

**IN THE MATTER OF
THE MORTGAGE BROKERAGES AND MORTGAGE ADMINISTRATORS ACT**

S.S. 2012, c. F-13.5

AND

IN THE MATTER OF MR. ANDREW ANINDO

DECISION OF THE DEPUTY SUPERINTENDENT

A. INTRODUCTORY MATTERS

1. Mr. Andrew Anindo (“Mr. Anindo”) is, and was at all material times, licensed as a broker with licence number 315937, and authorized to broker mortgages on behalf of 101010610 Saskatchewan Ltd. d/b/a The Mortgage Centre - Power Mortgage, currently licensed as a mortgage brokerage in Saskatchewan with licence number 315900 (the “Brokerage”). On May 25, 2016, a notice of opportunity to be heard of the same date (the “Notice”) was served on Mr. Anindo. In the Notice, I stated my preliminary inclination to cancel Mr. Anindo’s licence and the grounds that justify the proposed cancellation. Further, the Notice advised Mr. Anindo of his right, under section 21(3) of *The Mortgage Brokerages and Mortgage Administrators Act* (the “Act”), to request an oral hearing or make written representations as to why I should not take the proposed action.
2. By a letter dated June 20, 2016 and forwarded to me by email, Mr. Anindo’s lawyer, Mr. Scott Mazinke, advised that Mr. Anindo would be filing a written response by June 24, 2016. On June 24, 2016, Mr. Anindo forwarded his written response (“Written Submission”). After my review and consideration of the Written Submission, as well as the information and materials available to me as discussed below, I find that Mr. Anindo has on multiple occasions contravened section 36 of the Act which provides that “no licensee shall engage in any unfair or deceptive act or practice with respect to a transaction or proposed transaction involving a mortgage”. Further, I find that Mr. Anindo is no longer suitable to hold a broker licence in Saskatchewan. In consequence, and for reasons given below, I have determined that a cancellation of Mr. Anindo’s licence is the most appropriate sanction for how he has conducted himself as a mortgage broker in relation to the mortgage transactions discussed herein.
3. By way of background, on or around July 30th, 2014, staff of the FCAA (“Staff”) received a complaint from [Borrower 1] regarding Mr. Anindo’s dealings with [Borrower 1] in respect of a mortgage transaction for their intended purchase of [Property 1]. Information obtained in discussions with Mr. Anindo on this transaction led to a broader review of his brokering activities.
4. In the understanding that most of Mr. Anindo’s mortgage brokering activity is carried out through D+H Filogix Expert (“Filogix”), a computer system used by mortgage brokers to

transmit borrower information to selected lender(s), Staff requested a Filogix report showing his activities from November 1, 2013 to October 24, 2014. Staff received this report from the Brokerage on October 30, 2014. [REDACTED]

5. Sometime in February, 2015, over the course of reviewing files, Staff became aware of a scenario where a document in Mr. Anindo's file appeared to have been altered. In order to secure the files and facilitate a more detailed review, including contacting certain borrowers, I sent a letter dated May 19, 2015 to the Brokerage informing the Brokerage that I was seizing the mortgage files and other correspondence pertaining to all borrowers listed in the November 1, 2013 to October 24, 2014 Filogix report. On May 19, 2015 the files were brought by Staff to our offices for review. During the risk-based review of the 40 files, eight files, including [Borrower 1] file, were highlighted as having material concerns warranting further in-depth review.
6. After completion of the file review, and discussion and correspondence with the borrowers, Mr. Anindo attended FCAA's office on August 12, 2015, ("August 12 Session") for an interview with Staff concerning his dealings as a mortgage broker in relation to these eight mortgages. On August 28, 2015 around 10am, Mr. Anindo, together with his legal counsel, Mr. Scott Mazinke, were in our office to meet with Staff to continue the interview ("August 28 Session"). There was a court reporter in attendance for both the August 12 Session and the August 28 session, a transcript of each interview was sent to Mr. Mazinke on October 1, 2015.
7. While the interviews with Staff dealt with Mr. Anindo's activities in relation to eight Borrowers, the Notice I issued focused on activities relating to 7 of these borrowers as identified in this decision (collectively, "Borrowers"). In light of the review of the information in the mortgage files involving these Borrowers, and Mr. Anindo's responses at the two interview sessions relating to documents found on these files and Mr. Anindo's dealings with the Borrowers, I issued the Notice outlining my concerns in relation to Mr. Anindo's dealings with the Borrowers in the context of their mortgage transactions. The common themes arising from my concerns were summarized as:
 - a. Providing a letter confirming financing is in place prior to there being a written commitment from a lender;
 - b. Documents on Mr. Anindo's file that appear to have been altered;
 - c. Variations in employment income submitted to lenders;
 - d. Variations in rental income submitted to lenders;

- e. Variations in down payment submitted to lenders; and,
 - f. Coaching to provide a suspect document.
8. In the Notice, I directed Mr. Anindo's attention to section 21(3) of the Act which provides that a person to whom a notice is sent pursuant to section 21(2) of the Act may, within 15 days after receiving that notice, advise the Superintendent that (a) the person requires an oral hearing; OR (b) the person wishes to make written representations to the Superintendent respecting why the action should not be taken. There was some correspondence initiated by Mr. Anindo's legal counsel, Mr. Mazinke, with my office, and he, by his letter already noted in paragraph 2 above, advised me that Mr. Anindo would be providing a written response – which Mr. Anindo subsequently provided.
9. I should note that the Notice included concerns about Mr. Anindo not advising me that he was charged with an offense contrary to the *Criminal Code* as required by section 20 of the Act and section 14(1)(d)(i) of *The Mortgage Brokerages and Mortgage Administrators Regulations* ("Regulations"). Further, the Notice also included concerns regarding variations in income reported for [Borrower 1]. I have decided not to further consider those issues for purposes of this decision and they play no role in this decision.

B. MATERIALS AND INFORMATION CONSIDERED IN DECISION

10. The following are the materials and information I considered in coming to my decision to cancel the licence issued to Mr. Anindo:
- a. The information contained in the mortgage files for the Borrowers taken from Mr. Anindo's office on May 19, 2015;
 - b. The August 12 Session transcripts;
 - c. The August 28 Session transcripts;
 - d. The Written Submission;
 - e. Correspondence and phone conversation between Staff and the Borrowers as identified in this decision;
 - f. Relevant statutory provisions and judicial decisions.

C. LEGISLATIVE FRAMEWORK

11. The activities and conduct of mortgage brokers and mortgage brokerages are regulated in Saskatchewan under the Act, and, as Deputy Superintendent of Financial Institutions appointed pursuant to the Act, I have the responsibility of administering the Act and the Regulations. As set out in section 2(1)(s) of the Act, any reference to the Superintendent includes any deputy Superintendent.
12. Section 10 of the Act allows me to consider applications for licences from persons, for instance, wishing to become mortgage brokers, and issue same upon being satisfied that such persons meet the criteria in that provision. One of the criteria noted in section 10(a)(iii) of

the Act is that I must be satisfied that an applicant for a licence “is suitable to be licensed”. Section 14 of the Act makes provision for cancellation and suspension of a licence. It provides:

14(1) Subject to section 21, the superintendent may suspend or cancel a licence or endorsement:

- (a) on any ground on which the superintendent might have refused to issue the licence pursuant to section 10 or grant the endorsement pursuant to section 11;
- (b) if a licensee has failed to comply with this Act or the regulations; or,
- (c) in accordance with section 15.

Section 21 provides that

(1) In this section, “action” means:

- (a) an action that the superintendent may take pursuant to clause...14(1)(a) or (b); or,
- (b)

(2) Before taking an action, the superintendent shall give the person who is the subject of the action a written notice:

- (a) setting out the action proposed to be taken by the superintendent and the grounds that, in the superintendent’s opinion, justify the proposed action; and,
- (b) informing the person of the person’s right to make representations to the superintendent on why the action should not be taken;

(3) A person to whom a notice is sent pursuant to subsection (2) may, within 15 days after receiving that notice, advise the superintendent that:

- (a) the person requests an oral hearing; or,
- (b) the person wishes to make written representations to the superintendent respecting why the action should not be taken.

Another relevant provision of the Act is section 36 which provides that “no licensee shall engage in any unfair or deceptive act or practice with respect to a transaction or proposed transaction involving a mortgage”.

13. As can be seen from the statutory provisions highlighted above, section 14(1)(a) of the Act empowers me, subject to section 21 of the Act, to cancel a licence on any ground on which I “might have refused to issue the licence pursuant to section 10”. Section 10 of the Act requires me to be satisfied that an applicant is “suitable to be licensed...”. Accordingly, by reason of section 14(1)(a) of the Act, I may cancel a licence where I am satisfied that a licensee is no longer suitable to be licensed. Also, section 14(1)(b) of the Act empowers me, subject to section 21 of the Act, to cancel a licence “if a licensee has failed to comply with this Act or the regulations”. In consequence, I may cancel a licence if I find that a licensee is

no longer suitable to hold the licence, or if the licensee has contravened the Act or the Regulations.

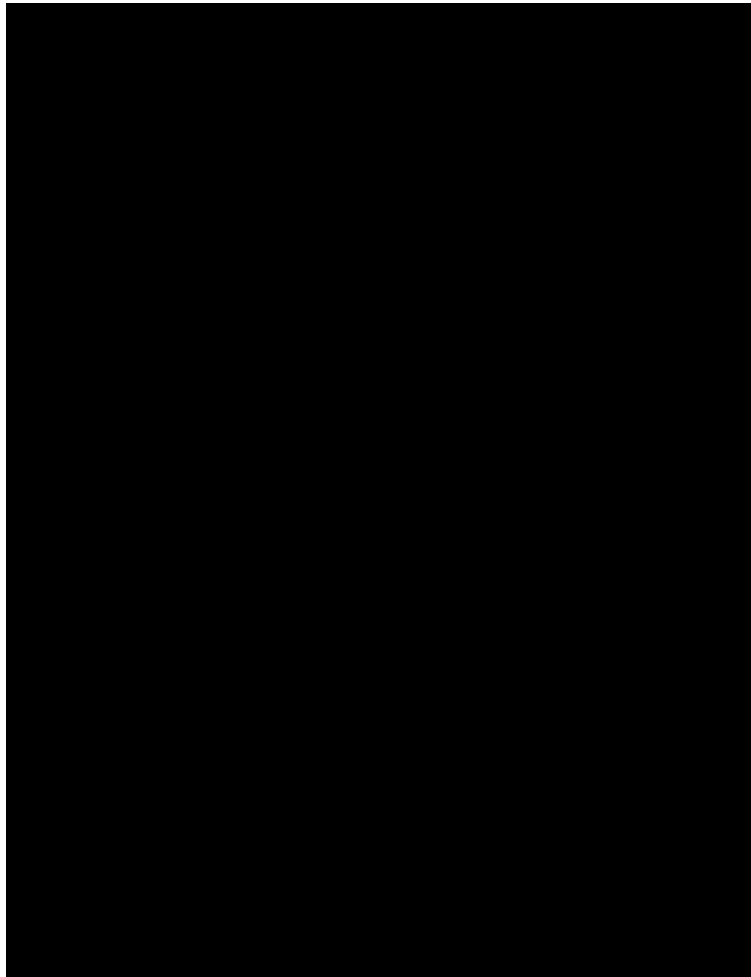
D. BACKGROUND FACTS

As noted in paragraph 7 above, certain common areas of concerns came to light in the review of mortgage files relating to the Borrowers, as well as at the interview sessions. I will proceed to outline and discuss these areas of concerns as applicable to individual Borrowers.

