



# SYNOPSIS

## BACKGROUND

1. Jay Kanth Chaudhary ("Chaudhary") has been registered in British Columbia as a licensed real estate representative (trading) since January 30, 2008. His current registration, #153729, is due to expire on January 29, 2010. **(TAB #1)**
2. Chaudhary has worked at Century 21 Apex International (Bby) ("Apex"), located at #205 - 5679 Imperial Street, Burnaby, British Columbia V5J 1G1 since becoming a licensed real estate representative.
3. Chaudhary has been registered in British Columbia as a submortgage broker since April 25, 2007. He has been with Finder Financial Services Ltd., 206 - 1080 Mainland Street, Vancouver, British Columbia ("Finder"), since January 4, 2008. **(TAB #2)**
4. A search of the Ministry of Finance, BC Registry Services ("BC Registry Services") indicates that Finder was registered as a corporation on October 3, 2007 under registration number A0055456. The stated head office and delivery address is 206 - 1080 Mainland Street, Vancouver, British Columbia V6B 2T4. **(TAB #3)**
5. Finder was first registered as a mortgage broker under the name of Sutton Mortgage Corporation ("Sutton"), on April 4, 2000. On May 29, 2007 Sutton changed its name to Finder Financial Services Ltd. The Designated Individual for Finder is [REDACTED] **(TAB #4)**
6. On June 16, 2008, the office of the Registrar of Mortgage Brokers (the "Registrar") received a telephone complaint from an anonymous individual

alleging that one of her colleagues, Chaudhary, was involved in fraudulent real estate and mortgage transactions. The complainant alleged that:

- (a) false Canada Revenue Agency ("CRA") documents, such as Notice of Assessments ("NOA"), T4s, and T1 General, were being generated; and
- (b) some of the properties purchased were being used for marihuana grow operations.

7. On June 17, 2008, a second complaint was received via email from [REDACTED], Senior Investigator at TD Canada Trust. [REDACTED] indicated he had received information from an unidentified source who stated that Chaudhary: **(TAB #5)**

- (a) had separated from his wife and now resides at [REDACTED]
- (b) was given a Mortgage License and or Real Estate License and works with another broker named [REDACTED] and
- (c) is committing fraud with [REDACTED] by paying bank employees secret cash for deals.

8. On June 25, 2008, Nick Parente ("Parente"), Analyst, Compliance and Examinations, with the Mortgage Broker/Real Estate Division of the Financial Institutions Commission of BC ("FICOM"), attended the Finder office for the purpose of conducting an examination. He removed 29 client files from that office including 20 files for which Chaudhary was the submortgage broker.

9. Parente conducted a subsequent examination of the 20 files noting evidence of suspicious NOA's on the following files: **(TAB #6)**
- (a) [REDACTED];
  - (b) [REDACTED];
  - (c) [REDACTED];
  - (d) [REDACTED]; and
  - (e) [REDACTED].
10. In early August 2008, First National Financial LP ("First National") contacted the Registrar's staff (the "Staff") advising of some "bad deals" for which Chaudhary was the submortgage broker.
11. On August 6, 2008 Investigator Colin Chin ("Chin") attended the First National office located at 200 - 1090 Homer Street, Vancouver, where he received six files pertaining to mortgage applications submitted by Chaudhary. Chin spoke with [REDACTED] an underwriter with First National, who advised that Chaudhary had submitted a mortgage application for [REDACTED], and that after funding, First National had received a telephone call from CMHC advising that the property was being used as a grow op. First National advised Chaudhary who stated that he would investigate this. He called back the next day and assured her that there was no grow op. First National, however, proceeded to review Chaudhary's files, at which time they discovered a number of suspicious NOAs.
12. On September 4, 2008, the Staff received a letter of complaint from [REDACTED], [REDACTED], Regional Vice-President of MCAP, who advised that he had audited several mortgage applications from Chaudhary which resulted in the



cancellation of two of the applications. The problems he identified were described in his letter as follows: **(TAB #7)**

"The first file for [REDACTED], the employment letter, pay stub and bank statements seemed suspicious. The company listed as his employer was not listed in directory assistance, answered hello when phoned on the number provided and a drive by of the company address revealed [sic] a residential home. Also the broker's comments indicated the property was to be owner occupied when on a MCAP declaration form signed at the lawyers office the client crossed off this clause...

The second file for [REDACTED] had similar concerns on his employment letter, pay stub etc. This file was also subsequently cancelled prior to funding..."

