



IN THE MATTER OF THE MORTGAGE BROKERS ACT

R.S.B.C. 1996, c. 313

AND

SOHEIL ARMAN KIA aka SOHEIL ARMON KIA

DECISION ON MERITS

Corrected Decision: The front page and page 35 were corrected on December 13, 2017

DATES OF HEARING: November 28 and 29, 2016, December 1, 2016,
February 9, 2017, and August 21, 22, 24 and 28,
2017

PLACE OF HEARING: Office of the Registrar of Mortgage Brokers,
Vancouver

COUNSEL FOR STAFF: Andrea K. Glen and Stephen King

COUNSEL FOR REGISTRANT: Owais Ahmed

REGISTRAR'S APPOINTEE: Brian K. Evans

A. INTRODUCTION

This hearing was conducted at the Office of the Registrar of Mortgage Brokers ("Registrar") to allow Soheil Arman Kia, also known as Soheil Armon Kia, the opportunity to be heard in accordance with section 8(1) of the *Mortgage Brokers Act* (the "Act").

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In summary, the issues involve the multiple mortgage financing applications of five different sets of borrowers or purported borrowers (collectively "Borrower" or "Borrowers" as the case may be). Staff allege that Mr. Arman Kia:

- failed to disclose to lenders all real property which Borrowers currently owned and planned to acquire;
- failed to disclose to lenders all the Borrowers' current real property financing and financing which Borrowers planned on seeking;
- represented properties as owner-occupied when they were or would become rental properties; and,
- presented multiple applications to lenders for the same Borrower which contained significant and unexplained variation in income.

Staff allege that Mr. Arman Kia's actions are contrary to s. 8(1)(i) of the Act as it amounts to conduct that is otherwise prejudicial to the public interest.

B. NOTICE OF HEARING

Staff allege in a Notice of Hearing dated January 9, 2015 ("Notice of Hearing") that on February 18, 2013 Staff conducted an examination of mortgage files of Yespros Mortgages Inc. ("Yespros"), a brokerage registered under the Act. Some of the mortgage files were handled by Mr. Arman Kia, a Yespros' submortgage broker. Following a subsequent investigation including the Staff interview of Mr. Arman Kia, Staff determined a number of issues in relation to files handled by Mr. Arman Kia.

Staff state that Mr. Arman Kia prepared the Borrowers' problematic mortgage applications for submission to lenders, as outlined in paragraphs 7 and 10 and 11 of the Notice of Hearing. Staff allege that the following has been determined (the Borrowers' names have been anonymized and for consistency 'Mr. Arman Kia' has been substituted for 'Armon'):

7a. BI

... In arranging mortgages on behalf of borrower ... [BI], [Mr. Arman Kia] prepared mortgage applications for submission to lenders where:

- i. An application submitted to a lender to finance a property being purchased by the borrower identified that property as being owner occupied and identified another property owned by the borrower as a rental property;*
- ii. An application submitted on the same day to a different lender for the refinancing of the borrower's rental property identified that property as being owner occupied and failed to disclose that the borrower had arranged financing for the purchase of the property identified in ... (a)(i); and*

iii. The annual earnings reported for the borrower in the application identified in ... (a)(i) were significantly different than the annual earnings reported for the borrower in the application identified in ... (a)(ii).

7b. M and S

In arranging mortgages on behalf of borrowers ... [M and S], [Mr. Arman Kia] prepared mortgage applications for submission to lenders where:

- i. An application was submitted to a lender to finance a property being purchased by the borrowers as a rental property; and*
- ii. An application submitted on the same day to a different lender to refinance another property owned by the borrowers failed to disclose that the borrowers were seeking mortgage financing for the purchase of the property identified in ... (b)(i).*

7c. RP

In arranging mortgages on behalf of borrower ... [RP], [Mr. Arman Kia] prepared mortgage applications for submission to lenders where:

- i. An application was submitted to a lender to finance a property being purchased by the borrower;*
- ii. An application submitted three days later to a different lender to finance another property being purchased by the borrower failed to disclose that the borrower had arranged financing for the purchase of the property identified in ... (c)(i); and*
- iii. The annual earnings reported for the borrower in the application identified in ... (c)(i) were significantly different than the annual earnings reported for the borrower in the application identified in ... (c)(ii).*

7d. S and G

In arranging mortgages on behalf of borrowers ... [S and G], [Mr. Arman Kia] prepared mortgage applications for submission to lenders where:

- i. An application was submitted to a lender to finance a property being purchased by the borrowers as a rental property; and*
- ii. An application submitted approximately 16 months later to a different lender for the refinancing of the borrower's owner occupied property failed to disclose the mortgaged rental property identified in ... (d)(i).*

7e. P and H

In arranging mortgages on behalf of borrowers ... [P and H], [Mr. Arman Kia] prepared mortgage applications for submission to lenders, where there is evidence in the mortgage broker file that Mr. Arman Kia was aware the borrowers owned four mortgaged properties, and where:

- i. An application was submitted to a lender to refinance a property owner occupied by the borrowers, showing no other properties owned by the borrowers;*
- ii. An application submitted five days later to a different (second) lender to refinance the same owner occupied property identified two rental properties owned by the borrowers;*
- iii. An application submitted the day following the date in ... (e)(ii) to a different (third) lender to refinance the same owner occupied property identified one rental property owned by the borrowers; and*
- iv. An application submitted five days after the date in ... (e)(iii) to a different (fourth) lender to refinance the same owner occupied property identified three rental properties owned by the borrowers.*

...

10. *Staff allege that contrary to s. 8(1)(i) of the Act, [Mr. Arman Kia] conducted his business in a manner that is otherwise prejudicial to the public interest by:*

- a. Failing to disclose in mortgage applications for submission to lenders that borrowers owned other properties when he knew or ought to have known that the borrowers owned other properties;*
- b. Failing to disclose in mortgage applications for submission to lenders that borrowers were concurrently seeking financing for the purchase [of] other properties;*
- c. Preparing mortgage applications for submission to lenders on the basis that the properties would be owner occupied by borrowers, when he knew or ought to have known that the properties would not be owner occupied; and*
- d. Preparing mortgage applications for submission to different lenders over a short period of time, for the same borrower, which contained significant and unexplained variation in Income.*

11. *Staff submit that submortgage brokers and mortgage brokers have a responsibility to conduct reasonable due diligence with respect to information they provide to lenders. Failure to disclose known material facts or knowingly misrepresenting facts to a lender places borrowers at risk of being placed in mortgages that they cannot afford and places lenders at risk of making mortgage*

loans that they would not otherwise have made with full disclosure of the borrower's circumstances.

C. STATUTORY PROVISIONS

For convenience I set out the relevant statutory provisions of the Act:

Definitions

1 In this Act: ...

"mortgage broker" means a person who does any of the following:

- (a) carries on a business of lending money secured in whole or in part by mortgages, whether the money is the mortgage broker's own or that of another person;*
- (b) holds himself or herself out as, or by an advertisement, notice or sign indicates that he or she is, a mortgage broker;*
- (c) carries on a business of buying and selling mortgages or agreements for sale;*
- (d) in any one year, receives an amount of \$1 000 or more in fees or other consideration, excluding legal fees for arranging mortgages for other persons;*
- (e) during any one year, lends money on the security of 10 or more mortgages;*
- (f) carries on a business of collecting money secured by mortgages;*

"submortgage broker" means any person who, in British Columbia, actively engages in any of the things referred to in the definition of mortgage broker and is employed, either generally or in a particular case, by, or is a director or a partner of, a mortgage broker;

Granting of registration by registrar

4 The registrar ...

- (c) may, in the registrar's discretion, attach to the registration or renewal of registration terms, conditions or restrictions the registrar considers necessary.*

Procedure and powers of registrar for Inquiry

6 (2) For sections 5 and 8, the registrar may investigate, inquire into and examine

(a) the affairs of the person in respect of whom the investigation is being made and any books, papers, documents, correspondence, communications, negotiations, transactions, investigations, loans, borrowings and payments to, by, on behalf of or in relation to or connected with the person and any property, assets or things owned, acquired or alienated in whole or in part by that person or by any person acting on behalf of or as agent for that person, and

(b) the assets at any time held, the liabilities, debts, undertakings and obligations at any time existing, the financial or other conditions at any time prevailing in or in relation to or in connection with the person, and the relationship that may at any time exist or have existed between the person and any other person by reason of investments, commissions promised, secured or paid, interests held or acquired, the loaning or borrowing of money, securities or other property, the transfer, negotiation or holding of securities, interlocking directorates, common control, undue influence or control or any other relationship.

...

(9) If the Inquiry discloses a contravention of this Act or the regulations or orders or directions of the registrar, the registrar may order the costs to be paid by the person.

Registrar's orders – registration and compliance

8 (1) After giving a person registered under this Act an opportunity to be heard, the registrar may do one or more of the following:

- (a) suspend the person's registration;
- (b) cancel the person's registration;
- (c) order the person to cease a specified activity;
- (d) order the person to carry out specified actions that the registrar considers necessary to remedy the situation,

if, in the opinion at the registrar, any of the following paragraphs apply:

...

- (i) the person has conducted or is conducting business in a manner that is otherwise prejudicial to the public interest ...

(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 (f) to (i) of subsection (1) apply.

D. BACKGROUND

The hearing was originally scheduled to conclude in early December 2016, but was extended at Mr. Ahmed's request to February 2017 given the unavailability of Mr. Arman Kia's witness, Dan Boyda. After staff of the Registrar of Mortgage Brokers ("Staff") called all of its witnesses and entered its evidence, Mr. Arman Kia applied for:

1. A declaration that the search conducted by the designate of the registrar at the office of Yespros Mortgages Inc. ("Yespros") on February 18, 2013 (the "Search") was not in compliance with section 6(7) of the *Act* and was ultra vires the Registrar or her designate;
2. Further, or in the alternative, a declaration that the Search was unreasonable and contrary to section 8 of the *Canadian Charter of Rights and Freedoms* ("*Charter*"); and,
3. An order that all of the information obtained by way of the Search be excluded from the hearing, including, inter alia:
 - a. Exhibit 4, Tabs 1 - 14, 16 - 25, 28 - 30, 32 - 33, 35 - 47, and
 - b. Exhibit 5.