14. [Borrower 1]:

- a. **Providing a letter confirming financing is in place prior to there being a written commitment from a lender:** [Borrower 1] were looking to get a mortgage to purchase [Property 1] and had approached Mr. Anindo regarding this. In connection with this, Mr. Anindo issued and signed a letter dated March 14, 2014 to [Borrower 1]. This letter was on the Brokerage's letterhead, and is shown as Image 1:

Image 1



- b. Filogix shows there were two applications made on [REDACTED] one to [Lender 1] and one to [Lender 2]. These applications were made the same date as the above letter, but were not approved by a lender as of [REDACTED]. The mortgage file did not have any mortgage commitment from either lender, or from any other lender on or before the letter was issued to [Borrower 1].
- c. At the August 12 Session, and in response to the question of the reason for issuing the letter stating that mortgage financing is in place prior to getting a commitment from a lender, Mr. Anindo explained that “Yes, the client requested me to issue it knowing that I guaranteed them that with the 20 percent they will get a mortgage.” (Page 41 of the transcript of the August 12 Session). The purchase agreement on the file included a condition stating that the purchase offer “...is subject to...the Buyer obtaining approval of a mortgage...before the [REDACTED]. The confirmation of financing was to be used by [Borrower 1] to meet this purchase condition for the property.
- d. At the August 28 Session, Mr. Anindo explained he obtained a verbal approval from another lender, [Lender 3]. Mr. Anindo described that, at the time, applications sent to [Lender 3] were done by email and not through Filogix. Mr. Anindo explained that while he was not certain if, in fact, he submitted an application by email regarding [Borrower 1], he did have a discussion with [REDACTED] [Lender 3] regarding the transaction. Mr. Anindo stated “...I talked to [Lender 3], and they guaranteed me that they would give [Borrower 1] a mortgage.” (page 9 of the transcript of the August 28 Session). Mr. Anindo reiterated this point in the Written Submission, and further contended there that “the clients categorically told me to try my best to get them a mortgage that was suitable for their circumstances”. After the August 28 Session, Staff talked with [REDACTED] with [Lender 3]. When asked if a verbal commitment would have been issued, [REDACTED] stated that [Lender 3], would never give oral approvals.
- e. I considered Mr. Anindo’s statement that “I had nothing in writing at that particular moment from them, but I got it later on from them.” (page 11 of the transcript of the August 28 Session). The file did not contain a mortgage commitment from [Lender 3]. [Lender 3] position is that it never gives oral approvals. It seems improbable to me that a financial institution, such as [Lender 3], would give a verbal approval to a transaction of such magnitude and financial significance and thereby commit itself. [Lender 3] has been licensed as a financing corporation pursuant to *The Trust and Loan Corporations Act, 1997* since [REDACTED], and it would recognize the risk of providing verbal approvals to be acted upon or relied on for transactions of this nature.
- f. I find that Mr. Anindo issued this false letter to [Borrower 1] to create the impression that financing was, in fact, in place. A borrower receiving this letter would have no reason to doubt whether financing is in effect, and accordingly, would be confident in communicating to the seller that the purchase condition of having financing in place is met. A mortgage broker cannot communicate to a borrower that financing is in

place until a lender has provided a mortgage commitment. Further, the experience level of the borrowers is not relevant. What is relevant is whether the borrowers meet a lender's criteria, whether or not mortgage insurance is required due to the amount of the borrower's down payment.

[REDACTED]

g.

[REDACTED]

The last application was made on [REDACTED]. There is no information on file showing that any lender had committed to funding the mortgage before the [REDACTED] letter was issued.

- h. **Document that appears to have been altered – rental agreement:** Staff found a completed rental agreement on file setting out \$2,400 in monthly rent for [Property 2]. The agreement was from [REDACTED] to [REDACTED]. Upon close review, it appeared that the “2” in \$2,400 was previously a “1”, indicating the monthly rent was \$1,400. Staff noted the rental agreement was a scan or photocopy of an original document, but what appeared to be pen overwrote the “1” and changed it to a “2”.
- i. Staff contacted [Borrower 1] and asked [Borrower 1] the monthly rental income from the property, without referencing either the \$1,400 or \$2,400. The response Staff received was that there was no monthly income being received and no rental agreement was in effect.
- j. On [REDACTED] [Borrower 1] forwarded to Staff an email [Borrower 1] received from Mr. Anindo on [REDACTED]. Attached to this email was a five-page rental agreement with certain fields completed, including the property descriptor, \$1,400 monthly rental amount, and a \$1,400 security deposit. Of note, the tenant's name was not entered, and the witness and lessee fields were not completed.
- k. [Borrower 1] explained to Staff that Mr. Anindo verbally described to [Borrower 1] that the document was a market rent assessment, something the lender required in

further support of the mortgage application. So, [Borrower 1] stated to Staff [Borrower 1] signed the second page of the agreement as “lessor”, and returned that page to Mr. Anindo by email on April 28, 2014. An image of that signed page is shown in Image 2:

Image 2



- l. During a phone call on [REDACTED] Staff sent [Borrower 1] an email with an electronic copy of the completed rental agreement found in Mr. Anindo’s file. [Borrower 1] stated [Borrower 1] did not know the lessee, had not realized the rental agreement was completed, and was not aware that the security deposit and monthly rental income had changed from \$1,400 to \$2,400. [Borrower 1] described that the rental agreement from Mr. Anindo’s file that Staff sent [Borrower 1] was never in effect as [Property 2] was [Borrower 1] family residence.

- m. [REDACTED]
[REDACTED]
[REDACTED]

Image 3

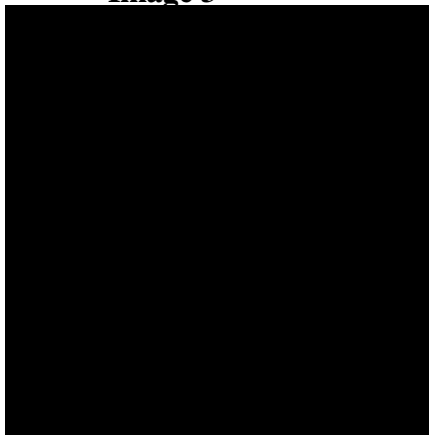
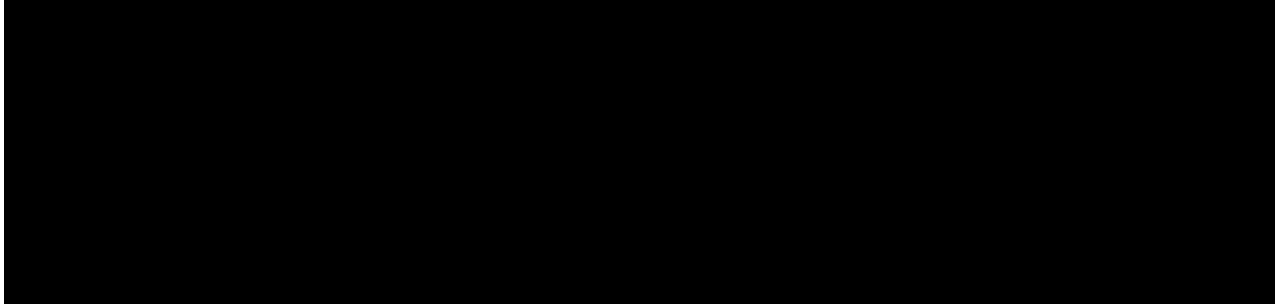


Image 4



- n. [REDACTED]
[REDACTED]
[REDACTED]

Image 5



- o. In summary, the rental agreement on Mr. Anindo's file was altered from the market rent assessment version [Borrower 1] signed and returned in that:
- i. The Lessee's name is completed;
 - ii. The monthly rent amount is changed from \$1,400 to \$2,400;
 - iii. The security deposit is changed from \$1,400 to \$2,400;
 - iv. Witness signatures are completed;
 - v. A lessee has signed the agreement; and
 - vi. Dates of the rental period, [REDACTED] to [REDACTED] were added.
- p. The [REDACTED] email Mr. Anindo sent to [Borrower 1] with the \$1,400 market rent was sent to [Borrower 1] after all 13 mortgage applications had been submitted to lenders. Each of the 13 mortgage applications Mr. Anindo submitted to lenders stated that there was a monthly rental income of \$2,400.
- q. At the August 28 Session, when asked about the amount being changed from \$1,400 to \$2,400 monthly rent, Mr. Anindo stated that this was done by his assistant [REDACTED]. Mr. Anindo explained that [the Assistant] did this as \$2,400 was the amount of rental income used for the mortgage applications Mr. Anindo had submitted and [the Assistant] needed to ensure that the lease agreement to the lender reflects a rental income of \$2,400. In light of this, according to Mr. Anindo, [the Assistant] changed the amount to ensure the lease agreement matched the applications Mr. Anindo submitted. Below is an extract from page 75 of the transcript from the August 28 Session:

[REDACTED] So then you're saying that [the Assistant] got this document back from [Borrower 1], [the Assistant] changed the 1,400 to 2,400?

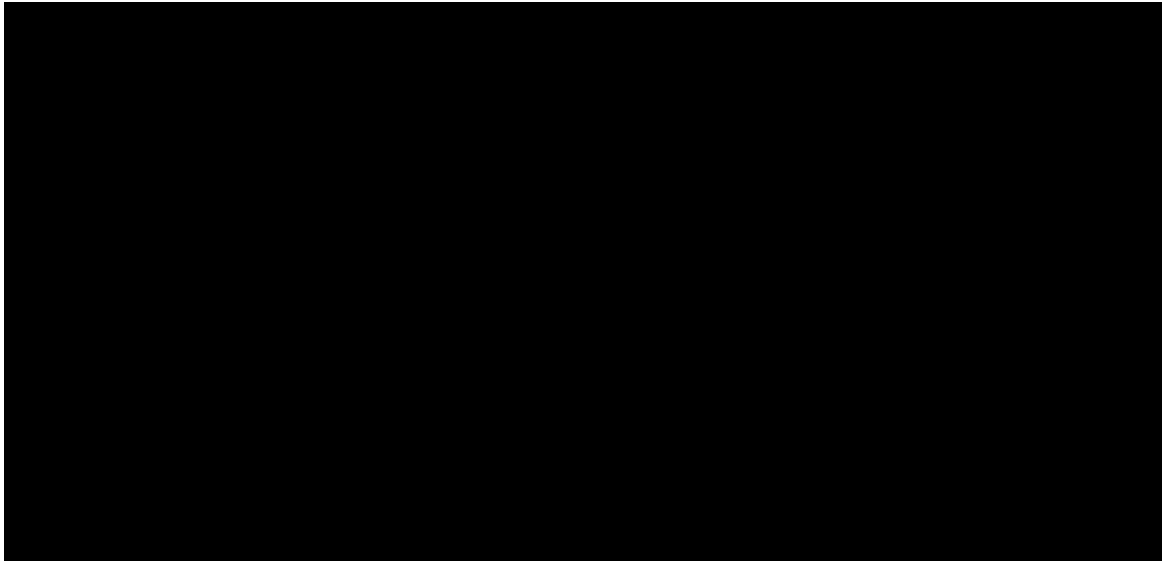
MR. ANINDO: Most likely.

[REDACTED] And you're saying that [the Assistant] added the renter's name of [REDACTED]

MR. ANINDO: [the Assistant] knew that I had sent in the application based on 2,400. When I was entering that 2,400 in the application, I do assess and recall appraisers and verify what would a property like this rent for in [REDACTED] because things had changed from the client, and I was trying to make sure that I get [Borrower 1] exactly what [Borrower 1] needed.

- r. At the August 12 Session, Staff inquired about the witness signatures on the rental agreement in the file. Mr. Anindo confirmed “that witness signature is mine” (page 77 of the transcript of the August 12 Session). During the August 28 Session, Mr. Anindo described “...so what happened is I had left my assistant to look after the file and [the Assistant’s] -- you got a stamp which we use which if I’m not around [the Assistant] can stamp on my behalf...” (page 67 of the transcript of the August 28 Session). Mr. Anindo further explained that his assistant, [REDACTED] in addition to changing the rental amount, added the renter’s name, and signed the renter’s name. Mr. Anindo conveyed that those changes, along with his signatures from the signature stamp used without his knowledge, resulted in the altered document.
- s. Based on the above, Mr. Anindo did not dispute that he entered \$2,400 as rental income in the mortgage application for [Borrower 1], when he knew the house was not rented. Secondly, Mr. Anindo or a member of his staff completed the rest of the rental agreement, including entering the details of a tenant for a property that was not rented.
- t. In Mr. Anindo’s Written Submission, Mr. Anindo reiterated the point made during the August 28 Session that he submitted the \$2,400 as market rent in the mortgage applications. However, in reviewing the mortgage application documents obtained from Filogix for [Borrower 1], there was nowhere in the documents where “market rent” was indicated, or where it was referred to as some form of potential income. Mr. Anindo submitted the \$2,400 as rental income in all of the mortgage applications.
- u. In light of the above, I find that Mr. Anindo submitted false rental income in the amount of \$2,400 for [Property 2], a property Mr. Anindo knew was not rented at the time.
- v. Mr. Anindo confirmed at both the August 12 Session and the August 28 Session that the signatures in Image 5, from the rental agreement, were his signatures. At the August 28 Session, however, Mr. Anindo stated that they were stamp impressions. I, subsequently reviewed the rental agreement from the file with an eye to the representation that the signatures were from a stamp. I note that a close inspection of the witness signatures on the agreement, captured in Image 6, shows differences between the two signatures, differences that would not be expected to occur if the same stamp was used:

Image 6



- w. Given the obvious differences between the two signatures above, I find it highly improbable that both signatures came from the same stamp. Mr. Anindo did not address this issue in his Written Submission, and neither did Mr. Anindo provide any evidence to support his contention that the above signatures were, in fact, stamped impressions. I find, therefore, that Mr. Anindo was actively involved in the creation of this fictitious lease agreement in the manner already described above in order to support the false and misleading rental income information he submitted to lenders in the mortgage applications.
- x. **Coaching to provide a suspect document:** All 13 applications made by Mr. Anindo report \$2,400 in rental income. [Borrower 1] acknowledged to Staff [Borrower 1] signed a document that contemplated \$1,400 monthly rent only because Mr. Anindo requested [Borrower 1], by phone, to sign it in case the lender wanted to know what the property could be rented for, if needed. [Borrower 1] signed it with the recognition that in her view \$1,400 would be the maximum rent [Borrower 1] could get for the property. In [Borrower 1] discussions with Staff, [Borrower 1] was very clear that [Borrower 1] never had any tenant in that property, let alone collected any rental income, as [Borrower 1] were living there. As already noted above, Mr. Anindo did not dispute this version of events stated by [Borrower 1]. In view of this, I find that Mr. Anindo misled [Borrower 1] as to the purposes of the lease agreement
- y. I should further note that in the file is a print-out of an email dated [REDACTED] from Mr. Anindo to [Lender 2], apparently relating to one of the [REDACTED] applications. The email states “The application was not cancelled. [REDACTED] please follow up with docs please.” This aligns with the description Mr. Anindo provided at both the August 12 Session (starting at page 60 of the transcript) and August 28 Session (starting with page 72 of the transcript) whereby Mr. Anindo stated that the application was made by him and then his assistant obtained the supporting

documentation. It also shows that Mr. Anindo was aware of what his assistant was doing, and that his assistant was carrying out directions from Mr. Anindo.

