

BC FINANCIAL SERVICES AUTHORITY
IN THE MATTER OF THE *MORTGAGE BROKERS ACT*
RSBC 1996, c 313 as amended

AND IN THE MATTER OF
SARABJIT SINGH LALLI
(600559)

DECISION ON LIABILITY

[This Decision has been redacted before publication.]

DATE AND PLACE OF HEARING: July 14 to 15, 2025 and via written submissions

COUNSEL FOR BCFSa: Laura Forseille

COUNSEL FOR RESPONDENT: Jasmin Dhillon

HEARING OFFICER: Gareth Reeves

Introduction

1. On August 29, 2024, the BC Financial Services Authority (“**BCFSA**”) issued, pursuant to section 8 of the *Mortgage Brokers Act*, RSBC 1996, c 313 (the “**MBA**”), an amended notice of hearing (the “**ANOH**”) to Sarabjit Singh Lalli.
2. The ANOH makes the following allegation against Mr. Lalli:
 1. In his capacity as submortgage broker, Mr. Lalli conducted mortgage business in British Columbia in a manner prejudicial to the public interest, contrary to section 8(1) of the MBA when he submitted a mortgage application for the refinancing of a property with civic address at [Property 1], Surrey, BC (the “**Property**”) and failed to disclose a conflict of interest to the lender as required by section 17.4 of the MBA, specifically:
 - a. The borrower had were in the process of obtaining demolish permits with the intention to build a new single-family home on the Property; and
 - b. The new structure on the Property was to be built by Luxon Homes Ltd., of which Mr. Lalli was director

[sic] [struck portions omitted]
3. An oral liability hearing proceeded on July 14 and 15, 2025 and the parties made written closing submissions following that hearing.
4. These are my reasons concerning whether Mr. Lalli engaged in misconduct as alleged.

Notice of Hearing and Issues

5. The allegations made against Mr. Lalli are set out in the ANOH and are recited above. The issue in this portion of the proceeding is whether BCFSa has proven that Mr. Lalli committed the misconduct alleged in the ANOH.

Jurisdiction and Standard of Proof

6. The Registrar of Mortgage Brokers (the “**Registrar**”) has appointed BCFSa’s Hearing Officers to act for the Registrar of Mortgage Brokers in respect of orders under section 8 of the MBA, pursuant to a February 19, 2025 Acting Capacity instrument.
7. BCFSa must prove its case on the balance of probabilities. In other words, it must prove that it is more likely than not that the facts alleged occurred. To make a finding against the respondent, I must find that the evidence is “sufficiently, clear, convincing and cogent” to satisfy that standard: *FH v McDougall*, 2008 SCC 53.
8. Evidence is generally considered a matter of procedure: *Cambie Hotel (Nanaimo) Ltd v British Columbia (General Manager, Liquor Control and Licensing Branch)*, 2006 BCCA (“**Cambie Hotel**”), para 38. As an administrative tribunal the Registrar is not bound by the rules of evidence in the same way a court would be. In the absence of statutory provision to the contrary, the superintendent may consider any evidence it considers relevant, including hearsay evidence: *Adams v British Columbia (Superintendent of Motor Vehicles)*, 2019 BCCA 225.
9. Further, the fact that the legislation may provide for a formal structure for enforcement proceedings does not preclude hearsay evidence from being admitted at a hearing: *Cambie Hotel*, para 38. The MBA does not have a provision that imports civil or criminal rules of evidence into the Registrar’s administrative proceedings. The Registrar may, however, draw upon principles underlying court rules of evidence to exclude, assess, or weigh evidence.
10. The Registrar must also afford procedural fairness to a respondent where a decision may affect their rights, privileges or interests. This right includes a right to be heard. The Registrar affords every respondent an opportunity to respond to the case against them by providing advance notice of the issues and the evidence, and an opportunity to present evidence and argument. The Registrar must determine facts, and decide issues set out in the ANOH, based on evidence. The Registrar may, however, apply its individual expertise and judgment to how it evaluates or assesses evidence.

Evidence and Findings of Fact

11. The evidence and information before me consists of 27 exhibits taken from a Book of Documents prepared by BCFSa and from Mr. Lalli’s list of documents along with the oral evidence from [Investigator 1], senior investigator with BCFSa, and Mr. Lalli.
12. Although I have reviewed all the evidence, the below is not meant to be a complete recitation of all the facts and evidence tendered in this matter.
13. I begin my review of the facts with a description of the uncontested or non-controversial facts in this matter, drawn largely from the documentary evidence supplemented by some of the background facts supplied by Mr. Lalli’s testimony. I then review [Investigator 1]’s oral testimony, the written evidence from [Designated Individual 1], and Mr. Lalli’s oral testimony. There is no concern raised regarding the credibility of [Investigator 1]’s testimony, which largely focused on the materials received during BCFSa’s investigation. My discussion of the credibility and reliability of the evidence and my findings on the disputed facts is below in the Reasons and Findings section of these reasons.

14. After my discussion of the uncontested facts, I review the submissions on credibility and discuss the credibility of [Designated Individual 1]'s written evidence and Mr. Lalli's testimony. In assessing the credibility of Mr. Lalli's oral testimony and of [Designated Individual 1]'s evidence, I am guided by the statements of the British Columbia Court of Appeal in *Faryna v Chorney*, 2951 CanLII 252 (BC CA) the British Columbia Supreme Court in *Bradshaw v Stenner*, 2010 BCSC 1398. In short, a witness's credibility and reliability are determined by reference to comparison of the evidence to the probabilities of the case at hand. There is some scope for assessment of the demeanor of witnesses who give oral evidence, but often more important is the degree to which the witness's evidence is internally consistent, reasonable, and in line with other accepted evidence and the witness's motives which might cause them to lie or misremember. One common metric against which to assess a witness's credibility and reliability is to refer to documents created at the time of the events at issue or documents that were not produced in the proceeding which one might expect to be produced.
15. I conclude this section with my findings on the contested facts.

Findings on Uncontested Facts

16. Mr. Lalli is 54 years old at the date of these reasons. He was a teller at a bank when he was 18 or 19. He has been a firefighter for 31 years and has been a captain for eight years. He has also acted as a battalion chief. Mr. Lalli has also worked as a home builder and has a self-described passion for building homes. He started building homes with [Family Member 1], from whom he learned the process.
17. On December 2, 2021, Mr. Lalli incorporated Luxon Homes Ltd. ("**Luxon**"). Mr. Lalli and [Family Member 2] are Luxon's sole directors and have been since its incorporation. Luxon is a licensed developer and general contractor with BC Housing. Mr. Lalli and [Family Member 2] both did work for Luxon with Mr. Lalli being involved in much of the early construction work and handing the matter off to [Family Member 2] for finishing work.
18. As Mr. Lalli approached retirement from his firefighter work, he decided to become a mortgage broker in late 2021. He has provided essentially two reasons for this decision: a desire to take on less physically demanding work as he ages and as an "extra service" he could provide to his home building clients.
19. To become registered, Mr. Lalli had to take the pre-registration courses required by the Registrar and pass the required examination. Mr. Lalli testified that the courses took four to five weeks.
20. In December 2021, Mr. Lalli met the registered owners of the Property, [Borrower 1], [Borrower 2], [Borrower 3], and [Borrower 4], being two parents and their sons (the "**Borrowers**"). Mr. Lalli's friend had referred them to Mr. Lalli to build their house. At the time, the Borrowers were considering buying a new property for one of the sons or building a new home on the Property.
21. On December 20, 2021, Mr. Lalli applied to the City of Surrey for a permit for the demolition of the house at [Property 1], Surrey, BC and also applied for a permit to build a single-family residential house on the Property with a construction value of \$650,000. The application for the building permit listed Luxon as the builder or general contractor on the application.
22. On January 13, 2022, the Borrowers and Luxon executed a new home construction agreement (the "**Building Contract**"). In the Building Contract, Luxon agreed to build a home on the Property in exchange for payment of its costs plus 10%. Mr. Lalli is named as the project manager for Luxon.
23. At some point prior to Mr. Lalli becoming a registered submortgage broker, Mr. Lalli advised the Borrowers that he was in the process of becoming registered.

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24. On March 17, 2022, [Company 1] produced an appraisal for the Property indicating a value of \$1,510,000 (the "**Appraisal**"). The Appraisal was conducted on March 14, 2022 further to a request made March 11, 2022. The Appraisal is addressed to [Brokerage 1] ("**Brokerage 1**") and [Designated Individual 1] and shows [Designated Individual 1]'s email address, [redacted], in the client information section.
25. [Brokerage 1] is a registered mortgage broker. [Designated Individual 1] is the sole director of [Brokerage 1] and its Designated Individual within the MBA's regulatory regime. The Appraisal estimates the Property's market value at \$1,510,000
26. On March 31, 2022, Mr. Lalli first became registered as a submortgage broker with Invis Inc. / Invis. ("**Invis**").
27. The evidence before me is not particularly clear regarding the relationship between Invis and [Brokerage 1] but it indicates that Invis is a mortgage broker with other mortgage brokers operating underneath it. [Brokerage 1] is one of those mortgage brokers.
28. On April 3, 2022, [Borrower 4]'s employer issued an employment letter on his behalf.
29. Between May 9, 2022 and May 12, 2022, supporting documents for a loan application by the Borrowers were gathered, including credit reports and bank account information.
30. On May 11, 2022, Mr. Lalli emailed [Mortgage Broker 1], a Regional VP with Invis, to ask if he could spend some time with her to discuss disclosures and how to complete them. He referenced an application he has with four people on title, his email, as it stands in the evidence, is then cut off. [Mortgage Broker 1] replied later that day to advise that Mr. Lalli should speak with [Mortgage Broker 2], a compliance officer at Invis, with his questions regarding compliance. She also directed Mr. Lalli to other sources of information, but indicated she can assist with issues he may have regarding "lenders or marketing, structuring an application, reading a bureau or support documents".
31. On May 17, 2022, Mr. Lalli exchanged emails with two employees at [Lender 1]: [Individual 1], Loan Interviewer, and [Individual 2], Branch and Community Engagement Manager. Those emails have the Borrowers' last name in the subject line. In those emails, Mr. Lalli, [Individual 2], and [Individual 1] discussed the delivery of an appraisal for the Property. In that exchange, Mr. Lalli sent an email stating the following:
- "Hi [Individual 2],
- I had an appraisal done on [Property 1] a few months ago and have sent it to [Individual 1]".
32. I note that the materials provided by [Lender 1] in response to a summons issued by BCFSa included a single page of the Appraisal. There is only a single page in those materials as they have been tendered into evidence. It is not clear to me if the materials before me represent the whole of [Lender 1]'s file or the whole of its response to BCFSa's summons. In any case, I infer the Appraisal was provided to [Lender 1] because of the inclusion of that page in the evidence and from the fact that the registered principal amount of the mortgage eventually registered against the Property in [Lender 1]'s favour matches the market value of the Property in the Appraisal and there is no other reference or evidence of another appraisal in the materials. I conclude it is most likely that the Appraisal was the only appraisal provided to [Lender 1] in relation to the mortgage transaction at issue.
33. On May 20, 2022, Mr. Lalli received an email from [Individual 2] in response to the May 17, 2022 email chain. [Individual 2]'s email references interest rates for insured versus uninsured mortgages. It states, in part, "we will have approval by next week", which I take to be a reference to approval

for a mortgage secured loan for the Borrowers. The email also copies another employee at [Lender 1], [Individual 1].