13. In summary, [REDACTED] found the following issues in both applications:
  - (a) Suspicious employment letters;
  - (b) Suspicious pay stubs;
  - (c) Suspicious bank statements; and
  - (d) Declaration that the property was to be owner occupied; however, the applicant struck out that clause at the conveyance lawyer's office.
14. Based on the foregoing, Chin was assigned to investigate this matter on July 3, 2008.
15. On September 11, 2008, Investigator Robin Blair ("Blair"), Senior Investigator, was assigned to continue the investigation.
16. The investigation into Chaudhary's files is not yet complete. This report constitutes a preliminary review of the most obvious discrepancies identified by Staff in twelve of the files it has seized.

17. Staff has not yet met with Chaudhary to discuss concerns raised by a review of his files.

## INVESTIGATION

18. On July 3, 2008, Chin began an analysis of the files forwarded to him by Parente and those he had received from First National. Chin's analysis, Parente's analysis, and that of other investigators are detailed later in the report.
  
19. On September 30, 2008, Blair and Wayne McMillan ("McMillan"), Manager of Investigative Services, attended the Finder office where they spoke to one of the owners of Finder, [REDACTED] [REDACTED] stated that:
  - (a) Chaudhary commenced employment with Finder in early 2008;
  - (b) Chaudhary, like other submortgage brokers, was hired on contract;
  - (c) Chaudhary had good references;
  - (d) On September 5, 2008, he received a letter from MCAP indicating that:  
**(TAB #8)**
    - i. MCAP was not prepared to accept or approve any mortgage transactions from Chaudhary.
    - ii. An internal investigation revealed that Chaudhary's mortgage transactions did not meet MCAP's standards, as they contained "many inconsistencies in the documentation" and that MCAP was "not prepared to incur additional risk associated with processing these mortgage transactions." The letter caption referred to two mortgages specifically.

- iii. Should Chaudhary submit any future mortgage transactions through another mortgage broker, Chaudhary would be held personally responsible for any losses MCAP incurred.
  
- (e) He had contacted the author of the letter [REDACTED] Manager of Mortgage Investigations, who advised that 24 of the 27 mortgage applications Chaudhary had submitted to MCAP contained questionable documents;
  
- (f) He had received another complaint from First National which also complained about questionable documents Chaudhary had submitted in his mortgage applications;
  
- (g) He has attempted to contact Chaudhary who has failed to return any of his phone calls;
  
- (h) He has terminated Chaudhary's ability to submit applications through Filogics; and

**NOTE:** Filogics is a computer program used by submortgage brokers to gather personal and financial information from potential borrowers. This information takes on the form of a mortgage application which is then forwarded to prospective lenders electronically.

- (i) He would arrange to have all Chaudhary's mortgage files available for examination on October 2, 2008.
  
- (j) He was holding onto Chaudhary's submortgage broker registration and was going to make one further attempt to contact him.

**NOTE:** As of October 14, 2008, the Registrar's office has not received Chaudhary's submortgage broker registration.

20. On October 2, 2008, Blair and Brian Kijowski ("Kijowski"), Senior Investigator at FICOM, attended the Finder office and met with [REDACTED] Operations Manager. [REDACTED] provided all the remaining mortgage files submitted by Chaudhary. He also provided a year-to-date list of Chaudhary's mortgage files. The list showed that 31 mortgages had been approved by various lenders. **(TAB #9)**
21. On October 3, 2008, eight mortgage files from Finder and two mortgage files from First National were provided to various investigators within the Investigation Services Department of FICOM. The results of their investigation/analysis are outlined in the following section – Client File Analysis.
22. On October 3, 2008, Blair contacted [REDACTED], Manager Mortgage Investigations, MCAP. She indicated that a high percentage of Chaudhary's mortgage applications had been declined or cancelled based on his provision of questionable documents. [REDACTED] provided an email indicating Chaudhary's statistics: **(TAB #10)**

(a)	Total Deals Submitted	25
(b)	Deals Cancelled	5
(c)	Deals Declined	16

## CLIENT FILE ANALYSIS

[REDACTED]

Property address: [REDACTED], Vancouver, British Columbia

23. Chaudhary submitted a mortgage application to First National stating that [REDACTED] was a self employed recorder for [REDACTED] for the past three years and eight months, earning \$95,000. **(TAB #11)**
24. On April 3, 2008, [REDACTED] obtained mortgage approval from First National in the amount of \$427,093.88. **(TAB #12)**
25. In support of [REDACTED] application, copies of his 2005 NOA, dated May 30, 2006, **(TAB #13)** and his 2006 NOA, dated April 26, 2007, **(TAB #14)** were provided showing an income of \$77,446 and \$87,772 respectively. Both read "Canada Customs and Revenue Agency" at the top of the form.

