more than one.

2           Q     Okay.  And why would you use -- why did you use  
3                 more than one bank account?

4           A     The same reason why a lot of people have many  
5                 bank accounts, I guess.  They sometimes would  
6                 relocate branches near you.  You know, some  
7                 branches provide better service.  Maybe over  
8                 time you get a mortgage from some other banks  
9                 then you develop a relationship with.  So there  
10                was no one particular reason why I had two  
11                different banks.

12          Q     Were you ever concerned that depositing large  
13                 amounts of cash would raise suspicion at the  
14                 banks?

15          A     Yes, I did.  And I had a business account as  
16                 well where I deposit some funds in there as  
17                 well, so ...

18          Q     And would -- those business accounts, did you  
19                 open them under corporate names?

20          A     Yeah, I had one business account which I had  
21                 under a corporate name, yeah.

22          Q     By the time that you -- you mentioned that there  
23                 was a search order executed sometime in 2008 --  
24                 2018, and we'll get to that.  But by 2018 at the  
25                 point at which your activity was detected by the



1 Registrar of Mortgage Brokers, how many -- how  
2 big was your referral -- how many mortgage  
3 brokers did you have working with you?

4 A I think it was four.

5 Q And was the business arrangement with each of  
6 them the same?

7 A Pretty much, yeah.

8 Q Was there any significant departure from the  
9 arrangement of splitting, you know, a quarter  
10 of -- 25 percent of the fee going to you, of the  
11 commission going to you?

12 A No, there was no -- no.

13 Q You mentioned four mortgage brokers. Were they  
14 aware -- actually, let me back up. During this  
15 time is it the case that you continued to alter  
16 documentation in support of applications to  
17 qualify borrowers?

18 A Not all the documents but maybe 70 percent of  
19 the documents.

20 Q Do you mean 70 percent of the documents  
21 submitted by borrower or 70 percent of the  
22 applications had altered documents?

23 A 70 percent of the applications had -- yeah.

24 Q And were the document that is you were altering,  
25 did they continue to be the same types that you

1                   were altering in the time that you were a  
2                   registered broker?

3           A        That's correct.

4           Q        So bank statements and notices assessment, TIs?

5           A        Yes.

6           Q        The mortgage brokers that you worked with, were  
7                   they aware that you were altering documents to  
8                   support the applications you were processing  
9                   through them?

10          A        90 percent, yes.

11          Q        Okay. And I should make clear of course you can  
12                   only say if you believe that they were aware.

13          A        Yeah.

14          Q        So you believe that 90 percent of them were  
15                   aware that you were falsifying documents?

16          A        That's right. Yes.

17          Q        Okay. And why do you believe that they were  
18                   aware that you were falsifying documents?

19          A        Because I believe they ought to have known that  
20                   I have -- that I have been doing this business  
21                   for a while and they had my name and this is  
22                   what I was doing. So if they are coming to me  
23                   and getting referrals from me, I think it is an  
24                   automatic assumption that they know what I do.

25                   So I think that was one reason. The second

1                   one is there has been times where the  
2                   information in an application has changed and  
3                   they are aware of and so making these changes  
4                   should have triggered them that there's  
5                   something wrong with the application, but they  
6                   still continued to pursue with the application.  
7                   So even though it was -- I might not have  
8                   directly told them that I'm altering documents,  
9                   but it would have been very easy for them to  
10                  know that it was an altered document, but they  
11                  chose not to -- they just chose to ignore it.

12                Q    You said that they would see changes.  Is it the  
13                  case that some of these mortgage brokers would  
14                  have access to the original documents that  
15                  you --

16                A    Yes.

17                Q    -- received from the client?

18                A    Yes.

19                Q    Okay.  And how was it that they would come to  
20                  have access to the original documents?

21                A    Sometimes, you know, as human beings we do make  
22                  errors and stuff, and sometimes I would have --  
23                  probably have sent couple of files with both the  
24                  altered documents and originals in the -- in a  
25                  file and they see both.  They choose to ignore

1                   one.

2           Q       Did you ever have a broker that you were working  
3                   with express alarm or concern that you were  
4                   altering documents?

5           A       No.

6           Q       Did any of the brokers that you were working  
7                   with ever discuss the possibility of reporting  
8                   you to the Registrar of Mortgage Brokers?

9           A       Never.

10          Q       Why do you think they didn't?

11          A       I believe they -- there was -- probably the main  
12                   answer would be -- I can't tell -- I can't speak  
13                   on their behalf but probably the monetary gain  
14                   was there. You know, they were making  
15                   commissions. And, you know, with hardly ever  
16                   doing anything because most of the work was done  
17                   by me, they would just be inputting information  
18                   and getting approvals. So the ease of  
19                   transaction and the amount of money they're  
20                   making was good -- you know, was helping for  
21                   them in that way, so ...

22          Q       And I have the same question that I had with  
23                   respect to the real estate licensees. Are you  
24                   aware if any of the brokers that -- and if I use  
25                   the word "fronted," do you understand that I

1                   mean a registered person is submitting  
2                   applications for an unregistered person?

3           A     Yes.

4           Q     Okay. Do any of the brokers -- are you aware if  
5                   any of the brokers who processed applications  
6                   for you are still registered mortgage brokers in  
7                   British Columbia?

8           A     No, none of them are.

9           Q     Okay. And do you know what the status of their  
10                  registration is?

11          A     They have been suspended.

12          Q     And does that apply to all of the mortgage  
13                  brokers that you worked with?

14          A     Exactly, yes.

15          Q     In the period of -- and just to give you -- to  
16                  let you know here, I'm aware of the time, I'm  
17                  proposing to take a break at about 11:30. So  
18                  can you hang on for another ten minutes before a  
19                  15-minute break?

20          A     Yes.

21          Q     Okay. Thank you. In the period that you were  
22                  operating as an unregistered broker in we'll say  
23                  2009 to about 2018, are you aware of any  
24                  borrowers who -- borrowers whose applications  
25                  you processed and altered, are you aware of any

1                   of them defaulting on their loans?

2           A        I've never had one them.  So if there were any,  
3                   I'm not aware of, but as far as I recall I have  
4                   not had a single complaint through my referral  
5                   sources or through the banks or through my  
6                   mortgage brokers that someone has defaulted and  
7                   there's some issues going on.

8           Q        Okay.  I understand that one of the purposes of  
9                   the financial information that you submit to  
10                  lenders is to establish that a borrower has the  
11                  ability to service a loan; is that correct?

12          A        That's correct.

13          Q        Okay.  And in particular a borrower's income  
14                  would indicate their ability to service a loan?