34. Mr. Lalli replied on the same day to state that the Borrowers required both a mortgage and a line of credit. He requests a breakdown of the amounts for the mortgage and line of credit and advises that "Once the client knows how much they are getting, they will be looking at buying a 2nd property with the LOC." He further states that the Borrowers "will sign off if the numbers are right by the end of the month."
35. On May 25, 2022, [Lender 1] issued an Advance Application & Consent regarding a request by the Borrowers for a mortgage in the amount of \$690,000 plus a \$510,000 Home Equity Line of Credit ("HELOC"). That form was signed by the Borrowers on June 2, 2022.
36. On May 27, 2022, [Borrower 2]'s employer issued an employment confirmation letter. On that same date, [Borrower 4]'s employer confirmed her employment to [Individual 1] by email.
37. On June 2, 2022, the Borrowers signed two Advance Application & Consent Collateral Mortgage documents (the "**Applications & Consents**"), on [Lender 1] letter head, for a mortgage in the amount of \$690,000 with a \$510,000 HELOC. One form was prepared primarily with the mortgage amount with the HELOC amount being added in by hand and the other was prepared primarily with the HELOC amount with the mortgage amount being added in by hand. The approval date listed on both Applications & Consents was May 25, 2022.
38. On the same date, the Borrowers also signed a [Lender 1] Fixed Rate Mortgage Loan Agreement for a loan in the amount of \$690,000 with a one-year term to be secured against the Property.
39. On that same date, [Borrower 1] signed a Disclosure Statement Fixed Credit for a mortgage secured loan in the amount of \$690,000 with a one-year term.
40. The evidence also includes a [Lender 1] Mortgage Approval document (the "**Approval**") listing Mr. Lalli as the broker on a mortgage for the Property. That document indicates a total lending amount of \$1,200,000 with a mortgage of \$690,000 and a HELOC of \$510,000. The evidence includes two versions of this document: one signed by the Borrowers on June 2, 2022 and one signed by them on June 19, 2022. [Investigator 1] testified that the June 2, 2022 version was delivered to BCFSA by [Lender 1] as part of its response to an investigatory summons and the June 19, 2022 version was delivered to BCFSA as part of [Brokerage 1]'s response to an investigatory summons. The only differences between the contents of the two, other than the execution dates, are that the June 2, 2022 version is missing page 2, which in the June 19, 2022 version includes the approval conditions, and that the June 19, 2022 version includes a "BROKER SECTION ONLY" portion, which is absent in the June 2, 2022 version. Given the execution dates on the other documents noted above and the funding date of the mortgage indicated below, I conclude that the Borrowers signed a version of the Approval on June 2, 2022, prior to the mortgage funding, and signed another version on June 19, 2022. The exact reason for this second execution is not clear to me, but does not appear to be relevant to this proceeding.
41. On June 13, 2022, the City of Surrey issued a demolition permit permitting the demolition of a single family dwelling and accessory building on the Property.
42. On June 15, 2022, [Legal Firm 1] requested the advance of mortgage proceeds in the amount of \$690,000 and the activation of a \$510,000 HELOC and advance of \$3,000 from that HELOC. Those advances were requested to occur by 10:00 am on June 17, 2022.
43. On June 16, 2022, the Borrowers executed a *Land Title Act* Form B mortgage registration document approving the registration of a mortgage in favour of [Lender 1] in the principal amount of \$1,510,000 against the Property.

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44. On June 17, 2022, [Lender 1] advanced \$693,000 to [Legal Firm 1] and a mortgage and an assignment of rents was registered against the Property in favour [Lender 1]. The official cheque for those funds references the Borrowers and also references the charge numbers for the mortgage and the assignment of rents registered in [Lender 1]'s favour over the Property. I therefore conclude that these funds were advanced from the lender to [Legal Firm 1] to fund the loan to the Borrowers from [Lender 1].
45. The records provided to BCFSa by [Lender 1] during the investigation include a discharge statement dated May 27, 2022 indicating that the balance owing on the then extant mortgage registered against the Property in favour of [Lender 2] ("**[Lender 2]**"), if paid on June 24, 2022 was \$690,267.34. That mortgage had been placed on the Property on the date the Property was transferred to the Borrowers. I conclude from this that the Borrowers used the funds advanced on June 17, 2022 to pay off their debt owed to [Lender 2] and to discharge [Lender 2]'s mortgage secured against the Property. [Lender 2]'s mortgage was cancelled on August 5, 2022.
46. I have no evidence before me with regard to the draws, if any, made against the Borrowers' HELOC after June 17, 2022.
47. On June 27, 2022, Mr. Lalli's registration was transferred to [Brokerage 1].
48. Mr. Lalli testified that, after he became registered, [Designated Individual 1]'s phone number was shown on BCFSa's website when displaying his registration. Text messages between Mr. Lalli and [Designated Individual 1] confirm that this was the case. Mr. Lalli sent [Designated Individual 1] text messages to ask that she change the phone number to his. These messages were entered into evidence but Mr. Lalli was not sure when they were sent and they are undated. That said, the messages indicate that Mr. Lalli was still working on the Borrowers' file at the time, so these messages were likely sent no later than late June, 2022, though the date does not appear important in this proceeding.
49. On July 5, 2022, Mr. Lalli emailed [Mortgage Broker 1] to ask for the address for Invis. His email mentioned that [Lender 1] was working to arrange payment of funds and needed the address. He advised that [Brokerage 1] was not his mortgage broker at the time the deal was done. From the context, I conclude that Mr. Lalli's email is referring to the deal involving the Borrowers. Further, Mr. Lalli's evidence indicated that the fee for the deal involving the Borrowers was paid directly to [Brokerage 1] at [Designated Individual 1]'s address, which leads me to conclude that this email is in reference to the payment on the Borrower's deal and relates to Mr. Lalli attempting to determine what had happened with that payment.
50. On July 6, 2022, [Mortgage Broker 1] replied to Mr. Lalli's July 5, 2022 email to advise that all commissions should be payable to Invis and delivered to Invis's head office.
51. On July 7, 2022, the City of Surrey issued a building permit for the Property (the "**Building Permit**"). The permit included a declared construction value of \$650,000 and listed Luxon as the builder or general contractor. The permit permitted the construction of a single-family dwelling and a secondary suite.
52. On July 20, 2022, Mr. Lalli and [Designated Individual 1] exchanged text messages in which Mr. Lalli sought confirmation that [Designated Individual 1] had received a cheque and [Designated Individual 1] confirmed that she had received it and would "mail it off". I find that this cheque was the commission payment from [Lender 1] for the Borrower's deal. The letter enclosing the cheque was addressed to [Brokerage 1], confirming that the cheque was mailed to [Brokerage 1] and not Invis directly. It is not clear to me to where [Designated Individual 1] mailed the cheque.

53. On August 3, 2022, [Mortgage Broker 1] emailed Mr. Lalli. In her email, she notes that Mr. Lalli had come over to her home and reviewed compliance documents with her. It is not clear when that meeting happened.

54. On August 5, 2022 at 2:26 pm, Mr. Lalli received an email to his "[redacted]" email from "[redacted]" with the subject "Audit not approved – [Borrower 1]". That email stated as follows:

"Please be advised that [Borrower] has not passed audit for the following reason(s). Hi Sarb, You need to redo the BPCPA (2 of them are required, one for the mtg & one for the HELOC. The form needs to include such things as title ins, appraisal fees, legal , payout of existing mtg balance, et. The Form 10 and Form 10 email was not uploaded. Not sure why you did a Letter of Direction? Are you charging a broker fee? Same with Form 9, not sure why you did this??? If you would like me to review the Form 10 & BPCPA's before getting the client to resign, I don't mind. Thank you, [Mortgage Broker 2]"

[sic]

55. Mr. Lalli responded from his personal email address, "[redacted]", at 2:37 pm the same day to state:

"Here you go

It was a pleasure to speak with you today and I look forward to working with you for our clients"

[sic]

56. It appears from the text of this email that Mr. Lalli attached some documents. The attachments are not apparent from the emails in evidence before me. Which documents were attached is at issue in this proceeding and my findings in that regard will be discussed below.

57. Mr. Lalli received a response at 2:39 pm the same day from one [Individual 3], a Mortgage Consultant with Invis, who confirmed speaking with Mr. Lalli and asked for a copy of the commitment for both the mortgage and HELOC and asks if a fee was charged. I assume from the preceding emails that [Individual 3]'s email is in reference to the Borrower's mortgage and HELOC.

58. On August 12, 2022 Mr. Lalli and [Designated Individual 1] had the following text message exchange:

Mr. Lalli:

Not sure by whom, but the sign from 126 for [Brokerage 1] has been removed.
Not sure if you did or someone else took it off.

[Designated Individual 1]:

Hey Sarb I was going to message you. I financed a farm in Vernon and you had the signs. So I grabbed that thinking we can always put another sign up

You got the email, have we still not figured out the compliance?

Mr. Lalli:

No problem I will put another at the site. I have a phone meeting with [Mortgage Broker 2] shortly. She said she will show me the missing merge documents and how to structure it..

[sic]

59. On August 15, 2022, Mr. Lalli's registration with [Brokerage 1] was terminated. A certificate issued under section 10 of the MBA indicates he was terminated with cause. After August 15, 2022,

Mr. Lalli was unregistered until January 24, 2023 when he became registered again with another mortgage broker, [Brokerage 2]. Mr. Lalli remains registered there.

60. On August 17, 2022, [Designated Individual 1] emailed BCFSAs Registrations department from [email address redacted] regarding Mr. Lalli with the subject line "Termination of Sarb Lalli". The relevant portions of that document are discussed below.
61. On September 29, 2022, the City of Surrey received an application to revise the Building Permit. That revision application lists Luxon and Mr. Lalli as the agent of the owners for the purposes of the application.
62. On October 20, 2022, the City of Surrey issued a revision to the Building Permit. The revised permit lists Luxon as the builder or general contractor.
63. On July 4, 2023, The City of Surrey received an application to revise the Building Permit. That revision application lists Luxon and Mr. Lalli as the agent of the owners for the purposes of the application.
64. On July 11, 2023, the City of Surrey issued a second revision to the Building Permit. The revised lists Luxon as the builder or general contractor.
65. Mr. Lalli confirmed that he did not submit a Form 10 disclosure of conflict of interest to [Lender 1] on the Borrowers' transaction or otherwise disclose his work as a builder on their home as a conflict of interest, except to [Individual 4], a Vice President¹ at [Lender 1], as discussed below.
66. Mr. Lalli has confirmed that Luxon made approximately \$60,000 from the construction of the Borrowers' home. He based this on a rough calculation on the square footage of the Borrowers' new home on the Property. I accept this approximation.

[Investigator 1]'s Evidence, Credibility, and Reliability

67. After providing his background, [Investigator 1] testified largely as to the conduct of BCFSAs investigation and the documents received by BCFSAs during the course of the investigation. [Investigator 1] confirmed how BCFSAs came to receive documents from both [Brokerage 1] and [Lender 1] as a result of summonses issued during the investigation and from [Investigator 1]'s own searches. He confirmed that no Form 10 was received from [Brokerage 1] or [Lender 1] in response to those summonses.
68. [Investigator 1] also confirmed that he conducted an interview of Mr. Lalli during the investigation and that the transcript reflected the answers he asked and the answers Mr. Lalli gave.
69. [Investigator 1]'s evidence was largely uncontroversial. The only real point of controversy arose from his evidence regarding an MBA Form 9 form prepared for the Borrowers deal and signed by them. On cross-examination, [Investigator 1] acknowledged that, although the form showed Mr. Lalli's name, he was speculating regarding whether Mr. Lalli had prepared the Form 9 himself and that he could not be sure who had prepared it or when the Borrowers had signed it.
70. [Investigator 1] gave evidence in a professional manner. He made concessions where appropriate. As noted, his evidence is not particularly controversial in this matter. I found [Investigator 1] to be a reliable witness.