**NOTE:** The Canada Customs and Revenue Agency changed its name to "Canada Revenue Agency" on December 12, 2005. This change should have been reflected on the NOAs submitted in support of the mortgage application. **(TAB #15)**

26. There is no letter of employment or pay stubs from [REDACTED]
27. On July 21, 2008, Chin reviewed the file upon completion of Parente's analysis. It is Chin's belief that the 2005 and 2006 NOAs had been altered as the font used to type the name is different than the font usually found on documents completed by CRA. **(SEE TAB #13 & TAB #14)**

28. A review by McMillan of the bank statements provided with the application reveal TD Account [REDACTED] purportedly in the name of [REDACTED]. On the upper portion of these documents and underneath the heading "Account Activity" it is noted there is an identical total balance showing of \$25,306.80 for the months of January, February, and March, 2008. However, the detailed account activity (showing opening balance for the month, and all debits and credits) does not result in a \$25,306.80 balance in the months of January and February, although it does do so in the month of March. This inconsistency within the individual bank statements appears suspicious. **(TAB #16)**
29. In reviewing the bank records, which cover the months of January, February, and March 2008, the only consistently large deposits which might be indicative of employment income are as follows:

January 2, 2008: \$1500

January 22, 2008: \$1800

February 15, 2008: \$1300

March 7, 2008: \$1600

March 21, 2008: \$1450

These amounts are not deposited at regular (i.e. bi-weekly) periods, nor do they support claims of stated income in the amount of \$95,000.

30. A review of the Contract of Purchase and Sale reveals that the seller of the property was [REDACTED]

**NOTE:** [REDACTED] in fact is the subject of a criminal investigation being conducted by Kijowski. That investigation involves a realtor, [REDACTED], who was using "straw buyers" to purchase property. [REDACTED] was used by [REDACTED] to purchase three different properties including this one. **(TAB #17)**

31. [REDACTED] had submitted four false mortgage applications, wherein he used [REDACTED] [REDACTED] as the applicant's place of employment. Kijowski has made inquiries with regards to the address and has determined that a company in that name did exist. However, all attempts to track down principals of that company through the usual checks have failed. The actual business premises did not show any signs of being active or occupied. All person(s) interviewed who had [REDACTED] listed as their place of employment confirmed they had never worked there and did not know if it actually existed.



[REDACTED]

Property: [REDACTED], Burnaby, British Columbia

32. Chaudhary submitted a mortgage application to First National stating that [REDACTED] was self employed as a general construction worker for [REDACTED] earning \$74,189 annually. According to the application [REDACTED] had been working for [REDACTED] for three years, one month. **(TAB #18)**
33. On March 3, 2008, [REDACTED] obtained mortgage approval from First National in amount of \$341,184.18. **(TAB #19)**
34. In support of [REDACTED] application, Chaudhary obtained copies of two NOAs, dated May 22, 2006 **(TAB #20)** and May 10, 2007 **(TAB #21)**. Both read "Canada Customs and Revenue Agency" at the top of the form.

**NOTE:** The Canada Customs and Revenue Agency changed its name to "Canada Revenue Agency" on December 12, 2005. The name change should have been reflected in the NOAs submitted in support of the mortgage application. **(SEE TAB #15)**

35. The mortgage application shows [REDACTED] address as [REDACTED] Burnaby, British Columbia. On October 3, 2008, Investigator Rod Clemons contacted the manager of that building who advised the building has a 13th floor, but it is referred to as the penthouse. He also advised he has been working there for 18 months and does not know anyone by the name of [REDACTED] or [REDACTED] [REDACTED]
36. Investigator Clemons conducted a reverse address search for [REDACTED] [REDACTED], Burnaby in the name of [REDACTED] which yielded no results. However, a telephone number of [REDACTED] was located for that name at [REDACTED], Surrey, British Columbia. **(TAB #22)**

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37. Investigator Clemons conducted a BC Online search of [REDACTED] Surrey which revealed the property is currently owned by [REDACTED] and has been since May 9, 2008. Prior to that date, the property was owned by [REDACTED] [REDACTED] who is the spouse of the subject of this complaint. (TAB #23)
38. The mortgage application indicates [REDACTED] was employed with [REDACTED] Clemons conducted searches of the BC Registry Services, Google, and Telus Directory for [REDACTED] all of which yielded no results. [REDACTED] does not appear on the Credit Bureau Report on [REDACTED] mortgage file. (TAB #24)