Staff opposed the application.

On February 6, 2017, I ruled that the Search complied with section 6(7) of the *Act* and was not contrary to section 8 of the *Charter*. I denied Mr. Arman Kia's application to exclude evidence obtained by way of the Search. Written reasons were issued on February 16, 2017.

Mr. Arman Kia appealed this ruling under section 9(1) of the *Act* to the Financial Services Tribunal ("FST") and sought an adjournment of this hearing pending a decision from the FST. Staff opposed the application. I allowed Mr. Arman Kia's application for an adjournment.

On April 13, 2017, the FST granted Staff's application to summarily dismiss the appeal and the FST dismissed Mr. Arman Kia's appeal with costs to Staff under section 31(1)(a) or, alternatively, under section 31(1)(c) of the *Administrative Tribunals Act*.

Mr. Ahmed applied to adjourn the continuation of the hearing set for April 19, 2017, the application was allowed, and the hearing resumed on August 21, 2017.

Submissions on the merits of the allegations were completed on August 28, 2017.

E. THE BURDEN OF PROOF

The burden of proof is on the Staff to prove the allegations on a balance of probabilities.

F. PROCEEDINGS

1. Generally

The documentary evidence presented at this hearing consisted of 17 exhibits, which included two Books of Documents (Exhibits 2 and 4). Four witnesses were called to give evidence on behalf of the Staff: Colin Chin (Staff Investigator), Ron Evanski of North Shore Credit Union ("NSCU"), Carolyn Butler of Paradigm Quest and Merix Financial ("Merix") and Daryl Graham of Merix. Mr. Ahmed called Mr. Boyda, formerly with Scotiabank, to give evidence, in addition to Mr. Arman Kia.

2. Registration history

Yespros Mortgages Inc. ("Yespros") has been registered as a mortgage broker since July 7, 2005. Mr. Arman Kia has been a registered submortgage broker since January 21, 1998 and he has been registered with Yespros since he co-founded it in 2005. He is a director of Yespros and its designated individual over two periods of time, including June 7, 2005 to April 11, 2012 and resuming on April 28, 2014. A designated individual oversees the operation of a mortgage broker to ensure that it complies with the Act and Regulations.

3. Disclosure duty

Colin Chin testified that he is an investigator with the Registrar of Mortgage Brokers ("Registrar"), he has been in that role for almost nine years and he has conducted approximately 200 mortgage broker investigations during that time. His earlier employment includes acting as an underwriter and being employed in the mortgage broker industry. Mr. Chin completed the mortgage broker course that was offered through UBC and he became the lead investigator into the matters involving Mr. Arman Kia.

Mr. Chin referred to the Registrar's July 26, 2007 Bulletin Number MB07-005, "Due Diligence of Mortgage Brokers Who Arrange Stated Income Mortgages". The bulletin refers to self-employed persons who may write off expenses from their gross income such that the income they are asked to declare is neither their gross income nor their net income, but a "reasonable estimate of their actual income, which may fall somewhere in between their gross and net income ...". It also refers to borrowers who may "... simply fill in the number representing their stated income which is sufficient to qualify them for the mortgage they are seeking, as some lenders have indicated that this is acceptable."

He noted that it is the Registrar's expectation that the mortgage broker will determine what essentially the borrower's true income is. The bulletin also provides 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 misrepresentation on the mortgage broker who submitted the application, while borrowers may blame the mortgage broker for counselling them to provide false information."

4. Search

The background to the search at the Yespros' office on February 18, 2013 (the "Search") includes the fact that Morgan Brewster, a lead investigator, expressed his concerns to Chris Carter, Deputy Register ("Registrar"), as to the conduct of some submortgage brokers and unlicensed staff at Yespros. The Registrar decided under section 6(7) of the Act that an inquiry was needed and that it was both necessary and in the public best interest to enter the business premises of Yespros, to acquire the production of its records and those of its submortgage brokers, and to remove those records.

An authorization was presented at the Yespros office during the search, which expressly refers to a number of people, including Mr. Chin, who were permitted to conduct the Registrar's duties in respect of "investigations, inquiries and examinations". It refers to a number of provisions in the Act, including section 6(7). A Summons to Produce Evidence under section 6(3) of the Act indicates that Mr. Arman Kia, amongst others, was required to produce a wide range of documents.

5. Investigation and Inquiry

Mr. Chin noted that submortgage brokers' applications to prospective lenders are processed through a system called Filogix. He explained that the Filogix system shows when a file was created, to whom it was submitted, who approved it, who accessed the file, and the times and dates.

Mr. Chin identified five Borrowers who were submitting concurrent applications involving different lenders. The applications in question are summarized below in tables, including the Filogix numbers, the date the loans were submitted, the date the loans were approved, the lenders, the address of the property in question, whether the mortgage was financing for a purchase or refinancing of the borrower's existing mortgage, the Borrower's income in the application, whether the property was owner-occupied or rental, and whether other properties were disclosed.

6. Lenders, underwriters and self-employed mortgage applicants

Evidence was led as to the underwriting requirements and the standards expected of submortgage brokers when submitting applications involving self-employed applicants. Staff called Mr. Evanski from NSCU, where Mr. Arman Kia processed mortgage financing applications for all five of the Applicants, and Ms. Butler and Mr. Graham from Merix, which processed an application for one of the Borrowers.

a. Ron Evanski and NSCU

Mr. Evanski testified that he is director for broker services and business development at Blue Shore Financial Credit Union, as NSCU is now known. As to the lending policies of NSCU, he said that full disclosure is paramount in assessing risk to both the lender and the borrower, a full picture of assets and liabilities is required, and knowledge of a prospective borrowers' ability to pay is required. Mr. Evanski stated that NSCU expects brokers will keep NSCU apprised of concurrent applications so NSCU can calculate the borrower's ability to service NSCU's equity take-out. Whether property should be characterized as owner-occupied or rental is based on "the final outcome".

Mr. Evanski said that incomplete information can result in risky loans being made to borrowers who may not have the ability to pay. NSCU communicated its policies to mortgage brokers and submortgage brokers generally, including to Yespros. Mr. Evanski explained that NSCU has a "business for self" program which is its stated income mortgage program. The policy of NSCU at the relevant time required a two year average of a prospective borrower's line 150 income, which is then quadrupled to determine whether the income of the application is sufficient.

b. Carolyn Butler and Paradigm/Merix

Ms. Butler testified as to the policies of Paradigm Quest and one of its lenders, Merix Financial ("Merix"). She referred to an "Originator Agreement" signed by Mr. Arman Kia, which includes the duties of honesty, truthfulness and professionalism. Merix required applications to be up-to-date, correct, fully completed, to include all assets and liabilities, and to be reviewed and screened to ensure legitimacy and integrity prior to submission to Merix. The duties of an "Originator" or broker involve more than simply taking an application but "... a fiduciary responsibility to actually look at the information to a degree to make sure it's accurate as well."

Mr. Arman Kia was required to provide "...up to date, correct and complete credit applications for mortgage loans, complete property details and "... shall review and screen all borrow documentation to support the application to ensure legitimacy and integrity prior to submission to Merix."

c. Daryl Graham and Paradigm/Merix

Mr. Graham testified that he is the director of brand development for Paradigm Quest International. Paradigm insists on senior underwriters being given possible "data integrity issues" and that information be accurate, rather than, for example, income that is rounded up. He also noted that not all properties owned by RP were disclosed on the application.

7. Borrowers' mortgages

a. MB

Mr. Chin referred to the Filogix history for file YPFI-3223 involving a property on 103A Avenue, Surrey, BC. He referred to a prospective borrower, MB, the first of the five Applicants named in the Notice of Hearing. He noted that MB was buying and seeking to finance the 103A Avenue, Surrey property and seeking to refinance a condominium owned by MB on Renfrew Street, Vancouver.

As was the case with all the Borrowers, except the brief involvement of Mr. Arman Kia's colleague Kam Mahinsa in M and S below, the application itself was submitted by Mr. Arman Kia. YPFI-3223 shows the history: the mortgage application was entered into Filogix on January 10, 2011, submitted to the prospective lender Scotiabank on January 10, 2011, and approved on January 11, 2011. Mr. Chin referred to a mortgage commitment for the 103A Avenue property dated January 11, 2011.

The mortgage summary of the actual application reveals MB's income of \$85,000 and MB's address being the Renfrew Street condominium. The comments include that the down payment for the 103A Avenue property is \$180,000, which is the sum of MB's equity in his Renfrew Property (\$115,000) and his savings (\$65,000). The mortgage after refinancing would amount to approximately \$204,000 and the Renfrew property would be rented out for \$1,000 per month. The application indicates that MB would be an owner-occupant of the 103A Avenue property.

Mr. Chin referred to the second Filogix file YPFI-3224 and the Renfrew Street condominium. He noted the discrepancy in income, in rental status, and the value of the Rental Street condominium. The value was shown as \$230,000 – in contrast to the \$250,000 provided in the concurrently filed YPFI-3223/103A Avenue property. Mr. Chin noted that both applications had been submitted at the same time and both indicated that each property would be owner-occupied. He noted the discrepancy in income between \$85,000 and \$40,000. In respect to YPFI-3224, there was no disclosure to NSCU that MB was seeking or had obtained financial approval from Scotiabank to purchase 103A Avenue. Mr. Chin stated that the application had been approved by NSCU.

The facts for the five Borrowers are summarized in Tables.