¹ [Designated Individual 1]'s August 17, 2022 email refers to [Individual 4] as an "AVP" with [Lender 1]. It is not clear to me what the "A" stands for and so I have chosen to refer to [Individual 4] as simply a "Vice President".

[Designated Individual 1]'s August 17, 2022 Email

71. The only evidence I have from [Designated Individual 1] is from her August 17, 2022 complaint. Neither party called [Designated Individual 1] as a witness and she therefore did not give oral evidence and was not subject to cross-examination.
72. I note that the version of [Designated Individual 1]'s email provided to me starts midsentence. It is not clear to me how much of [Designated Individual 1]'s email was cut off, whether that is how BCFSa received it originally, or how that occurred.
73. [Designated Individual 1]'s email states that she hired Mr. Lalli to work on residential mortgages because she works primarily in private mortgages and in land development deals. She states that, after Mr. Lalli began work with Invis, he began working on the Borrowers' deal. She says that Mr. Lalli decided to submit the deal to [Lender 1] because [Individual 4], a friend of Mr. Lalli's, was helping on the file. She states that she was in Toronto when Mr. Lalli called to say he had approval for the Borrowers' deal. She states she told Mr. Lalli to have [Mortgage Broker 1] or [Lender 1] help him put the deal together. She states that, after Mr. Lalli transferred to [Brokerage 1], she told Mr. Lalli to copy her on all files she sent him.
74. [Designated Individual 1] stated that because of certain issues that had arisen on another file, the details of which are not relevant to this proceeding, she and [Mortgage Broker 1] required Mr. Lalli to submit compliance documents on the Borrowers' deal to receive his commission. [Designated Individual 1] states that she had trained Mr. Lalli on compliance issues, that [Mortgage Broker 1] had spent a day training him, and that they sent Mr. Lalli detailed emails from [Mortgage Broker 2], who sent Mr. Lalli a step-by-step explanation of how to complete a file.
75. [Designated Individual 1] says that after her return from a trip to Toronto on August 9, 2022, she discovered that [Individual 3] had become involved. [Designated Individual 1] states that [Mortgage Broker 1] emailed Mr. Lalli to ask for the purposes of the financing, to which Mr. Lalli reportedly responded that it was for future investment purposes.
76. [Designated Individual 1] says [Mortgage Broker 1] drove by the Property and saw that the home had been demolished and a sign was placed on the Property for Luxon. [Designated Individual 1] says that [Mortgage Broker 1] took pictures and reported this to [Mortgage Broker 2]. Then they terminated Mr. Lalli.
77. [Designated Individual 1]'s email states that she has emails and text messages that verify what she stated in her email.

Mr. Lalli's Evidence

78. Mr. Lalli testified to his background as a firefighter and a home builder and his reasons for becoming a submortgage broker.
79. Mr. Lalli testified that when he met the Borrowers they were looking to buy a new house for their second son or to build a house but were unsure which way they would go.
80. Mr. Lalli testified that he told the Borrowers before he became registered that he was in the process of becoming a submortgage broker. He testified that he informed [Designated Individual 1] that Luxon was his company and was to be the builder for the Borrowers' house and provided her with a copy of the Building Contract. He said that she spoke to the Borrowers, started the application process, and ordered the Appraisal. He testified that he introduced the Borrowers to [Designated Individual 1], as they were his contacts.

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81. Mr. Lalli testified that after starting as a submortgage broker with Invis, he received training through three online videos regarding Invis's operations. He testified that he transferred to [Brokerage 1] on June 27, 2022. He stated that [Designated Individual 1] said she was setting up her company and would transfer him once that was done. He argued that this "was a lie" because [Brokerage 1] was in fact incorporated on November 9, 2020. He testified that he received no further training from [Brokerage 1].
82. Mr. Lalli also testified that he met with [Mortgage Broker 1] at her home in Maple Ridge who showed [him] some of the required documents on deals quickly, but that [Mortgage Broker 2] was the person with Invis who he should contact for compliance documents. He testified that [Mortgage Broker 1] did not know the documents and had to call customer service to ask how to populate them. He testified that [Mortgage Broker 1] did not walk him through the forms but simply showed them to him.
83. Mr. Lalli testified that he sent "numerous" emails to [Mortgage Broker 2] for help but that there was no guidance for new submortgage brokers.
84. Mr. Lalli testified that he worked under [Designated Individual 1], who would tell him what documents to get and how to put a deal together and that the Borrowers' deal was his first deal and he was "green as green". He testified that because [Designated Individual 1] was his supervisor, and because of his experience as a firefighter where he followed the instructions of his superiors, he did what she told him to do. He stated under cross-examination that he looked to [Designated Individual 1] for guidance regarding his obligations under the MBA.
85. Mr. Lalli described the Borrowers' deal as being [Designated Individual 1]'s file. He testified that [Designated Individual 1] told him to send the deal to [Lender 1] and told him what kind of financing to apply for. He also testified that [Designated Individual 1] told the Borrowers, in his presence, to proceed with a conventional mortgage and a HELOC because the rates were better than a construction mortgage. He testified that [Designated Individual 1] had 18 years of experience in the mortgage industry and knew the difference between a conventional and a construction mortgage. He further testified that [Designated Individual 1] would have known that construction was contemplated at the Property because the Appraisal shows tree barriers in place in the photographs shown in that document and [Designated Individual 1], given her experience, should have known the municipality required those barrier[s] and what those barriers were for, which is to protect the trees while demolition and construction proceeds.
86. Mr. Lalli testified that when he sent the May 20, 2022 email to [Individual 2], the Borrowers were still unsure whether they wanted to buy a new house in the area or build a new house. He testified that "a contract is just a contract" and the application process with the City of Surrey was a long process, so he would not force them to build even if they eventually got their permits. The Building Contract was there to give them the choice of how to proceed.
87. Mr. Lalli did not recall when the Borrowers' mortgage application was submitted to [Lender 1]. He did not recall whether it was submitted before or after he became a submortgage broker. He testified that he and [Designated Individual 1] did the work together to submit the application. He testified that he was not sure if it was him who submitted the application but he thinks it would have been him.
88. Mr. Lalli confirmed that the Borrowers received a fixed mortgage and a HELOC. He testified that when they received the funding, the Borrowers were "leaning towards construction".
89. Regarding the Form 10, Mr. Lalli testified that he did not know what a Form 10 was while working on the Borrower's application. He testified that he did in fact complete a Form 10 after [Mortgage Broker 2] offered to review it for him in her August 5, 2022 email and admitted that he did not understand why he was required to do a Form 10, but he acknowledged that he would have done

a Form 10 in the same circumstances if they arose now because “[i]t’s better to submit a document than not submit one.” Mr. Lalli acknowledged in cross-examination that this was not until well after the Borrowers’ deal had funded and that it was never submitted to [Lender 1]. He also admitted that he did not go to [Mortgage Broker 2] to ask whether he should submit a Form 10, even though [Designated Individual 1] directed him to [Mortgage Broker 1] who directed him to [Mortgage Broker 2] for compliance issues; however, he testified that he spoke to her regarding compliance for the file in May 2022, before the application was submitted. He testified that [Designated Individual 1] told him it was not needed. He testified that [Mortgage Broker 1] had also been “bombarding him with all these papers” and he did not know what they were.

90. Mr. Lalli testified that [Designated Individual 1] was present at the Property on June 30, 2022 when the site passed its demolition inspection and was present when he took two photographs of the Property showing a sign for Luxon and a sign for [Designated Individual 1]’s mortgage services. He testified that [Designated Individual 1] was the one who put her sign on the Property. Mr. Lalli did not say when [Designated Individual 1] put this sign up.
91. As noted above in my findings regarding the undisputed facts, Mr. Lalli and [Designated Individual 1] exchanged text messages in which Mr. Lalli requested that [Designated Individual 1] change his phone number with BCFSA. I found above that this likely occurred no later than June 2022. Mr. Lalli testified that [Designated Individual 1] explained that she was the mortgage broker and that her phone number needed to be there. It is not clear to me if this occurred by way of further text message or verbally.
92. Mr. Lalli testified that on August 12, 2022 he exchanged text messages with [Designated Individual 1] regarding her sign on the Property. He testified that he had not been to the Property for a few days and noticed the sign was gone, but the sign for Luxon was still there.
93. Regarding [Individual 4], Mr. Lalli testified that he knows of [Individual 4] but is not friends with him and that [Designated Individual 1] and [Individual 4] were having an “affair”. He believes that this is why the Borrowers’ deal was sent to [Lender 1]. He says he discovered this fact in relation to another deal that he worked on while at [Brokerage 1]. He testified that he was “pretty sure” and “assuming that every deal [from [Brokerage 1]] would go through [Lender 1] because of [[Designated Individual 1]’s] relationship with [[Individual 4]].”
94. Mr. Lalli testified that he was terminated from [Brokerage 1] and was told that it was because of the two files he had worked on, one for the Borrowers and another which I have mentioned obliquely above. He testified that the commission cheque for the Borrowers’ deal was sent to [Designated Individual 1] directly, which he learned was not standard practice through a series of emails he sent in early July 2022 while trying to determine why he had not been paid. Those emails were entered into evidence. He also noted that he was not employed with [Brokerage 1] at the time of the Borrowers’ deal and the funds should therefore not have gone to [Brokerage 1]. He testified that he was not compensated for the Borrowers’ deal.
95. Mr. Lalli did not agree that he obtained an indirect benefit from the Borrowers obtaining a HELOC in 2022. He testified that the Borrowers were undecided and he might not have built the home on the Property. He further testified that he did not know where the Borrowers got the money to pay for the construction on the Property and that the Borrowers could have borrowed money from others to pay Luxon. He confirmed that the Borrowers did not purchase another property because they could not find something that met their second son’s needs. He also confirmed that he told [Designated Individual 1] multiple times that the Borrowers’ financing could be used to finance the construction.
96. Mr. Lalli admitted in cross-examination that he did not disclose to [Lender 1] that he was seeking a construction loan on behalf of the Borrowers because the Borrowers were unsure what they would do at the time. He also admitted that he did not disclose to [Lender 1] that he was in a conflict of

interest; however, he testified that [Individual 4] knew that Mr. Lalli might be building a home on the Property for the Buyers.