[REDACTED]

Property: [REDACTED] Chilliwack, British Columbia

39. Chaudhary submitted a mortgage application to First National stating [REDACTED] was self employed as a contractor with [REDACTED], having an annual income of \$104,525. According to the application, [REDACTED] had been working in that capacity for three years. **(TAB #25)**

40. On May 20, 2008, [REDACTED] obtained mortgage approval from First National in the amount of \$650,364.75. **(TAB #26)**

41. A NOA, dated May 22, 2006, and showing 2005 income in the amount of \$87,203, was submitted in support of the mortgage application. It shows "Canada Customs and Revenue Agency" at the top of the form. **(TAB #27)**

**NOTE:** The Canada Customs and Revenue Agency changed its name to "Canada Revenue Agency" on December 12, 2005, a change which is not reflected on the submitted 2005 NOA. **(SEE TAB #15)**

42. There are no business records or corporate tax returns on file to support [REDACTED] stated income as a self employed contractor.

43. A search of the BC Registry Services conducted on October 6, 2008 shows the following information for [REDACTED]:

(a) Incorporation number:

[REDACTED]

(b) Registered and records office:

[REDACTED] Chilliwack, British Columbia

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- (c) Incorporation date:  
September 22, 2005
  
- (d) Last annual report filed September 22, 2007
  
- (e) Current director(s):  
[REDACTED]  
(The names appear to have been reversed).
  
- (f) The corporate history search identified [REDACTED] as a previous director. [REDACTED] ceased to be a director on February 29, 2008. **(TAB #28)**

**NOTE:** [REDACTED] was a former real estate licensee, whose license was cancelled by the Superintendent of Real Estate on November 26, 2004 due to concerns about his suitability. **(TAB #29)**

[REDACTED]

Property address: [REDACTED] North Vancouver, British Columbia

44. Chaudhary submitted a mortgage application to First National stating that [REDACTED] was a self employed "courier contractor" with [REDACTED] for the past two years and six months, earning \$86,722. For the previous four years and six months [REDACTED] was employed by [REDACTED] carrier, earning \$48,000 annually. The mortgage application also included a list of [REDACTED] assets which included \$23,500 in savings and \$18,000 in an RRSP. **(TAB #30)**
45. On February 27, 2008, [REDACTED] obtained mortgage approval from First National in the amount of \$325,985.90. **(TAB #31)**
46. In support of [REDACTED] application, copies of his 2005 and 2006 NOAs were submitted, showing an income of \$65,581 and \$85,241 respectively. **(TAB #32 & TAB #33)**
47. McMillan reviewed the NOAs and determined the following:
- (a) The 2005 NOA appears to have been altered as the font used to prepare the RRSP Deduction Limit is of a different size and is not in line with the remainder of the document;
  - (b) The 2005 NOA is dated May 29, 2006, but the heading on the document reads "Canada Customs and Revenue Agency." The Canada Customs and Revenue Agency changed its name to "Canada Revenue Agency" on December 12, 2005.

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- (c) The 2006 NOA is dated April 30, 2007 and is also on "Canada Customs and Revenue Agency" letterhead. As noted above, the Agency's name was changed to "Canada Revenue Agency" on December 12, 2005.
  - (d) The font used inscribe line "6150 - Total British Columbia non-refundable tax credits" on both NOAs is different and the numbers do not line up with the remainder of the document. **(SEE TAB #30 & TAB #31)**
48. There is no letter of employment, nor business or corporate records on file to support the stated income.
49. On October 6, 2008, McMillan phoned [REDACTED], [REDACTED] home phone number as stated on his mortgage application. [REDACTED] answered the phone and provided the following information:
- (a) He has never met Chaudhary nor does he recall ever having a conversation with a person by that name;
  - (b) He believed his mortgage broker to be a man by the name of "[REDACTED]";
  - (c) He is currently and has always been employed with [REDACTED]
  - (d) He does not work for nor does he have a business called [REDACTED] [REDACTED]. His only source of other income comes from [REDACTED] [REDACTED] and some overtime with [REDACTED]
  - (e) The mortgage was arranged by his brother-in-law, [REDACTED], whose phone number is [REDACTED];
  - (f) He did sign the mortgage documents with the realtor, and at the lawyer's office; and