	YPFI-3223	YPFI-3224
Date Submitted	10 January 2011	10 January 2011
Date Approved by Lender	11 January 2011	11 January 2011
Lender	Scotiabank	North Shore Credit Union
Address	xxxxx 103A Ave, Surrey	Unit-xxx Renfrew St., Vancouver
Type	Purchase financing	Re-financing
Borrower's Income	\$85,000	\$40,000
Owner-Occupied?	Yes	Yes
Other Properties Disclosed	Unit-xxx Renfrew St, Vancouver (rented for \$1,000/mo.)	None

Mr. Arman Kia was compelled to attend before Mr. Chin on July 7, 2014 by way of a "Summons to Attend before Investigators". The summons referred to the fact that Mr. Armon Kia was required to bring a "commission statement or a list of all mortgage files brokered by you from January 1, 2010 to December 31, 2012 while registered as a submortgage broker with ..." Yespros. Mr. Chin noted that he interviewed Mr. Arman Kia on July 7, 2014 and Mr. Arman Kia advised him that he did not make full disclosure in some of these applications, including this one.

b. M and S

Mr. Chin referred to a second set of Borrowers, MM and ZS ("M and S"), who were seeking to refinance a property owned by them on Delahaye Drive, Coquitlam, BC (YPFI-3835). Mr. Arman Kia submitted an application on June 25, 2012 to Scotiabank and it was approved on July 3, 2012. M and S were seeking to obtain financing of \$460,000. The comments in the summary refer to the fact that they were hoping to pay off the first mortgage of \$236,000, a second mortgage of \$102,000 and a \$90,000 dollar secured line of credit, all with the Vancouver City Savings Credit Union ("VanCity"). It indicated that they would also pay off a \$10,000 MasterCard account. This mortgage was funded by Scotiabank and the mortgage was registered in its favour on July 10, 2012.

Mr. Chin referred to YPFI-3838 relating to the application for financing of a Glen Drive Coquitlam condominium in the amount of \$180,000 with NSCU. The application itself was changed briefly from Mr. Arman Kia to his colleague, Kam Mahinsa. The application was approved on July 5, 2012 and was submitted concurrently with YPFI-3835. Mr. Mahinsa shows as a "participant change (agent)" on July 3, 2012 and Mr. Chin testified that it appears it was submitted by Mr. Mahinsa on behalf of Mr. Arman Kia.

Mr. Chin referred to the NSCU approval of the mortgage application for \$180,000, signed by Ron Evanski for NSCU on July 4, 2012.

Mr. Chin noted the discrepancies between the applications, as noted in the table below. YPFI-3835, as the application for the mortgage on the Delahaye Drive property does not disclose that the Borrowers were seeking financing from Scotiabank for the Glen Drive condominium. Rather, the comments reveal that the loan was to consolidate debt. In contrast, the Delahaye Drive property is disclosed in the mortgage application (YPFI-3838) regarding Glen Drive condominium to the NSCU.

	YPFI-3835	YPFI-3838
Date Submitted	25 June 2012	3 July 2012 (copied from YPFI-3835 on 25 June 2012)
Date Approved by Lender	3 July 2012	4 July 2012
Lender	Scotiabank	North Shore Credit Union
Address	xxxx Delahaye Drive, Coquitlam	unit - xxxx Glen Drive, Coquitlam
Type	Re-financing	Purchase financing

Borrowers' Incomes	\$46,345/\$11,200	\$46,345/\$19,000
Owner-Occupied?	Yes, plus rental suite	No, rental
Other Properties Disclosed	None (did not disclose seeking financing to purchase another property)	xxxxx Delahaye Drive, Coquitlam

c. RP

Mr. Chin referred to the application of RP in respect of his purchase of a Seymour Street Vancouver condominium ("Unit 1") (YPFI-3471) concurrently with his purchase of a second Seymour Street condominium ("Unit 2") (YPFI-3477) in the same complex. Mr. Arman Kia submitted RP's application to the NSCU on June 23, 2011. The application was approved. The application refers to Unit 1, Seymour Street and shows the annual income of RP as \$60,000, along with rental income from Unit 1 of \$1,800 per month, totalling \$21,600.

Mr. Chin noted that there was no indication that RP would be seeking any other financing. He referred to a handwritten document taken from RP's file that stated RP's income was "55 – 60k". RP is shown as a self-employed chiropractor. Mr. Chin noted that his total income (line 150) according to his May 24, 2011 Notice of Assessment from CRA was \$16,970. The mortgage commitment from NSCU was received on June 23, 2011.

Shortly afterwards, on June 27, 2011, Mr. Arman Kia submitted a further application for RP in respect of the financing of Unit 2, Seymour Street. The application was approved by Scotiabank and the client accepted it on June 28, 2011. The mortgage summary in respect of Unit 2, Seymour Street shows RP with an annual income of \$120,000 – in contrast to the \$60,000 dollars in the Unit 1 application – and Mr. Chin noted that there was no indication that RP was concurrently seeking financing or had sought financing to purchase Unit 1. That application was also submitted by Mr. Arman Kia.

Both Unit 1 and Unit 2 funded. The NSCU mortgage in respect of Unit 1 along with an assignment of rents were filed for registration on July 11, 2011 and a mortgage and assignment of rents in favour of Scotiabank were filed on July 11, 2011.

	YPFI-3471	YPFI-3477
Date Submitted	23 June 2011	27 June 2011
Date Approved by Lender	23 June 2011	28 June 2011
Lender	North Shore Credit Union	Scotiabank
Address	Unit 1- xxx Seymour Street, Vancouver	Unit 2- xxx Seymour Street, Vancouver
Type	Purchase	Purchase
Borrower's Income	\$60,000 (+ \$21,600 rental)	\$120,000
Owner-Occupied?	No, rental	Yes

Other Properties Disclosed	None	None
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Mr. Chin noted that at the July 7, 2014 interview Mr. Arman Kia admitted that he did not make full disclosure regarding the stated income and concurrent applications in these applications.

A stated income declaration dated July 5, 2011 was signed by RP and witnessed by Mr. Arman Kia, which related to the Unit 2 Seymour Street property. In that declaration RP certified to Scotiabank that: "My total gross annual earnings/income ... from Canadian sources is \$120,000 ...". The "Earnings/Income is defined as the amount of money or its equivalent received from legal sources during a period of time (e.g. annually) in exchange for labor (sic) or services, and may also include profits realized from the sale of goods, property, or from financial investments. Gross earnings/income refers to your income, net of expenses incurred to earn income before taxes have been deducted."

d. S and G

Mr. Chin referred to the financing by BS and FG ("S and G") of a Fullerton Avenue, North Vancouver property (YPFI-2932) on April 14, 2010. Mr. Arman Kia assisted S and G with an application to finance a Fullerton Avenue property with NSCU. The application was approved on April 15, 2010. The mortgage summary shows the Fullerton Avenue property being purchased by S and G on April 30, 2010. The summary discloses the Applicants' property on Inglewood Avenue in West Vancouver. The application was submitted by Mr. Arman Kia.

Mr. Chin noted the refinancing of S and G's owner-occupied property on Inglewood Avenue (YPFI-3540). This application was submitted to Home Trust on August 16, 2011 and a mortgage commitment was generated on August 23, 2011. The Home Trust mortgage was filed for registration on August 31, 2011. Mr. Chin contrasted the information found in YPFI-2932 with that found in YPFI-3540. He noted that despite the fact that Mr. Arman Kia assisted S and G in the financing of the Fullerton Avenue property, the mortgage was not disclosed on the application involving the Inglewood Avenue property.

	YPFI-2932	YPFI-3540
Date Submitted	14 April 2010	16 August 2011
Date Approved by Lender	15 April 2010	Between 24 August and 7 September 2011
Lender	North Shore Credit Union	Home Trust
Address	Unit-xxxx Fullerton Ave, North Vancouver	xxxx Inglewood Ave, West Vancouver
Type	Purchase	Refinance
Borrowers' Incomes	\$160,000/\$1	\$160,000/\$1
Owner-Occupied?	No, rental	Yes

Other Properties Disclosed	xxxx Inglewood Ave, West Vancouver (owner-occupied)	None
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A mortgage commitment was approved by Home Trust. The comments section of the mortgage summary did not disclose that S and G owned the Fullerton Avenue rental property and that it was subject to a NSCU mortgage. Mr. Arman Kia's notes include the comment that he was "... advised by Jillian and that she looke (sic) at the deal."

Mr. Chin advised that at the July 7, 2014 interview Mr. Arman Kia admitted he failed to disclose a property in these applications.

e. P and H

Mr. Chin referred to a number of mortgage applications in which Mr. Arman Kia assisted AMP and FH ("P and H") involving a property on Marinaside Crescent, Vancouver (YPFI-3545). He noted that Mr. Arman Kia prepared mortgage applications for submission to lenders that only disclosed in one of the four applications that P and H owned three rental properties.

He referred to a Google document that he obtained from Mr. Arman Kia's file that discloses four of P and H's properties – Marinaside Crescent, Regiment Square, Carnarvon Street and Howe Street. Marinaside was owner-occupied while the other three were rental properties. Mr. Chin noted that the document itself was printed on August 15, 2011 and refers to Mr. Arman Kia's email address. Mr. Chin referred to the rental tenancy agreements for the rental properties, all showing AMP alone or P and H as landlords. Mr. Chin received these documents from the mortgage file of P and H.

The application to Scotiabank submitted on August 18, 2011, three days after the Google spreadsheet, shows the Carnarvon and Regiment properties but not the Howe Street property. Mr. Chin referred to two apparently draft Scotia rental worksheets that disclosed only two of the rental properties – the first being Regiment Square and Howe Street and the second, with the Scotiabank logo, as indicating the Carnarvon and Regiment properties. Mr. Chin was unable to determine whether the Scotia Bank "rental income and expense breakdown" was indeed sent to Scotiabank with the mortgage application.

The application to Merix, submitted on August 23, 2011, only refers to the Marinaside property, although he did email a rental worksheet to Merix including Regiment Square and Howe Street. Mr. Chin noted a July 10, 2014 email to him from Daryl Graham, Director of Credit Operations Standards with Paradigm Quest, advising that Mr. Arman Kia had disclosed the Regiment and Howe properties along with a Keith property owned by AMP's parents. Mr. Graham's email refers to the fact that this application was declined by the Canada Mortgage and Housing Corporation ("CMHC"). Mr. Chin also noted the rental spreadsheet which only disclosed the Regiment and Howe Street properties.