15          A        Yes.

16          Q        And by service a loan, we mean paying --

17          A        Paying the mortgage.  Making the mortgage  
18                  payments.

19          Q        Yes.  Yes.  And so would you agree that having a  
20                  borrower or a number of borrowers default on  
21                  their loans would be a risk to your ongoing  
22                  business?

23          A        Yes, I believe that.  Yes.

24          Q        And can you just explain why that would be a  
25                  risk?

1           A     It's a risk that -- the risk could come -- so  
2                    once the default happens, then the financial  
3                    institution, the mortgage lenders that have the  
4                    application -- has these clients, they probably  
5                    do the auditing to see why did these clients  
6                    default and what was the reason behind this  
7                    default. And maybe through this audit they  
8                    might find some discrepancies in the application  
9                    that -- and then -- you know, then they might  
10                  find that it was a false application.

11                         So that's one reason that it's not good for  
12                         our clients to default because it will raise  
13                         concerns and, you know, the -- so that is, I  
14                         think, the primary reason. Yeah, I think that's  
15                         probably the main reason.

16           Q     And so was that a concern for you that the  
17                    applications that you processed not result in  
18                    defaults?

19           A     That is -- yeah, that was very important to us.

20           Q     Okay. And would you take any steps to ensure  
21                    that you were processing applications for loans  
22                    where there wouldn't be a default?

23           A     Yeah, so apart from just what normally a bank  
24                    or, you know, a financial institution looking to  
25                    qualify a client, you know, they all look at the

1 same things, an Equifax report to see the habits  
2 of a client. We look at the bank statements  
3 showing that the money has accumulated, deposits  
4 being made consistent to the -- consistent to  
5 the income that they are saying they are making.  
6 Then we look at the pay stub, employment job  
7 letter. So these are all standard items.

8 But because the type of -- the type of  
9 clients that I helped does not show some of  
10 these elements, that's why they were not  
11 qualifying, I would then take another approach  
12 to see how else we could qualify them that --  
13 despite they're not showing all this income. So  
14 I will then -- let's say, if a client, for  
15 example, is living in a house and renting for  
16 \$5,000 a month and he was trying to get a  
17 mortgage for 3,500 a month but he does not  
18 qualify to get the mortgage. For two years he  
19 paid his rent. 5,000, he had no issues much.

20 Now when he wants to go and apply for a  
21 mortgage for paying a \$3,500 rent -- I mean, a  
22 \$3,500 monthly mortgage payment, he doesn't  
23 qualify. I can tell that this client has the  
24 ability to pay because if he can pay off \$5,000  
25 rent, then he definitely can pay a smaller



1 mortgage amount. So that's a test I used to use  
2 as one of my tools.

3 Other would be there would be maybe an  
4 additional family member, support for the -- you  
5 know, they have kids, parents, old age parents  
6 with securities, old age security pensions. So  
7 I mean, those are the things I would extra look  
8 at to see if there was -- then of course finally  
9 is the word of the clients. We know they are --  
10 they said, yeah, they can make those payments as  
11 well. So I hope that answers the question.

12 Q So you would look beyond the income that was  
13 declared by a client to see what their resources  
14 were?

15 A Yes.

16 Q Okay. And, I mean, would it be fair to say from  
17 that that the income that you were looking at  
18 was at the very least undeclared income?

19 A Yes, it could be. Could be undeclared. Or  
20 certain income such as rental income, for  
21 example. The banks use a different method of  
22 calculating rental income when they calculate  
23 the GDS and TDS. So -- and I believe that a  
24 better rental -- because they use 50 percent of  
25 the rental income, they used to add it to the

1 income of the clients and that's how they  
2 determine that was the maximum they use. But  
3 there's a better way to -- I think 50 percent is  
4 just too low. And so I mean, small things like  
5 that that I kind of use to determine.

6 Q Did you ever have -- did you ever have clients  
7 where you came to believe or you formed the view  
8 that they had income that they simply weren't  
9 reporting to the CRA?

10 A Yes, I think. Yeah.

11 Q And was that a common occurrence with your  
12 clients?

13 A Mostly, yes. Most of my clients were  
14 self-employed. Either they were having big  
15 deductions as their expense in their -- from  
16 their revenue and -- or probably not declaring  
17 as much. I mean, in the nature of employment if  
18 somebody is -- for example, if somebody is a  
19 plumber, we know that -- you know a  
20 self-employed plumber, you know, can make an  
21 income of 100- to 120,000, but he is only  
22 showing 40,000 income. So, I mean, there is --  
23 there was that room that I could change his  
24 income to 100-, to 120,000 to reflect the true  
25 nature of income that he can earn from that type

1 of employment.

2 Q Did you ever consider that a borrower's source  
3 of funds might come from illegal activity?

4 A No, never.

5 Q Tax evasion?

6 A Yeah, it never crossed my mind.

7 MS. PATEL: Mr. Commissioner, this would be a good  
8 moment to take the morning break, if convenient  
9 to you.

10 THE COMMISSIONER: All right. We'll take 15 minutes.  
11 Thank you.

12 THE REGISTRAR: This hearing is adjourned for a  
13 15-minute recess until 11:46 a.m. Please mute  
14 your mic and turn off your video.

15 **(WITNESS STOOD DOWN)**

16 **(PROCEEDINGS ADJOURNED AT 11:31 A.M.)**

17 **(PROCEEDINGS RECONVENED AT 11:46 A.M.)**

18 THE REGISTRAR: Thank you for waiting. The hearing  
19 is now resumed. Mr. Commissioner.

20 THE COMMISSIONER: Thank you, Madam Registrar.

21 **JAY CHAUDHARY, for the**  
22 **commission, recalled.**

23 THE COMMISSIONER: Yes, Ms. Patel.

24 **EXAMINATION BY MS. PATEL (continuing):**

25 Q Mr. Chaudhary, just for a moment going back to

1                   the realtors who would refer business to you.  
2                   And again we're talking about after the  
3                   suspension. Did you ever have a realtor ask you  
4                   directly when they were referring a client if  
5                   you were a registered mortgage broker or  
6                   submortgage broker?

7                   A     Yes.

8                   Q     And what would you --

9                   A     Some -- I would say no. To most of them, yeah.

10                  Q     And did you ever have --

11                  A     To almost all of them I would. Most of the  
12                   realtors that actually came to me through my  
13                   referrals, so most of them already knew that I  
14                   was not a registered mortgage broker. But there  
15                   could have been a few -- because I have dealt  
16                   with quite a few, there could have been a few  
17                   that were not aware and they probably did not  
18                   ask me and I probably did not let them know as  
19                   well. So there probably could have been a  
20                   couple here and there that still did not know I  
21                   was not a mortgage broker. And so I would say  
22                   80 percent of the realtors that were in my  
23                   circle, they knew that I was not a mortgage  
24                   broker.