Submissions on Credibility and Reliability

97. BCFSA submits that Mr. Lalli's evidence that he prepared a Form 10 is not supported by the evidence because Mr. Lalli has no specific memory of preparing the form and because [Mortgage Broker 2]'s email merely asks for the form and does not confirm receipt of it. BCFSA further notes that none of the materials received from [Brokerage 1] or [Lender 1] included the Form 10.
98. BCFSA submits that I should find that [Designated Individual 1] did not know that Luxon was the builder on the Borrowers' Property and she was not aware of Mr. Lalli's conflict of interest on the file. BCFSA submits that Mr. Lalli did not tell [Designated Individual 1] that the deal involved a HELOC to be used for the construction to be performed by Luxon. BCFSA cites [Designated Individual 1]'s email in this regard. BCFSA submits that Mr. Lalli varied in his evidence regarding the Borrowers' certainty in deciding to build on the Property: emphasizing the certainty when referring to [Designated Individual 1]'s knowledge and minimizing it when referring to his own interest in the file.
99. BCFSA submits that it does not make sense that [Designated Individual 1] would report Mr. Lalli to BCFSA if she had told him not to complete a Form 10 while knowing that he was in a conflict of interest. BCFSA argues that Mr. Lalli is motivated to be misleading on this point to reduce his culpability. BCFSA also submits that it is unreasonable to assume that [Designated Individual 1] ordered the Appraisal for the home if she knew it would be rebuilt.
100. BCFSA submits that I should find that Mr. Lalli did not submit the required Form 10 to [Lender 1] and in doing so ignored the directions of [Mortgage Broker 2], who he had been told was the person to go to for information on compliance issues.
101. Mr. Lalli submits that he relied on [Designated Individual 1]'s guidance as his supervisor and followed her instruction that he did not need to submit a Form 10, although he had prepared one. He submits that [Designated Individual 1] directed him to submit the application to [Lender 1] because of her relationship with [Individual 4].
102. Mr. Lalli submitted during his testimony that [Designated Individual 1]'s email is not credible because the photographs of the Property showing [Designated Individual 1]'s sign on it and the text messages with Mr. Lalli regarding that sign both indicate that she knew the Property had been demolished before August 2022.
103. Mr. Lalli submits that the evidence demonstrates that he repeatedly sought help with compliance documents but received minimal guidance.
104. Mr. Lalli further submits that he was not paid on the Borrowers' deal because the funds were sent to [Designated Individual 1] directly and not to Invis.

Credibility and Reliability of [Designated Individual 1]'s Evidence

105. As noted above, [Designated Individual 1] did not give oral evidence in this proceeding. Her evidence was therefore not subject to cross-examination, and I was not able to assess her demeanor. The evidence is also hearsay and at certain points, double hearsay. Although I am permitted to admit and rely on hearsay evidence, I am still required to assess the quality of that evidence.
106. [Designated Individual 1]'s statement differs from Mr. Lalli's account in various ways. For example, she says that [Mortgage Broker 1] first discovered that the home on the Property had been

demolished and as a result [Designated Individual 1] discovered that Mr. Lalli was building a new home on the Property. Mr. Lalli's evidence is that [Designated Individual 1] knew about the construction, had received a copy of the Building Contract, and had placed her sign on the Property. Further, [Designated Individual 1] says that [Individual 4] and Mr. Lalli were friends and that it was Mr. Lalli's decision to send the Borrowers deal to [Lender 1]; whereas Mr. Lalli says that [Designated Individual 1] directed him to send the deal to [Lender 1], and says that [Designated Individual 1] and [Individual 4] were having an affair. She also states that she trained Mr. Lalli on compliance, that [Mortgage Broker 1] spent a whole day with him, and that Mr. Lalli had been sent various emails from [Mortgage Broker 2] regarding compliance matters; whereas Mr. Lalli says that he received minimal training and had few if any responses to his emails asking for help. Although most of these issues are largely peripheral to the liability issue, in my view, they need to be resolved to address what happened and assess Mr. Lalli's culpability.

107. The most significant problem with [Designated Individual 1]'s evidence, other than its form, is the issue of her sign being on the Property. Mr. Lalli has provided clear evidence that [Designated Individual 1] had her sign on the Property and that she knew it had been there on August 12, 2022. [Designated Individual 1]'s account that she first learned of the construction at the Property on August 9, 2022 from [Mortgage Broker 1] does not align with this objective evidence. Given [Designated Individual 1]'s August 12, 2022 text message bears no indication that she was surprised her sign was on the Property at all, the only way these two facts could be true is if [Designated Individual 1] learned that Mr. Lalli was performing the construction on the Property on August 9, 2022 and then had Mr. Lalli place a sign on the Property and removed it before August 12, 2022 to place on another property. In my view, that is an exceedingly unlikely series of events. It is far more likely that [Designated Individual 1] knew about the construction well before August 9, 2022.
108. BCFSA submits that it makes little sense for [Designated Individual 1] to have submitted a complaint to BCFSA if she had told Mr. Lalli not to submit a Form 10 while knowing that Mr. Lalli was in a conflict of interest. BCFSA submits that [Designated Individual 1] would have known that her own misfeasance would be discovered by BCFSA's investigation and therefore she would not have made the complaint. Because [Designated Individual 1] was not called as a witness, I do not know why she sent the August 17, 2022 email. I do not, for example, know if she sent it because she had terminated Mr. Lalli's employment, needed to advise BCFSA of that termination, and felt it necessary to or was asked to explain the reason for that termination. I also do not know if she sent her August 17, 2022 email as a complaint intending BCFSA to commence an examination or investigation of Mr. Lalli's conduct. The fact that the whole of the email is not before me amplifies these concerns.
109. It is clear to me that [Designated Individual 1] very likely did not first discover that Mr. Lalli was building a home for the Borrowers on the Property on August 9, 2022, a fact that significantly diminishes the credibility her August 17, 2022 email.
110. There are other, smaller, inconsistencies between [Designated Individual 1]'s August 17, 2022 email and the other evidence in this case, which diminish the email's reliability. This includes her statement that the Borrowers' deal had been closed since May 2022, when it had funded in June 2022 and [Brokerage 1] had received payment for it in July 2022. It also includes her statement that [Mortgage Broker 2] sent Mr. Lalli a step-by-step explanation of how to complete a file, when [Mortgage Broker 1]'s August 3, 2022 email tends to indicate [Mortgage Broker 1] sent that step-by-step list. It is possible that [Mortgage Broker 2] sent such a list or that [Mortgage Broker 1] meant that she would resend [Mortgage Broker 2]'s email, but the phrasing in [Mortgage Broker 1]'s August 3, 2022 email at least suggests that the email came from [Mortgage Broker 1] and not [Mortgage Broker 2].
111. Further, despite [Designated Individual 1] indicating that there were text messages and emails to verify everything she states in her August 17, 2022 email, none of that corroborating information

was produced in the hearing. I note that none of this material was entered in evidence despite the fact that Mr. Lalli's answers in his interview indicated that he received little training after starting as a submortgage broker, that [Designated Individual 1] knew that Mr. Lalli was building a home on the Property, that [Designated Individual 1] told Mr. Lalli to go to [Lender 1] with the Borrowers' deal, and that [Designated Individual 1] was directing Mr. Lalli with regard to how the deal should be structured. It was therefore known to BCFSa that Mr. Lalli's position in this proceeding was that [Designated Individual 1] knew that Mr. Lalli had a contract to build on the Property, was supervising Mr. Lalli on this transaction, and also failed to ensure that a Form 10 was prepared in the matter. Further, all of the text messages tendered in evidence came in the form of screenshots taken from [Designated Individual 1]'s phone; therefore, text messages that would have corroborated [Designated Individual 1]'s account were available to BCFSa and not produced in this proceeding.

112. In my view, given the above issues, I cannot rely on [Designated Individual 1]'s email statement except where it is otherwise corroborated by other evidence. As a result, I do not accept [Designated Individual 1]'s statements that she first discovered the construction on the Property on August 9, 2022, that Mr. Lalli told [Mortgage Broker 1] that the [borrowers'] refinancing was for "future investment purposes", that Mr. Lalli and [Individual 4] were friends, that [Designated Individual 1] or [Mortgage Broker 2] sent Mr. Lalli detailed emails regarding compliance documents, or that [Mortgage Broker 1] spent a "whole day" training Mr. Lalli on compliance.

Credibility and Reliability of Mr. Lalli

113. Mr. Lalli's evidence varied in quality depending on the topic.
114. Mr. Lalli gave evidence regarding his background and how he came to meet the Borrowers in a straightforward manner. I accept that evidence.
115. Mr. Lalli gave a direct answer that Luxon made an estimated \$60,000 from building the Borrowers' home on the Property and gave a clear explanation of that estimate. I accept that evidence.
116. Mr. Lalli was unshaken in his evidence that he thinks he likely submitted the Borrowers' mortgage application to [Lender 1], but was not 100% sure. He also never deviated from his evidence that he had given [Designated Individual 1] a copy of the Building Contract, that he prepared a Form 10 but did not submit it to [Lender 1], and that [Designated Individual 1] told him not to submit the Form 10. This evidence was also consistent with the evidence he gave during his investigatory interview and is not otherwise contradicted, except by [Designated Individual 1]'s evidence.
117. That said, his evidence often focused on impugning [Designated Individual 1]'s character and motivations and at those times he sometimes strayed into speculation regarding [Designated Individual 1]'s conduct or her intent. For example, he testified that [Designated Individual 1] and [Individual 4] were having an affair and then speculated this affair was the reason she directed Mr. Lalli to send the Borrowers' deal to [Lender 1]. He also speculated in his evidence that most of [Brokerage 1]'s business went to [Lender 1] as a result of [Designated Individual 1]'s and [Individual 4]'s relationship. He also characterized [Designated Individual 1]'s representation that Mr. Lalli would be transferred to [Brokerage 1] once it was set up as a "lie" on the basis of [Brokerage 1]'s incorporation date, despite not submitting any evidence regarding [Brokerage 1]'s historical operations or registrations that might prove this statement was a knowingly false statement.
118. Mr. Lalli often demonstrated significant facility with the documents and dates, often directing the hearing to documents by page number before being taken to them. That fact, in itself, merely demonstrates that Mr. Lalli, as the respondent, had a natural interest in the proceeding, but Mr. Lalli was somewhat self-servingly selective in his recollections based on the documents. For example, Mr. Lalli knew that [Designated Individual 1] was with him on June 30, 2022 at the Property because the Property passed its demolition inspection on that date, a date he knew from reference to the inspection documents, which were not tendered in evidence themselves. He also knew that the

photographs in the Appraisal showed tree barriers and provided the municipal bylaw that required those tree barriers, which Mr. Lalli said demonstrated that [Designated Individual 1] knew construction was planned at the Property. However, Mr. Lalli did not recall whether the Borrowers' mortgage application was submitted before or after he became registered under the MBA, despite the fact that the emails clearly indicate that he was corresponding with [Lender 1] in mid-to-late May 2022 to finalize the numbers on that transaction and many of the mortgage documents were dated in June 2022. It is telling that the former set of facts assists Mr. Lalli by decreasing his culpability and the latter fact is more incriminating.