The application to NSCU, submitted on August 24, 2011, only refers to Regiment Square. It was declined by Ron Evanski as "... full disclosure not given". Apparently P and H had not disclosed a further property that was subject to a NSCU mortgage. None of the three rental properties had a NSCU mortgage.

The application to VanCity, submitted on August 28, 2011, refers to the three rental properties, yet given the revelation by Mr. Evanski of a possible further property, it remains unclear if that application was accurate.

Mr. Chin noted that in summary not all four properties were disclosed on any application except the VanCity application and that lenders need to know the total debt obligation of P and H in order to determine whether they fit within their guidelines. Mr. Arman Kia was the designated individual throughout the file.

	YPFI-3545	YPFI-3545	YPFI-3545	YPFI-3545
Date	18 August 2011	23 August 2011	24 August 2011	28 August 2011
Submitted				
Date Appr. by Lender	N/A	N/A	N/A	N/A
Lender	Scotiabank	Merix	North Shore Credit Union	VanCity
Address	Unit-xxxx Marinaside Cres., Vancouver	Unit-xxxx Marinaside Cres., Vancouver	Unit-xxxx Marinaside Cres., Vancouver	Unit-xxxx Marinaside Cres., Vancouver
Type	Refinance	Refinance	Refinance	Refinance
Borrowers' Incomes	\$87,500/\$38,172	\$87,500/\$38,172	\$87,500/\$38,172	\$87,500/\$38,172
Owner-Occupied?	Yes	Yes	Yes	Yes
Other Properties Disclosed	Possibly: Unit-xxx Regiment Square 2808-898 Carnarvon St.	Unit-xxx Regiment Square Unit-xxxx Howe St.	Unit-xxx Regiment Square	Unit-xxx Regiment Square Unit-xxx Carnarvon St. Unit-xxxx Howe St.

Mr. Chin noted that in addition to the July 7, 2014 interview, he had further meetings with Mr. Arman Kia on July 22, 2014 and September 4, 2014. Mr. Arman Kia could have corrected any misstatement or provided corroborating information during those meetings, but that he did not do so.

8. Soheil Arman Kia

Mr. Arman Kia outlined his personal and professional background, including his roughly 20 year period as a submortgage broker. In January 2011 approximately 75 per cent of his deals were with Scotiabank with Mr. Boyda acting as the underwriter. He

acknowledged that mortgage brokers have a duty to ensure that they are doing the right job and that they must give all the correct information to their lenders. He indicated that his first step in mortgage applications to Scotiabank began with a call to Mr. Boyda. With other lenders, he would typically phone the lender's underwriter. He stated that the underwriters with NSCU that he worked with most frequently with Irene Gatto, Peter Aslanowicz and Mr. Evanski. Mr. Arman Kia emphasized that not all the information provided over the phone to underwriters would be typed into the comment section of the Filogix application. In some cases Mr. Arman Kia was advised that the underwriter took notes of their telephone discussions.

Mr. Arman Kia testified that he made disclosures to various underwriters by phone, fax and email and that he relied on the underwriters to document the information that he provided to them. As to representing properties as owner-occupied when they were slated for rental use, Mr. Arman Kia stated that he gave the underwriters the full story including the borrowers' intended use of the relevant properties. In particular, Mr. Arman Kia stated that he did not fail to disclose the fact that borrowers were concurrently seeking financing for the purchase of other properties and that he fully advised them in a manner which the underwriters found satisfactory.

Mr. Arman Kia testified that in respect of P and H that he did not accurately list all three rental properties on at least two of the four applications but that the conduct was not intentional in all of the circumstances and it was not serious enough to amount to a finding that he conducted business in a manner that is prejudicial to the public interest.

Mr. Arman Kia stated he gave full information to Mr. Boyda as to MB's applications. He also spoke to Ms. Gatto for the NSCU application. He stated that he told Ms. Gatto that MB was buying a house in Surrey and that he needed to refinance the Renfrew property for a down payment. He referred to the Renfrew property as being owner-occupied because that was the current occupancy of the property at the time of the application, the appraisal would have been completed on the basis of the property was owner-occupied, it was his practice, he would have had a discussion with Ms. Gatto about that fact and about the plans for it to become a rental, and that no one told him that the occupancy should be listed as rental.

Mr. Arman Kia stated that the \$100,000 business income was reported to him by the client and that the \$15,000 deduction on the Scotiabank application related to certain business expenses from the \$100,000.

Mr. Arman Kia stated that the stated \$40,000 income reported to the Scotiabank relates to the fact that the Scotiabank takes business income and then uses it to estimate gross income but NSCU looks to the Notice of Assessment and they allow up two to four times higher to get an income amount. Mr. Arman Kia stated that NSCU requires a Notice of Assessment to be submitted to it by fax or email. He said that he would have discussed the Notice of Assessment with Ms. Gatto and that he would have reported a maximum of a four time multiple of the line 150 amount based on advice from Ms. Gatto or from prior discussions with other NSCU underwriters.

Mr. Arman Kia stated that the M and S application to Scotiabank was to consolidate debt on the Delahaye Drive Property. The second application to NSCU on July 5, 2012 by Mr. Mahinsa was to seek purchase financing for the Glen Drive condominium. Mr. Arman Kia stated that he would have, as a matter of course, spoken with someone about the refinancing application being with the Scotiabank and it was his practice that he would have shared the fact of the Scotiabank refinancing with NSCU. He referred to the fact that when Mr. Mahinsa became the agent, all communications were between Mr. Mahinsa and NSCU. Mr. Arman Kia stated that he would have told Mr. Boyda at Scotiabank that M and S were applying for funding to purchase the Glen Drive property.

Mr. Arman Kia stated that he recalled speaking to Mr. Boyda about RP's applications and that Mr. Boyda had told him that he would take the owner-occupied property. He stated that he spoke to Ms. Gatto and explained that Scotiabank would be doing the owner-occupied property as they do not do rentals for self-employed borrowers and she agreed to finance the rental property on behalf of NSCU. He stated that both lenders knew what was happening although it was not his habit to record the full contents of his phone conversations with underwriters on the Filogix applications.

Mr. Arman Kia agreed that given the approximate \$17,000 amount listed on line 150 of RP's Notice of Assessment that NSCU would not have accepted his stated income of \$120,000 that RP told him he earned. He stated that the \$60,000 income reported to NSCU was based on roughly four times the line 150 amount.

In the S and G application to Home Trust he has a specific recollection given the proposal from PS to enter into business with him. Mr. Arman Kia stated that Jillian advised him not to note the Fullerton property as it was S and G's intention to sell that property and therefore a mortgage should be placed on the other property. He stated that he would not have intentionally omitted the existence of the Fullerton property to Jillian as it was favourable information that would reduce the interest rate.

As to P and H's application, Mr. Arman Kia acknowledged his use of the Google spreadsheet and that none of them funded and all were declined, he does not have a good recollection as his assistant helped him prepare the applications, conduct for which he acknowledges he remains responsible. A final Scotiabank rental worksheet, which is not in evidence, would have been submitted to Scotiabank by fax or email and that he received a spreadsheet from AP listing all three rental properties owned by P and H. He stated that the Carnarvon property was not disclosed to Merix and that was simply a sloppy job, although adding it to the Merix spreadsheet would have improved the aggregate total equity amounts and would have been favourable information. He stated the fact that the NSCU application only listed the Regiment Square property was simply a "bad job", that he "missed these things", and that he "made a mistake".

9. Mr. Boyda

Mr. Boyda testified in his personal capacity as a former underwriter with Scotiabank and Maple Trust before that. He indicated that his position was as a mortgage development manager and then as a broker relations manager. From 2010 to 2012 he received and processed Mr. Arman Kia's applications to Scotiabank for mortgage financing. Mr.

Boyda recalled Mr. Arman Kia having provided some background information on most of the Applicants.

Mr. Boyda stated that concurrent applications need not be disclosed as they are in the nature of future, not current, assets and liabilities. He recalled being admonished by a Scotiabank vice-president for including future assets and liabilities in a financing application. Further, the additional debt servicing for rental units would be covered by additional rental revenue.

He also stated, in respect to the RP matter, that Scotiabank would not have approved the loans if both were submitted to it with RP – whose total income (line 150) according to his May 24, 2011 Notice of Assessment from CRA was \$16,970 – disclosing a \$60,000 income. Scotiabank did finance RP's application but this concurrent financing, as I have found, was not disclosed to NSCU in RP's application to NSCU.

After he received the information from Mr. Arman Kia, he spent some time compiling the applications for submission to Scotiabank's head office where lending decisions were made. Mr. Boyda noted that Scotiabank's system was not fully integrated with applications submitted through Filogix. He expected the broker to include information discussed by phone in the "broker notes" section of Scotiabank's system.

Mr. Boyda recalled a strong working relationship with Mr. Arman Kia, his impressive dollar value of loans that were processed by Scotiabank, and the optimal remuneration that Mr. Arman Kia received from Scotiabank.

Mr. Boyda referred to the three concurrent funding Borrowers, MB, M and S, and RP, where Scotiabank preferred to fund the property that would actually be or become owner-occupied. He noted a preference of Scotiabank to less risky "A type business" than B or C type of business. Mr. Boyda avoided properties that were or would become rental properties.

He did not readily admit owner-occupied properties are lower risk and that rental property mortgages attract less favourable interest rates. He noted that, despite the fact that an application referred to the property being owner-occupied, he would have expected the borrower to notify Scotiabank if those circumstances changed.

He testified he also saw Scotiabank policy involving mortgage brokers' standards trumping the policy of the Registrar, even when the Scotiabank policy was less stringent:

214 Q And of course you're aware that the registrar of mortgage brokers regulates the mortgage brokering industry in B.C.?

A Yes, they do.