25                  Q     You said that there were occasions on which a

1                   realtor would ask you if you were a registered  
2                   mortgage broker and you would respond no; is  
3                   that right?

4           A       That is right.

5           Q       And what would be the response of that realtor  
6                   to that information?

7           A       They would probably say, then how do you do your  
8                   mortgage? I would just tell them that I use  
9                   other mortgage brokers to submit application.  
10                   And so yeah, that's probably it. And most of  
11                   the time you were okay with it, so yeah.

12          Q       You said that you would tell them. Do you  
13                   recall that such conversations actually  
14                   happened?

15          A       Yes.

16          Q       Did you ever have a realtor who declined to  
17                   refer you business after finding out that you  
18                   were not registered?

19          A       No.

20          Q       Are you aware of how a member of the public  
21                   could go about determining if an individual is  
22                   a registered submortgage broker?

23          A       Yes, I am aware. They can just log into the  
24                   FICOM website and check if someone is registered  
25                   or not as a mortgage broker.

1 Q When you say log onto the website, is there any  
2 kind of logon credential needed or is it --

3 A No, sorry, it's accessible. What I meant is  
4 that.

5 Q In the period from 2009 to 2018 when you were  
6 carrying on as an unregistered broker, were you  
7 still altering documents in the same way that  
8 you did before in 2007 and 2008?

9 A Yes.

10 Q And were you using the same kinds of tools?

11 A Yes, I was.

12 Q Okay. And did you -- again, did you ever have a  
13 lender come back and say that they wanted to see  
14 originals of documents?

15 A I don't recall.

16 Q Do you recall -- do you ever recall having a  
17 lender come back and say, this application looks  
18 suspicious; it doesn't look right?

19 A Maybe once or twice, maybe could have happened,  
20 but I clearly don't recall, though. Yeah.

21 Q When -- we spoke earlier about the process by  
22 which you would determine what changes you had  
23 to make to a borrower's financial documents to  
24 qualify them. Are we talking -- generally were  
25 you talking about small adjustments or large

1 changes to stated income and stated assets?

2 A I would say it depends on the purchase price and  
3 what the borrowers were trying to -- how much  
4 the borrowers were trying to get a loan for. It  
5 could -- some applications were small, you know,  
6 minor changes here and there, but others could  
7 have been larger too.

8 MS. PATEL: Madam Registrar, I'm going to ask to  
9 pull up a document that should not be displayed  
10 on the livestream. RMB0021.

11 Q Mr. Chaudhary, do you see that there's a  
12 document on the screen being displayed?

13 A Yes, I do.

14 Q Okay. And do you recognize this document?

15 A Yes. I saw this this morning.

16 Q Okay. It has some yellow markings on it that  
17 wouldn't be on a previous version that you've  
18 seen, but --

19 A Yes.

20 Q Yeah. Can you tell the Commissioner what this  
21 document is.

22 A Oh, sorry, it's on mine. Sorry. Yes, this is a  
23 cease and desist order for myself.

24 Q From the Registrar of Mortgage Brokers?

25 A That's right.

1 MS. PATEL: And, Madam Registrar, if we could just  
2 scroll down to page 17, the last page of this  
3 document. And I just want to see the date  
4 there.

5 Q Mr. Chaudhary, do you see the date at the bottom  
6 of this order?

7 A Yes.

8 Q Okay. And it's dated the 23rd of May, 2019?

9 A That is correct.

10 MS. PATEL: And this -- Madam Registrar -- stay  
11 there, actually.

12 Q So do you see that underneath  
13 paragraph number 82 it says:

14 "I am therefore of the opinion that the  
15 length of the time that would be required  
16 to hold a hearing and make orders under  
17 section 8(1.4) of the Act would likely  
18 result in further non-compliance with  
19 provisions of the Act and therefore be  
20 prejudicial to the public interest."

21 And then -- sorry, I actually wanted to go to go  
22 to -- do you see where it says "I hereby order"?  
23 Okay. And then it says:

24 "I hereby, order pursuant to section  
25 8(1.4) (a) and 8(2) of the Act, Jay Kanth



1 Chaudhary to immediately cease and desist  
2 from carrying on business as a mortgage  
3 broker or submortgage broker, from acting  
4 as or holding out as a mortgage broker or  
5 submortgage broker in British Columbia and  
6 from conducting any unregistered mortgage  
7 broker activity in the province of  
8 British Columbia in any capacity,  
9 effective immediately, unless and until he  
10 becomes registered to do so under the  
11 provisions of the Act."

12 And do you understand that this is was a cease  
13 and desist order directed to you?

14 A Yes, I do.

15 Q And it was in respect of the unregistered  
16 mortgage broker activities that we've been  
17 discussing this morning?

18 A Exactly, yes.

19 MS. PATEL: Madam Registrar, if we could scroll up to  
20 the first page of this document. And if you  
21 actually could scroll down.

22 Q Now, do you see, Mr. Chaudhary, there at  
23 paragraph 9 under the title "The Investigation"?

24 A Yes.

25 Q You see it says there that:

1                   "The Office the Registrar of Mortgage  
2                   Brokers ... received specific complaints  
3                   from two sources regarding Mr. Chaudhary.  
4                   Between July 2017 and October 2017, an  
5                   individual identified as --"

6                   We'll use the initial the AJ.

7                   "... sent several emails to Staff alleging  
8                   Mr. Chaudhary was carrying on unregistered  
9                   mortgage broker activities. On March 13,  
10                  2018 ... the AVP of Corporate Security,  
11                  Risk and Regulation with BlueShore  
12                  Financial ... sent a formal written  
13                  complaint against a registered submortgage  
14                  broker. The complaint alleged that an  
15                  internal audit of mortgage files submitted  
16                  to BlueShore by the broker raised a  
17                  suspicion that some of the files included  
18                  falsified documents."

19                  So do you understand that this paragraph is  
20                  explaining how it was that your unregistered  
21                  activity came to the attention of the Registrar  
22                  of Mortgage Brokers?

23                  A     Yes, I do.

24                  Q     And so that date was -- the first complaint was  
25                  received in July of 2017.