119. Further, Mr. Lalli's evidence was often vague regarding when certain events occurred. He did not independently recall when he became registered under the MBA, preferring to refer to BCFSAs' certificate establishing that fact. He did not recall when the Borrowers submitted their mortgage application and suggested it occurred in March, 2022, which is very unlikely given Mr. Lalli's name is on the documents as a broker and his correspondence with [Lender 1] in May 2022. He did not state when he had the meeting with [Mortgage Broker 1] at her home. As discussed below, he did not clearly identify when the Borrowers decided to proceed with construction on the Property. He did not state when construction commenced on the Property.
120. Mr. Lalli was also evasive when answering certain key questions where the answers might incriminate him. For example, he refused to acknowledge that he, as the director of the construction company under contract to build a home on the Property, stood to benefit from the Borrowers receiving financing that, by his own admission, they planned to use to either buy a property or pay for the construction. He refused to acknowledge this despite admitting that Luxon completed the construction and was paid and that the Borrowers did not purchase another property. Instead of making that admission, Mr. Lalli claimed ignorance about the source of the Borrower's funds to pay him. I acknowledge that Mr. Lalli likely does not know if the Borrowers took funds from the HELOC to pay him, but, in my view, it is indisputable that having access to those funds made it more likely that they could pay Luxon and that Mr. Lalli therefore indirectly benefited from the HELOC. In my view, Mr. Lalli was aware that admitting to an indirect benefit would damage his case and refused to make the admission with that in mind.
121. BCFSAs submit that Mr. Lalli was inconsistent regarding his characterization of whether the Borrowers had decided to proceed with construction on the Property. In particular, BCFSAs submit that Mr. Lalli at times emphasized the Borrowers' uncertainty but he suggested they were more certain when speaking of [Designated Individual 1]'s knowledge. I do not accept this submission in its entirety. Mr. Lalli was consistent in his testimony that the Borrowers were undecided. His evidence regarding [Designated Individual 1]'s knowledge, in context, was that [Designated Individual 1] knew that Luxon was in position to do the construction if that was the Borrowers' decision.
122. In fact, Mr. Lalli never provided any evidence regarding exactly when the Borrowers decided to proceed with construction. He testified that they had not decided by the middle of May. He also testified that when the Borrowers received the mortgage, they were unsure how they would proceed but were leaning toward construction. Given the general timeline in this matter, the decision must have occurred by mid-to-late June at the latest, because the Borrowers home had been demolished by June 30, 2022. It is therefore possible that the Borrowers had not decided to proceed with construction by the time the loan funded on June 17, 2022. However, this leaves little time between the funding and the date the Property passed its demolition inspection on June 30, 2022, according to Mr. Lalli's evidence, for the Borrowers to have made their decision. In my view, Mr. Lalli did minimize the extent to which the Borrowers had decided to proceed with construction by the time the financing proceeded in this matter. Although he was not inconsistent in his own evidence in this regard, the evidence strongly suggests the Borrowers were mostly decided by the time the loan funded.

123. On the whole, I do not find that Mr. Lalli lied in this proceeding. He made admissions contrary to his interest, such as that he did not submit a Form 10 to [Lender 1] and that Luxon made approximately \$60,000 from building the Borrowers' home; however, he was evasive, tended to deflect blame, and lacked candour about certain matters that were likely to harm his position. That said, I do not find that he acted in a manner that was intended to mislead, but was preoccupied with blaming [Designated Individual 1] and pointing out his lack of training from Invis's staff. I find that Mr. Lalli's recollections that specific events occurred are generally reliable but are coloured by his desire to defend himself in this proceeding. I find that his recollections of the chronology of events and when events occurred not particularly reliable, mostly because he was highly imprecise in that regard.

Findings on Contested Facts

124. On the contested issues of fact, I make the below findings in light of the above discussion and in light of the fact that BCFSa bears the onus of proving, on a balance of probabilities and on the whole of the evidence, the allegations in this proceeding.
125. I find that [Designated Individual 1] was at least involved in procuring the Appraisal for the Property. Her name is on the document and her email address is listed as the client contact. I find that it is very unlikely that she was not involved in procuring it and, on a balance of probabilities, she received it from the appraiser. I find that Mr. Lalli was likely involved in this process to some extent as well. Mr. Lalli's May 17, 2022 email to [Individual 2] indicates that he had an appraisal done on the Property. I infer from this statement that Mr. Lalli was, to some extent, involved in obtaining it.
126. I find that Mr. Lalli delivered the Appraisal to [Individual 1] at [Lender 1] on May 17, 2022. Mr. Lalli's May 17, 2022 email to [Individual 2] indicates he sent an appraisal and, as noted above, a part of the Appraisal was in [Lender 1's] file and the registered principal amount of [Lender 1's] mortgage matched the appraised value of the Property in the Appraisal.
127. I find that Mr. Lalli introduced the Borrowers to [Designated Individual 1] and that he informed [Designated Individual 1] that the Borrowers were considering using Luxon to build a new home on the Property. [Designated Individual 1]'s involvement with the appraisal suggests that she was in contact with the Borrowers and Mr. Lalli testified that she spoke to them regarding their financing application. I find it unlikely that the Borrowers did not discuss their plans with her. I also find that Mr. Lalli did in fact provide the Building Contract to [Designated Individual 1]. It is not clear to me when exactly Mr. Lalli made this disclosure to [Designated Individual 1] but I conclude that it occurred before June 17, 2022, the funding date of the Borrowers mortgage, because the sign was on the Property by June 30, 2022 at the latest and the short time between the June 17, 2022 date and the June 30, 2022 date indicates to that, on a balance of probabilities, [Designated Individual 1] knew what was going on at the Property before June 17, 2022.
128. Regarding the extent of Mr. Lalli's training while at Invis and [Brokerage 1] Corp, I find that he likely received a short education regarding Invis's process by way of online videos.
129. Mr. Lalli, [Designated Individual 1], and the email evidence all agree that Mr. Lalli met with [Mortgage Broker 1] at her home to review documents. It is highly unclear when this occurred. [Mortgage Broker 1]'s August 3, 2022 email indicates she reviewed a transaction with Mr. Lalli, but does not indicate which one. Her email exchange with Mr. Lalli on May 11, 2022 indicates that Mr. Lalli was seeking input regarding disclosures from her and indicates that she was offering to meet with Mr. Lalli regarding the application. The fact that Mr. Lalli's May 11, 2022 email references a property with four borrowers on title, leads me to conclude that, more likely than not, he was asking for help on the Borrowers' deal. So, the meeting could have happened in May, while Mr. Lalli was preparing the mortgage application for the Borrowers, or in July, while Mr. Lalli was attempting to finalize compliance documents on the Borrowers deal to get paid. The facts are simply not clear enough for me to reach a conclusion in regard to when this meeting occurred.

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130. I find that Mr. Lalli's meeting with [Mortgage Broker 1] was likely not a whole day meeting, but involved [Mortgage Broker 1] reviewing the required disclosures with Mr. Lalli. I accept that [Mortgage Broker 1] likely reviewed a large number of documents and that she likely did not go in depth on each. That conclusion aligns with her email which directed Mr. Lalli to [Mortgage Broker 2] regarding compliance issues. I therefore find that this meeting involved largely cursory reviews of the compliance documents required in a deal.
131. I find that [Designated Individual 1] supervised and directed Mr. Lalli regarding the mortgage application process. It follows from this conclusion that [Designated Individual 1] directed Mr. Lalli to make the application to [Lender 1]. I also accept that [Designated Individual 1] advised the Borrowers and Mr. Lalli with regard to the proposed structure of the deal. In my view, [Designated Individual 1] was more experienced and Mr. Lalli would, at that point in his career as a submortgage broker, not have been as familiar with the available options in the Borrowers' circumstances. It is most likely that Mr. Lalli would not have known to structure the deal as it was structured without input from his supervisor.
132. I find that [Designated Individual 1] directed Mr. Lalli to [Mortgage Broker 1] and [Mortgage Broker 2] on many of the details of how to put the file together. The emails in evidence indicate that Mr. Lalli was communicating with [Mortgage Broker 2] and [Mortgage Broker 1] regarding compliance. There is no evidence that he was communicating with [Designated Individual 1] regarding those details while preparing the Borrowers' materials and therefore I conclude that most of Mr. Lalli's contacts regarding how to put the documents together were with [Mortgage Broker 1] and [Mortgage Broker 2].
133. That said, I find that it was incumbent on Mr. Lalli, as a relatively new submortgage broker, to be attentive to any training information he received and to have actively and independently sought out information. I do not find that Mr. Lalli pursued information with regard to his compliance obligations on his own initiative such that he could understand his obligations under the MBA. Mr. Lalli testified that he asked for help multiple times and sent multiple emails asking for help; however, he also testified that he did not ask [Mortgage Broker 2] about Form 10s prior to submitting the Borrowers' deal to [Lender 1]. Mr. Lalli produced no emails prior to the June 17, 2022 in which he asked for assistance preparing compliance documents from [Mortgage Broker 2] or asking how they should be filled out. His May 11, 2022 email to [Mortgage Broker 1] did raise some of these questions, but [Mortgage Broker 1] directed Mr. Lalli to [Mortgage Broker 2] and there is no clear evidence that he followed up on that recommendation.
134. Further, Mr. Lalli produced no evidence that he consulted BCFS's website or reviewed the MBA while determining what materials he should prepare on a mortgage application. If such evidence had existed, Mr. Lalli would have produced it or testified to it to bolster his position in this proceeding. Instead, I find that Mr. Lalli relied on the rather limited instruction he received from Invis staff and [Designated Individual 1] and, except for his May 11, 2022 email, did not proactively seek out information regarding his compliance obligations before submitting the Borrowers' mortgage. In my view, this conclusion is supported by Mr. Lalli's general lack of awareness of certain features of the regulatory framework under the MBA. For example, he did not seem to understand what a Designated Individual is within the MBA regime and did not seem to understand why a Form 10 might be required on the Borrowers' deal, stating, in part, that "[i]t's better to submit a document than not submit one." That statement, and his other responses to being asked if he would have submitted a Form 10 if he were doing the Borrowers' deal now, suggest to me that Mr. Lalli does not clearly understand the scope of his obligations to disclose conflicts of interest.
135. I accept that Mr. Lalli submitted the Borrowers' application to [Lender 1]. Mr. Lalli's name is on the mortgage documents and Mr. Lalli testified that it was likely him who submitted the application. Although [Designated Individual 1] was directing and supervising Mr. Lalli, I find that he was the one who prepared the materials and submitted them.

136. I accept that [Designated Individual 1] and [Individual 4] were in a relationship. The nature of this relationship is not clear to me, but I accept that Mr. Lalli would not have concocted this relationship.
137. I also conclude from Mr. Lalli's testimony that [Individual 4] knew that Mr. Lalli was going to be the builder for the Borrowers' new home on the Property. In any event, there is no evidence that [Individual 4] was involved in the Borrowers' deal to any extent that would suggest he knew Mr. Lalli had not disclosed Luxons' relationship with the Borrowers, that he was in a position or under an obligation to inform anyone on the deal with regard to Mr. Lalli's role, or that [Individual 4] did in fact inform anyone involved with the Borrowers deal of that fact. "Tony" is mentioned in [Individual 2]'s May 20, 2022 email as having provided rate sheets to all brokers. I assume that this was [Individual 4], but this is not evidence of [Individual 4]'s significant involvement in the deal itself as opposed to generally interacting with brokers. As a result, I find that [Individual 4] was not involved with the Borrowers' deal to any material extent and did not share his knowledge of Mr. Lalli's role in the potential construction with anyone else at [Lender 1].
138. I also find that Mr. Lalli was not candid with [Individual 2] or [Individual 1] regarding the purposes of the funding sought by the Borrowers. For example, in his May 20, 2022 email to [Individual 2] and [Individual 1], Mr. Lalli said that once the Borrowers know the amount of funding they will get, "they will be looking at buying a 2nd property with the LOC". Although that discloses one of the Borrowers' contemplated purposes of the funds it fails to disclose the other purpose, rebuilding on the Property. It is notable that at the time of this email, Luxon was under contract to construct a new home on the Property, demolition and building permits were applied for, and tree barriers were in place at the Property. It is also notable that Mr. Lalli provided the Appraisal to [Lender 1], which assessed the value of the Property with the then current home on it.
139. I find that Mr. Lalli prepared a Form 10 and provided it to [Individual 3] on August 5, 2022. Mr. Lalli's August 5, 2022 email indicates it attached some documents. The only documents mentioned in the preceding email were "the BPCPA", the Form 10, and "Form 10 email". In my view, [Individual 3]'s email would have mentioned if Mr. Lalli had not delivered one of the requested forms, instead of requesting other documents.
140. I find that Mr. Lalli did not submit the Form 10 to [Lender 1] before June 17, 2022. Mr. Lalli did not testify that he did so. I also find that he did not submit a Form 10 to [Lender 1] on the Borrowers' deal at any time and that he did not submit the Form 10 he prepared on August 5, 2022 because [Designated Individual 1] told him he did not need to. In my view, Mr. Lalli was truthful when he said that [Designated Individual 1] advised him that it was not necessary.
141. I also find that Mr. Lalli, in following [Designated Individual 1]'s direction that a Form 10 was unnecessary, effectively ignored the instructions of [Mortgage Broker 2] to upload one and of [Mortgage Broker 1] to defer to [Mortgage Broker 2] regarding compliance issues.
142. Finally, I find that Mr. Lalli was not paid on the Borrowers' file because he had not submitted the required compliance documents on the transaction. That fact is demonstrated by Mr. Lalli's emails in July and August 2022 seeking payment which confirm that the August 2022 exchange he had with [Individual 3] and [Mortgage Broker 2] was further to his attempt to be paid.