15. **[Borrower 2]:**

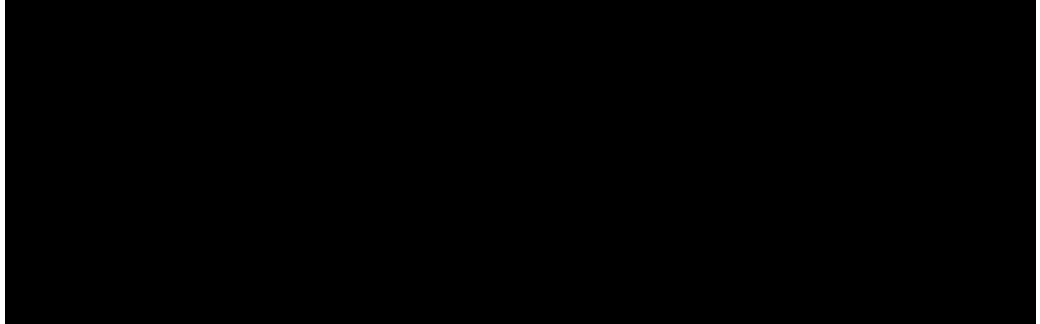
- a. **Providing a letter confirming financing is in place prior to there being a written commitment from a lender (two letters, issued on different dates):** During the review of Mr. Anindo's file for [Borrower 2 and spouse], we found two letters on the Brokerage's letterhead, both signed by Mr. Anindo, stating that mortgage financing had been approved by a lender. The first letter confirming financing is dated [REDACTED] and is addressed to both [Borrower 2 and spouse]. The second letter confirming financing is date [REDACTED] and is addressed to [Borrower 2] only. The letters are the same the letter issued to [Borrower 1] shown in Image 1 above, with differences reflecting the particulars for [Borrower 2 and spouse].
- b. There are two mortgage applications [REDACTED] found in the mortgage file, both on [REDACTED]. One of the applications was to [Lender 1], the other was to [Lender 4].
- c. The file contains a mortgage commitment from [Lender 2] dated [REDACTED] but does not include the application made to [Lender 2]. This application does not appear on Filogix submissions made by Mr. Anindo. A second mortgage commitment is in the mortgage file from [Lender 1] dated [REDACTED].
- d. At the August 12 Session Mr. Anindo explained that [Lender 2] used somewhat different processes at the time of the submission, and it was likely that the submission was made through another broker's Filogix account. Mr. Anindo confirmed this at the August 28 Session.
- e. There was no evidence in the mortgage file that a mortgage application was submitted or an approval to confirm financing from a lender existed prior to the [REDACTED] letter Mr. Anindo issued stating that financing was approved.
- f. There was no evidence in the mortgage file that an approval to confirm financing from a lender existed prior to the [REDACTED] letter stating that financing was approved. While an application may have been made to [Lender 2] on or before [REDACTED] that lender did not confirm that financing would be in place until [REDACTED], that being the date of the commitment letter issued by [Lender 2].
- g. Mr. Anindo explained at the August 12 Session that while the first letter confirming mortgage financing was issued to both [Borrower 2 and spouse], it was at the borrower's request to remove [spouse] from the mortgage application. This is consistent with information on the file, which contained an Amending Agreement

dated [REDACTED] between [REDACTED] and [Borrower 2 and spouse] to remove [spouse] from the purchase agreement.

- h. At the August 12 Session, Mr. Anindo stated that the letter confirming mortgage financing was issued because he saw that the borrowers had good jobs and they informed him they had received a pre-approval from [Lender 5]. In discussions during the August 28 Session, Mr. Anindo admitted that he should not have issued the confirmations of mortgage financing, and said “I’ll change from having approved to pre-approved” (page 103 of the transcript for the August 28 Session) to better reflect the actual approvals that are in place.
- i. As with the letter issued to [Borrower 1], the letters issued to the [Borrower 2] were clear that mortgage financing was available when no such commitment from a lender existed. In the Written Submission, Mr. Anindo did not deny that he issued the letter when there was no financing in place. However, he explained that the mortgage for [Borrower 2] involved new property with a “possession date more than 4 months out”. Mr. Anindo further explained that “there is a gap in the market protocols for new construction loans with closing dates more than 4 months; yet builders want some kind of “comfort letter” that the buyers are at least tentatively approved”. I will address this point later on in my decision.
- j. **Documents that appear to have been altered (two documents):** The file contained a “Conditions Report” issued by [Lender 2] dated [REDACTED]. The Conditions Report sets out various requirements for the mortgage and whether the requirement is satisfied or remains outstanding, and the last date the condition was updated. The Conditions Report shows that some requirements were updated on [REDACTED] and [REDACTED] others on [REDACTED]. [Lender 2] Conditions Report states that for both down payment and closing costs that “we require confirmation...from account In [Borrower 2]’s name only if account is joint with spouse we can only use 50% of the account value...” The down payment condition shows as being updated [REDACTED], the closing cost condition shows as being updated [REDACTED]. The Conditions Report further states “You must provide 90 days of history” demonstrating the borrower has the down payment and closing costs available from their own resources.
- k. In Mr. Anindo’s mortgage file, we found two bank documents which were altered as to appear to be solely in [Borrower 2] name, and not joint with [Borrower 2 and spouse].
- l. **Altered Document #1 – [REDACTED]**
[REDACTED] The first document is a [Lender 5] “Your Personal Assessment” statement dated [REDACTED]. This document states it was prepared for [Borrower 2]. The statement includes a listing of [REDACTED] bank accounts, including [REDACTED]. [REDACTED] The file contained a photocopy of

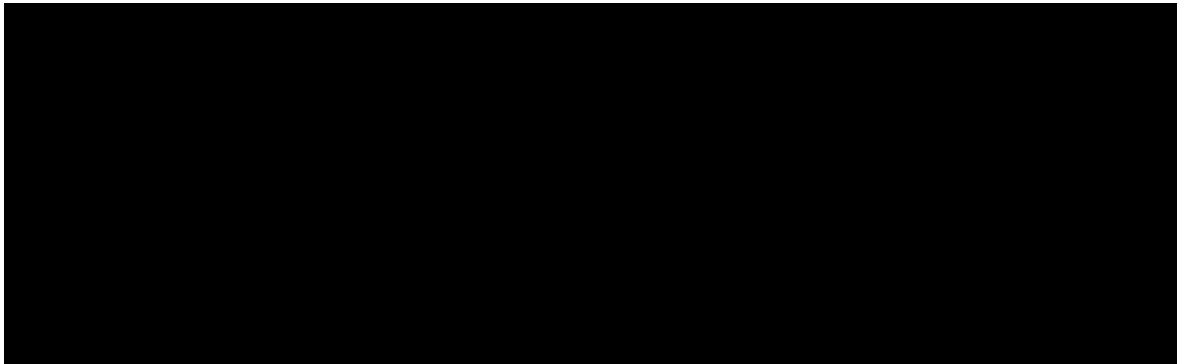
the document. Scanning the photocopy, results in the following information appearing (note: the border was added to show the edges of extract from the document):

Image 7



- m. [REDACTED] the document originally had narrative under the “Description” column stating “JOINT – ANY ONE TO SIGN”. As shown below, what appears to be [REDACTED] was used to hide this information:

Image 8



- n. **Altered Document #2** – [REDACTED] The second document is a [Lender 5] bank account statement for the period of [REDACTED] to [REDACTED]. There were two alterations to this document:

- i. [REDACTED]

Image 9



ii.

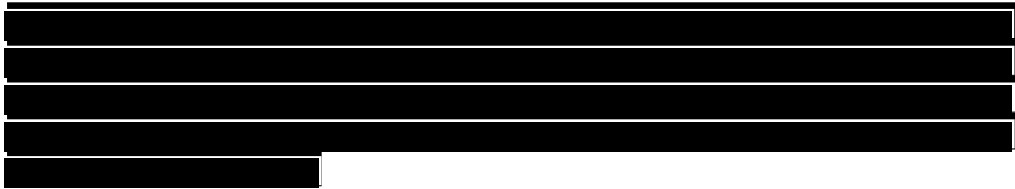
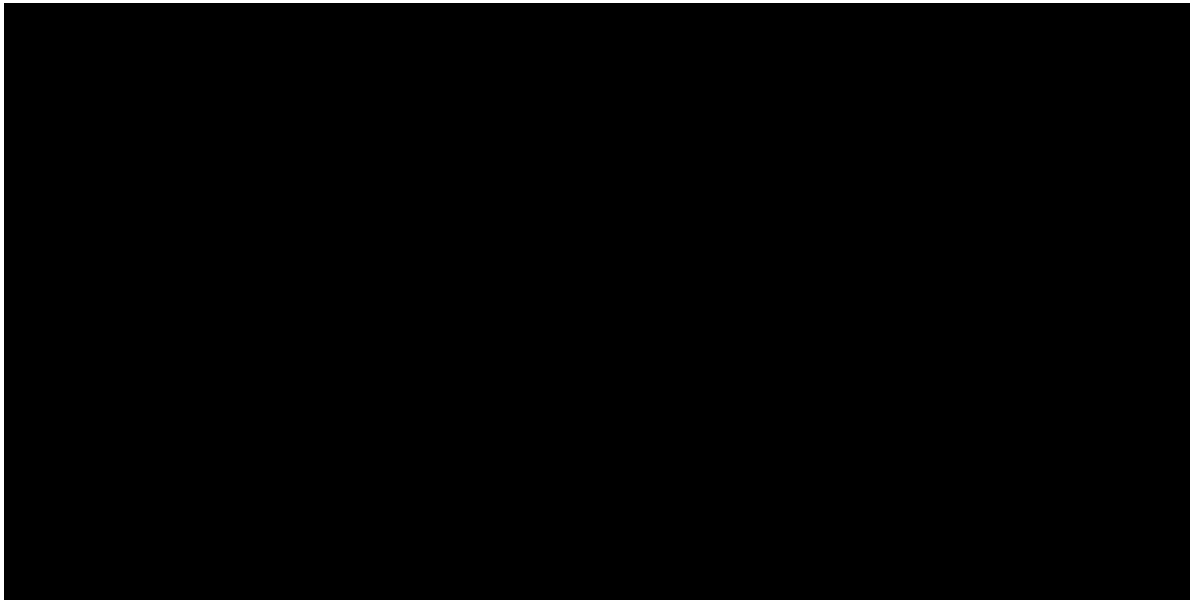


Image 10

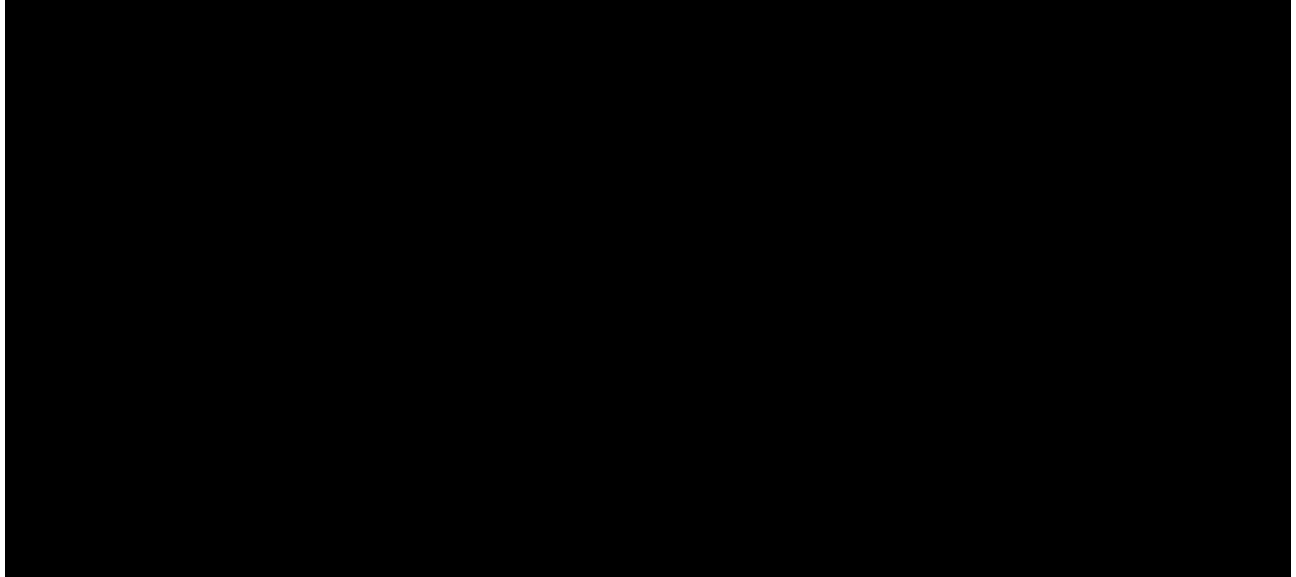


iii.