1 MS. PATEL: And then I'd like to scroll to  
2 paragraph 14 on page 3 of the PDF, Madam  
3 Registrar.

4 Q Under the heading "BlueShore Complaint." Do you  
5 see that?

6 A Yes. Yes, I do.

7 Q Okay. It says:

8 "In its --"

9 I'm sorry, I've just lost my place for a moment.  
10 Just bear with me. The BlueShore Complaint,  
11 paragraph 14 it says:

12 "In its March 13, 2018 complaint,  
13 BlueShore advised Staff as follows:

14 (a) Between December 2017 and  
15 January 2018, BlueShore received three  
16 mortgage applications from S.B. where  
17 the authenticity of the income  
18 documentation was questioned;

19 (b) In January 2018, BlueShore conducted  
20 an internal audit of mortgage files  
21 submitted by S.B. including contacting  
22 the accountant of record on the Canada  
23 Revenue Agency ... T1 General Income  
24 Tax and Benefit Return Forms ... and  
25 the T2125 Statement of Business or

1 Professional Activities forms  
2 submitted as income verification on  
3 S.B.'s mortgage files;

4 (c) This audit showed that of the 48 files  
5 S.B. submitted to BlueShore between  
6 2012 and 2017, 15 files had  
7 discrepancies in the financial records  
8 provide the. These files were funded  
9 by BlueShore and seven of the 15 were  
10 insured by either Canada Mortgage and  
11 Housing Corporation (CMHC) or  
12 Genworth."

13 Now, first of all, Mr. Chaudhary, do you -- from  
14 this complaint -- you've seen this before -- do  
15 you understand who S.B. is? And I'm not asking  
16 you to name this person, but I'm asking if you  
17 understand who they're referring to.

18 A Yes, I could do.

19 Q And who was S.B. -- what was their relationship  
20 to you?

21 A He was a mortgage broker and -- whom I was  
22 submitting deals to.

23 Q Okay. And are you aware if some of those deals  
24 were these deals that were identified by  
25 BlueShore Financial?

1           A     I don't know which deals were in this -- with  
2                    BlueShore Financial.  They could have been some  
3                    of my deals.

4           Q     And I should --

5           A     Were there specific deals mentioned in this  
6                    report?

7           Q     Not here.  My question is more general.  Are you  
8                    aware if you submitted deals that were funded by  
9                    BlueShore through S.B.?

10          A     Yes.

11          Q     Okay.  With -- and using falsified documents?

12          A     Yes.

13          Q     And then I just wanted to scroll down to  
14                    paragraph 16.  There's a title -- a heading  
15                    "Order to Enter S.B.'s Residence."  It says  
16                    there:

17                    "On August 8, 2018, the Acting Registrar  
18                    of Mortgage Brokers ... signed an Order  
19                    under section 6(7.1) of the Act to enter  
20                    the premises of S.B.  On August 9, 2018, a  
21                    Form 8 Order to Enter was endorsed by a  
22                    Judicial Justice of the Peace to be  
23                    executed on August 16, 2018.  Staff  
24                    attended S.B.'s home on that day and  
25                    executed the Order."

1                   So are you aware that there was a search  
2                   conducted of S.B.'s residence?

3           A       Yes, I am.

4           Q       Okay. And then if we can scroll down to  
5                   paragraph 18. It says:

6                   "Staff seized several items from the  
7                   premises including two laptops, a MacBook  
8                   Air, an iPhone 7, and 75 mortgage files."

9                   And then this is -- and just to give a little  
10                   bit of context, down to paragraph 20. It says  
11                   "Order to Enter Mr. Chaudhary's Residences." It  
12                   says:

13                   "On January 30, 2019 the Acting Registrar  
14                   signed two applications for an Order to  
15                   Enter under section 6(7.1) of the Act  
16                   relating to Mr. Chaudhary's known premises  
17                   including --"

18                   An address at Homer Mews and Pacific Boulevard.

19                   "On February 1, 2019, a Judicial Justice  
20                   of the Peace endorsed the two Form 8  
21                   Orders to Enter Authorizations to be  
22                   executed on February 12, 2019."

23                   And if we scroll down just to the next page to  
24                   paragraph 21. It then says that:

25                   "On February 12, 2019, Staff attended



1 Do you see that?

2 A Yes, I do.

3 Q And then at paragraph 51. Do you -- so before I  
4 continue. Do you recall that this is a  
5 mortgage -- this H.K. was a client of yours  
6 whose application you processed through the  
7 registered mortgage broker S.B.?

8 A Yes, I do.

9 Q Okay. And then -- and similarly -- and did you  
10 in connection with that mortgage falsify, alter  
11 his supporting documentation?

12 A I could have.

13 Q Did you?

14 A I could have, but I'm not sure, though.

15 Q Do you simply not recall?

16 A I would say I don't recall. A lot of files I  
17 don't recall, but I must -- I could have -- I'm  
18 not saying that I did not alter anything, but I  
19 just don't recall.

20 Q Okay. Well, let's look at -- at paragraph 51 it  
21 stated:

22 "On September 11, 2018, P.A. Ltd. --"

23 Pardon me. Yeah.

24 "P.A. Ltd. was served with a summons to  
25 produce the 2015 and 2016 T1 Generals



1 prepared for H.K."

2 And we've established that H.K. was a client of  
3 yours.

4 "The original documents produced by  
5 P.A. Ltd. differ from the documents  
6 contained in the S.B. mortgage file as  
7 follows."

8 It says (a):

9 "The original tax documents for 2015 show  
10 a total income of \$34,428.00 whereas the  
11 S.B. documents show an annual income of  
12 \$279,726.00."

13 Do you see that, Mr. Chaudhary?

14 A Yes, I do.

15 Q And were you responsible for altering the annual  
16 income reported or indicated on the 2015 tax  
17 documents?

18 A Most likely.

19 Q Okay. And that scale -- we spoke just before  
20 the break about the scale of the changes that  
21 you would make to financial documents in order  
22 to qualify a person for a mortgage. Is this  
23 change from 34,000 to almost 280,000, is that  
24 something that would be out of the ordinary for  
25 you or is that typical?

1           A     This could be out of ordinary.

2           Q     Do you recall having made other changes that  
3                 were as significant?

4           A     I do.  Not specific files, but yeah, I do  
5                 remember making some changes that were quite  
6                 significant, but then of course I did check  
7                 other avenues for the client's revenues.  
8                 Otherwise I spoke to the clients and they  
9                 reassured me that they are -- they can make the  
10                mortgage payments.

11          Q     You were satisfied that they were able to  
12                 service the loans.

13          A     That's right.

14          Q     Simply that their reported income didn't reflect  
15                 that ability.

16          A     That's right.

17          Q     And was it the case in this instance -- did you  
18                 believe that the borrower's reported income was  
19                 underdeclared to the CRA?

20          A     I think so.  I think so.

21          Q     And then -- so at 51(b) it says:

22                         "The original tax document for 2016 showed  
23                         a total income of \$74,930.00 --"

24                 We are still talking about the same individual  
25                 H.K.

1                   "-- whereas the S.B. documents show a  
2                   total income of \$311,701.00."

3                   And again, do you recall making that change?

4           A        I don't recall making the change but most likely  
5                   I might have done it.

6           Q        Okay. At paragraph 52, I just want to note  
7                   that:

8                   "On October 17th, 2018, H.K., responding  
9                   to a September 12, 2018 Summons to Attend  
10                  and Produce Records, was interviewed by  
11                  staff and advised as follows."