Submissions

BCFSA's Submissions

143. BCFSA submits that the evidence is clear that no Form 10 was provided to [Lender 1] in relation to the Borrowers' transaction. It submits that Mr. Lalli, as a submortgage broker, was an "associate" of Invis within the meaning of section 13(1) of the *Mortgage Brokers Act Regulations*, BC Reg 100/73 (the "**Regulations**") such that section 17.4 of the MBA required disclosure of any actual or

potential, direct or indirect interest Mr. Lalli had in the Borrowers' deal to [Lender 1]. That disclosure was required to be true, plain, not misleading, signed, and dated.

144. BCFSA submits that, even if Mr. Lalli disclosed the fact that Luxon was going to be the builder on the Property to [Designated Individual 1], [Designated Individual 1] was not a submortgage broker at Invis and he therefore did not make the required disclosure to his mortgage broker.
145. BCFSA further submits that Mr. Lalli, as a submortgage broker, had an equal obligation as Invis to provide the Form 10 disclosure to [Lender 1]. To support this contention, BCFSA relies on two pieces of guidance from BCFSA's website: the "Mortgage Broker Conflict of Interest Disclosure Guidelines - Registrar of Mortgage Brokers" (November 2016) (the "**Guidelines**") and the "Mortgage Broker Conflict of Interest Disclosure Guidelines – Frequently Asked Questions" (June 23, 2017) (the "**FAQ**").
146. BCFSA submits that conflicts of interest arise where a risk exists that a mortgage broker's or submortgage "broker's advice to one party may be influenced by the interests of another party": the Guidelines, at p 4. BCFSA submits that there was a risk that Mr. Lalli's or Luxon's financial interests would influence the mortgage brokerage's advice to the Borrowers. BCFSA argues that Mr. Lalli and Luxon had a direct interest in the transaction because the Building Contract was an enforceable agreement to have Luxon complete the construction. BCFSA submits that, by way of the Building Contract, Luxon would directly benefit from the Borrowers having a line of credit available, regardless of what the Borrowers decided to do with those funds. BCFSA submits that the Building Contract gave Luxon a direct interest in the Borrowers' line of credit.
147. BCFSA submits that, if Mr. Lalli's and Luxon's interest is not direct, it is at least indirect. BCFSA argues that an interest still qualifies as an indirect interest under the Guidelines even if it is contingent. BCFSA submits that regardless of whether Luxon was paid from funds taken from the Borrowers' line of credit, Luxon could have been paid with those funds and that is sufficient to qualify as an indirect interest.
148. BCFSA submits that, regardless of whether the interest was direct or indirect, Mr. Lalli was required to disclose it in the form required by section 17.4 of the MBA. Because he failed to do so, BCFSA submits that he acted in contravention of section 17.4 of the MBA and should be found liable under section 8(1) of the MBA for carrying on business in a manner prejudicial to the public interest.

Mr. Lalli's Submissions

149. Mr. Lalli acknowledges that a submortgage broker is likely an "associate" or "related party" of their mortgage broker, which would require their interests to be disclosed pursuant to section 17.4 of the MBA; however, Mr. Lalli submits that he should not be held directly liable for the failure to make the required disclosure. Mr. Lalli relies primarily on *The Registrar of Mortgage Brokers v. Financial Services Tribunal and Matick*, 2007 BCSC 1118 ("**Matick**") to support that argument.
150. In *Matick*, Mr. Matick was a submortgage broker whose wife had an interest in several mortgages. The exact nature of that interest is not described in the case. Mr. Matick had not disclosed the conflict of interest in the relevant transactions. The Registrar decided that Mr. Matick had breached section 17.3 of the MBA by failing to disclose the conflict of interest. Section 17.3 was, and remains, a parallel section to 17.4, requiring disclosure to borrowers instead of lenders. The Financial Services Tribunal affirmed that decision and the decision came before Rice J on judicial review.
151. Rice J noted that the MBA and the *Regulations* differentiate between mortgage brokers and submortgage brokers such that one cannot simply read the obligations in section 17.3 of the MBA to include obligations on submortgage brokers, that other sections "make up in part for the loophole (so-called) in s 17.3", and that section 17.3 of the MBA was designated as an offence punishable by imprisonment and thus required a stricter reading: at paras 31-33. In regard to the other sections

that make up for the alleged gap in section 17.3, Rice J referred to section 8(1)(e) of the MBA, which, through subsequent amendments, became section 8(1)(i). These factors led him to conclude that a correctness standard of review applied: at para 34. In applying that standard, he determined that section 17.3, correctly interpreted based on the plain meaning of the text, placed the obligation to disclose “only upon mortgage brokers and not upon submortgage brokers”: at para 35. He therefore quashed the FST’s decision that Mr. Matick breached section 17.3 of the MBA.

152. Mr. Lalli submits that *Matick* should apply to section 17.4 of the MBA such that it only requires mortgage brokers to make disclosure using Form 10. Mr. Lalli submits that the Guidelines and the FAQs “cannot override a judicial interpretation of legislative intent” and that the registrar cannot “expand the scope of statutory obligations beyond what is clearly expressed in the legislation.” Mr. Lalli therefore submits that I cannot find that he, as a submortgage broker, has “an independent statutory obligation to provide Form 10 disclosure under s. 17.4 of the MBA.”
153. Mr. Lalli submits that lack of training, knowledge, or inexperience can be mitigating factors citing *Jessica Labonte v Registrar of Mortgage Brokers*, 2024 BCFST 1, at paras 78, 79, and 176 and *Yu (Re)*, 2024 BCRMB 3, at paras 57, 58, and 123. He further submits that his lack of prior disciplinary record, his reliance on his supervisors, his good faith, the absence of intentional wrongdoing, lack of harm, and the ambiguities in Invis’s compliance procedures are also mitigating.
154. Mr. Lalli submits that although his conduct fell below the required standard I should order a sanction that focuses on education and enhanced supervision to achieve future compliance, which would allow Mr. Lalli to contribute to the industry.

BCFSA’s Reply

155. In its reply, BCFSA submits that *Matick* is not binding on me. BCFSA argues that *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65, at paras 112-113 (“**Vavilov**”) and *International Longshore and Warehouse Union – Canada v British Columbia Maritime Employers Association*, 2024 FCA 142, at para 83 (“**ILWU**”) state that administrative decision makers are not bound to follow judicial decisions and may depart from them so long as the decision maker provides sufficient reasons for doing so. In a similar vein, those cases indicate that administrative decision makers may adapt or modify the application of common law principles to suit the administrative context.
156. BCFSA submits that these circumstances warrant departing from *Matick* because, in *Matick*, there were no publications or bulletins by the Registrar regarding the application of section 17.3; whereas, the Registrar has now published the Guidelines and the FAQ: see *Matick*, at para 47.
157. BCFSA submits that Mr. Lalli acted contrary to section 17.4 of the MBA and that I should find as such.
158. BCFSA submits, in the alternative, that if I do not find that Mr. Lalli contravened section 17.4, it remains open to me to find that Mr. Lalli’s failure to advise [Lender 1] and his brokerage of Luxons’ role constitutes acting in a manner prejudicial to the public interest. BCFSA submits that the Guidelines and the FAQ establish Mr. Lalli’s regulatory requirements obliged him to fully disclose the nature of his conflicts of interest in the Borrowers’ transaction. BCFSA submits that his failure to do so misled [Lender 1] with regard to the use of the funds advanced to the Borrowers through their line of credit.

Reasons and Findings

Applicable Legislation

159. The relevant portions of the MBA provide as follows:

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 of the registrar, any of the following paragraphs apply:

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

(1.1) After giving a person registered under this Act an opportunity to be heard, the registrar may order the person to pay an administrative penalty of not more than \$50 000 if, in the opinion of the registrar any of paragraphs (f) to (i) of subsection (1) apply.

Conflict of interest — disclosure to lenders for mortgages on land in B.C. or elsewhere

17.4(1) Every mortgage broker who acts in a mortgage transaction in which there is an interest as described in subsection (2) (a) must, within the prescribed time, provide to every person who is a lender under a mortgage in that transaction a written disclosure statement that meets the requirements of subsection (2).

(2) The disclosure statement referred to in subsection (1) must

- (a) disclose any direct or indirect interest the mortgage broker or any associate or related party of the mortgage broker has or may acquire in the transaction,
- (b) include the prescribed contents and be accompanied by any documents that are prescribed,
- (c) be dated and signed by the mortgage broker, and
- (d) contain disclosure that is true, plain and not misleading of the matters in the prescribed contents referred to in paragraph (b).

160. The relevant portions of the *Regulations* provide as follows:

Definitions

13 (1) For the purposes of this Division, and sections 17.3 and 17.4 of the Act:

"associate" means, if used to indicate a relationship with any person,

- (a) a submortgage broker employed by that person,
- (b) a partner of that person,
- (c) a trust or estate in which that person has a substantial beneficial interest or for which that person serves as trustee or in a similar capacity,
- (d) a corporation in respect of which that person beneficially owns or controls, directly or indirectly, voting securities carrying more than 10% of the voting rights attached to all outstanding voting securities of the corporation,
- (e) a relative, including a spouse, of that person, or
- (f) a relative of that person's spouse, if the relative has the same home as that person;

"related party" means, in respect of a person, any other person that is

- (a) related to the person under subsection (2) to (4), or
- (b) deemed to be a related party under subsection (5).

(2) Each of 2 persons is related to the other if

- (a) either influences the other,
- (b) both influence the same third person, or
- (c) both are influenced by the same third person.

(3) For the purposes of subsection (2), a person influences another person if, through the beneficial ownership of or exercise of control or direction over, or through a combination of such ownership of or control or direction over

- (a) voting securities of that other person,
- (b) securities currently convertible or exchangeable into voting securities of that other person, or
- (c) securities carrying a currently exercisable right to acquire voting securities of that other person or to acquire convertible or exchangeable securities referred to in paragraph (b),

whether directly or indirectly and whether alone or in combination with one or more persons, the person exercises a controlling influence over the management and policies of that other person.