215 Q And you're aware that the registrar has certain standards regarding mortgage broker conduct?

A Yes I do.

216 Q And of course lenders also have their own standards of what they expect of mortgage

brokers; right?
A Right.

217 Q And a particular lender's standards could be more stringent or less stringently than the regulator's standards; correct?
A Right.

218 Q So you would agree that where a lender's standard are less stringent than the registrar's standards that the broker should follow the registrar's standards; right?
A Well when it came to bank policy they would have to follow bank policy.

219 Q So with respect to, for example, conducting due diligence on certain types of information, if the registrar had more stringent standards than the bank had is your evidence that the submortgage broker should disregard the registrar's standards and follow the bank's standards instead?
A It would be up to the broker. My only interest of course is they're complying with the bank policy who was my employer. I don't stay up to speed on the B C. Broker's regulations or FICOM.

220 Q Fair enough and your industry is not regulated by the registrar right?
A Right.

Mr. Boyda did not see the need for Mr. Arman Kia to disclose all properties and financing particulars, concurrent applications, the fact that owner-occupied properties would be changed to rentals, and full income particulars.

G. SUBMISSIONS

1. Staff

Ms. Glen submits that the evidence reveals a pattern of Mr. Arman Kia intentionally misleading lenders to gain an advantage by:

- failing to disclose Borrower's assets and liabilities, including their complete property and debt information;
- failing to disclose Borrower's concurrent financing applications without disclosing each application to the other lender;
- representing that Borrower's properties would be owner-occupied when he knew they would become rental properties; and
- failing to verify financial information from Borrowers that is contradictory on its face.

Mr. Arman Kia did not disclose every property owned by a Borrower on every mortgage application submitted to a lender, including property address, mortgage holder, mortgage amount, mortgage payments and property taxes. His failure to disclose mortgaged properties he had clear knowledge of is egregious, and in the Staff's submission, calculated to mislead lenders.

Important disclosures should be made in writing, or confirmed in writing, and records of all disclosures should be kept. Mr. Arman Kia provided little documentary evidence to corroborate his alleged disclosure communications. The fact that little evidence was led

to corroborate any purported oral disclosures made by Mr. Arman Kia support an adverse inference that they were not made.

Counsel for Staff referred to evidence that mortgages on rental properties are considered a higher risk than mortgages on owner-occupied properties. Representing a property as owner-occupied when the owner does not intend to continue living there is conduct prejudicial to the public interest due to the additional risk a rental property represents to lenders.

Submortgage brokers must determine the actual income of a self-employed borrower, which is something between their gross income and net income. The actual income of a borrower must be disclosed to a lender, even where the lender's policy is to accept amounts higher than the borrower's actual income. Where a significant discrepancy exists between the borrower's line 150 amount in their Notice of Assessment and their stated income, the broker must make further inquiries to confirm the stated income amount by, for example, requesting the borrower's T1 General. Mr. Arman Kia's lax attitude towards verifying a borrower's true income has obvious implications for a lender's ability to accurately assess debt service ratios.

Little if any weight should be placed on the evidence of Mr. Arman Kia. His testimony at hearing is not consistent with the documents in evidence or the testimony of the Staff's lender witnesses. He failed to substantiate his claim that he provided disclosure to lenders through phone, fax and email. His testimony is inconsistent with his comments to Mr. Chin at the July 7, 2014 interview and his explanations – that he was taken by surprise because he did not know what the interview was about, he could not think straight because he was fasting, and he just wanted to get the interview over with are not plausible.

Mr. Arman Kia's interview admissions are, in fact, more consistent with the evidence than his testimony at the hearing. The documents gathered in the course of the investigation show that disclosure to lenders by him was lacking and his hearing testimony that should have shed light is confusing and at times evasive. He acknowledged he is obligated to follow the guidelines of the Registrar where they differ from a lender's, yet he relied on the notion that lenders had advised him not to make important disclosures in writing, as an excuse for not having done so. Staff's position is that his unsubstantiated explanations invite the inference that they are recent fabrications.

Even if Mr. Arman Kia's evidence that he provided these disclosures is accepted, his failure to keep records does not shield him from a finding that he conducted himself in a manner prejudicial to the public interest. Section 6 of the Regulations provides that "Every registered mortgage broker shall ... (a) keep such books and records as are necessary for the proper recording of his business transactions and financial affairs". Yespros had an obligation to keep records in conformity with this provision. Mr. Kia has admitted that as the Designated Individual, it was his responsibility to ensure that Yespros conducted its business in accordance with the Act and Regulations.

Mr. Boyda's evidence had some very concerning features and should also be given very little to no weight. He testified in his personal capacity, without the knowledge of Scotiabank, and his testimony was inconsistent with the policies of the other lender witnesses and the policies of the Registrar. Mr. Boyda's evidence that concurrent financing need not be disclosed cannot represent the policies of a prudent lender, even if it was his practice to counsel brokers against including such information.

Conduct which creates an unnecessarily elevated risk to borrowers and lenders constitutes conduct prejudicial to the public interest. Ms. Glen referred to cases where the Registrar has found that misleading a lender about a borrower's actual indebtedness is conducting business in a manner prejudicial to the public interest.

Staff submit that the pattern of behaviour Mr. Arman Kia has displayed is consistent with an intention to mislead lenders, and not mere sloppy behaviour or poor record-keeping.

Ms. Glen submits that documentary exhibits and the testimonies of Mr. Chin and the three lender witnesses called by the Staff are consistent with each other, consistent with the evidence, and reliable. Further, the testimonies of Mr. Evanski and Ms. Butler on disclosure-related policies reflect the industry standard. She submits their testimony should be preferred over that of Mr. Arman Kia and Mr. Boyda.

There is clear and cogent evidence that Mr. Arman Kia conducted his business in a manner prejudicial to the public interest

2. Mr. Arman Kia

Mr. Ahmed submits that the Staff failed to prove that Mr. Arman Kia engaged in business that is otherwise prejudicial to the public interest and that the allegations should be dismissed. Staff failed to call key individuals with personal knowledge of the impugned transactions. Staff proceeded on the misunderstanding that all of the information was conveyed to the lenders on Filogix when Mr. Arman Kia supplemented disclosure information by phone, fax and email. Staff did not appreciate the important differences between Scotiabank and NSCU's stated income applications, including the fact that the two lenders relied on different information and factors to determine reasonable income. It is noteworthy that all loans are performing and there is no evidence of actual harm or prejudice.

Staff has not established there is any law or even written policy that requires that concurrent financing be disclosed in writing. Further there is no policy that when a property is to become a rental property that the written Filogix application must indicate it is a rental property rather than owner-occupied.

Mr. Boyda recalled most of the applications to Scotiabank and that Mr. Arman Kia customarily disclosed the circumstances of the concurrent applications that were processed by other lenders.

a. MB

As to his representing the Renfrew street property as “owner occupied” when Mr. Arman Kia knew that it would be a rental property, he told Ms. Gatto over the phone that the refinancing was so his client could purchase a house in Surrey, his comments, “the purpose of the refinance is to invest in future Real Estate Development”, is consistent with this disclosure.

Mr. Arman Kia disclosed the NSCU application to Scotiabank.

As to preparing mortgage applications to Scotiabank and NSCU that contained significant and unexplained variation in income:

- i. MB told Mr. Arman Kia that his revenue was \$100,000, that after expenses his income from the business was \$85,000, and that is what he reported to Scotiabank.
- ii. Mr. Boyda testified that if he had known that at the same time an income of \$40,000 was being reported to NSCU, it would not have caused him any concern because of the difference in the policies of the two lenders;
- iii. The difference between the \$85,000 and \$40,000 amounts is again, consistent with the stated income programmes that Scotiabank and NSCU had at the time;
- iv. NSCU would not have accepted a stated income of \$85,000 from MB, given that his line 150 income was roughly \$10,000. Accordingly, Mr. Arman Kia “wrote down” the income – in the same way Mr. Boyda said he would write down income stated by MB if did not consider it reasonable.
- v. if the stated income reported by MB to Mr. Arman Kia was \$85,000, then NSCU was not exposed higher risk by receiving the lower income amount and it cannot be said that Mr. Arman Kia engaged in business prejudicial to the public interest.

b. M and S

Mr. Arman Kia stated he did not have a specific recollection of his communications with Mr. Boyda, but that his practice was to have a phone discussion with him prior to submitting the application and he would have disclosed the Glen Drive application. Mr. Boyda did not remember the M and S applications, but that the existence of the Glen Drive application would have been disclosed to him over the phone. He explained that because the Glen Drive property was prospective, it would not have factored into his assessment, and that he had expressed this policy to Mr. Arman Kia in the past.

Mr. Ahmed noted that paragraph 7(b) of the Notice of Hearing does not include any allegation made about a lack of disclosure to NSCU of the Scotiabank refinance application.

c. RP

Mr. Kia disclosed the multiple purchases to Mr. Boyda over the phone. Mr. Boyda recalled RP being a chiropractor who was buying two units in the same building. A pending deal, such as a concurrent purchase, would not have affected his assessment of the mortgage application.

Mr. Ahmed noted that paragraph 7(c) of the Notice of Hearing does not include any allegation made about a lack of disclosure to NSCU of the Scotiabank application.

d. S and G

Mr. Arman Kia recalled this application as noteworthy given S's encouragement that Mr. Arman Kia go into business with him. He disclosed the existence of the rental property to Jillian of Home Trust over the phone and she told him that it did not need to be listed on the application because S and Gs' intention at the time was to sell it. The Fullerton Avenue property had significant equity, it was favourable information on the Home Trust application, and there was no reason not to disclose it.

e. P and H

Mr. Arman Kia admitted that his work was "sloppy" and that he had made a mistake with respect to the Merix and NSCU applications, but he denies that he omitted the rental properties intentionally.

The documentary evidence is inconsistent with an intention to mislead. If his intention was to mislead Merix he would not have disclosed the Howe Street property given the high LTV percentage and rental shortfall. Further, he would not have disclosed all three rental properties on the final VanCity application. At most the conduct in question amounts to mere negligence.