12                  And just (b). It says:

13                  "He used the services of a mortgage broker  
14                  named George DeSouna ... although he was  
15                  not sure of the spelling of the last  
16                  name."

17                  Have you conducted business under the name  
18                  George DeSouna?

19           A        Yes, I have.

20           Q        And did you use other names as well to conduct  
21                   your unregistered brokerage activities?

22           A        Yeah. Yes. Mike Kumar.

23           Q        And why did you use assumed names?

24           A        To protect myself from individuals that are in  
25                   direct competition with me and people that were



1                   had approximately \$230,000 to \$250,000 in  
2                   savings from the sale of another property  
3                   at that time."

4                   And, Mr. Chaudhary, was -- that alteration to  
5                   the documents showing the extents of H.K.'s  
6                   savings, was that something -- was that an  
7                   alteration that you made?

8           A        I don't recall the specifics but if -- it could  
9                   have been done by me. Yes, I can see that. But  
10                  I truly do not recall the details of the  
11                  application.

12          Q        Okay. Do you have any reason to think that it  
13                   would have been S.B. who made the alterations  
14                   and not you?

15          A        No. Most likely it probably would be myself.

16          MS. PATEL: Mr. Commissioner, I would propose to mark  
17                   this as the next exhibit.

18          THE COMMISSIONER: Yes, very well, that will be the  
19                   next exhibit.

20          THE REGISTRAR: Exhibit 655 Mr. Commissioner.

21                   **EXHIBIT 655: Cease and Desist Order in the**  
22                   **matter of the Mortgage Brokers Act and Jay Kanth**  
23                   **Chaudhary - May 23, 2019**

24          MS. PATEL: And, Madam Registrar, you can take this  
25                   document down.

1           Q     Mr. Chaudhary, just returning to your comment  
2                     about using a pseudonym to hide your activity  
3                     from competition. Did your competition include  
4                     other unregistered mortgage brokers?

5           A     Yes.

6           Q     Were you aware in the period of time that you  
7                     were operating as an unregistered broker from  
8                     2009 to 2019 -- I think we've seen  
9                     February 2019 -- were you aware of other  
10                    unregistered brokers operating in the Lower  
11                    Mainland?

12          A     Yes.

13          Q     Okay. And how many of such unregistered brokers  
14                    were you aware of?

15          A     Several.

16          Q     And how did you come to know of them?

17          A     Just through some of my clients that came to me.  
18                    Some of them had experiences with these other  
19                    mortgage brokers and used to tell me about their  
20                    experiences and said that -- how things that  
21                    didn't go right for them. And so most of the  
22                    time it was through clients, through borrowers  
23                    that had some kind of experience with this type  
24                    of mortgage brokers before.

25          Q     And to your knowledge are any of these

1                   unregistered persons still offering services  
2                   as -- mortgage broker services?

3           A        It's been over a year or two now that I'm not  
4                   involved myself into this environment, so I  
5                   don't see anything, I don't hear anything kind  
6                   of. Yeah, so I'm not aware.

7           Q        The cease and desist order that we just looked  
8                   at, it sets out details of several mortgage  
9                   transactions in which the allegation is that  
10                  you, first of all, offered unregistered mortgage  
11                  broker activities and you altered documents in  
12                  support of mortgage loan applications. Did you  
13                  contest the cease and desist order?

14          A        No, I did not contest it.

15          Q        Do you agree that the allegations that are set  
16                   out in the order are for the most part true?

17          A        Yes, I do agree.

18          Q        Last question about your dealings with realtors.  
19                   Did you ever process an application for a loan  
20                   for a realtor themselves?

21          A        Yes, I did.

22          Q        Okay. How often do you think that you did that?

23          A        Not too often, but once in a while. I don't  
24                   remember how often, though. But yes, I did have  
25                   few.

1 Q And for these realtors, were they aware that you  
2 were unregistered?

3 A Yes.

4 Q And how do you know that they were aware of  
5 that?

6 A Because I had been dealing with them in the  
7 past.

8 Q And similarly do you believe that they were  
9 aware that -- well, for these realtors did you  
10 make alterations to financial documents to  
11 qualify them for loans?

12 A Yes, I did.

13 Q Okay. And were they aware -- do you know if  
14 they were aware, do you believe that they were  
15 aware that you were making these alterations?

16 A Some of them might have been aware, but there  
17 might be a few that they were not aware.

18 Q But you believe that were aware?

19 A Yes. Yes.

20 Q Okay. Why do you believe that?

21 A Because I had -- I spoke to them and they knew  
22 the nature of what I was doing and I spoke to  
23 them that this is what I would be doing and to  
24 qualify you.

25 Q I'm going to move on now to another topic. I



1                   want to ask you --

2                   MS. PATEL:  Actually, Madam Registrar -- I'm sorry,  
3                   before I do that, can we please pull up the last  
4                   exhibit, which was -- and again not on the  
5                   livestream, please -- RMB0021.  And I'm sorry,  
6                   I've lost track of the number.

7                   THE REGISTRAR:  That's exhibit 654 -- sorry, 655.

8                   MS. PATEL:  Thank you, I wanted to go to one part of  
9                   this order.  Paragraph -- I'm sorry, Madam  
10                  Registrar, I only have the paragraph number.  
11                  Paragraph 63.  Maybe page 11.  Oh, there we are,  
12                  lucky guess.

13                  Q       So I just -- I wanted to review this part of the  
14                  order with you, Mr. Chaudhary.  At paragraph 63  
15                  under the heading "General" it says:

16                               "Staff reviewed S.B.'s mortgage files --"  
17                  Again S.B. was a mortgage broker that you -- who  
18                  fronted for you; correct?

19                  A       That is correct.

20                  Q               "-- between 2015 and 2018 and determined  
21                               that Mr. Chaudhary's referrals to S.B.  
22                               resulted in 165 mortgages funded resulting  
23                               in compensation to Mr. Chaudhary as  
24                               follows."

25                  And then there's a chart for the years 2015

1 through 2018 setting out the number of mortgages  
2 that you referred to S.B. Well, according to  
3 Mr. S.B.'s files that you referred to him. The  
4 amount of commission that he paid to you in each  
5 year and the total mortgage funding for each  
6 year. You see that chart?

7 A Yes, I do.

8 Q Okay. And it says for 2015 the number of  
9 mortgages was 35 and that he paid you a  
10 commission of \$57,100. Do you see that?

11 A Yes.

12 Q And do you believe that that is correct?

13 A I cannot specifically say that the numbers are  
14 correct, if there's this many deals that I gave  
15 him, but the arrangements were similar.

16 Q Does that number for the commission that you  
17 received in 2015, does that -- do you have any  
18 reason to think that that sounds improbable or  
19 incorrect?