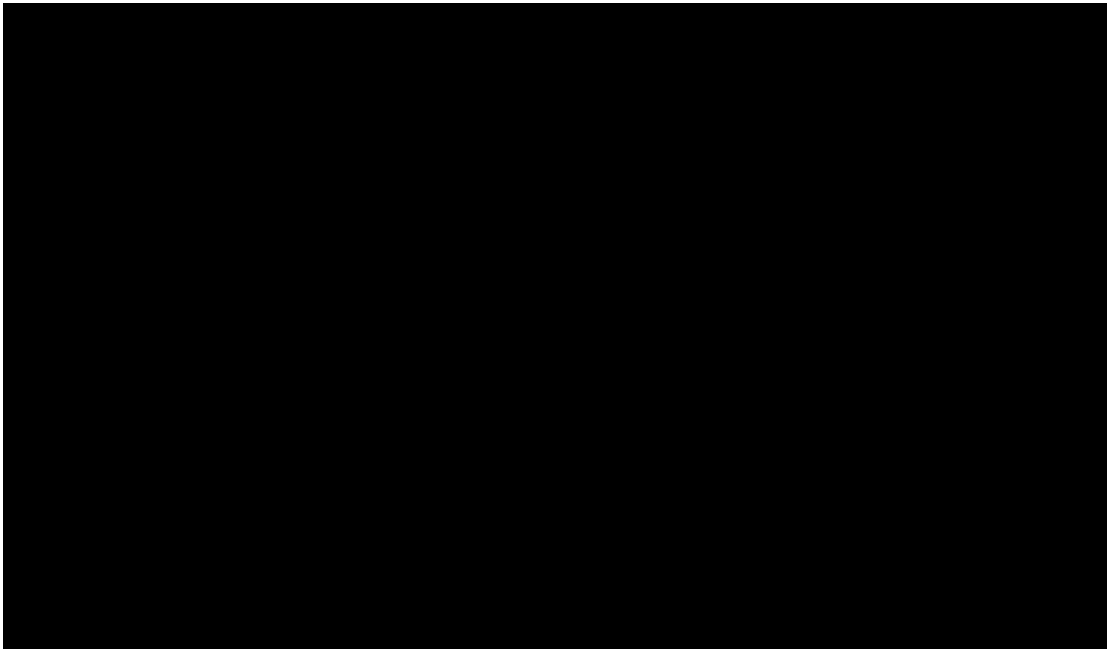
Image 11



o.



Image 12



- p. Mr. Anindo was shown the altered bank account statement at the August 12 Session. He explained that he did not have anything to do with that alteration and that there would not have been any incentive to make a joint account look as though it was in [Borrower 2] name as that change would not affect the outcome of the mortgage application. However, as described above, the conditions report from [Lender 2] states that information must be in [Borrower 2] name only, otherwise if it is a joint account, only 50% of the account value can be used. Based on information in the Conditions Report from [Lender 2], it would seem that whether or not an account is owned individually or jointly was a key factor in how the lender viewed the ownership of the funds in a prospective borrower's account for purposes of a mortgage application.
- q. Mr. Anindo stated at the August 12 Session that he had "no clue" (page 180 of the transcript) how these alternations happened and did not have any explanation for them. Mr. Anindo promised to look into the matter and get back to Staff.
- r. At the August 28 Session, Mr. Anindo informed Staff that his assistant [REDACTED] worked on preparing the documentation for the file, and that [the Assistant] had altered the bank documents while he was out of the country. [The Assistant] wanted to ensure that the conditions of approval would be met as stated in the mortgage commitment received from [Lender 2], as the borrower had indicated to [the Assistant] that they could obtain a mortgage from their own financial institution. While Mr. Anindo initially described that [the Assistant] advised him that [the Assistant] did not send the altered documentation to lenders since it would not affect the outcome, Mr. Anindo said he was not aware of the specific requirement set out by [Lender 2] on this transaction. Mr. Anindo described the lender's requirement that funds be in [Borrower 2] name as not being standard practice. Mr. Anindo admitted that he was ultimately responsible for his files, and stated he has since been fully reviewing all files.
- s. At the August 28 Session, Mr. Anindo answered a number of questions from his legal counsel to the effect that he did not alter the documents, and that he would not have submitted altered documents to a lender. Mr. Anindo also described how these documents were altered while he was away from the office. However, I note that Mr. Anindo was aware of the change in ownership, evidenced by the second letter that was issued confirming financing. [Lender 2] Conditions Report was updated on [REDACTED] stating that funds needed to be in [Borrower 2] name only in order to get full credit for the account balance. In view of this, I find it improbable that Mr. Anindo was not aware of what was needed, and that Mr. Anindo would not have known what was going on in regards to this file in terms of documentation. I find that Mr. Anindo altered or caused to be altered these bank documents with a view to submitting to lenders for purposes of mortgage applications for [Borrower 2].

16. [Borrower 3]:

- a. **Providing a letter confirming financing is in place prior to there being a written commitment from a lender:** In reviewing Mr. Anindo's file for [Borrower 3], we see a copy of a letter dated [REDACTED] stating that mortgage financing had been committed to by a lender for a property at [REDACTED] for the amount of [REDACTED]. This is the same type of letter as the one issued to [Borrower 1]. The property being purchased by [Borrower 3] was a yet-to-be completed build by [REDACTED]
- b. Based on the file information, the first mortgage applications made for [Borrower 3] were (under submission [REDACTED]) to [Lender 6], [Lender 5] and [Lender 1]. All three applications were made on [REDACTED]. The file does not have evidence that a mortgage financing approval from any lender was obtained, or even a mortgage application submitted to any lenders, prior to the [REDACTED] letter communicating that mortgage financing was in place.
- c. When asked about the confirmation of mortgage financing during the August 12 Session, Mr. Anindo stated he issued the letter to [Borrower 3] prior to making an application to a lender because [Borrower 3] [REDACTED] had a pre-approval from [Borrower 3] bank. Mr. Anindo informed Staff that he did not want to pull another credit bureau for [Borrower 3] as [Borrower 3] probably already had one done by [Borrower 3] bank and he did not want to add another credit application inquiry to [Borrower 3] bureau which might negatively impact [Borrower 3] credit score. Mr. Anindo further advised that in instances of pre-approvals, a bank would not hold the commitment indefinitely. In scenarios involving yet-to-be completed property, as was the case with [Borrower 3], the pre-approval will not be held for more than four months. Further, Mr. Anindo explained that builders would not accept pre-approval letters.
- d. Mr. Anindo explained at the August 12 Session that he asked [Borrower 3] about [Borrower 3] job situation to confirm that [Borrower 3] was employed. The file did not have documentation showing that [Borrower 3] had a pre-approval from [Borrower 3] bank. In an email from Mr. Anindo on [REDACTED] to [REDACTED], Mr. Anindo sent a copy of a credit bureau search dated [REDACTED] with an accompanying email stating "I am attaching confirmation of due diligence...". This report shows that a change or impact to the borrower's credit report occurred on [REDACTED]
- e. At the August 28 Session, Mr. Anindo stated the credit report showed that due diligence was done prior to issuing the confirmation of mortgage financing. Mr. Anindo confirmed at the August 28 Session that there was no financing approval in place from any lender when the [REDACTED] letter confirming mortgage

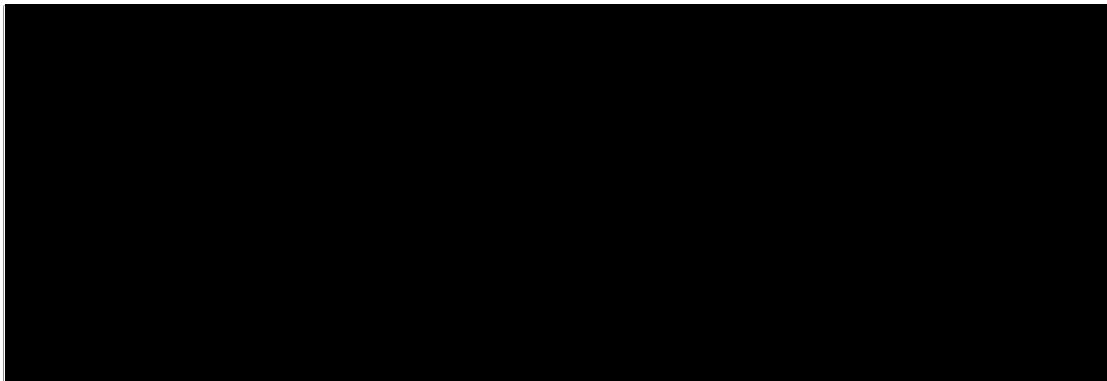
financing was issued by him. As with the case with [Borrower 2], Mr. Anindo stated, in the Written Submission that [Borrower 3] was intending to purchase new property and that the anticipated possession date was going to be more than four months.

- f. There is nothing in the Written Submission that explains why the letter had to be written the way it was. Additionally, even if an inquiry into a borrower's credit history was made, and thorough inquiries into a borrower's employment status carried out, it is not acceptable for a mortgage broker to issue a letter stating mortgage financing is in place prior to a lender issuing a commitment. As outlined below, this creates significant risks to both the buyer and the seller of the property.

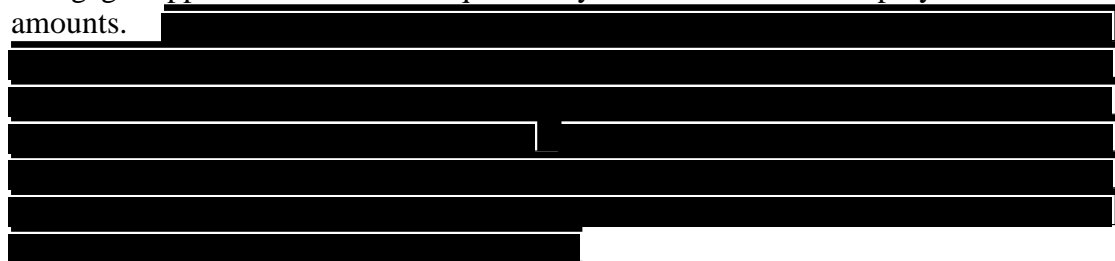
17. **[Borrower 4]:**

- a. Review of [Borrower 4] file found that [Borrower 4] had income from three sources:
 - i. Employment income;
 - ii. Rental income [Borrower 4] received from renting out excess space in [Primary Residence] and
 - iii. Rental income from [Investment Property]
- b. A review of the Filogix submissions for [Borrower 4] noted the following mortgage applications, along with the income used in each submission:

Table 1



- c. **Variations in employment income submitted to lenders:** As shown in Table 1, mortgage applications on subsequent days used different employment income amounts.



d. [Redacted text block]

e. [Redacted text block]

f. [Redacted text block]

g. [Redacted text block]

h. [Redacted text block]

[REDACTED]: So you ignored the amount on the letter from the employer -- from the borrower's employer that stated the maximum income they would get for full-time employment, and you decided to use \$ [REDACTED] because according to you, it falls within the range of income for [REDACTED] that is acceptable by [Lender 8]. Is that -- did I capture it?

MR. ANINDO: Yes.

l. The above extract is consistent with information provided at other times in the August 28 Session where Mr. Anindo described that certain lenders will accept an income that falls within a profession's range. Mr. Anindo described that these lenders have guidelines that establish what they will accept when issuing a mortgage commitment, irrespective of the actual income of a borrower.

m. Mr. Anindo described that the final approval for the mortgage is based on the actual income of the borrower, and that the lender will seek supporting documentation when finalizing the approval. In the Written Submission, Mr. Anindo stated:

There's constant change made by lenders in regards to incomes. Entered information on the Filogix System is never the final. We submit documents as requested by the lender in question; they do their due diligence based on the income documents submitted to them as per their request. Every lender has their own ways of validating income as noted above, and they encourage the brokers to work within the lender's guidelines. They make the last call on all income information and qualifications. So all the lenders in question view incomes their own way and how they want that information submitted.