There is no evidence of the actual Scotiabank worksheet that was submitted, Staff did not obtain a copy of Scotiabank's records, and Staff have not discharged their burden of proof here or generally.

Mr. Ahmed submits that the Staff failed to prove that Mr. Arman Kia engaged in business that is otherwise prejudicial to the public interest and that the allegations should be dismissed.

H. ANALYSIS

1. Maintaining public confidence

In *Cooper v. Hobart*, [2001] 3 S.C.R. 537, 2001 SCC 79 the Supreme Court of Canada reviewed the Act as to whether the Registrar owed a duty of care to investors with mortgage brokers regulated by the Act. In concluding the Registrar did not, Chief Justice McLachlin stated that:

"... the statute does not impose a duty of care on the Registrar to investors with mortgage brokers regulated by the Act. The Registrar's duty is rather to the public as a whole. Indeed, a duty to individual investors would potentially conflict with the Registrar's overarching duty to the public.

A brief review of the relevant powers and duties of the Registrar under the Act confirms this conclusion ...". (paras 44 and 45)

And further:

"The regulatory scheme governing mortgage brokers provides a general framework to ensure the efficient operation of the mortgage marketplace. The Registrar must balance a myriad of competing interests, ensuring that the public has access to capital through mortgage financing while at the same time instilling public confidence in the system All of the powers or tools conferred by the Act on the Registrar are necessary to undertake this delicate balancing. Even though to some degree the provisions of the Act serve to protect the interests of investors, the overall scheme of the Act mandates that the Registrar's duty of care is not owed to investors exclusively but to the public as a whole." (para 49)

I am satisfied that the "public as a whole" includes lenders, borrowers, public and private mortgage insurance companies like CMHC, the mortgage broker industry, and numerous other interested stakeholders. The Registrar must maintain public confidence in the mortgage marketplace.

2. Mr. Boyda

Mr. Boyda testified not as a representative of Scotiabank, rather as an underwriter who, prior to his retirement, received and processed Mr. Arman Kia's applications to Scotiabank for mortgage financing. In support of his view that future assets and liabilities arising from concurrent transactions need not be disclosed, Mr. Boyda recalled he was admonished by a Scotiabank vice-president for including future assets and liabilities relating to pending deals in addition to current real estate assets and liabilities in a financing application.

While that may be true for some aspects of the Scotiabank underwriting process, I do not conclude and I find it implausible that it is the view of Scotiabank, which is federally regulated, that its borrowers' concurrent real estate financing plans are immaterial in the underwriting process or that it has adopted a policy limiting disclosure to it which overrides a submortgage broker's disclosure obligations under the Act. His testimony suggesting full disclosure of multiple applications to a lender as being unnecessary is externally inconsistent with the full disclosure expected by Mr. Evanski, Ms. Butler, and Mr. Chin.

Mr. Boyda's testimony regarding the minimal documentation needed for stated income applications is in contrast with the testimony of Mr. Evanski and Ms. Butler and it is inconsistent with the Registrar's July 26, 2007 Bulletin Number MB07-005, "Due Diligence of Mortgage Brokers Who Arrange Stated Income Mortgages". Assessing the ability to service debt is a central component of an efficient mortgage marketplace and it requires appropriate standards of underwriting. Submortgage brokers must verify income and not rely on educated guesses as to what a Borrower should earn. Mr. Boyda himself acknowledged that income is an important factor in the underwriting process when he

acknowledged that Scotiabank would not have financed two mortgage applications in the RP matter had both been presented formally to it with RP showing a \$60,000 stated income. Scotiabank did finance one of RP's applications but the concurrent financing application, as I have found, was not disclosed to NSCU in RP's application to NSCU.

Splitting concurrent applications between different lenders with, as I have found, inadequate or any disclosure to at least one of the prospective lenders allows loans to proceed when they may not, had all of the circumstances been known.

Mr. Boyda noted a strong relationship and a sales-oriented approach with Mr. Arman Kia that benefitted both Mr. Arman Kia and Mr. Boyda. Mr. Arman Kia received optimal remuneration from Scotiabank arising from mortgages he arranged. Mr. Boyda received significant sales volume and, it appears, preferential treatment in that Scotiabank had first say whether to finance a loan. In each of MB, M and S, and RP, Mr. Boyda chose to process only applications on properties that were or would become owner-occupied and the other properties that were or would become rental properties were presented to non-Scotiabank lenders. While there may have been policy considerations in play why Scotiabank would not fund these latter loans, unlike other lenders Scotiabank did benefit by Mr. Boyda's relationship with Mr. Arman Kia, which allowed it to fund the preferred and less risky deals and to avoid the others.

Mr. Boyda recalled Mr. Arman Kia having provided some background information on most of the applications that Scotiabank processed. After he received the information from Mr. Arman Kia, he spent some time compiling the information for submission to Scotiabank. He expected the broker to include information discussed by phone in the "broker notes" section of Scotiabank's system. I find the manner that this information was provided was not thorough, properly documented and not included with the Filogix applications, in the "broker notes" section of Scotiabank's system, or otherwise documented as it should have been.

Mr. Boyda freely admitted that he expected Mr. Arman Kia to adhere to bank policy even if it contravened Mr. Armon Kia's mortgage broker regulator standards. His evidence as to the Scotiabank's expectations and standards and his recollections generally as to the five sets of Borrowers are inherently unreliable and I give them little weight. In MB, M and S, and RP Scotiabank financed the lower risk, owner-occupied properties. He was reluctant to admit that rental properties are higher risk and usually attract higher interest rates. Mr. Boyda's testimony lacked the objectivity that was seen with Mr. Evanski, Ms. Butler and Mr. Chin.

I am satisfied that on all Scotiabank applications, if Mr. Boyda did give the direction for less stringent disclosure, Mr. Arman Kia deferred to Mr. Boyda rather than comply with his statutory duties of disclosure. In apparent reliance on Scotiabank policy, Mr. Boyda did not see the need for Mr. Arman Kia to disclose all properties and financing particulars, concurrent applications, the fact that owner-occupied properties would be changed to rentals, and full income particulars, and that Mr. Arman Kia followed suit. I find that in respect of the allegations below that Mr. Arman Kia's communications with Mr. Boyda do not amount to disclosures to Scotiabank.

3. Mr. Arman Kia

a. Documentary evidence

Mr. Arman Kia had the opportunity to address inconsistent stated incomes, inaccurate, non-final outcome occupancy status, and nondisclosure concerns involving the concurrent applications. As a designated individual, a director and officer of a mortgage broker, and as a longtime submortgage broker, Mr. Arman Kia was aware of the duties of registered mortgage brokers to "keep such books and records as are necessary for the proper recording of his business transactions and financial affairs" under section 6(a) of the Regulations. Submortgage brokers are in turn required to keep this information. Mr. Arman Kia should have readily provided documentary evidence to allay Mr. Chin's concerns, if it was available.

He should have had readily available income tax returns and Form 1 statements, contracts and addenda dealing with financing conditions, financial statements, and copies of fax transmissions, emails, and telephone records. Even if he failed to retain this information, he should have been able to recreate much of it from the various underwriters, lenders and borrowers.

Mr. Arman Kia stated that he communicated with underwriters by telephone, fax and email. This information should have been readily available if these communications occurred as he suggested. Even if the documentation is no longer available, underwriters should have been in a position to advise in some manner that disclosure was made.

Mr. Arman Kia says he did not retain any records of his telephone disclosures and that he expected the underwriter to take notes from telephone conversations and to include them in the application. This contrasted with his statutory duties and even Mr. Boyda's view that he expected the submortgage broker to include information discussed by phone in the "broker notes" section of Scotiabank's system. Mr. Boyda's view on this point is consistent with the Staff's witnesses and consistent with the duty of full disclosure.

If the problem was, as Mr. Arman Kia suggested, that he did not retain the records, he should have minimally provided the communication pieces requesting this information from each of the lenders in each of the files where disclosure confirmation was purportedly made. Mr. Arman Kia's failure to provide this information is consistent with the fact that disclosure was not made to these lenders.

b. Inconsistent statements

On July 7, 2014, Mr. Arman Kia was interviewed by Mr. Chin about the matters in this proceeding and he admitted that:

- i. he did not make full disclosure in M and S;
- ii. he did not make full disclosure regarding the stated income and

- concurrent financing applications in P and H; and
- iii. he failed to disclose a property in S and G.

At hearing Mr. Arman Kia suggested that some of his admissions during the July 2014 interview were inaccurate because he was taken by surprise, he could not think straight because he was fasting, and he wanted to get the interview over with. He also suggested that he thought the interview might be about a former Yespros submortgage broker, although he conceded that he knew those allegations had resolved by consent in 2013. Mr. Arman Kia knew Yespros was under investigation because of the Search of Yespros over one year earlier.

Mr. Arman Kia's interview admissions are more consistent with the documents, and the evidence of Mr. Evanski and Ms. Butler, than his testimony at the hearing.

c. Mr. Arman Kia' conduct

Mr. Arman Kia acknowledges that he is obligated to follow the guidelines of the Registrar where they differ from lenders such as Scotiabank. His testimony that lenders had either advised him not to make important disclosures in writing, or did not specifically advise him to do so during telephone conversations, as an excuse for not having done so, is diametrically opposed to his duty.

There was little corroboration of important disclosures to lenders by phone, fax or email. Mr. Arman Kia also could not explain why documents he claims he sent to lenders, such as a "complete" version of the P and H rental sheet for Scotiabank cannot be found in his files. Worse, Mr. Arman Kia suggests that the Staff is remiss in not obtaining them.

His assertions about his communications with Irene Gatto at NSCU are in direct contradiction to NSCU's policies. It was open to him to call obvious key witnesses such as NSCU underwriters like Ms. Gatto for all of the Borrowers and his assistant for her involvement in P and H to testify, but he did not do so. This approach invites an adverse inference that their evidence would have harmed, or at least not helped, Mr. Kia's case.