20 A It sounds inflated a little bit, but --

21 Q Okay.

22 A I don't believe I did that many deals with him.

23 Q You don't believe that you did 35 deals with  
24 him?

25 A Only on that specific one, yeah, could be.

1                    Could be. But the 2016 and '17 seems to be a  
2                    little bit too high. But the foundation is  
3                    right where it's the number of deals, I  
4                    probably -- 2015 might be right I am not sure  
5                    but 2016, '17, though. That's what I'm saying.

6                    MS. PATEL: If we could scroll down to see  
7                    paragraph 66.

8                    Q    And first of all paragraph 66 refers to a  
9                    Pacific Boulevard premises. That's a location  
10                    where you were conducting business. Is that --  
11                    you were conducting business from. Is that  
12                    right, Mr. Chaudhary?

13                    A    That's correct.

14                    Q    Okay. It says:

15                                       "Staff reviewed an excel spread sheet  
16                                       which was retrieved from an external  
17                                       memory device found in the Pacific Blvd  
18                                       premises. This spread sheet summarized  
19                                       Mr. Chaudhary's unregistered mortgage  
20                                       activity since 2009. There are references  
21                                       to multiple transactions per year and  
22                                       identified at least 20 submortgage brokers  
23                                       and real licensees in addition to S.B. as  
24                                       referral sources for the transactions."

25                                       And that accords with the evidence that you've

1                   given us about the number of realtors and  
2                   mortgage brokers who were in your referral  
3                   circle; right?

4           A       Yeah. That could be correct, but not that --  
5                   this spreadsheet is probably not a  
6                   hundred percent correct as well.

7           Q       Okay.

8           A       But I do remember having a spreadsheet with  
9                   numbers in it, where the -- the deals, whether  
10                  transpired in that spreadsheet or not is another  
11                  story. Where they were just forecast for  
12                  certain things. There were a number of things  
13                  going on that spreadsheet, so not all of them  
14                  were active deals. Not all of them were real  
15                  deals. So there can be a lot of discrepancy in  
16                  that spreadsheet as well.

17          Q       Okay. So you recall keeping the spreadsheet,  
18                   but you're not sure that its --

19          A       Yes, I do.

20          Q       -- contents are accurate.

21          A       Yeah, that's right.

22          Q       Do you have any reason to believe that you would  
23                   have recorded transactions that didn't go  
24                   through?

25          A       No, I probably -- I don't recall because I don't

1           have access to this spreadsheet anymore, so I  
2           cannot -- it's been almost over two years. And  
3           I don't remember how I set it up, whether I did  
4           have detailed information on the transactions  
5           that I did -- did not go through in that  
6           spreadsheet as well, so I don't recall.

7           Q     But do you have a recollection of recording  
8           transactions that didn't proceed?

9           A     I believe I did not.

10          Q     At paragraph 67 it says:

11                     "According to that document --"  
12           And again we're talking about the Excel  
13           spreadsheet.

14                     "-- from 2009 to mid 2018, Mr. Chaudhary  
15           worked on 875 files, generated \$5,283,347  
16           in client fees and \$642,344 in referral  
17           fees paid by the registered submortgage  
18           brokers who submitted the applications to  
19           lenders on his behalf, and arranged  
20           \$511,558,206 in mortgage loans."

21           Do you have any reason to think that those  
22           numbers which were reported to be found in your  
23           Excel spreadsheet are incorrect?

24          A     Yes.

25          Q     And what are your reasons for thinking that

1                   that's incorrect?

2           A       Yeah, the -- sometimes, you know, I put  
3                   information in there that -- for example, if I  
4                   have a client and, let's say, I'm going to be  
5                   charging him 1 percent fee of 5,000 or whatever  
6                   it is the number, and I would put it in there,  
7                   in my spreadsheet. And then what happens is  
8                   sometimes when the deal is done, maybe the  
9                   transactions do transpire but we decide to -- I  
10                  decide to give him a discount, let's say, you  
11                  know, just charge him 2,500 or whatever,  
12                  whatever the circumstances. Those things would  
13                  not have been reflected in the spreadsheet. It  
14                  was more used as projected income but the actual  
15                  transaction was much lower.

16           MS. PATEL: Madam Registrar, we can take this down  
17                   now. Thank you.

18           Q       So, Mr. Chaudhary, you would agree that you were  
19                   able to conduct your business undetected for  
20                   approximately ten years; correct?

21           A       Yes.

22           Q       And I'd like to turn now -- I'd like your views  
23                   on why you think that you were able to engage in  
24                   this activity undetected for so long.

25           A       I believe that in most of the transactions I did

1 none of my clients or the borrowers ever got  
2 hurt. None of -- there was no reason for  
3 anyone -- all the participants are that were  
4 involved with me, whether it has been real  
5 estate agents, referral sources, the mortgage  
6 brokers, the financial institutions and because  
7 the borrowers were meeting their monthly  
8 obligations. So it seemed like the system, the  
9 way I set it up, and for most part it worked  
10 well, everyone was a winner. And at the end I  
11 also made a small fee. So that's why, I guess,  
12 there was no complaints.

13 I believe the -- you know, I mean, everyone  
14 wins and no one gets hurt. I mean, there was no  
15 reason for anyone to complain against me. And  
16 so I think that is one of the biggest reason why  
17 I think it took this long for somebody to  
18 complain.

19 Q When you say that everybody wins, do you mean  
20 everybody got paid?

21 A Well, that's one way to look at it, yes.  
22 Everybody wins it means that whatever that small  
23 void in the system -- in the mortgage industry,  
24 there's a void. I mean, there's a need. It's  
25 such strict guidelines for people to qualify for

1           a mortgage. And so there's always going to be  
2           demand for individuals like us to come and fill  
3           that void.

4           Now, I personally when I was doing it, I  
5           found it to be morally -- I was doing this for  
6           moral reasons. Yes, I did make a fee, but I was  
7           doing it for a moral reason because I would say  
8           okay, if this client who is able to make a  
9           payment, can make a rent payment of \$3,000 a  
10          month, now can't get a house -- a mortgage,  
11          cannot get a mortgage payment for 2,000. And if  
12          he goes and really wants to purchase a house,  
13          then now he has to go through private lending  
14          where there's no checks and balances on private  
15          lenders. They just give you -- you put  
16          20 percent down, they charge you 3, 4 percent  
17          mortgage fee, you pay 8 percent interest rate.  
18          So now the client's in a very vulnerable stage.  
19          So -- and I have saved so many clients from  
20          doing that very same thing.