- (g) He cannot recall the amount of money he had in his bank account in February of this year.
50. McMillan reviewed the Contract of Purchase and Sale and determined the following: **(TAB #34)**
- (a) the Realtor of Record is [REDACTED] of [REDACTED] [REDACTED] North Vancouver, British Columbia;
  - (b) the contract is dated February 22, 2008;
  - (c) the seller is [REDACTED];
  - (d) the MLS No. is [REDACTED]; and
  - (e) the only signatures on the document are those of the buyer and seller. The signatures are not witnessed, as is the norm.
51. On October 3, 2008, McMillan phoned [REDACTED] and asked him what knowledge he had of this Contract of Purchase and Sale. [REDACTED] claimed he had no knowledge of the contract whatsoever and that he had nothing to do with the sale.
52. On October 3, 2008, McMillan received a phone call from [REDACTED] [REDACTED] of [REDACTED] North Vancouver, British Columbia. [REDACTED] was present with him. The conversation was taped and the following information was learned:
- (a) [REDACTED] is the brother-in-law of [REDACTED]
  - (b) [REDACTED] wrote up the deal without [REDACTED] knowledge;

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- (c) He did it to earn [REDACTED] points;
  - (d) The deal was brought to him by [REDACTED], a Realtor with [REDACTED];
  - (e) He did represent [REDACTED], but knew very little about the sale and final outcome;
  - (f) He introduced [REDACTED] to [REDACTED];
  - (g) He does not know what happened with regards to the down payment deposit or commissions earned from the sale of the property;
  - (h) He does not know any person by the name of Chaudhary or [REDACTED] and
  - (i) For all real estate deals he is involved in, he does not deal with mortgage brokers and leaves the purchasers to fend for themselves.
53. A check of the Real Estate Council database confirms that [REDACTED] is a licensed representative with [REDACTED]. It is further noted that [REDACTED] is his advertising name while his licensee name is "[REDACTED]" (TAB #35)



[REDACTED]

Property address: [REDACTED] Vancouver, British Columbia

54. Chaudhary submitted a mortgage application to Bridgewater Bank stating that [REDACTED] was self-employed as an electrical designer employed by [REDACTED] [REDACTED] for the past two years, earning \$118,000 per year. She was previously employed with [REDACTED] as an engineering assistant, earning \$54,000 per year. (TAB #36)
55. On May 14, 2008, [REDACTED] obtained a mortgage approval from Bridgewater Bank in the amount of \$572,175.50 (TAB #37)
56. Chin conducted a search of the BC Registry Services on October 3, 2008 for [REDACTED] [REDACTED] which revealed no record for a company by that name.
57. On August 28, 2008, Chin made a pretext phone call to [REDACTED]. The receptionist who answered identified herself as [REDACTED]
58. On October 3, 2008, Chin again called [REDACTED]. The receptionist again identified herself as [REDACTED]. Chin advised he was calling from the office of the Registrar and [REDACTED] confirmed the following:
- (a) she had purchased the subject property;
  - (b) the submortgage broker had been Chaudhary; and
  - (c) she quickly ended the call not wanting to discuss the matter further.
59. Two T1 Generals were submitted in support of the mortgage application. (TAB #38 & TAB #39) Both forms indicate they were prepared by [REDACTED] [REDACTED]. A 411 telephone search and Google internet search both failed to find a company having that, or any similar, name.

60. Each of the two T1s submitted (for 2006 and 2007) included a "Statement of Business Activities" for [REDACTED]. The letterhead at the top of each of these two Statements of Business Activities reads, "Canada Customs and Revenue Agency", whereas the T1 itself, in each case, has a header reading "Canada Revenue Agency."
61. No NOAs were found in the mortgage file.
62. In reviewing the bank records, which cover the months of February, March, April and May 2008, the only consistently large deposits which might be indicative of employment income are as follows: **(TAB #40)**

February 22, 2008: \$2,000

February 2, 2008: \$1,965

March 14, 2008; \$1,065

March 31, 2008: \$1,065

April 10, 2008: \$ 800

April 15, 2008: \$1,059

April 16, 2008: \$ 500

April 30, 2008: \$ 473

May 13, 2008: \$2,000

May 13, 2008: \$1,325

May 15, 2008: \$1,679

These amounts are not deposited at regular (i.e. bi-weekly) periods, nor do they support claims of stated income in the amount of \$118,000.