Mr. Arman Kia's conduct in the applications, including his failure to document the applications in any acceptable way, fell far short of standards of the Registrar. It is noteworthy that Mr. Boyda and Mr. Arman Kia differed on who had the duty to document communications between them, although I conclude that this is not a case of simply inadequate books, records and record-keeping. I am satisfied that Mr. Arman Kia did not provide documentation from any source that should have been available and that would corroborate his testimony because it was unhelpful or it did not exist.

His comment in S and G that disclosure of the Fullerton rental property would have actually improved their rate is simply not believable. Further, his statement that Fullerton did not need to be disclosed because it was to be sold is totally contrary to his conduct otherwise and Mr. Boyda's testimony that disclosure involves existing not future assets and liabilities. I find that Fullerton was not disclosed in order to gain an advantage.

4. Staff witnesses

Mr. Chin presented the information and documents that the Staff had found in the course of the investigation in an organized and detailed manner. He contrasted this information with the full disclosure standards that the Registrar requires. Mr. Chin explained how he dealt with Mr. Arman Kia in the course of his investigation and particularly how Mr. Arman Kia provided little to contradict his views despite the opportunity to do so and that there was evidence of widespread nondisclosure of material facts that could put lenders, borrowers and others at risk. Mr. Chin was subjected to a strenuous cross-examination, which did not undermine his credibility.

5. Assessing the evidence

I am satisfied that the standards of practice suggested by Mr. Evanski for NSCU and Ms. Butler for Merix, not the standards of practice suggested by Mr. Boyda or those displayed by Mr. Arman Kia, represent appropriate industry standards from 2010 to 2012. Further, I accept that the full disclosure standards suggested by Mr. Evanski for NSCU and Ms. Butler for Merix are consistent with a protection of the public interest and the requirements of the Registrar under the Act. These include Mr. Evanski's opinion that a final outcome should govern whether a property should be characterized as owner-occupied or rental. Their testimonies were externally consistent and had inherent reliability.

I am satisfied that the Staff led evidence on all of the allegations set out in the Notice of Hearing. In particular, I am satisfied that while Mr. Arman Kia may have made some disclosure to Mr. Boyda, it was incomplete and there is a lack of full disclosure to underwriters and lenders. Mr. Arman Kia failed to lead any significant evidence as to documentary evidence that should have been retained by him or recreated from the various underwriters, lenders and borrowers.

The Staff's witnesses testified objectively and, without exception, were consistent with the documentary evidence. I am satisfied that the Staff met the burden of proof by advancing reliable evidence in support all of the allegations. I also conclude that this is not a case where the Staff fell short of its burden of proof or where it failed to prove all material averments, as suggested by Mr. Ahmed.

Mr. Arman Kia's admissions to Mr. Chin in 2014 are inconsistent with his testimony at the hearing, yet his admissions to Mr. Chin in 2014 are more plausible and consistent with the reliable evidence at the hearing. Mr. Arman's explanation why these admissions should not be accepted is simply not reliable.

I have concluded that Mr. Kia's testimony as a whole is not reliable. He was evasive on questions where the answers should have been readily available and he failed to adduce documentary evidence on crucial points when that evidence should have been at hand. If this was a case of failing to retain file documentation, as Mr. Arman Kia suggests, a recreated file with corroborating evidence should have been available. This includes documentation from witnesses such as the underwriters and lenders with whom he dealt.

There were a number of significant internal inconsistencies in concurrent applications prepared by Mr. Arman Kia, such as particulars of properties owned by borrowers and the borrowers' incomes. It is simply inconceivable that a prudent submortgage broker or lender would permit incomplete information on assets and liabilities simply because he had earlier spoken to the underwriter in question and he had explained the situation to their satisfaction. If that was the case, a record of some type would have been available and would have reflected that fact. Mr. Arman Kia's evidence on this point contrasts sharply with the industry standards as outlined by Mr. Evanski and Ms. Butler, the standards of the Registrar as outlined by Mr. Chin, and it is inherently unreliable.

Mr. Arman Kia had a duty to ensure there was full disclosure in all applications. That duty is not satisfied by providing the minimal information he perceives the underwriter requires.

The fact that the loans in question continue to perform is not surprising given the market when the loans were made and the market since that time. Increases in value are inevitably followed by decreases in value, and non-performing loans increase when market values drop. The true test is when the market falls.

I found Mr. Chin, Mr. Evanski, Ms. Butler and Mr. Graham to be careful and thoughtful witnesses, and I found their evidence helpful and credible. I am satisfied that they provided relevant, reliable and probative evidence. The evidence was trustworthy and it was sufficiently clear, convincing and cogent to satisfy the balance of probabilities test.

Submortgage brokers and mortgage brokers are regulated by the Act and the Regulations and are subject to the orders and directions issued in the public interest by the Registrar. They must conduct reasonable due diligence with respect to information they provide to lenders. It follows that Mr. Arman Kia was required to conduct appropriate due diligence and to make full disclosure to prospective lenders, regardless of differing underwriting approaches and demands. A submortgage broker's duties are not solely to and defined by the lender – so the lender can determine whether the borrower is an acceptable risk. An underwriter's lax standards should prompt any prudent submortgage broker to ensure due diligence has been conducted, full disclosure has been made, and documentation is in place.

A submortgage broker's failure to disclose known material facts or knowingly misrepresenting facts to a lender undermines public confidence, places borrowers at risk of being placed in mortgages that they cannot afford, and places lenders at risk of making loans that they would not otherwise have made.

As a submortgage broker, Mr. Arman Kia is required to provide prospective lenders with complete information regarding Applicants' assets and liabilities in order to determine whether they and each of them present an acceptable risk. This includes all current real property owned by the Applicant. If an Applicant is concurrently acquiring or planning on acquiring further real property, those particulars must be provided as well. This disclosure obligation is required to each prospective lender regardless whether:

- a. the lender is considering financing the newly acquired property, the Applicant's existing property or otherwise; or
- b. the Applicants' applications are split between different prospective lenders.

As a borrower's ability to pay mortgage financing is a fundamental concern of lenders, borrowers and the public generally, Mr. Arman Kia is also required to provide all of the borrower's liabilities including particulars of all of the borrower's mortgage financing. If the borrower is concurrently planning on acquiring further real property, the anticipated additional financing obligations must be disclosed as well. This disclosure obligation is required to each prospective lender regardless whether that lender is considering financing the newly acquired property, the borrower's existing property or otherwise.

Otherwise prejudicial to the public interest

The question remains what is "... conducting business in a manner that is otherwise prejudicial to the public interest".

I am satisfied that paragraph 11 of the Notice of Hearing fairly summarizes a submortgage brokers' duties to lenders and borrowers:

"... submortgage brokers ... have a responsibility to conduct reasonable due diligence with respect to information they provide to lenders. Failure to disclose known material facts or knowingly misrepresenting facts to a lender places borrowers at risk of being placed in mortgages that they cannot afford and places lenders at risk of making mortgage loans that they would not otherwise have made with full disclosure of the borrower's circumstances."

As noted by the Supreme Court of Canada in *Cooper* (supra), a submortgage brokers' duties are not limited to lenders and borrowers.

The Registrar has found that arranging a second mortgage without disclosing it to Scotiabank, a first mortgagee which required a minimum 75 per cent loan to value for its mortgage and which would not allow a second mortgage given the borrower's debt service ratio, amounted to having conducted business in a manner prejudicial to the public interest (*In the Matter of the Mortgage Brokers Act and Gurdip Chand*, March 13, 2006, pp. XV-XVIII). The Registrar has found that misleading a lender, TD Canada Trust, about the actual indebtedness of the borrower amounts to having conducted business in a manner prejudicial to the public interest (*In the Matter of the Mortgage Brokers Act v. 0707543 BC Ltd.*

dba Verico 1st Landmark Mortgage and Lee Douglas Bussey, January 8, 2008, pp. 12-13).

Full disclosure of assets and liabilities

I am satisfied that Mr. Arman Kia knowingly failed to disclose to NSCU:

- MB's purchase and Scotiabank mortgage financing of 103A Avenue;
- M and S's Scotiabank mortgage re-financing of Delahaye Drive;
- RP's purchase and Scotiabank mortgage financing of Unit 2 Seymour Street;
- S and G's Home Trust mortgage re-financing of Inglewood Avenue; and,
- P and H's ownership and financing of Carnarvon Street and Howe Street properties.

I am satisfied that Mr. Arman Kia knowingly failed to disclose to Scotiabank:

- MB's NSCU's mortgage re-financing of Renfrew Street;
- M and S's purchase and NSCU mortgage financing of Glen Drive;
- RP's purchase and NSCU mortgage financing of Unit 1 Seymour Street; and,
- P and H's ownership and financing of a Howe Street property.

I am satisfied that Mr. Arman Kia knowingly failed to disclose to Home Trust S and G's purchase and NSCU mortgage financing of a Fullerton property.

I am satisfied that Mr. Arman Kia knowingly failed to disclose to Merix P and H's ownership and financing of Carnarvon Street and Howe Street properties.

Misrepresenting properties as owner-occupied

I accept the evidence of Mr. Evanski that rentals are inherently riskier than owner-occupied properties, they attract less favourable rates, and that the "final outcome" should determine whether the property in question is classified owner-occupied or rental. Mr. Arman Kia had a duty to ensure that NSCU was aware that the Borrower MB was planning on making the Renfrew Street property a rental property, especially where, as here, the applications were split and NSCU was unaware of MB's purchase, Scotiabank financing and MB's plan to move into the 103A Avenue property. I am satisfied that Mr. Arman Kia knowingly represented the Renfrew Street property as owner-occupied when it would become a rental property and that such conduct amounts to conducting business in a manner that is otherwise prejudicial to the public interest.