21          So that when I -- and that's the reason why  
22          I think the clients -- when most of the clients  
23          that saw this, that they were in a very bad --  
24          way better shape of -- once they came to me and  
25          they were all happy. So yes, the clients were



1                   happy, the banks no default, they were making  
2                   their interest. The clients were hardly -- I  
3                   don't think any of one of my clients of  
4                   defaulted. I don't remember. I didn't hear  
5                   any. So realtors make their commission.  
6                   Mortgage brokerages make their commission. I  
7                   make my commission. All the parties involved,  
8                   the notaries, whole industry.

9                   Q     So nobody's motivated to stop it?

10                  A     That's right.

11                  Q     And I don't plan to debate with you the morals  
12                   of any activities. I have a more direct  
13                   question of how do you think you could have been  
14                   prevented from engaging in this activity? Or  
15                   could you have?

16                  A     I don't know. That's a heavy question. I mean,  
17                   like, I don't know how to answer that question.  
18                   How could I have been prevented? I mean, I  
19                   guess you cannot stop this. I don't think -- I  
20                   think -- in reality I don't think so -- it can't be  
21                   prevented because there always will be a need.  
22                   There always will be a need for individuals like  
23                   us and what we did and because the demand itself  
24                   is there. The demand comes from the borrowers  
25                   themselves. The demand comes from people who

1                   wants a house and does not fit in the  
2                   traditional guidelines. And so as long as the  
3                   demand is there, the referral sources are there,  
4                   the parties benefit, I believe it cannot be  
5                   stopped.

6           Q       Do you think that the penalties available  
7                   against registered brokers who front are  
8                   sufficient to deter them from fronting for  
9                   unregistered people?

10          A       I do think penalties is stiff enough. I do  
11                   believe that. I do believe that the system  
12                   is -- most of what is already established in the  
13                   system, I believe 80, 90 percent of it is fine,  
14                   is great. It's just the desire to want to own a  
15                   property by the borrowers is much -- high. And  
16                   when they can't get one, they will try to find a  
17                   way to get one. So -- and as long as the  
18                   demand -- like I say, as long as the demand is  
19                   there, the people like us will always surface  
20                   from somewhere.

21          Q       Do you think that registered mortgage brokers  
22                   are sufficiently concerned about the  
23                   consequences of being caught fronting?

24          A       Yes, I believe so. I mean, this is a good  
25                   example. I mean, I'm here in front of public

1            talking. This is a deterrent. The news that  
2            goes out, the cease and desist orders that are  
3            published. I think these are all deterrent  
4            factors. And some of these mortgage brokers  
5            that take the risk upon themselves like I did in  
6            2007, 2008 and then some of the colleagues that  
7            were part and parcel of my network, they all  
8            paid a price for it. And so the system hasn't  
9            failed them. It just took a little bit long to  
10           catch what was going on.

11           Q        What measures do you think could be in place to  
12           catch this kind of activity earlier?

13           A        I don't know. I don't think so if there's any  
14           measures. I believe the -- as long as the  
15           parties are willing to participate, the  
16           participants, the mortgage brokers and  
17           individuals, unregistered mortgage brokers, I  
18           don't think there's a way to stop this from  
19           happening. The only other things that can be  
20           implemented is, like, collaboration between CRA,  
21           the banking system and the lending system all  
22           getting together and coordinating, you know.  
23           Then again, it's -- maybe it could be invasion  
24           of people 's privacy as well. So I have no  
25           clear answer for that.

1           Q     What about more oversight by brokerages over the  
2                   activities of their sub-brokers?

3           A     Yeah, there's, like, small minor things that  
4                   could improve. I think the -- given my  
5                   experience with my brokerages that I worked  
6                   with, there was definitely nothing. No one was  
7                   looking over my shoulder even when I was a  
8                   rookie. The first deal I did nobody looked over  
9                   my shoulder and say, this is how you do it; this  
10                  is how you don't do it. Nobody checked.

11                         So yeah, that is a good starting point where  
12                         the brokerages should have more  
13                         responsibilities. Should be a ton of  
14                         responsibility on the beginning to ensure that  
15                         the submortgage brokers are doing their due  
16                         diligence, are -- you know, and they should take  
17                         extra steps. Probably call the clients, go  
18                         through the application. That might help.

19          Q     Do you think there's -- is there anything that  
20                   you think can be done on the realtor side to  
21                   address unregistered mortgage broker activity?

22          A     Yeah, I probably would not be able to  
23                   answer that question. Because ... Sorry, I  
24                   don't think so I can answer that question.

25          Q     Do you think that -- if the realtors who worked

1                   with you were under an obligation to report  
2                   unregistered mortgage broker activity, perhaps  
3                   under penalty of suspension or losing their  
4                   licence, do you think that they would have been  
5                   much less willing to work with you?

6           A        Oh, yes, of course. Yes. If there is a  
7                   regulation such as that, then yes. A  
8                   hundred percent.

9           MS. PATEL: Mr. Commissioner, I think those are my  
10                   questions, but I'm just going to take a moment  
11                   to review my notes, if you don't mind.

12                         Yes, Mr. Commissioner, those are my  
13                   questions. Thank you.

14           THE COMMISSIONER: Thank you, Ms. Patel.

15                         I'll now call on Ms. Chewka on behalf of the  
16                   province, who has been allocated 20 minutes.

17           MS. CHEWKA: Yes. Thank you, Mr. Commissioner.

18           EXAMINATION BY MR. CHEWKA:

19           Q        Mr. Chaudhary, can you hear me okay this  
20                   morning?

21           A        Yes.

22           Q        Excellent. I just have a few questions for you  
23                   in light of the questions canvassed by my  
24                   friend, Ms. Patel.

25                         This morning you gave evidence with respect

1 to the idea that you falsified documents to  
2 support mortgage applications; is that correct?

3 A That is correct.

4 MS. CHEWKA: And, Madam Registrar, if I could please  
5 have exhibit 653 on the screen.

6 Q This is the suspension order that Ms. Patel took  
7 you to this morning. I don't intend to spend  
8 much time with it, but will you agree with me  
9 that on October 16, 2008, the Acting Registrar  
10 of Mortgage Brokers issued you this suspension  
11 order because you breached the *Mortgage Brokers*  
12 *Act*? Is that correct?

13 A That is correct. That is correct.

14 MS. CHEWKA: And, Madam Registrar, if you could  
15 please scroll down slightly just to paragraphs 4  
16 and 5. Thank you.

17 Q And you can see here that in this suspension  
18 order it sets out when the complaints were  
19 received. Would you agree with me that it says:

20 "On June 16, 2018 [sic], the office of the  
21 Registrar of Mortgage Brokers ... received  
22 a telephone complaint from an anonymous  
23 individual alleging that her colleague,  
24 [yourself], was involved in fraudulent  
25 real estate and mortgage transactions."