More is said on this submission in the course of this decision.

n. Mr. Anindo did not, at any time, dispute that he was the one who entered the varying income information in the mortgage applications. However, Mr. Anindo did not provide any evidence to support his contention about the existence of these lenders' guidelines that authorizes him, as a broker, to submit varying income amounts for a borrower in multiple mortgage applications made around the same period. Further, Mr. Anindo did not provide any information from any lender that shows the basis for making the income adjustments in the manner that was done in the cases noted above. Finally, Mr. Anindo did not describe how [Borrower 4], as an employee, would be subject to guidelines such as those he described for self-employed persons. As discussed later, holding a broker licence brings responsibilities under the Act regarding how licensees must conduct themselves in connection with mortgage transactions on behalf of borrowers.

o. [REDACTED]

[REDACTED]

p. I find Mr. Anindo selected incomes he felt may result in the application being approved, while fitting within ranges lenders will feel are reasonable, without ensuring that the information is factually accurate to the borrower's circumstance. The reporting of varying employment incomes for mortgage applications made in close proximity is very concerning. When questioned as to the reasons for this, Mr. Anindo gave what seems to be changing rationale [REDACTED]

[REDACTED]

[REDACTED]. In summary, [Borrower 4] employment income that was submitted to lenders changed from \$ [REDACTED] to \$ [REDACTED] in only ten days.

q. I recognize that \$ [REDACTED] is highly aligned with the Employment Confirmation Letter. However, the earlier four submissions are puzzling, and the support for the submissions appears to be without merit.

r. The increase to [REDACTED] employment income in [REDACTED] is also concerning, as there is no support on file for the increase.

s. While the income used in the [REDACTED] application ultimately aligned with [Borrower 4] actual income, I find the three applications on [REDACTED] and the application on [REDACTED] to not be supported and, in the interviews were attempted to be justified by Mr. Anindo using conflicting reasons. These earlier applications resulted in false information being provided to lenders.

t. **Variations in rental income submitted to lenders – [Investment Property] application:** As shown in Table 2, [REDACTED]

[REDACTED]

u. [REDACTED]

- [REDACTED]
- [REDACTED]
- v. [REDACTED]
- [REDACTED]
- [REDACTED]
- w. No information was on file for why rental income submitted in [REDACTED] was higher than that established in a rental agreement covering the time period of [REDACTED] to [REDACTED] an agreement that was on Mr. Anindo's file and which was used to support the applications done two months earlier in [REDACTED]
- x. **Variations in rental income submitted to lenders – [Primary Residence]:** The monthly rental income from this property was submitted to lenders as \$1,700 on the three [REDACTED] applications, and \$1,900 on the [Lender 9] Application done on [REDACTED]. The monthly rental income was then lowered to \$1,300 for the [REDACTED] submission to [Lender 7]. The [REDACTED] submission used a monthly rental income of \$1,400.
- y. The file did not contain a copy of any rental agreement for the [Primary Residence]. The file did not contain information on why the rental income amounts would increase by \$200/month on [REDACTED] from that submitted on [REDACTED]. The file does not contain information why the rental income was then decreased from \$1,900/month on [REDACTED] to \$1,300/month on [REDACTED]
- z. The August 28 Session brought forward the difference in rental income that occurred regarding this property over the eight days from [REDACTED]. Mr. Anindo stated that either he was in a rush to complete the applications due to personal commitments, that [Other Licensee] submitted the information, or perhaps there was a typo (page 240 of the transcript of the August 28 Session). Mr. Anindo previously responded to a question from his lawyer that he did not intend to mislead the lender (page 238 of the transcript of the August 28 Session).
- aa. In discussion with Staff on [REDACTED], [Borrower 4] stated that while the rental income on [Primary Residence] varied over time due to having a basement suite as well as intermittently having one or two roommates, [Borrower 4] never received more than \$1,500/month total income from the property.

18. [Borrower 5]:

- a. **Coaching to provide a suspect document:** Found in the mortgage file were 2 versions of a lease agreement for a property at [Property 3] owned by [Borrower 5]. The first lease agreement states a rental amount of \$2,395/month for the period

- commencing [REDACTED] to [REDACTED]. The second lease agreement for the same property and time period states a rental amount of \$3,200/month. It appears that the second agreement is a copy of the first, with alterations made to reflect the higher rent amount and a higher damage deposit. All other information on the lease agreements is the same, including where there were handwriting mistakes.
- b. At the August 28 Session, Staff asked about the lease agreements and the differing rental amounts reported on each. Mr. Anindo stated that both lease agreements were provided by [Borrower 5]. Mr. Anindo also explained that [Borrower 5] changed the rent on the lease from \$2,395/month to \$3,200/month and sent the revised lease to Mr. Anindo's assistant by email. However, as Mr. Anindo's assistant's computer crashed, Mr. Anindo was unable to provide the dates the agreements were sent by the borrower.
 - c. The file shows two mortgage applications were submitted on [REDACTED] to [Lender 10] and [Lender 11]. An additional 2 mortgage applications were submitted on [REDACTED] to [Lender 2] and [Lender 12]. The rental amount of \$3,200/month for the property was reported on all of the mortgage applications.
 - d. By way of an email sent [REDACTED] to [REDACTED], [Borrower 5] explained that at the time he applied for a mortgage through Mr. Anindo, [Borrower 5] was collecting \$2,395/month rent on the property at [Property 3]. [Borrower 5] states that he informed Mr. Anindo that a relative of the person renting the property had been staying in the basement of the property for the months of [REDACTED] and [REDACTED], and that an additional \$800/month rent had been collected for the two months the additional tenant was there. [Borrower 5] stated to Staff that even though the additional tenant was no longer at the property and the additional revenue was no longer being received at the time of the mortgage application, Mr. Anindo instructed [Borrower 5] to revise the rent reported on the lease agreement from \$2,395 to \$3,200/month and send copies of both lease agreements to Mr. Anindo.
 - e. I should note that since Mr. Anindo had entered \$3,200 as rental income in the mortgage applications he completed and submitted for [Borrower 5], any rental agreement to be forwarded to a lender in support of the mortgage application would have to reflect that amount (i.e. \$3,200). At the August 28 Session, Mr. Anindo explained that it was [Borrower 5] who had told him [Borrower 5] was collecting \$3,200 because of a relative of the tenant that was living with the tenant and paying \$800 (p. 123 to 124 of August 28 Session transcript). In the Written Submission, however, Mr. Anindo stated "one lease was before [Borrower 5] (referring to [Borrower 5]) moved out of the property and that the second lease was explained that [Borrower 5] had a new tenant that moved in after. [Borrower 5] increased [Borrower 5] rent from \$2,395.00 per month to \$3,200.00 per month". This statement is inconsistent with the account given by Mr. Anindo at the August 28 Session. Additionally, the statement seems to suggest that [Borrower 5] was a tenant in [Borrower 5] own property and paid \$2,395 as rent "before [Borrower 5] moved out of the property". Mr. Anindo further stated in the Written Submission that the "new

lease agreement had no effect of (sic) the client's debt service ratio to impact the outcome of the mortgage approval, the debt ratios with the original lease were in line with lenders requirements debt ratio requirements".

- f. After considering Mr. Anindo's presentation that he simply forwarded information provided by the borrower, versus [Borrower 5] representation that [Borrower 5] informed Mr. Anindo that the additional \$800 had been a temporary income that was not going to recommence, I find this to be a situation where Mr. Anindo coached the borrower to provide a suspect document (i.e. the lease agreement) with inaccurate rent information. As further discussed below, providing higher financial information for a mortgage application that is not fully reflective of a borrower's actual financial circumstance puts such borrower at risk since he/she may be approved for a mortgage that his/her income cannot support. The Written Submission makes the point that the difference would not have impacted the lender's decision to provide financing. While the change may not have been large enough so that this borrower would be financially challenged, it is not *de minimis*, and a licensed broker should not be coaching to obtain a false document to support an inaccurate submission to a lender.
- g. **Document that has been altered:** A letter of employment from [REDACTED] for [Borrower 5] dated [REDACTED] was found in the mortgage file. A photocopy of the same letter of employment, but with the date removed, was also found in the mortgage file.
- h. At the August 28 Session, Mr. Anindo stated that his assistant removed the date on the letter as Mr. Anindo was confident that [Borrower 5] income had not changed since the date the letter was provided by [Borrower 5] employer. As well, Mr. Anindo did not want to cause [Borrower 5] any stress by requesting [Borrower 5] to get a recent letter from [Borrower 5] employer.
- i. The employment letter was dated approximately 4 months earlier than the application dates. While I do not know the lenders' requirements for employment letters or whether they would view the letter as being stale dated, I find the date of the letter was removed to obscure information.
- j. The Written Submission addressed a borrower working for [REDACTED]". However, the employment letter in question relates to [Borrower 5], whose employment letter was issued by [REDACTED] Mr. Anindo's argument that "the checks and balances of verification relies (sic) with the lender after receiving the employment letter", does not address my serious concerns with the mortgage broker intending to alter or hide information presented to a lender.

19. [Borrower 6]:

- a. **Variations in employment income submitted to lenders:** [REDACTED] Staff with the FCAA, initiated a conversation with [Borrower 6]. In phone conversations on [REDACTED] [Borrower 6] advised [REDACTED] that on or around [REDACTED] [Borrower 6] approached Mr. Anindo about obtaining a mortgage on a property with the address [REDACTED]. [Borrower 6] contends that [Borrower 6] advised [Borrower 6] was self-employed and owns [REDACTED]. In particular, [Borrower 6] specifically stated to [REDACTED] that [Borrower 6] advised Mr. Anindo, for purposes of preparing the mortgage application, that [Borrower 6] expected annual income for the [REDACTED] calendar year was \$[REDACTED].
- b. In reviewing Mr. Anindo's file for [Borrower 6], there is a copy of a mortgage application [REDACTED] submitted to [Lender 8] on [REDACTED] (the "Mortgage Application"), and it stated an annual income of [REDACTED] for [Borrower 6]. The file contains an [Lender 8] Self-Declaration Form ("Self Declaration Form") dated [REDACTED] stating that an income of \$[REDACTED] was expected for the [REDACTED] year.
- c. At the August 28 Session, Mr. Anindo was asked to explain the apparent discrepancy between the income reported on the Mortgage Application and what [Borrower 6] advised he had told Mr. Anindo about his income (transcript from the August 28 session, commencing page 181):
- [REDACTED]: Now, in discussions that our staff had with the client, that is [Borrower 6], I think -- I believe our staff was told he made around just \$[REDACTED]
- MR. ANINDO: That's in his notice of assessment income. [Lender 8], the way they use their income, they -- in fact, they don't want to see the notice of assessment document. They always ask us for the bank statements, and then they go four months so they just average -- so sometimes we've sent them income which is less, and they tell us, no, you guys need to increase the amount of that income on there.
- d. In further discussions at the August 28 Session, Mr. Anindo initially stated that he was unsure whether he made the decision to enter \$[REDACTED] in the Mortgage Application based on his understanding of the salary range [Lender 8] would allow for [Borrower 6] given the nature of [Borrower 6] income, or whether it was based on directions from [Lender 8]. However, upon Staff illustrating that the Mortgage Application predated the date on the Self-Declaration Form, Mr. Anindo admitted that he was the one who chose to input the amount of \$[REDACTED]. Mr. Mazinke stated that Mr. Anindo was going to verify whether Mr. Anindo chose the amount, or whether [Lender 8] wanted Mr. Anindo to choose that amount.
- e. By email of [REDACTED] addressed to [REDACTED], Mr. Anindo forwarded an email from [REDACTED] Residential Mortgage Officer with [Lender 8], which outlined certain documentation needed for purposes of [Borrower 6] mortgage. Mr.

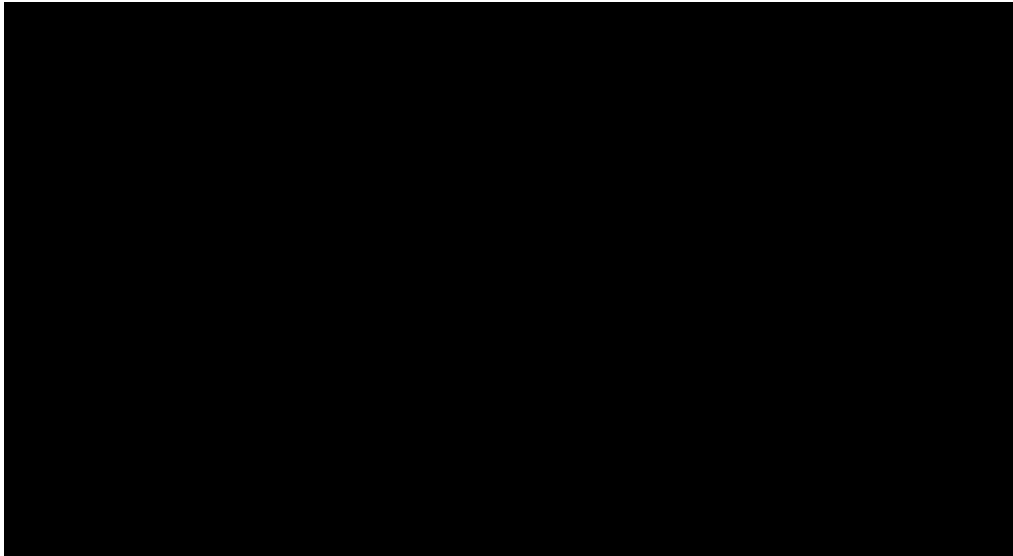
Anindo referred to item listed as #5 in the email which reads “Three months full current bank statements to annualize income”. I should note here that there was not an NOA and there were no bank statements in [Borrower 6] mortgage file; rather, there were only three deposit slips from the [REDACTED] dated [REDACTED], [REDACTED], and [REDACTED] and customer receipts for those deposits. Nonetheless, the email Mr. Anindo provided does not direct him to set a specific amount of income for [Borrower 6]; it simply sets out the documentation needed to support the application Mr. Anindo made to [Lender 8].