[REDACTED]

Property address: [REDACTED], Coquitlam, British Columbia

63. Chaudhary submitted a mortgage application to First National stating that [REDACTED] was a self-employed stock trader/financial adviser with [REDACTED] [REDACTED] earning \$132,410 annually. According to the application, [REDACTED] had been working in that capacity for the past five years. **(TAB #41)**
64. On May 14, 2008, [REDACTED] obtained mortgage approval from First National in the amount of \$767,625. **(TAB #42)**
65. On October 6, 2008, Chin called [REDACTED] cell phone number as found on the application. The call was unanswered and went to voice mail. The voice mail message indicated the number belonged to [REDACTED] Chin left a message requesting [REDACTED] call him. [REDACTED] has failed to do so.
66. A NOA, dated May 19, 2006 and showing an income of \$107,877, was provided in support of the mortgage application. The name "Canada Customs and Revenue Agency" appears at the top of the form. **(TAB #43)**

**NOTE:** The Canada Customs and Revenue Agency changed its name to "Canada Revenue Agency" on December 12, 2005. **(SEE TAB # 15)**

[REDACTED]

Property address: [REDACTED] Burnaby, British Columbia

67. Chaudhary submitted a mortgage application on behalf of [REDACTED] and [REDACTED] to First National, stating: **(TAB #44)**

(a) [REDACTED] a female, had been employed as a senior sales manager for [REDACTED] [REDACTED] for three years, and was earning \$76,800 annually; and

(b) [REDACTED] a female, had been employed as a registered nurse with the [REDACTED] [REDACTED] for the past 30 years, earning \$54,000 annually.

68. On February 25, 2008, [REDACTED] and [REDACTED] obtained a mortgage approval from First National in the amount of \$558,523.95. **(TAB #45)**

69. In support of the mortgage application, a letter of employment for [REDACTED] was submitted. The letter indicates that "Ms." [REDACTED] was employed as the general manager at [REDACTED] with a yearly salary of \$76,800 plus bonuses. It is signed by [REDACTED] President. **(TAB #46)**

70. On October 6, 2008, Senior Investigator Tom Forster ("Forster") attended [REDACTED] at [REDACTED] Burnaby. A repairman working there stated that there is only one manager and that person is the owner, [REDACTED]. The business is a very small one, having only three auto body workers.

71. Forster later spoke to [REDACTED] the owner of [REDACTED] who advised he does not know a [REDACTED] and does not pay anyone \$76,800 as an annual salary.

72. On October 6, 2008, Forster attended [REDACTED] Burnaby, the residential address provided for [REDACTED] on the mortgage application. The residence is the home of an employee of [REDACTED]. Inquiries with the occupant revealed that [REDACTED] was a male renter of the basement suite who resided by himself. He left several months previously after damaging the suite.

**NOTE:** Both the mortgage application and employment letter from [REDACTED] identify [REDACTED] as being a female.

73. On October 6, 2008, Forster attended [REDACTED] Vancouver, the address shown on [REDACTED] bank statement. The address was found to house a vacant office formerly occupied by a property management company, [REDACTED].
74. On October 6, 2008, Forster contacted [REDACTED] and learned that [REDACTED] has been employed as a nursing aid since 1979, and not as a registered nurse as shown on her application. Her hourly wage is \$21.37 which equates to \$44,450 annually, not \$54,000 as shown in the mortgage application.
75. There is no additional information on file to support the income being claimed by the applicants.

[REDACTED]

Property address: [REDACTED], North Vancouver, British Columbia

76. Chaudhary submitted a mortgage application to MCAP stating that [REDACTED] was a self-employed contractor with [REDACTED] for the past five years, earning \$108,000 annually. (TAB #47)
77. On May 10, 2008, [REDACTED] obtained mortgage approval from MCAP in the amount of \$518,502.40. (TAB #48)
78. On October 6, 2008, Forster conducted an internet search and determined that [REDACTED] had a business address of [REDACTED] North Vancouver, British Columbia. Forster then attended at the [REDACTED] office and spoke to [REDACTED] who identified himself as the owner of the company. [REDACTED] advised that he has only two employees and has never heard of nor does he have anyone in his employ by the name of [REDACTED]
79. In support of the mortgage application, a T1 General 2006 was provided showing [REDACTED] personal income, as well as a 2006 Statement of Business Activities for [REDACTED]. The letterhead on the T1General 2006 reads "Canada Revenue Agency"; however, that on the Statement of Business Activities reads "Canada Customs and Revenue Agency."
80. On October 6, 2008, Forster noted that [REDACTED] North Vancouver, British Columbia is shown as having prepared [REDACTED] 2006 income tax return. (TAB #49)
81. No such business under that name could be located in British Columbia.