(4) For the purposes of subsection (2) and without limiting the generality of subsection (3), a person, in the absence of evidence to the contrary, is deemed to influence another person if the first person

- (a) beneficially owns or exercises control or direction over securities that constitute in the aggregate more than 20% of the outstanding securities of any class or series of voting securities of that other person, or

(b) would, upon conversion, exchange or exercise of any security or right referred to in subsection (3) (b) or (c), beneficially own or exercise control or direction over securities that would constitute in the aggregate more than 20% of the outstanding securities of any class or series of voting securities of that other person,

whether directly or indirectly and whether alone or in combination with one or more other person.

(5) If any 2 persons are related parties of the same other person, the 2 persons are deemed to be related parties of each other.

Timing of Conflict of Interest Disclosure Statement

14 (1) The written disclosure statement referred to in section 17.3 of the Act must be provided to the borrower at the earliest opportune time given the circumstances of the mortgage transaction and in any event before the borrower in the mortgage transaction signs the mortgage or any ancillary agreement with the mortgage broker or lender, including but not limited to an agency agreement with the mortgage broker, that commits the borrower to the mortgage transaction.

(2) The written disclosure statement referred to in section 17.4 of the Act must be provided to the lender

(a) if the lender's funds are paid into trust, on or before release of the funds from trust at the direction of the lender, or

(b) if the funds are not paid into trust, on or before the advancement of funds by the lender.

Analysis

161. The ANOH in this matter alleges that Mr. Lalli engaged in conduct prejudicial to the public interest in failing to disclose to [Lender 1] that the Borrowers were in the process of obtaining demolition permits intending to proceed with construction on the Property and that the construction would be done by a company of which Mr. Lalli was a director as required by section 17.4 of the MBA. The allegations fall under either section 8(1)(f) or section 8(1)(i) of the MBA. The application of those sections are two of the preconditions that authorize the Registrar to make an order under sections 8(1)(a)-(d) or 8(1.1). Section 8(1)(i) applies where “the person has conducted ... business in a manner that is otherwise prejudicial to the public interest”. Section 8(1)(f) applies where “the person is in breach of [the MBA], the regulations or a condition of registration.”

162. The ANOH does not specify whether it seeks to ground liability under section 8(1)(f) or 8(1)(i) of the MBA but mentions both conducting business in a manner prejudicial to the public interest and section 17.4 of the MBA. BCFSA's submissions generally focus on the application of section 17.4 of the MBA.

163. As a result, I will address both section 8(1)(f) and 8(1)(i).

Section 8(1)(f) of the MBA

164. Section 8(1)(f) is triggered where the respondent is in contravention of the MBA, the *Regulations*, or a condition of registration. In this case, the only section alleged to have been contravened is section 17.4 of the MBA.

165. Section 17.4 of the MBA requires every mortgage broker acting in a transaction to disclose any direct or indirect interest that the mortgage broker or any associate or related party of the mortgage broker has or may acquire in the transaction. The disclosure must include the prescribed contents,

which are set out in Form 10 pursuant to section 1.1 of the *Regulations*. The disclosure must also be signed by the mortgage broker and contain a disclosure that is “true, plain and not misleading” regarding the prescribed content.

166. In determining the meaning of “direct or indirect interest”, I apply the modern approach to statutory interpretation espoused in *Rizzo & Rizzo Shoes Ltd. (Re)*, 1998 CanLII 837 (SCC), at para 21 citing Elmer Driedger in *Construction of Statutes* (2nd ed. 1983):

Today there is only one principle or approach, namely, the words of an Act are to be read in their entire context and in their grammatical and ordinary sense harmoniously with the scheme of the Act, the object of the Act, and the intention of Parliament.

167. In my view, the interest is direct if it flows or might flow from the transaction directly to any individual captured within the list in section 17.4 of the MBA: mortgage brokers and their associates and related parties. An interest is indirect if it flows to a captured person through another entity or person from which the captured person expects to benefit or would have an interest in the entity or person benefiting such that the captured person’s advice might be at risk of being influenced. In that regard, I would disagree with the Guidelines, which are not binding on me, to the extent that direct interests are not only those which are “immediately known and flow directly from the transaction” and indirect interests are not only ones which are “not triggered immediately or obviously”.
168. On this account, all of the interests described in the Guidelines continue to require disclosure; however, many of the interests described in the Guidelines as indirect interests would be direct interests as a result of those interests directly benefiting a person captured by section 17.4 of the MBA, whether that benefit is contingent or not. For example, trailer fees and volume or efficiency bonuses directly benefit the recipient although they are contingent on other or future events occurring. Where they are contingent or uncertain, although direct, they must still be disclosed as they may influence the captured person’s advice in the transaction.
169. Further, many interests described as direct in the Guidelines would be indirect. For example, if a captured person’s family member is the borrower, that is an indirect interest of the captured person, not a direct one as described in the Guidelines.
170. In my view, categorizing direct and indirect interests in the above way better aligns with the plain meaning of the words “direct” and “indirect” by reference to the captured persons and whether they themselves benefit or if they benefit because of a benefit to another person. This further aligns with the purposes of the MBA to efficiently regulate the mortgage marketplace: *Cooper v Hobart*, 2001 SCC 79, at para 49. It does so by ensuring that the interests that are required to be disclosed by section 17.4 of the MBA are sufficiently broad to properly inform lenders of the factors which may impact a mortgage brokers’ advice or role in the transaction. The Guidelines fail in this regard because, although they purport to include interests that the captured person obtains through a third party, such as a spouse, the reason for their inclusion is not apparent from the explanation of “direct” and “indirect”. For example, it is not clear why a family member being a borrower is a direct interest under the Guidelines but beneficial ownership in a lender or borrower is an indirect interest and it is further not clear why either of those relationships is included at all. On my reading, both of those relationships and interests are captured under indirect interests as I define them.
171. The Legislature must have intended to include the kind of benefits that are “indirect”, within my reading of that word, as disclosable. For example, the Legislature likely would not have intended to not require the disclosure of a benefit just because it flowed to a person’s spouse or to a company owned by the person or by the person’s spouse and not to the person directly. A reading of those words which more clearly makes those disclosures required should be preferred.
172. This reading is also supported by the context of the MBA as whole. For example, section 13 of the Regulations uses the phrase “directly or indirectly” in the definition of “associate” when referring to

beneficial ownership of securities and in sections 13(3) and 13(4) when referring to the ownership of securities. In my view, the use of that phrasing in those contexts refers to the directness of the holding of those securities and not the contingency of their vesting. In those contexts, the question is whether the person holds the interest in the securities themselves or through some other person. Reading section 17.4 of the MBA to comport with the drafting of section 13, therefore supports the reading set out above.

173. In my view, it is much simpler to explain the interests that trigger the disclosure obligation as either flowing directly to a captured person, even if contingent, or flowing to a person in whom the captured person has an interest.
174. Reading “indirect” and “direct” as focused on whether the benefit flows directly or indirectly to the captured person therefore better comports with the MBA’s words “read in their entire context and in their grammatical and ordinary sense harmoniously with the scheme of the [MBA], the object of the [MBA], and the intention of [the Legislature]”: *Rizzo & Rizzo Shoes Ltd. (Re)*, 1998 CanLII 837 (SCC), at para 21 citing Elmer Driedger in *Construction of Statutes* (2nd ed. 1983).
175. As a submortgage broker with Invis, Mr. Lalli was an associate of Invis from March 31, 2022 to June 27, 2022 within the meaning of section 13 of the *Regulations*.
176. I find that the Borrowers obtaining access to the line of credit increased the funds to which the Borrowers had access to pay Luxon if they decided to proceed with the construction. This increased the chance that the Borrowers would proceed with the construction pursuant to the Building Contract, increased the chance that the Borrowers would pay Luxon for its work on the project, and increased the chance that Luxon would be able to collect for damages for breach of contract if the Borrowers decided not to proceed with construction and Luxon decided to enforce the Building Contract. Regardless of whether the Borrowers actually decided to proceed with construction or Luxon decided to enforce the Building Contract if they decided not to proceed, the availability of the line of credit increased the chance that Luxon would obtain the benefit of the approximately \$60,000 it stood to make off the Building Contract. The fact that the Borrowers did in fact proceed with the construction after obtaining the line of credit and paid Luxon supports my conclusion that access to that line of credit increased the chance Luxon would be paid, regardless of whether those funds flowed from the line of credit itself or not.
177. I further find that Mr. Lalli stood to benefit from Luxon performing the work pursuant to the Building Contract and as a result benefited from the increased probabilities referenced above, which arose because the Borrowers would obtain a line of credit. In my view, it is most likely that Mr. Lalli and his spouse, as the two directors of Luxon and as individuals directly providing work to Luxon, stood to financially benefit from financial benefits to Luxon.
178. In my view, Mr. Lalli’s interest was indirect. Although he stood to personally and financially benefit if Luxon received payment pursuant to the Building Contract and therefore benefitted from an increased chance Luxon received payment, this benefit had to flow through Luxon first. Further, Mr. Lalli’s [Family Member 2] similarly stood to benefit from the transaction in the same way that Mr. Lalli did, which is a further indirect benefit to Mr. Lalli, who was an associate of Invis.
179. As a result, a disclosure was required under section 17.4 of the MBA by issuance of a Form 10 disclosure because Mr. Lalli, an associate of Invis, had an indirect interest in the transaction. No Form 10 disclosure was delivered to [Lender 1] in the Borrowers’ deal let alone by the date required by section 14 of the *Regulations*.
180. The remaining question under section 8(1)(f) is whether Mr. Lalli was personally responsible for making the section 17.4 disclosure. Mr. Lalli says he was not because of the application of *Matick*. BCFSa says that he was because of the application of the Guidelines and the FAQ and that I should

depart from *Matick* both because it is not binding and because the Guidelines and the FAQ now exist to express the Registrar's position on the scope of the obligation to make disclosure.

181. In my view, *Matick* applies and I agree with it. I agree with *Matick* essentially for the reasons expressed by Rice J in that decision. Most importantly, I agree with Rice J that the MBA and the *Regulations* take some pains to differentiate between mortgage brokers and submortgage brokers, which is evidenced in the repeated separate use of "mortgage broker" and "submortgage broker" throughout both enactments. I note that there are also several instances within the legislation where the terms are used together to impose obligations on both mortgage brokers and submortgage brokers. For example, section 14(1) of the MBA prohibits false, misleading, or deceptive statements in advertising and specifically imposes the prohibition on both mortgage brokers and submortgage brokers. Had the Legislature intended sections 17.3 and 17.4 of the MBA to apply also to submortgage brokers, it would have included the words "and submortgage broker" in those sections as it did with section 14 of the MBA.
182. I further do not accept the argument raised by the Registrar in *Matick* that the inclusion of "relative, including a spouse" in the definition of "associate" in section 13(1) of the *Regulations* is rendered pointless by the reading in *Matick*. Although many mortgage brokers are entities and therefore incapable of having relatives or spouses, some mortgage brokers are individuals acting as sole proprietors and the definition would apply in that case. Other subsections of the definition of "associate" may not apply to a mortgage broker, depending on their circumstances. For example, subsection (b) would not apply to a mortgage broker without any partners and subsection (c) would not apply to a mortgage broker with no interest in a trust.
183. I also note that, the interpretation in *Matick* is not entirely inconsistent with the Guidelines and the FAQ, neither of which explicitly ground the expressed "equal obligation" of submortgage brokers to make the required disclosure in section 17.4 of the MBA. In fact, the Guidelines explicitly permit submortgage brokers to sign the required Form 10 only as an authorized representative of the mortgage broker, require co-brokers at different brokerages to issue one Form 10 for each brokerage,² and permit co-brokers at a single brokerage to issue a single Form 10. If section 17.4 of the MBA included submortgage brokers within the use of the term "mortgage broker", then the requirement that "every mortgage broker" acting in the transaction issue a Form 10 disclosing any conflicts of interest would preclude the interpretation specified in the Guidelines and FAQ and require every submortgage broker and mortgage broker to make their own disclosure and to do so on their own behalf.
184. I therefore agree that the exclusion of submortgage brokers from the obligation in section 17.4 of the MBA was intended by the Legislature. As a result, Mr. Lalli was not obliged, by virtue of section 17.4 of the MBA to disclose his indirect interest in the transaction to [Lender 1] by way of a Form 10 and did not act contrary to section 8(1)(f) of the MBA.