- f. As noted above, Mr. Anindo admitted that he was the one who chose to input the \$[REDACTED] as income for this borrower. In the Written Submission, Mr. Anindo argued that “I just presented this client’s income information within the framework used and required by the lender”. Mr. Anindo did not provide any evidence to support his contention about the existence of these lenders’ guidelines or framework that authorizes him, as a broker, to choose what income to submit for [Borrower 6] in his mortgage applications. I am particularly concerned that Mr. Anindo would present to Staff that a lender authorized him to present his own choice of income that may or may not be the borrower’s true income when the communication from the lender, as provided by Mr. Anindo, simply states that the Mr. Anindo’s submission needs to be supported. As further discussed below, my concern, as the Deputy Superintendent, is to ensure persons licensed to broker mortgages in Saskatchewan carry out their activities in a manner that is consistent with the provisions of the Act and the Regulations.

20. **[Borrower 7]:**

- a. **Variations in employment income submitted to lenders:** In reviewing [Borrower 7] file, it was found that between [REDACTED] and [REDACTED] Mr. Anindo made 9 mortgage applications regarding a property at [REDACTED]. In those 9 applications there were 5 different income amounts used, all relating to the same period of earnings. Based on information on the mortgage applications, [Borrower 7] holds two jobs – one with [Employer 1], and the other with [Employer 2] (which is indicated as self-employment). The mortgage applications are as follows:

Table 3



- b. As shown in Table 3, of particular concern are the significant variations in income that occurred throughout these applications, especially the two applications on [REDACTED] which are substantially different in both the source and total amount of income from each other, and from the applications made on [REDACTED]. Staff was unable to reconcile how income from, for example, [Employer 2] could change from \$ [REDACTED] to [REDACTED] to [REDACTED] between [REDACTED] and [REDACTED], and then be adjusted to \$ [REDACTED] on [REDACTED]. This income was then set at \$ [REDACTED] for the two applications on [REDACTED].
- c. In response to the question from Staff of why there was this much variation in annual income reporting for mortgage applications made in close proximity to one another, Mr. Anindo explained at the August 28 Session that certain lenders allow the use of “stated income” which enables [Borrower 7] to work within a range of income for a borrower who is self-employed. Mr. Anindo explained that this, essentially, allows him to enter an income within that range even if it does not represent the actual income of the borrower. Mr. Anindo confirmed at the August 28 Session that while he obtains information from the borrower, in making the application to the lender he makes the determination of what income to provide to the lender for use in the underwriting decision.
- d. Staff questioned whether or not Mr. Anindo discussed the annual income set out in a mortgage application with the borrower prior to making an application. Mr. Anindo answered in the negative, that he did not. Mr. Anindo indicated that at the time the borrower is about to sign a commitment, he asks them “whether they’d be comfortable with payments, stuff like that, and what they really want out of the deal” (Page 203 of the transcript of the August 28 Session). Mr. Anindo stated that “They don’t have to accept the commitment.” (Page 204 of the transcript of the August 28 Session), referring to the borrower, and that he and the borrower “talk about how that

income was arrived at, what kind of documentation that bank requires in order to satisfy that condition.” (Page 204 of the transcript of the August 28 Session).

- e. I have previously noted my concerns regarding Mr. Anindo’s submission of multiple mortgage applications in close proximity, but with varying incomes. In the Written Submission, Mr. Anindo did not provide any explanation concerning the fluctuating income. However, the Written Submission states that “Incomes sent through filogix are scrutinized by the lenders and will only move forward when they are satisfied after doing due diligence”. The issue here is not whether or not lenders scrutinize income submitted on Filogix; rather, the question is why a broker would submit fluctuating incomes, as in this case, without providing any basis for doing so. In view of this, I am not satisfied that Mr. Anindo has addressed this issue.
- f. A borrower’s income is a very important piece of information that lenders use to determine the mortgage amount that should be approved for such borrower. As discussed further below, where income reported in any mortgage application is higher than the actual income a borrower makes, it potentially exposes such borrower to a mortgage that he/she cannot afford. Whether or not a lender approves such application does not relieve a mortgage broker from his or her responsibility to submit accurate information in the first place.
- g. I find, given the materially different amounts submitted as income within a 30 day period, that Mr. Anindo issued false information to lenders.
- h. **Variations in down payment submitted to lenders:** The mortgage applications use different down payment amounts:

Table 4



As shown in Table 4, there are three different gift amounts used. However, there was no gift letter on file or other representation documented as to the amount of the expected gift.

- i. The file contained a bank statement, showing a deposit of \$ [REDACTED] on [REDACTED] and \$ [REDACTED] on [REDACTED]. The mortgage file contained a contract identifying that \$ [REDACTED] would be paid to the seller, with [REDACTED] being a deposit and the balance due on or before a later date described as the completion day. The file is not clear as to why one of these deposits is identified as a gift and the other is categorized differently. The file is not clear on why the three applications in [REDACTED] after the deposits were made, use different amounts.

E. ISSUES FOR DETERMINATION

21. I have identified the following two issues for determination:

- a. Whether Mr. Anindo has acted, in connection with his dealings with the Borrowers as discussed above, in contravention of section 36 of the Act; and
- b. Whether, in light of the facts and circumstances of this case, I am satisfied that Mr. Anindo is no longer suitable as a licensee to hold a mortgage broker licence in Saskatchewan.

22. I should note here that section 14 of the Act, as already highlighted above, allows me to cancel a licence if a licensee has breached a provision of the Act, or if I am satisfied the licensee is no longer suitable to hold a licence. Accordingly, an affirmative finding in relation to either of the above two issues will be sufficient grounds to cancel Mr. Anindo's licence.

F. ANALYSIS AND DECISION

23. The Act, among other things, sets up a regulatory scheme whereby persons intending to broker or administer mortgages in Saskatchewan can apply under the Act for appropriate licences to enable them carry on the activities authorized by such licences within the framework of the Act. The making of an application for a licence is a voluntary act by a person who chooses to engage in a business that requires a licence and which involves regulation. Once a licence is issued under the Act, the licensee, apart from now being able to legitimately engage in the vocation for which the licence was issued, becomes subject to all the duties and obligations associated with the holding of such licence, including an acceptance that the Superintendent may hold them accountable for any departures from the requirements of the Act. As noted by Wagner J in the Supreme Court decision of *La Souveraine, Compagnie d'assurance générale v. Autorité des marchés financiers*, [2013] 3 SCR 756 at para. 49, "[t]hose who engage in regulated activities agree in advance to adhere to strict standards, and they accept that they will be rigorously held to those standards, which are typical of such spheres of activity." In *Centum Coachwood Mortgage Corporation v.*

Ontario (Superintendent Financial Services) 2015 ONFST 15, while noting this statement by the Supreme Court, the Financial Services Tribunal of Ontario also noted that “[m]ortgage brokering is a heavily regulated activity”; see *para.* 13.

24. I will now proceed to consider the two issues for determination.

(a) Whether Mr. Anindo has acted, in connection with his dealings with the Borrowers as discussed above, in contravention of section 36 of the Act

25. Section 36 of the Act provides that “no licensee shall engage in any unfair or deceptive act or practice with respect to a transaction or proposed transaction involving a mortgage”. The Act does not define the word “deceptive”. However, it is defined in *The Oxford English Dictionary*, vol. IV 2nd ed. (Oxford: Clarendon Press, 1989) as “apt or tending to deceive, having the character of deceiving”. The word “deceive” is further defined in that dictionary to include “to mislead as to a matter of fact”. Also, the word “deceptive” is similarly defined in *The Canadian Oxford Dictionary* (Toronto: Oxford University Press, 1998) to include “apt to deceive”. I find these definitions of “deceptive” to accord with how I view the use of that word in the context of section 36 of the Act. In view of this, I will proceed to examine Mr. Anindo’s conduct in light of the provisions of section 36 of the Act.

26. In the case of [Borrower 1], as already outlined above, I find there were alterations to a document purporting to be a lease agreement for the borrowers’ residential property at [Property 2]. As previously noted above, the altered lease agreement: (a) had a name that appears to read “██████████ paying a rent of \$2,400, (b) had what Mr. Anindo confirmed to be his signature in the witness column – though he advised this was his stamped signature – and (c) what was described as the tenant’s signature. [Borrower 1] advised that [Borrower 1] had never had any tenant in the property, much less collect any rent as that was their residence. Furthermore, [Borrower 1] explained that the version of the lease agreement Mr. Anindo forwarded to [Borrower 1] did not have any tenant’s name or signatures – whether for the tenant or the witnesses. It had the amount of \$1,400 as possible rent. According to [Borrower 1], this amount represented what the property would have been rented for were it to be rented and this was [Borrower 1] recollection of [Borrower 1] discussions with Mr. Anindo regarding the need for this document. As noted above, [Borrower 1] received the email from Mr. Anindo on ██████████ and had discussions directly with Mr. Anindo as to the purpose of the document attached to that email sent by Mr. Anindo.

27. Mr. Anindo explained that [the Assistant] added the renter’s name, signed the renter’s name, and changed the amount of “rent” from \$1,400 to \$2,400. Mr. Anindo informed Staff that [the Assistant] did this as \$2,400 was the amount of rental income that Mr. Anindo had used for the mortgage applications he previously submitted and [the Assistant] needed to send a completed lease agreement to the lender with a rental income of \$2,400. [The Assistant] changed the amount to ensure the lease agreement matched his submitted applications.

28. As previously noted, Mr. Anindo did not dispute that he chose to submit, in the first instance, a mortgage application with false information as regards rental income (i.e. \$2,400), and the

subsequent creation of the lease agreement by his assistant, as he contended, was merely to support the information he had already submitted in the mortgage application. As noted earlier, part of the conditions in the [Lender 5] Commitment dated [REDACTED] issued to [Borrower 1] was a requirement stating: “Confirmation that RENTAL PROPERTIES are self-supporting and rental income is as stated on application...by current lease agreements...”. This, to me, provides Mr. Anindo with an incentive to fabricate or cause to be fabricated a lease agreement in order to support the information in the already submitted mortgage applications. As shown by the differences in the signatures that Mr. Anindo described were from a stamp used without his knowledge, I find that the signatures were not from a stamp and given Mr. Anindo’s acknowledgement that it was his signature as well as the information from [Borrower 1] that Mr. Anindo both sent an email with a document for [Borrower 1] to sign and had a discussion with [Borrower 1] about the document that was subsequently altered and signed by him as a “witness” to the document, that he was both knowledgeable of the creation of the document to support the false information he previously submitted to the lender and an active participant in the creation of the false document. As noted earlier, Mr. Anindo did not address this issue in the Written Submission.

29. A mortgage broker cannot be playing around with numbers when completing a mortgage application. It is a very serious exercise given, among other things, the degree of risks a borrower is potentially exposed to for any misstatement in the mortgage application. In the course of the interview with Staff, Mr. Anindo suggested that the \$2,400 was reflective of market rent for the property and was based on an appraisal report. Mr. Anindo reiterated in the Written Submission that he presented “market rent” for the property “as per lender’s guidelines”. In his email of [REDACTED] to [REDACTED], Mr. Anindo indicated that he could not locate the appraisal report because he believed it was on his “old crushed (*sic*) computer”. I do not consider the issue of the appraisal report as particularly relevant because the question here is not whether or not Mr. Anindo is able to justify the \$2,400 as a realistic rent for the property. Rather, the issue is his submission of the \$2,400 as rental income in mortgage applications when the property was not in fact rented. I should note that an appraisal report found in Mr. Anindo’s file for [Borrower 1] was in respect of [Property 1] they were looking to purchase at the time, [REDACTED] and not the property in question.
30. I find the altered document was created to deceive lenders by supporting false information already submitted to lenders. Both the submission of false information and the creation of a false document are deceptive practices in contravention of section 36 of the Act.
31. As I noted above, Mr. Anindo issued letters to borrowers confirming financing was in place when he knew this not to be the case. In the case of [Borrower 3] and the two letters issued to [Borrower 2], who, according to Mr. Anindo, were both purchasing new property, Mr. Anindo explained that he issued these letters so that they could provide them to their respective builders. Mr. Anindo further explained that builders would not accept pre-approvals from financial institutions, since, according to Mr. Anindo, such pre-approvals would not be held for more than four months. In view of this, Mr. Anindo prepared these false letters to indicate that the borrowers had been approved for financing thereby misleading both the borrowers and the builders as to the true state of affairs regarding the

availability of financing. Also, in the case of [Borrower 1], Mr. Anindo issued the same type of letters to these borrowers, but suggested that they had requested that Mr. Anindo issue the letter knowing that he guaranteed them that with the 20% down payment they would get a mortgage. At any rate, I do not expect a broker to comply with the instructions of any borrower that requests him or her to issue a false letter.