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82. A NOA, dated May 8, 2007 and showing income for 2006 in the amount of \$67,025, was provided in support of the mortgage application. The name Canada Customs and Revenue Agency appears at the top of the form. **(TAB #50)**

**NOTE:** The Canada Customs and Revenue Agency changed its name to "Canada Revenue Agency" on December 12, 2005. **(SEE TAB #15)**



[REDACTED]

Property address [REDACTED] Vancouver, British Columbia

83. Chaudhary submitted a mortgage application to TD Canada Trust stating as follows:

(a) [REDACTED] had been self-employed, as the "president/owner" of [REDACTED] [REDACTED] for the previous 7 years, earning \$94,662 per year (numbers not completely discernible); and

(b) [REDACTED] wife, was also self-employed at [REDACTED] as an executive administrator, earning \$86,200 per year (numbers not completely discernible). (TAB #51)

84. On February 26, 2008, [REDACTED] and [REDACTED] obtained a mortgage approval from TD Canada Trust in the amount of \$492,345. (TAB #52)

85. Investigator Eirik Feir ("Feir") conducted an internet search for [REDACTED] and confirmed there was a business in that name located at [REDACTED] Vancouver, British Columbia, with a phone number of [REDACTED] (TAB #53)

86. On October 15, 2008, Investigator McMillan conducted a 411.ca for phone number [REDACTED]. The result was a business with the name of [REDACTED] [REDACTED] showing the same address of [REDACTED] Vancouver, British Columbia. (TAB #54)

87. On October 15, 2008, McMillan conducted a search of the BC Registry Services for [REDACTED] and determined there was no company registered in British Columbia under that name. (TAB #55). However, there is a company registered under the name of [REDACTED] with the same business address as previously noted. The Directors of the company are [REDACTED] and [REDACTED] (TAB #56)



88. A NOA, dated May 30, 2006, was provided in support of the mortgage application in the name of [REDACTED]. Ms. [REDACTED] name is incorrectly spelled. The NOA appears to be altered as the font for the 2005 tax year is not the usual font used by CRA (Arial or Times New Roman). The "I"s in the name have horizontal lines on top and bottom, which are not found on the Arial font. The Times New Roman also contains serifs, which are not found on these documents. Also, the name Canada Customs and Revenue Agency appears at the top of the form. **(TAB #57)**

**NOTE:** The Canada Customs and Revenue Agency changed its name to "Canada Revenue Agency" on December 12, 2005. **(SEE TAB #15)**

89. On October 6, 2008, Feir phoned [REDACTED] which is the same number found on the 411.ca search and his mortgage application work phone number. [REDACTED] provided the following information:
- (a) He did not remember the name Jay Chaudhary;
  - (b) With some prompting, he recalled purchasing the property at [REDACTED] [REDACTED] Vancouver;
  - (c) He was unable to recall his approximate income for the years 2005, 2006, or 2007; and
  - (d) He confirmed that [REDACTED] is his wife.

Property address: [REDACTED] Mission, British Columbia

90. Chaudhary submitted a mortgage application to First National stating that [REDACTED] was a self-employed drywaller for [REDACTED] for the past four years, earning \$78,456 per year. He held assets at the time of his application in the form of \$10,000 in savings, \$25,000 in RRSPs, a \$25,000 truck, and a \$25,000 RV motor home. **(TAB #58)**
91. On February 19, 2008, [REDACTED] obtained mortgage approval from First National in the amount of \$355,509. **(TAB #59)**
92. On October 6, 2008, Feir contacted [REDACTED] who was extremely hesitant to speak with him. [REDACTED] did however confirm that his income was about \$72,000 in 2006 and his list of assets was accurate. Three further attempts to contact [REDACTED] met with negative results.
93. Two NOAs, dated July 10, 2006 and April 27, 2007, were submitted in support of the mortgage application. Both NOAs appear to be altered as the font used to inscribe [REDACTED] name is not in the usual font used by CRA (Arial or Times New Roman). The "l"s in the name have horizontal lines on top and bottom, which are not found on the Arial font. The Times New Roman also contains serifs, which are not found on these documents. Also, the name "Canada Customs and Revenue Agency" appears at the top of both forms. **(TABS #60 & #61)**

**NOTE:** The Canada Customs and Revenue Agency changed its name to "Canada Revenue Agency" on December 12, 2005. **(SEE TAB # 15)**

## RELEVANT LEGISLATION & BULLETINS

94. Section 8 of the Mortgage Brokers Act states:

### **Suspension or cancellation of registration**

“8 (1) After giving a person registered under this Act an opportunity to be heard, the registrar may suspend or cancel the person's registration if, in the opinion of the registrar, any of the following paragraphs apply:

- (a) the person would be disentitled to registration if the person were an applicant under section 4;
- (b) the person is in breach of this Act, the regulations or a condition of registration;
- (c) the person is a party to a mortgage transaction which is harsh and unconscionable or otherwise inequitable;
- (d) the person has made a statement in a record filed or provided under this Act that, at the time and in the light of the circumstances under which the statement was made, was false or misleading with respect to a material fact or that omitted to state a material fact, the omission of which made the statement false or misleading;
- (e) the person has conducted or is conducting business in a manner that is otherwise prejudicial to the public interest;
- (f) the person is in breach of a provision of Part 2 or 5 of the *Business Practices and Consumer Protection Act* prescribed under section 9.1 (2).