Income inconsistencies

The Registrar's July 26, 2007 Bulletin Number MB07-005 describes the due diligence of needed of mortgage brokers who arrange stated income mortgages and, in particular, that:

- "... it is the Registrar's expectation that the mortgage broker will determine what essentially the borrower's true income is";
- "... 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";
- "... due diligence for stated income mortgages ... [requires] ... mortgage brokers to ensure that the borrower knows to state only truthful information in the mortgage application";
- "[i]f there are any misrepresentations about the amount or source of income, lenders may place responsibility for the misrepresentation on the mortgage broker who submitted the application, while borrowers may blame the mortgage broker for counselling them to provide false information."

The actual income of a self-employed borrower must be determined and disclosed to a lender even when the lender's policy is to accept amounts higher than the borrower's actual income. This duty to ascertain the actual income is heightened when borrowers' line 150 in their Notice of Assessment is significantly different than their stated income, as in RP.

Mr. Arman Kia's testimony revealed he approximated gross income and expenses for MB. I accept that Mr. Arman Kia never corroborated MB's gross revenue of \$100,000 by reference to any reliable financial records. Mr. Arman Kia referred to a Notice of Assessment that was not produced and that may have indicated that MB had a \$10,000 line 150 amount. He indicated that NSCU capped stated income at four times this amount. Likewise, MB's stated expenses of \$15,000 for an auto dealership appears to be extremely improbable. I am satisfied that basic due diligence was lacking and that Mr. Arman Kia knowingly failed to verify MB's actual income when he presented an application to Scotiabank showing MB as having an income of \$85,000 while concurrently presenting an application to NSCU showing MB as having an income of \$40,000.

Mr. Arman Kia's approach to RP's income and expenses was similar to his approach in MB. RP's Notice of Assessment revealed a total income of \$16,970, a hand written application refers to an annual income of \$55,000 - \$60,000, and a Scotiabank stated income form shows \$120,000. These discrepancies should have caused Mr. Arman Kia to conduct some basic verification of income. It is noteworthy that Mr. Boyda and Mr. Arman Kia did not see Scotiabank approving two applications involving an applicant with a \$60,000 annual income. I am also satisfied that in RP Mr. Arman Kia knowingly failed to verify RP's actual income when he presented an application to NSCU showing RP as having an income of \$60,000 while presenting an application three days later to

Scotiabank showing RP as having an income of \$120,000, which amounts to conducting business in a manner that is otherwise prejudicial to the public interest.

Allegations

Mr. Ahmed correctly noted that there are no allegations in paragraph 7 of the Notice of Hearing that Mr. Arman Kia failed to disclose to NSCU the Borrowers' concurrent applications to Scotiabank for:

- a. refinancing of Delahaye Drive by M and S; and
- b. financing of the purchase of Unit 1 Seymour Street by RP.

But paragraph 7 must be read in the context of the actual breaches which have been alleged by Staff in paragraph 10. Paragraph 10 provides in part that Mr. Arman Kia failed "... to disclose in mortgage applications for submission to lenders that borrowers owned other properties when he knew or ought to have known that the borrowers owned other properties ..." and that borrowers "... were concurrently seeking financing for the purchase [of] (sic) other properties." For the Borrowers MB, M and S, and RP, where the applications were in each case submitted within a short time of each other, that can only mean that Mr. Arman Kia must fully disclose to each concurrent lender the Borrower's current properties and mortgages and the Borrower's planned property acquisitions and planned mortgage financing or refinancing. The fact that disclosure to NSCU was omitted in paragraph 7 with M and S and RP has been cured by full disclosure.

In making this determination I am guided in this regard by Sara Blake in *Administrative Law in Canada* (5th ed, Lexis Nexus Canada Inc. 2011) where she discusses notification requirements:

"In professional discipline, factual particulars should be described in the notice of hearing or supplementary document. Both the client and the specific misconduct should be identified. However, a notice should not read like an Information in a criminal proceeding. How detailed it should be depends on the complexity and seriousness of the case. A failure to provide details in the notice of hearing can be cured by full disclosure of the evidence to be filed at the hearing. The tribunal is not restricted to considering only the facts alleged in the notice of hearing, but should make its decision in light of all of the facts adduced at the hearing. The notice is merely an outline of the alleged facts." (pages 40-41)

I am satisfied that Mr. Arman Kia fully understood the case against him and that he received adequate notice of the allegations against him.

I. DECISION

a. MB

- i. I find that Mr. Arman Kia conducted his business in a manner that is otherwise prejudicial to the public interest in that he knowingly prepared and submitted for MB a mortgage application (YPFI-3223) to Scotiabank to finance a 103A Avenue, Surrey property being purchased by MB that did not disclose that MB was concurrently applying to NSCU for the refinancing of the MB's Renfrew Street condominium.
- ii. I find that Mr. Arman Kia conducted his business in a manner that is otherwise prejudicial to the public interest in that he knowingly prepared and submitted for MB a mortgage application (YPFI-3224) to NSCU to re-finance a Renfrew Street condominium that did not disclose that MB was concurrently applying to Scotiabank to finance a 103A Avenue, Surrey property being purchased by MB.
- iii. I find that Mr. Arman Kia conducted his business in a manner that is otherwise prejudicial to the public interest in that he knowingly represented in the mortgage application (YPFI-3224) to NSCU that the Renfrew Street property was owner-occupied when he knew it would become a rental property and when he was concurrently representing in a mortgage application (YPFI-3223) to Scotiabank that the 103A Avenue property would be owner-occupied.
- iv. I find that Mr. Arman Kia conducted his business in a manner that is otherwise prejudicial to the public interest in that he knowingly failed to verify MB's income when he prepared and submitted a mortgage application (YPFI-3223) to Scotiabank showing MB as having an annual income of \$85,000 while he concurrently prepared and submitted a mortgage application (YPFI-3224) to NSCU showing MB having an annual income of \$40,000 and when he knew these applications were inaccurate and misleading.

b. M and S

- i. I find that Mr. Arman Kia conducted his business in a manner that is otherwise prejudicial to the public interest in that he prepared and submitted a mortgage application (YPFI-3835) on behalf of borrowers M and S on the same day to Scotiabank to refinance a Delahaye Drive, Coquitlam property owned and occupied by M and S for the stated purpose of consolidating debt that did not disclose that M and S were seeking mortgage financing (YPFI-3838) for the purchase of the Glen Drive, Coquitlam condominium.

c. RP

- i. I find that Mr. Arman Kia conducted his business in a manner that is otherwise prejudicial to the public interest in that he knowingly prepared and submitted a mortgage application (YPFI-3471) on behalf of RP to NSCU to finance a Unit 1 Seymour Street condominium that was being purchased by RP that did not disclose that RP was concurrently applying to Scotiabank to finance a Unit 2 Seymour Street condominium that was also being purchased by RP.
- ii. I find that Mr. Arman Kia conducted his business in a manner that is otherwise prejudicial to the public interest in that he knowingly prepared and submitted a mortgage application (YPFI-3477) on behalf of RP to Scotiabank to finance a Unit 2 Seymour Street condominium that was being purchased by RP that did not disclose that RP was concurrently applying to NSCU to finance a Unit 1 Seymour Street condominium that was also being purchased by RP.
- iii. I find that Mr. Arman Kia conducted his business in a manner that is otherwise prejudicial to the public interest in that he knowingly failed to verify RP's income when he prepared and submitted a mortgage application (YPFI-3471) on behalf of RP to NSCU showing RP as having an annual income of \$60,000 and he three days later prepared and submitted a mortgage application (YPFI-3477) to Scotiabank showing RP as having an annual income of \$120,000 and when he knew these applications were inaccurate and misleading.

d. S and G

- i. I find that Mr. Arman Kia conducted his business in a manner that is otherwise prejudicial to the public interest in arranging mortgages on behalf of borrower S and G, he knowingly prepared and submitted a mortgage application (YPFI-3540) to Home Trust to re-finance an Inglewood Avenue property that did not disclose that S and G had purchased 16 months earlier and S and G continued to own a Fullerton Avenue property that was subject to a NSCU mortgage.

e. P and H

- i. I find that Mr. Arman Kia conducted his business in a manner that is otherwise prejudicial to the public interest in that he knowingly prepared and submitted a mortgage application (YPFI-3545) on behalf of P and H to Scotiabank to re-finance a Marinaside Crescent property that did not disclose that P and H owned a Howe Street property.

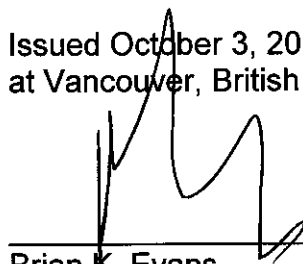
- ii. I find that Mr. Arman Kia conducted his business in a manner that is otherwise prejudicial to the public interest in that he knowingly prepared and submitted a mortgage application (YPFI-3545) to Merix to re-finance a Marinaside Crescent property that did not disclose that P and H owned a Carnarvon Street property.
- iii. I find that Mr. Arman Kia conducted his business in a manner that is otherwise prejudicial to the public interest in that he knowingly prepared and submitted a mortgage application (YPFI-3545) to NSCU to re-finance a Marinaside Crescent property that did not disclose that P and H owned a Howe Street property and a Carnarvon Street property.

J. FURTHER DECISION - PENALTY

In view of my decision, the next stage is to consider the question of an appropriate penalty and costs. After both counsel for Mr. Arman Kia and counsel for Staff have had the opportunity to present, in writing, evidence and submissions addressed to that question, I will consider it. I direct that the manner and schedule of submissions on penalty and costs is as follows:

1. Submissions on behalf of the Staff shall be filed with the Registrar by October 20, 2017 with a copy delivered to Mr. Ahmed the same day;
2. Submissions on behalf of Mr. Arman Kia shall be filed with the Registrar by November 6, 2017 with a copy delivered to Ms. Glen the same day; and
3. Submissions in respect of matters not already addressed, in reply, if any, on behalf of Staff shall be filed with the Registrar by November 14 with a copy delivered to Mr. Ahmed the same day.

Issued October 3, 2017
at Vancouver, British Columbia



Brian K. Evans
Appointee of the Registrar of Mortgage Brokers
Province of British Columbia