32. According to Mr. Anindo, the letter was meant to be given to [Borrower 1] realtor so that the property could be taken off the market. Mr. Anindo further explained, in the case of [Borrower 1], that he, in fact, had a verbal approval from [REDACTED] of [Lender 3], hence, he contends, that he had an approval prior to issuing the letter to these borrowers. Mr. Anindo explained that [Lender 3] was not on Filogix. Therefore, any mortgage application to it would not show on the Filogix transaction history.
33. While Mr. Anindo was emphatic that he had a verbal approval from [REDACTED] of [Lender 3], he was not sure if he submitted any mortgage application in writing to [Lender 3] for which the approval would have been obtained. I find it rather baffling that a mortgage approval would not be preceded by a mortgage application. So, I find Mr. Anindo's statement that he could not recall if an application for a mortgage was, in fact, made in writing to [Lender 3] prior to [REDACTED] giving the verbal approval very concerning. While I am not reviewing the underwriting practices of [Lender 3], I expect that mortgage brokers make all mortgage applications in writing to ensure there is proper documentation. The question of Mr. Anindo not remembering would not arise if he consistently made all mortgage applications to lenders in writing – whether or not these are submitted through Filogix or other channels approved by lenders. After the August 28 Session, Staff talked to [REDACTED] and [Lender 3] was very clear that [Lender 3] do not give verbal approvals. As I noted previously, I find it improbable that an organization such as [Lender 3] that has been in the mortgage lending business for quite a while would go about giving oral approvals for something as significant as a mortgage. So, it seems to me, that either Mr. Anindo's account that he could not remember if an application in writing was submitted to [Lender 3] is not entirely accurate, or Mr. Anindo in fact did not receive any verbal approval as he contends prior to issuing the letter stating that mortgage financing has been approved. Based on all of these circumstances, including Mr. Anindo's practice of issuing these letters as evidenced by the three other false letters stating that financing was in place, situations that Mr. Anindo did not contest in the written submission, I accept [REDACTED] representation that a verbal commitment was not issued and that the letter issued by Mr. Anindo was issued without support.
34. I find that given the very specific and unequivocal language used in the false letter issued to the [Borrower 1], [Borrower 3], and the two letters issued to [Borrower 2], Mr. Anindo issued the four letters to create the impression that financing was, in fact, in place.
35. I note in a number of instances in the Written Submission, Mr. Anindo attempts to justify the issuance of the letters. Mr. Anindo contends that the reason for issuing these letters was to fill a "gap" in the industry – especially as it pertains to new constructions because "lenders in the industry will typically not fully commit to a mortgage approval for closings more than four months out". I should, however, note that the reason for issuing a letter is one thing, its

content is another. I fail to see why Mr. Anindo considered it appropriate to fill this gap, as he describes it, by issuing false letters that misrepresent facts regarding the approval of financing. A mortgage broker should not communicate to a borrower that financing had been approved until a lender has provided a mortgage commitment. These letters are false and, therefore, “apt to deceive” recipients, who in this case, were borrowers. As set out in the Written Submission, Mr. Anindo was aware that these borrowers were passing the letters on to their builders (or realtors) and all the parties will then act on the strength of the letters to proceed with the purchase and sale transaction, with the mistaken assurance that financing was already secured. Accordingly, I find these letters not only deceive borrowers, they were used to deceive other persons such as builders or realtors. Therefore, I consider Mr. Anindo’s issuance of these false letters in respect of non-existent mortgage financing as a deceptive practice and, therefore, a direct violation of section 36 of the Act.

36. The deceptive practice of issuing false letters creates significant risk to both the buyer and, in some cases, the seller of the property. Purchase agreements often have a condition stating the buyer needs to confirm financing within a certain time period. This allows the seller to re-list the property on the market, versus having to wait until the possession date to find out that the buyer is unable to obtain the funds needed to acquire the property. A failure by the buyer to obtain money can result in forfeiture of any deposit made with the seller or the seller’s agent. In these cases, buyers, sellers, including builders, and their agents place reliance on the letter confirming financing is in place to demonstrate that the buyer is likely to have the resources required to complete the purchase transaction.
37. Another aspect of this matter which I find very troubling, and another instance of a violation of section 36 of the Act, is Mr. Anindo’s submission to lenders of mortgage applications containing false statements or representations concerning borrowers’ income. In the case of [Borrower 6], who had advised ██████████ that his annual income was \$██████████, Mr. Anindo reported \$██████████ in his mortgage application to [Lender 8]. Mr. Anindo admitted that he was the one who chose to input the amount of ██████████. Mr. Mazinke, Mr. Anindo’s legal counsel, stated that Mr. Anindo was going to verify whether Mr. Anindo chose the amount, or whether [Lender 8] wanted Mr. Anindo to choose this. As already highlighted above, by Mr. Anindo’s email of ██████████ addressed to one of my staff, ██████████ Mr. Anindo forwarded an email from one ██████████ Residential Mortgage Officer with [Lender 8], which outlined certain documentation that are needed in order to instruct a lawyer for purposes of [Borrower 6] mortgage. Mr. Anindo referred to item listed as #5 in the email which reads “*Three months full current bank statements to annualize income*” as confirmation of how the ██████████ was arrived at. However, there were no bank statements in the borrower’s file, only deposit slips from the ██████████ dated ██████████ ██████████ and ██████████ and customer receipts for those deposits. As I noted previously, nothing in the email directs Mr. Anindo to set a specific amount of income for [Borrower 6]. The email from ██████████ only sets out the documentation needed to support the application Mr. Anindo made to [Lender 8], and did not direct Mr. Anindo as to the annual income to be submitted.
38. In the Written Submission, Mr. Anindo explained that [Lender 8]’s practice for “validating income is through either personal or business bank account statements confirming deposits

deemed as gross or net in the client's account. They annualize the income based on those bank deposits". I should note that the issue is not how [Lender 8] conducts its due diligence in relation to mortgage loans, but rather how Mr. Anindo came about to be the one to choose the income amount to be submitted to the lender in the first place. In the Written Submission, Mr. Anindo stated that "I just presented this client's income information within the framework used and required by the lender". I find this explanation grossly inadequate and unsatisfactory. As I previously noted, Mr. Anindo did not provide any evidence to support his contention about the existence of these lenders' guidelines or framework that authorizes Mr. Anindo, as a broker, to choose what income to submit for [Borrower 6] in his mortgage applications.

39. As already fully outlined above in the case of [Borrower 4] and [Borrower 7], I see the same pattern of false reporting of annual income. In the Written Submission relating to these two borrowers, Mr. Anindo seems to downplay the importance of the income submitted in a mortgage application by a broker. In relation to [Borrower 4], the Written Submission noted:

There's constant change made by lenders in regards to incomes. Entered information on the Filogix system is never the final. We submit documents as requested by the lender in question; they do their due diligence based on the income documents submitted to them as per their request. Every lender has their own ways of validating income as noted above, and they encourage the brokers to work within the lender's guidelines.

For [Borrower 7], Mr. Anindo noted in the Written Submission:

Incomes sent through filogix are scrutinized by the lenders and will only move forward when they are satisfied after doing due diligence.

As I previously noted, Mr. Anindo did not provide any information or supporting materials regarding these guidelines or how they authorize a broker to be the one to choose the income to be submitted for borrowers in a mortgage application.

40. Also, by submissions noted in the preceding paragraph, Mr. Anindo seems to suggest that the accuracy of the income amount submitted by a broker in a mortgage application does not really matter since lenders would still conduct their own due diligence. I am very troubled by these submissions made by Mr. Anindo, a broker with nearly 10 years' experience in the mortgage brokerage industry, as it seems to show a surprising and fundamental misapprehension, on Mr. Anindo's part, of the role of a broker as it pertains to preparing and submitting mortgage applications on behalf of borrowers. In light of this, I feel further justified in my decision that a cancellation of Mr. Anindo's licence is the most appropriate sanction to impose. A borrower's financial condition, as reflected in a mortgage application – including income amounts from various sources including employment income and rental incomes, is one of the most important considerations that a lender uses to decide whether or not to grant a mortgage. In fact, false financial information submitted by persons acting on behalf of another (as, for instance, brokers) for purposes of application for credit or loans could potentially be the subject of a criminal prosecution under section 362(1)(c) of the *Criminal Code* if all the requisite elements for the offence are present. Again, in the mortgage commitment dated [REDACTED] issued by [Lender 5], part of the conditions for

financing requires a lease agreement to confirm that “rental income is as stated on **application**.” (emphasis added). All these go to show the importance of submitting accurate financial information in mortgage applications. So, I do not see any merits in Mr. Anindo’s submissions in this regard to the extent it seems to downplay the significance of information submitted by a broker in a mortgage application.

41. I should further note that a mortgage transaction is a huge financial commitment for not only the lenders, but especially for borrowers. Given this, it becomes extremely critical that information submitted to lenders by a broker in respect of a borrower are not misrepresented and are accurate to ensure that lenders are better able to assess the financial situation of a prospective borrower when considering his or her application. The false income Mr. Anindo reported for the borrowers in these mortgage applications is “apt to deceive” lenders who will base the underwriting decision on such information. I consider this another instance of Mr. Anindo’s violation of the provisions of section 36 of the Act.
42. Further and more particularly troubling, a broker reporting false income from any source exposes borrowers to a number of risks. First, the borrowers could end up being saddled with mortgages that their actual income cannot support, thereby increasing the chances of default and avoidable financial stress. Secondly, I note that in many commitment letters, borrowers are required to attest to the accuracy of information provided in the mortgage application. A good example of this type of clause is found in section 22(5) of the “Key Terms of Commitment” attached to a “Commitment for FIRST Mortgage and HELOC” dated [REDACTED] and issued by [Lender 8] to [Borrower 6]. The clause provides that:

You certify that all the information provided to us by you or your broker and representations made by you in connection with the application for this Mortgage Loan and HELOC are completely true and accurate in all respects. Any misrepresentation of fact contained in your application or other documentation entitles us to decline to advance all or any portion of the Mortgage Loan, and to demand immediate repayment of all money advanced under the Mortgage Loan and/or HELOC
43. There was a signature for [Borrower 6] on the document confirming acceptance of the above, and other terms, on [REDACTED]. The above clause clearly illustrates my concerns. The borrower is attesting to the accuracy of the information Mr. Anindo provided on his behalf. By providing false income statement in the mortgage application, Mr. Anindo has exposed the borrower to the risk of having the loan immediately called from the day of advance. This is a continuing risk for the borrower throughout the entirety of the term of the loan. Another example is found in the Mortgage Commitment from [Lender 5] dated [REDACTED] and issued to [Borrower 1]. It reads on the first page: “...I/We further certify that the information given on the mortgage application is true and correct.”
44. What is further troubling is Mr. Anindo’s statement that he did not advise any of the borrowers, prior to submitting a mortgage application, that he was reporting a different income for them other than what they told him, or their documentation reveal. Mr. Anindo explained that he did not consider it necessary to discuss everything with the borrowers prior

to getting a mortgage, but that he typically explained to borrowers at the time of signing the commitment how the mortgage was obtained, what the payments would be, and whether the borrowers could afford the payments. This, however, misses the point. Mr. Anindo's explanations to borrowers, where such occurred, do not change the fact that he submitted false information in a mortgage application. This is the crux of my concern. I further note Mr. Anindo's explanation that certain lenders allow the "grossing up" of borrower's income for purposes of mortgage applications, while other lenders have a range of income for particular borrowers. My concern here is not to assess the underwriting practices of lenders. Brokers cannot play around with borrowers' income, whether from employment or rental properties, in mortgage applications, and what I expect a broker to do is to report the borrower's true income in a mortgage application.

45. As I noted above, section 14(1)(b) of the Act allows me to suspend or cancel a licence if a licensee has failed to comply with the Act. In light of the above discussions, Mr. Anindo's alteration of documents, issuance of false letters confirming non-existent financing, and submission to lenders of mortgage applications containing false statements and representations are actions that are "apt to deceive" and therefore a violation of the provisions of section 36 of the Act.