- (1.1) After giving a person registered under this Act an opportunity to be heard, the registrar may order the person to pay an administrative penalty of not more than \$50 000 if, in the opinion of the registrar any of paragraphs (b) to (e) of subsection (1) apply.
- (2) If the length of time that would be required to give the person an opportunity to be heard under subsection (1) would, in the registrar's opinion, be prejudicial to the public interest, the registrar may suspend registration without giving the person an opportunity to be heard.
- (3) If under subsection (2) the registrar suspends registration without giving the person an opportunity to be heard, the registrar must promptly send written notification of the suspension to the person and to the tribunal.”

95. The Registrar periodically issues Bulletins for the information of mortgage brokers and submortgage brokers registered in British Columbia. Portions of the relevant Bulletins are set out below:

**Bulletin Number MB04- 005 – Misleading Information (October 2004)**

“Increasingly this office is being made aware of occasions where mortgage brokers are failing to verify client information that is being passed on to lenders. As a result, instances where lenders are receiving misleading or false information is becoming more frequent. Occurrences of this nature can tarnish the reputation and professional image mortgage brokers have within the lending community and amongst the general public. As a result of our investigations into these incidents disciplinary action has been taken against mortgage brokers in a number of occasions. In addition, charges of forgery, uttering a forged document, and obtaining credit by false pretences have been laid. We are not suggesting that most mortgage brokers are conducting their business in this manner, but rather we wish to ensure that the few who act improperly are identified and dealt with promptly and appropriately.

Mortgage brokers need to recognize that lenders rely on the information they receive regarding potential borrowers. Mortgage brokers cannot say that it is not their responsibility to verify the information being given to them during the application process. Lenders indicate they assume that mortgage brokers have verified the information before forwarding it on. This office takes the position that a mortgage broker has a duty to ensure the information being sent to a lender has been verified.

Although no one is suggesting that mortgage brokers need to conduct in-depth investigations of every transaction that they process, reasonable due diligence must be undertaken to ensure that the information being passed on to lenders is accurate. Applications containing errors or omissions need additional verification and under no circumstances should brokers be referring applications that have been shown by another mortgage broker or lender to contain false or inaccurate information. If mortgage brokers do not verify the information they are forwarding to lenders, then mortgage brokers should advise the lenders in writing that none of the information has been verified...”

**Bulletin Number MB07- 005 – Due Diligence of Mortgage Brokers Who Arrange Stated Income Mortgage (July 26, 2007)**

“Self employed borrowers may qualify for a stated income mortgage by relying on the income stated in their mortgage application or in a separate declaration form. These borrowers usually do not have to prove the value of their income with supporting documentation, such as income tax returns or bank statements. However, they may have to document the source of their income by providing a business licence to the mortgage broker or lender. Stated income mortgages are intended for self employed persons, who may write off significant amounts of their gross income with business expenses. The income they are asked to declare is neither their gross income nor their net income, but a “reasonable” estimate of their actual income...”

The lack of supporting documentation required for stated income mortgages may lead some borrowers to provide misleading information about the source of their income or the amount of their income...

Please be aware that mortgage brokers must undertake reasonable due diligence to ensure that the information being passed on to lenders is accurate and not misleading, even if it appears that the lender encourages or tolerates misleading statements from borrowers about the source or amount of income on stated income applications. Exercising due diligence for stated income mortgages would require mortgage brokers to ensure that the borrower knows to state only truthful information in the mortgage application. Remember that if a stated income mortgage results in default or foreclosure, the lender may look for evidence of fraud. If there are any misrepresentations about the amount or source of income, lenders may place responsibility for the misrepresentations on the mortgage broker who submitted the application, while borrowers may blame the mortgage broker for counseling them to provide false information.

In addition, the Registrar of Mortgage Brokers may seek to impose regulatory penalties against any mortgage broker who does not exercise due diligence in ensuring that information contained in stated income mortgages is accurate and not misleading..."