1                   Would you agree about that?

2           A     Yes.  Yeah.

3           THE COMMISSIONER:  I'm sorry, just to clarify.  I  
4                   think you said 2018.

5           MS. CHEWKA:  I apologize.  2008.  Thank you,  
6                   Mr. Commissioner.

7           THE COMMISSIONER:  That's fine.  Thank you.

8           MS. CHEWKA:

9           Q     And, again, at paragraph 5 it states:

10                         "On June 17, 2008, staff of the  
11                         Registrar ... received an email from  
12                         Pierre McConnell, Senior Investigator at  
13                         TD Canada Trust, advising that he had  
14                         received information from an unidentified  
15                         source who stated that Chaudhary was  
16                         committing fraud by paying bank employees  
17                         secret cash in exchange for deals."

18                         Would you agree with that as well?

19           A     No, I don't.

20           Q     You don't agree that that's what that  
21                         paragraph says?

22           A     No, I don't agree.

23           Q     I'm sorry --

24           A     I was not paying bank employees.

25           Q     Oh, I see.  Yes.  No, I'm just asking whether or

1 not you'll agree that's what the  
2 paragraph states, not the truth --

3 A Oh, yes. Sorry. My apologies.

4 Q That's okay.

5 A My apologies.

6 Q That's okay. Thank you. And so as a result of  
7 these complaints there was an investigation  
8 done. But ultimately there was a suspension  
9 order that was issued, and that was on  
10 October 16th, 2008?

11 A Yes.

12 Q And you were suspended for 120 days; is that  
13 right?

14 A That is correct.

15 Q And my understanding is that following that  
16 suspension order you actually didn't renew your  
17 registration; is that correct?

18 A Yeah, I was waiting for FICOM at that time to  
19 contact me to -- for the interview to go through  
20 this consent order. But I made a couple of  
21 calls, they never responded back and then after  
22 that nothing happened and transpired. I never  
23 re-applied and they never contacted me.

24 Q You're currently not a registered mortgage  
25 broker or submortgage broker; is that correct?



1 A I'm not.

2 Q And you haven't been since October 2008?

3 A That's correct.

4 Q And you gave evidence in response to Ms. Patel's  
5 questions that you continued to work as an  
6 unregistered mortgage broker?

7 A Yes.

8 MS. CHEWKA: Madam Registrar, I'm actually done with  
9 this exhibit. Could you please turn up  
10 exhibit 655, but again not display this on the  
11 livestream, please.

12 Q This is the [indiscernible] took you to. This  
13 is the cease and desist -- cease and desist  
14 order. You're familiar with that?

15 A Yes, I am.

16 Q And essentially on May 23rd, 2019, the acting  
17 registrar issued a further order against you and  
18 that is reflected in this document.

19 MS. CHEWKA: And, Madam Registrar, if you could  
20 please scroll down to page 2 of this document.

21 Q And this is the paragraph that Ms. Patel took  
22 you to. And I won't read it again to you, but  
23 essentially at paragraph 9 it sets out when the  
24 complaints were received with respect to you by  
25 the Office the Registrar of the Mortgage

1 Brokers, and that came in between July 2017 and  
2 March 2018. You'll agree with that?

3 A Yes.

4 Q And then Ms. Patel took you through several of  
5 the paragraphs that follow that set out the  
6 investigation process that was followed in these  
7 circumstances, including a search of your  
8 residences. Do you recall that?

9 A Yes.

10 MS. CHEWKA: And, Madam Registrar, can you please  
11 scroll to page -- the bottom of page 4 of this  
12 document.

13 Q And so there at paragraph 20 you'll see the  
14 order to enter Mr. Chaudhary's residences. In  
15 the final line it indicates that those  
16 authorizations to were to be executed on  
17 February 12th, 2019. You'll agree with that?

18 A Yes.

19 Q And ultimately following these investigations  
20 the Acting Registrar issued the cease and desist  
21 order on May 23rd, 2019; is that correct?

22 A Correct.

23 Q And that cease and desist order was issued on  
24 the basis that the Acting Registrar found that  
25 you were carrying on a business as a mortgage

1 broker or submortgage broker while not being  
2 registered to do so. Do you agree with that?

3 A Correct.

4 MS. CHEWKA: Thank you, Mr. Commissioner. I have no  
5 further questions for this witness.

6 THE COMMISSIONER: Thank you, Ms. Chewka.

7 I now ask Mr. Usher on behalf of the Society  
8 Notaries Public of British Columbia, who's been  
9 allocated ten minutes.

10 MR. USHER: Thank you, Mr. Commissioner.

11 EXAMINATION BY MR. USHER:

12 Q Mr. Chaudhary, during the time after your  
13 initial suspension as a mortgage broker in 2008  
14 until the second order in May 2019, did you  
15 offer to your borrower clients or your referral  
16 sources any guarantees or assurances of  
17 compensation for losses they might suffer in the  
18 event you were not able to arrange a mortgage?

19 A No, I did not.

20 Q Okay. And just -- I'll give you one kind of  
21 example. So, for example, say someone had made  
22 a firm real estate deal and they put a deposit  
23 on, and if the transaction was not able to close  
24 they would lose that deposit. Did you offer any  
25 kind of guarantee that you compensate them for

1                   the loss of that deposit?

2           A        No, I did not offer any guarantees.

3           MR. USHER:   Okay.   That's all of my questions.   Thank  
4                   you.

5           THE COMMISSIONER:   Thank you, Mr. Usher.

6                   Ms. Chewka, anything arising out of that?

7           MS. CHEWKA:   No, Mr. Commissioner.

8           THE COMMISSIONER:   Thank you.   Ms. Patel?

9           MS. PATEL:   Nothing arising, Mr. Commissioner.

10                   Mr. Commissioner, I did note that Mr. Chaudhary  
11                   was here with his counsel.   I'm not sure if  
12                   anything would arise from him.

13           THE COMMISSIONER:   Yes.   Mr. Whysall, do you have any  
14                   questions you want to ask?

15           MR. WHYSALL:   No, thank you.   I have no questions.

16           THE COMMISSIONER:   All right.   Thank you.   Thank,  
17                   Mr. Chaudhary.   You are excused from further  
18                   testimony.

19           THE WITNESS:   Thank you.

20           THE COMMISSIONER:   I take it we will adjourn until  
21                   tomorrow at 9:30, Ms. Patel?

22           MS. PATEL:   Yes, Mr. Commissioner, that's right.

23           THE COMMISSIONER:   Thank you.

24           THE REGISTRAR:   The hearing is now adjourned to  
25                   February 25th, 2021, at 9:30 a.m.   Thank you.

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**(WITNESS EXCUSED)**  
**(PROCEEDINGS ADJOURNED AT 12:43 P.M. TO**  
**FEBRUARY 25, 2021)**