(b) Whether, in light of the facts and circumstances of this case, I am satisfied that Mr. Anindo is no longer suitable as a licensee to hold a mortgage broker licence in Saskatchewan

46. The provisions of section 14(1)(a) of the Act also allow me to suspend or cancel a licence on any ground I might have refused to issue the licence under section 10. One of the grounds that the Superintendent considers when reviewing an application for a licence is whether the applicant is suitable to be licensed. So, if I consider that an applicant for a licence is not suitable for a licence, I may refuse to issue a licence. By reason of section 14(1)(a) of the Act, therefore, it follows that I may cancel or suspend a licence where I am satisfied that a licensee is no longer suitable to hold such licence.
47. In determining what it means to be suitable, I note that the object of the Act is principally consumer protection legislation. This characterization of the Act is reflected in a number of provisions within the Act – for instance, section 36 of the Act prohibits licensees from engaging in any unfair or deceptive practices, and section 25 which requires brokerages to act in the best interests of borrowers. The Supreme Court of Canada has indicated that consumer protection legislation should be interpreted generously in favour of consumers (see, for example, *Seidel v Telus Communications Inc.*, 2011 SCC 15 at para 37).
48. The Act, itself, does not define what it means to be suitable. However, there is guidance in some cases decided in the context of similar legislation that I find relevant and in line with what I consider to be the objectives of the Act. The word "suitable", in the context of mortgage brokers and brokerages, refers to the qualities or attributes that a person should have in order to hold a licence. In *Carson v. British Columbia (Registrar of Mortgage Brokers)* [2006] B.C.W.L.D. 4033 ("*Carson*"), the British Columbia Financial Services

Tribunal quoted with approval the statement in *Khosla v. Real Estate Council of British Columbia* [2000] BCCO No. 11:

. . . [T]he suitability required by the statute refers to the qualities or attributes that a person should have in order to be licensed. The qualities that make a person suitable for licensing include such things as honesty, reliability, integrity and professionalism. Where an applicant's conduct has shown an absence of one or more of these qualities, the applicant is not suitable and should not be licensed. These qualities are questions of character which are often enduring.

49. I find the above quote particularly instructive and reflective of what I consider to be what suitability entails in the context of section 10(a)(iii) of the Act. Given the importance of mortgage transactions to borrowers, the lenders, and society as a whole, the character of brokers, who function as intermediaries, becomes of paramount importance to me. Borrowers (and lenders) are entitled to rely on and trust a broker to provide his or her services in a professional manner, with integrity, honesty and reliability. As noted in *Carson*, while quoting from a decision of the Registrar of Mortgage Brokers in *re: Dirk Allen Rachfall* (unreported decision of the Registrar of Mortgage Brokers, November 4, 2003),

Mortgage brokers - even those acting as strict intermediaries - **are in a position of trust**. Lenders rely on mortgage brokers to ensure that **documents are complete and accurate**. **Borrowers rely on mortgage brokers for knowledgeable and impartial advice**. As a whole, the industry relies on maintaining public confidence. If either lenders or borrowers did not have confidence in mortgage brokers to act as intermediaries the industry would not exist. (emphasis added).

50. I have already noted above that I find Mr. Anindo's issuance of letters in respect of non-existent mortgage financing as a violation of section 36 of the Act. Also, Mr. Anindo's issuance of these letters makes him unsuitable as a mortgage broker under the Act for a number of reasons. First, the role of a mortgage broker is not that of an underwriter of loans and as a mortgage broker have no authority to bind the lender by issuing such letters. Secondly, the letters amount to a misrepresentation of the state of affairs pertaining to financing for a mortgage, and thereby misleading to borrowers, builders and realtors. While I have not received any complaint of actual loss by any of the borrowers in this instance, the fact remains that Mr. Anindo's actions put borrowers at risk of losing down payments if the mortgages were not in place at the required time under the Purchase and Sale Contracts involving these borrowers. That a risk has not resulted in actual loss does not mean that the risk does not exist. Further, the propriety of Mr. Anindo's action in issuing these letters is not determined by whether or not it resulted in a loss. It is the fact that, as a professional, Mr. Anindo could issue such letter knowing fully well that it was false.
51. I note Mr. Anindo's comment at the August 28 Interview that, in retrospect, he did not believe that issuing these letters was in line with best practices. In my view, this goes beyond the issue of best practices. It appears to speak directly to his character as a broker. As I noted above, part of the qualities I expect from a broker in order to meet the requirement of

suitability is honesty, integrity, reliability and professionalism. When a member of the public, including borrowers, is dealing with a mortgage broker in the context of a mortgage transaction, and the mortgage broker issues a document in his or her name representing certain facts, I expect them to have the assurance that they can trust that document and rely on its authenticity. The issuance of these types of letters by Mr. Anindo undermines that trust, and can, potentially, erode the confidence of the public in the activities of mortgage brokers. As noted in *Pugliese v. British Columbia (Registrar of Mortgage Brokers)*, 2007 BSCS 391 para. 20 (affirmed on appeal, 2008 BCCA 130), the “primary purpose of the *Act* is the protection of the public and maintenance of public confidence in the mortgage industry”.

52. Further, by issuing these letters, Mr. Anindo exposed borrowers, for instance, to huge financial loss in the event the mortgage applications fall through, after the borrowers have already committed to buying the property on the strength of those letters. [REDACTED]

[REDACTED] Mr. Anindo’s conduct falls short of the types of qualities that make a person suitable as a licensee under the *Act*

53. As I already noted above, an area of concern to me is the alteration of documents provided by or relating to borrowers in connection with mortgage applications. In the case of [Borrower 2], for example, certain joint bank statements were altered in such a way to make photocopied versions of them appear as though they were accounts belonging to just one person. Mr. Anindo explained that he did not have anything to do with these alterations, and that it was his assistant, [REDACTED] who did them. Further, Mr. Anindo explained that there would have been no incentives for these alterations because it would not affect the outcome in terms of mortgage approval. While Mr. Anindo accepted responsibility for this, even though he contended that the alterations were done by his assistant, Mr. Anindo explained that his assistant advised him that [the Assistant] did not submit these altered documents to the lenders. Again, Mr. Anindo’s explanation misses the point. It is a separate issue if the documents were, in fact, submitted to lenders as altered. As I noted in paragraph 15(s) above, I find it improbable Mr. Anindo was not aware of the alterations to these documents. When genuine bank documents are altered in the way they were a totally new and false document was created. Where all the requisite elements are present, this could potentially be the basis for a criminal prosecution under section 366 of the *Criminal Code*. This underscores the seriousness with which I view this aspect of the case.

54. I further note that a document titled “Conditions Report” found in [Borrower 2] file, which seems to be a download of [REDACTED] from [Lender 2] website for brokers, states that “we require confirmation of down-payment from account in [Borrower 2] name only if account is joint with spouse we can only use 50% of the account value as down payment”. This appears to me to be in direct contradiction to Mr. Anindo’s suggestion that whether or not the account was held jointly was not relevant for purposes of the mortgage application. It appears, from this statement, that it is in fact relevant.

55. In addition to being a violation of section 36 of the Act, Mr. Anindo's direct and indirect involvement in the alteration of documents as described above also makes him unsuitable as a mortgage broker under the Act. These alterations were to support false information that had already been submitted to lenders by Mr. Anindo. As shown with [Borrower 1] above, Mr. Anindo had direct involvement with [Borrower 1] as it was his email that sent the document for [Borrower 1]'s signature, and [Borrower 1] described the conversation [Borrower 1] had with Mr. Anindo as to the purpose of the document that [Borrower 1] was to sign and return to Mr. Anindo. While Mr. Anindo described that some of the documents were altered by his assistant, the fact that Mr. Anindo actively participated as evidenced by his communications with a borrower and his signatures on the altered lease agreement, which were not addressed in the Written Submission, and condoned this sort of practice by his assistant to support the false information he had already submitted to lenders in the first place, demonstrates that he is not suitable as he is not carrying on the activities of a mortgage broker in a manner that reflects integrity, honesty and professionalism.
56. In light of the above, I find that Mr. Anindo is no longer suitable to hold a broker licence. While I note Mr. Anindo's explanations in a number of instances at the interviews, as well as in the Written Submission, that he was trying to fulfill the needs of his clients including when he issued the false letters confirming availability of financing, in fulfilling the needs of his clients he has to be continually mindful of his obligations under the Act as a broker. The needs of his clients, as he interpreted them, cannot trump the requirements of the Act as it relates to his obligations as a mortgage broker. I do not know of any regulated profession where falsification of information, or providing false and misleading documents, can be justified or rationalized under the guise of meeting the "needs of the client". Certainly, it is not a practice I consider acceptable under any circumstances.

G. CONCLUSION

57. In conclusion, I find that Mr. Anindo has on multiple occasions violated the provisions of section 36 of the Act by engaging in a deceptive practice with respect to a transaction or proposed transaction involving a mortgage as discussed above. Additionally, I find that Mr. Anindo is no longer suitable to hold a broker's licence in Saskatchewan. Accordingly, I hereby cancel Mr. Anindo's licence as a mortgage broker in Saskatchewan pursuant to sections 14(1)(a) and 14(1)(b) of the Act effective as of the date of this decision.
58. In coming to my decision to cancel Mr. Anindo's licence, I am not unmindful of the possible impact this may have on his means of livelihood. Further, I recognize that this is the first time I have received any complaint against Mr. Anindo in respect of his activities as a mortgage broker. Mr. Anindo also explained that the mortgage transaction involving [Borrower 1] happened during one of the most stressful times of his life due to the death of some close relatives. However, the protection of the public is a matter of paramount importance to me, and there is a strong rational connection between the sanction I am administering and the public interest I am mandated to defend: see generally, *Gardner v. Ontario (Superintendent of Financial Services)* 2011 ONFST 6. I note in the Written Submission, Mr. Anindo stated that "if the context of these matters is taken fully into

account, none of these matters suggest intent to defraud or mislead on my behalf. I therefore submit that short of directing me to take more training of the like, these allegations should be dismissed.”

59. In coming to my decision, I did take into consideration the full context of the matter. In my view, a lesser penalty will not be appropriate in this instance for a number of reasons. Mr. Anindo’s conduct shows a total disregard for honesty, integrity, and professionalism. Mr. Anindo’s focus, as it seems, was to get a mortgage deal at all costs, even if it involved fabricating documents to support false information already submitted to a lender. Alteration of any document in connection with a mortgage application is a very serious issue. Misrepresenting the purpose of the document in order to convince a borrower to sign it, as was done with [Borrower 1], and then subsequently altering the document so it matches what was submitted to lenders, is in my view sufficient ground for cancelling a licence. This finding is so compelling by itself and condemning of character, that in and of itself makes Mr. Anindo unsuitable to be licensed and justifies the cancellation of Mr. Anindo’s licence. The other instances of Mr. Anindo’s deceptive practices and unsuitable conduct described in this decision further support that licence cancellation is the appropriate sanction. This sanction serves to protect the public in that it ensures that persons who are not prepared to comply with the Act, or conduct their broker activities in an honest manner, with integrity and professionalism, are not allowed in the industry. Obtaining a mortgage is, undoubtedly, the most significant financial commitment of many borrowers. Members of the public who deal with brokers should not have misgivings about the character or integrity of the broker as it pertains to how such broker performs their brokering activities.
60. Mr. Anindo’s deliberate and intentional issuing of false letters stating mortgage financing was in place when, in fact, no lender had committed to providing financing is a practice that is deserving of strong sanction. Mr. Anindo voluntarily chose to issue a false letter. Mr. Anindo knew the information was false, but he still proceeded to issue it nonetheless. I find it disturbing that this pattern of conduct appears to be an integral part of how Mr. Anindo conducts business as a mortgage broker given the number of instances it came up in this matter. Members of the public dealing with brokers are entitled to have the assurance that documents issued by such brokers are accurate, truthful and not deliberately misleading.
61. The repetitive nature of Mr. Anindo’s misconduct is another reason that supports my sanction. These were not isolated acts, but are a pattern of conduct that is reflective of how Mr. Anindo conducts himself while serving the public as a mortgage broker. Also, as explained above, Mr. Anindo’s submission of false information in mortgage applications for borrowers is a huge continuing risk for these borrowers who have attested to the accuracy of the information he submitted on their behalf. This practice is capable of undermining public trust and confidence in the mortgage brokerage industry, and it is a practice I consider unacceptable for a broker. The integrity of the mortgage brokerage industry is a matter of significant importance to me as Deputy Superintendent. As the Supreme Court noted in *Coopers v. Hobart* [2001] 3 SCR 537 at para. 49 “the Registrar must balance a myriad of competing interests, ensuring that the public has access to capital through mortgage financing while at the same time instilling public confidence in the system by determining who is “suitable””. The cancellation of Mr. Anindo’s licence promotes public confidence in the

brokerage industry and acts as a general deterrent to dissuade others from acting in a similar way.

62. By virtue of section 79 of the Act, Mr. Anindo has the right to appeal my decision to the Court of Queen’s Bench on a question of law only. Mr. Anindo must exercise his right of appeal within 30 days after my decision. Where Mr. Anindo decides to proceed with an appeal, he is required to serve me with a notice of appeal.

Dated at the City of Regina in the Province of Saskatchewan this 28th day of July, 2016.

“Cory Peters”

Cory Peters

Deputy Superintendent of Financial Institutions

EXHIBIT A

1. [REDACTED]
2. [REDACTED]
3. [REDACTED]
4. [REDACTED]
5. [REDACTED]
6. [REDACTED]
7. [REDACTED]