Section 8(1)(i) of the MBA

185. I turn now to the question of whether Mr. Lalli conducted business in a manner that is otherwise prejudicial to the public interest contrary to section 8(1)(i) of the MBA.
186. First, I note that *Matick* does not foreclose the possibility that, despite not having directly breached section 17.4 of the MBA, Mr. Lalli still acted contrary to section 8(1)(i). Rice J explicitly noted this power at paragraph 32 of *Matick*, referring to that provision as the "catchall power in s. 8(1)(e)".³ I agree with BCFS's submission that Rice J left this avenue of liability open.

² I note that the FAQ is more permissive than the Guidelines in this regard and tolerates a single Form 10 for both mortgage brokers.

³ By way of amendments to the MBA, section 8(1)(e) at the time of the *Matick* decision became the current section 8(1)(i).

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187. In regard to the determination of whether a failure to disclose a conflict of interest is prejudicial to the public interest, I find the Guidelines and the FAQ to be useful. I acknowledge that they are not binding, but they reflect the Registrar's published position on the need to make disclosures of conflicts of interest. The position of the Registrar in those documents is that submortgage brokers and mortgage brokers must disclose their direct and indirect interests in mortgage transactions to borrowers and to lenders truthfully, plainly, completely, and in a non-misleading fashion.
188. Regarding the role of the disclosure with the regulatory regime, the MBA is a very short piece of legislation containing less than 30 sections with only a handful of explicit requirements. The requirement to disclose conflicts of interest is included in two sections, 17.3 and 17.4, both of which are designated as offences subject to fines of up to \$100,000 for a first conviction or \$200,000 for a subsequent conviction, up to two years imprisonment, or both a fine and imprisonment.
189. Further, the Form 10 is one of only two types of disclosure directly required by the MBA, being required by both sections 17.3 and 17.4 of the MBA. The other disclosure explicitly required is the Form 9 required by section 17.1 of the MBA, which requires disclosure to lenders of certain details regarding the transaction at hand. Form 10 is therefore the only explicitly statutorily required method by which registrants might explain their role and the interests they have which might impact their role in the transaction.
190. I further note that the Form 10 is a simple document on its face. It provides for identification of the mortgage broker, identification of the property to be mortgaged, description of the mortgage brokers' interest, description any associate's or related party's interests, and signature blocks for the mortgage broker and the recipient. The Guidelines acknowledge that the Form 10's contents are required to be disclosed, but that mortgage brokers may use their own form with the same contents, so long as the other requirements of sections 17.3 and 17.4 of the MBA, as applicable, are met. The complexity in the statutorily required disclosure comes from its broad scope, which includes direct and indirect interests of mortgage brokers, their associates, and their related parties.
191. In my view, the fact that the obligation to make disclosures of conflicts of interest is one of the few explicit requirements in the MBA and is subject to substantial criminal penalties, indicates that the obligation is a significant element of the scope of the MBA such that it would not be in the public interest for the interests identified by section 17.4 to not be disclosed. The significant breadth of that disclosure, demonstrated by the broad and inclusive language along with the relatively broad scope of the definitions of "associate" and "related party", indicates further that the Legislature has identified that the public interest is best served by having fulsome, true, and accurate disclosure of all relevant interests held by mortgage brokers, their associates, and their related parties.
192. In my view, the obligation's importance also makes practical sense. Many mortgage brokers and submortgage brokers work as intermediaries between borrowers and lenders. Some are engaged in lending themselves. Some, like Mr. Lalli, are active in other industries that may connect to their work as mortgage brokers. There are also no clear requirements with the legislation governing how registrants form relationships with or between borrowers and lenders, as agents, dual agents, or otherwise, and the duties owed within those relationships, which leaves the nature of those relationships for determination between the parties. In that context, it is crucially important that there be some disclosure to both the borrowers and the lenders indicating the interests that registrants have that may impact or influence the advice and information registrants provide to borrowers and lenders. That information helps borrowers and lenders understand registrants' roles in the transaction and assess the weight of any advice or information provided by registrants so that they can make borrowing or lending decisions. Without disclosure, there is no reliable way for the borrowers or lenders to know whether the mortgage broker, its associates, or its related parties have a conflicting interest in the transaction that might influence the mortgage broker or the submortgage broker acting on the deal. Therefore, a failure to ensure that disclosure is made is conduct contrary to the public interest.

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193. I note that in many instances, except those involving sole proprietor mortgage brokers, it will be submortgage brokers who are primarily responsible to ensure the disclosure is made. This fact arises for two reasons. First, many mortgage brokers are entities and not individuals and they therefore must act through a submortgage broker. Second, submortgage brokers, by the nature of their role, often work directly with borrowers and lenders and are naturally placed to deliver the required disclosure. This argument was raised by the Registrar in *Matick* and ultimately rejected as a reason to interpret “mortgage broker” more broadly because of the plain wording of section 17.4. However, the role of submortgage brokers is important to note when considering the substantially broader and more contextual requirement on all registrants to act in a manner that is not prejudicial to the public interest.
194. With the above in mind, I find that submortgage brokers, in transactions where they act, conduct business in a manner contrary to the public interest where they fail to ensure their direct or indirect interests are disclosed in a manner similar to that contemplated by the Form 10. This responsibility arises from the above discussion that it is contrary to the public interest to not have that information disclosed and from the submortgage brokers personal regulatory obligations.
195. In my view, it is not sufficient for a submortgage broker to make a disclosure of their conflict of interest to their mortgage broker and then to not also ensure that disclosure is made to the lender or borrower. If that were the case, submortgage brokers would be permitted to make the disclosure to their mortgage broker and then, despite acting in the transaction in which they have a conflict, to absolve themselves of the obligation to make the required disclosure to a lender in circumstances where they know or ought to know the borrower or lender has not received the disclosure.
196. I do not, in this case, need to decide whether the submortgage brokers obligations go beyond the above and include an obligation to inquire regarding the possible direct or indirect interests of the mortgage broker or the mortgage brokers other associates or related parties. That issue is not before me. That said, it seems unlikely that a submortgage broker who is actively involved in a transaction could act in a manner that comports with the public interest while failing to make those inquiries and disclosures.
197. Turning to the facts of this case, Mr. Lalli had an indirect interest in the Borrowers’ deal, as found above. Mr. Lalli failed to disclose that interest to [Lender 1], except by way of disclosure to [Individual 4]. [Individual 4] had no clear connection to the deal such that disclosure to him should constitute disclosure to [Lender 1] for the purpose of the transaction. There is no evidence that the disclosure was in writing, such that the information in it could be preserved through further communication or verified in the future. Further, there is no evidence regarding the quality, content, form, or timing of Mr. Lalli’s disclosure to [Individual 4] that would allow me to find it was in any way adequate to disclose the nature and extent of Mr. Lalli’s interest. Mr. Lalli has admitted that he provided no further disclosure of the fact that Luxon was under contract to be the builder on the Property, that he and his [Family Member 2] were the only directors of Luxon, and that the Borrowers had applied for building and demolition permits.
198. Regarding Mr. Lalli’s disclosure to [Designated Individual 1], I do not find that this disclosure was inadequate to have informed Invis of the interest. The nature of [Designated Individual 1]’s relationship with Invis was not clearly established before me and it is possible that [Designated Individual 1] was an authorized representative of Invis for the purposes of receiving that disclosure in this context. The relationship between [Designated Individual 1] and Invis appeared to be somewhat complex and therefore I cannot simply assume that, because she was the owner of [Brokerage 1], she was not in a position of sufficient authority with Invis to make Mr. Lalli’s disclosure to her a disclosure to Invis.
199. Although Mr. Lalli told [Designated Individual 1] about his indirect interest and provided her a copy of the Building Contract, he did not ensure that his interest was disclosed to [Lender 1]. The fact that [Designated Individual 1] told Mr. Lalli that the disclosure was not necessary did not relieve Mr.

Lalli of the obligation to ensure that disclosure occurred. It may be acceptable in other circumstances to simply rely on the direction of a supervisor and it may be mitigating in these circumstances to do so, which I do not yet decide; however, submortgage brokers are independently obliged to ensure they do not act in a manner contrary to the public interest. The instructions of a superior to ignore clear statutory requirements does not eliminate those requirements nor does it eliminate the submortgage broker's obligation to conduct business in accordance with the public interest.

200. I therefore find that Mr. Lalli conducted business in a manner contrary to the public interest contrary to section 8(1)(i) of the MBA when he failed to disclose his indirect interest in the Borrowers' deal to [Lender 1].

Conclusion

201. I find that Mr. Lalli conducted business in a manner contrary to the public interest contrary to section 8(1)(i) of the MBA when he failed to disclose to [Lender 1] that the Borrowers were in the process of obtaining demolition permits for the Property to proceed with construction of a new single-family home on the Property and that Luxon, of which Mr. Lalli and his [Family Member 2] were the only directors, was under contract to build that home.

Sanction

202. I retain jurisdiction to determine issues of sanctions and costs, and will hear evidence and submissions from the parties concerning orders under sections 8(1)(a)-(d) and 8(1.1) of the MBA and expenses under section 6(9), and any other actions available to the Respondent.

203. The parties may make submissions to the Hearings Division regarding the mode of sanctions and expenses hearing. Absent any submissions on the mode of that hearing, I direct the parties to follow the following schedule for written submissions on sanctions and costs:

- a. BCFSa is to make its submission on sanction and costs by September 22, 2025;
- b. Mr. Lalli is to make his response submissions on sanction and costs by October 6, 2025;
- c. BCFSa is to make its reply submissions, if any, by October 13, 2025.

204. Once the parties have made their submissions I will consider them and arrive at a decision on sanction and costs and issue additional reasons. Those additional reasons will form a part of this decision and will make such orders under sections 8 and 6(9) of the MBA or other orders under the MBA that I deem appropriate. Once I have made those orders, Mr. Lalli will have a right to appeal to the Financial Services Tribunal under section 9 of the MBA. Mr. Lalli will have 30 days from the date of the sanction decision to file an appeal: *Financial Institutions Act*, RSBC 1996, c 141, s 242.1(7)(d) and *Administrative Tribunals Act*, SBC 2004, s 24(1).

DATED at North Vancouver, BRITISH COLUMBIA, this 8th day of September, 2025.

"Original signed by Gareth Reeves"

Gareth Reeves
Hearing Officer