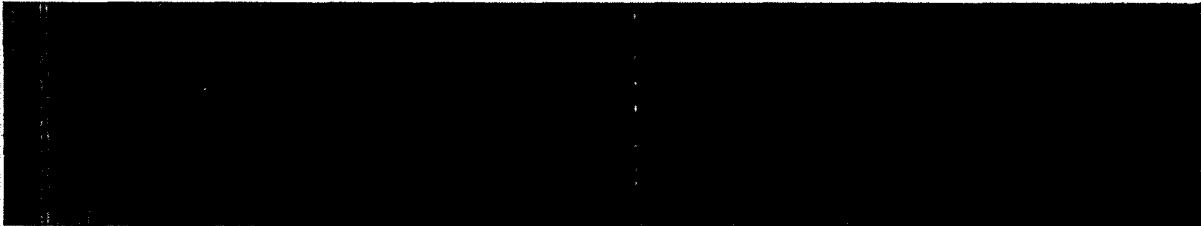


Canada

Court File #

ONTARIO COURT OF JUSTICE
(Toronto Region)

IN THE MATTER OF an application for a Search Warrant pursuant to section 487(1) of the *Criminal Code*;



AND IN THE MATTER OF an application for an Assistance Order(s), pursuant to s. 487.02 of the *Criminal Code*;

AND IN THE MATTER OF an application for an Order Denying Access to Information (Sealing Order) pursuant to s. 487.3(1) of the *Criminal Code*.

APPLICATION RECORD FOR ORDERS

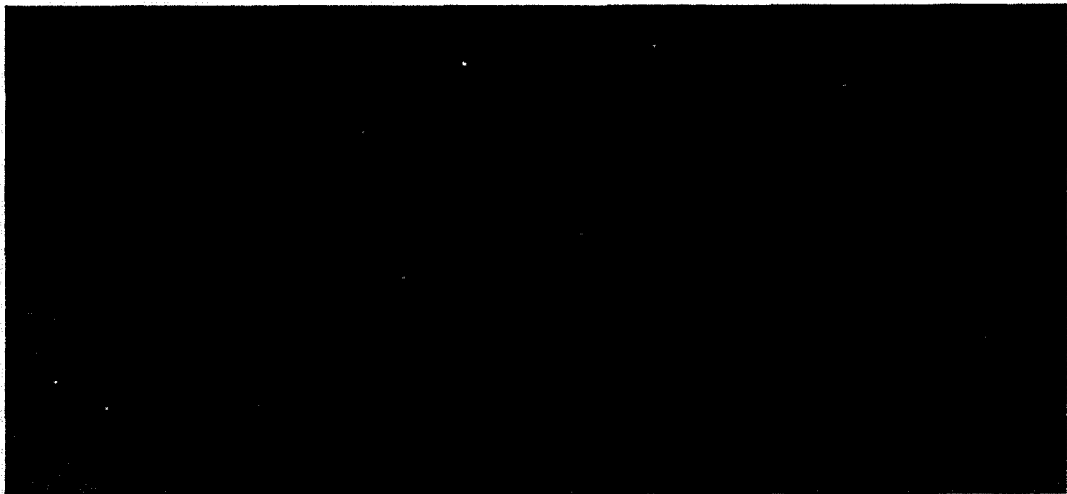
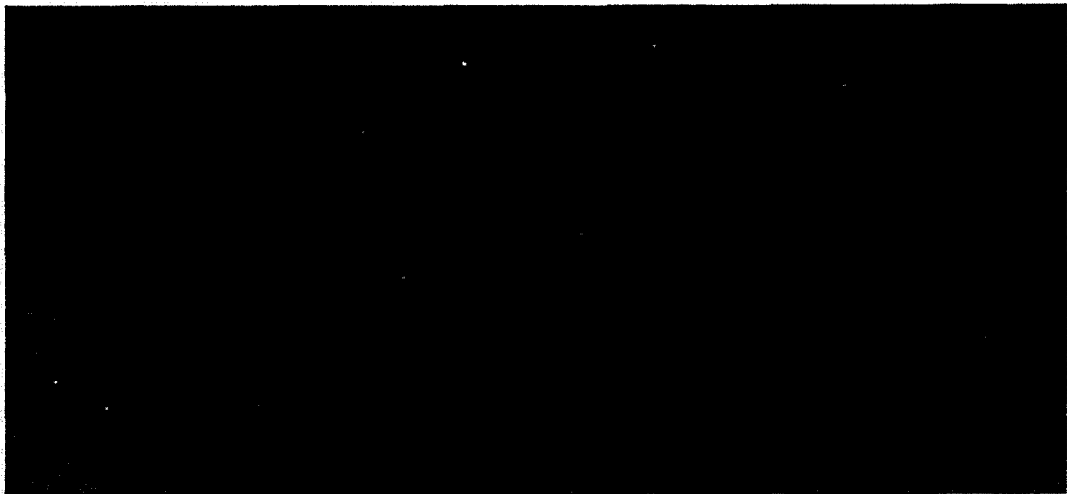
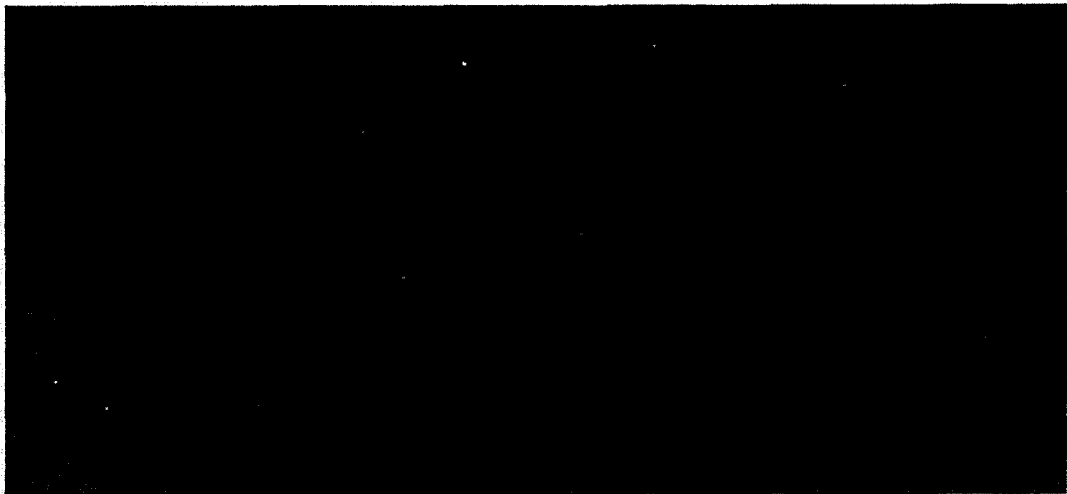
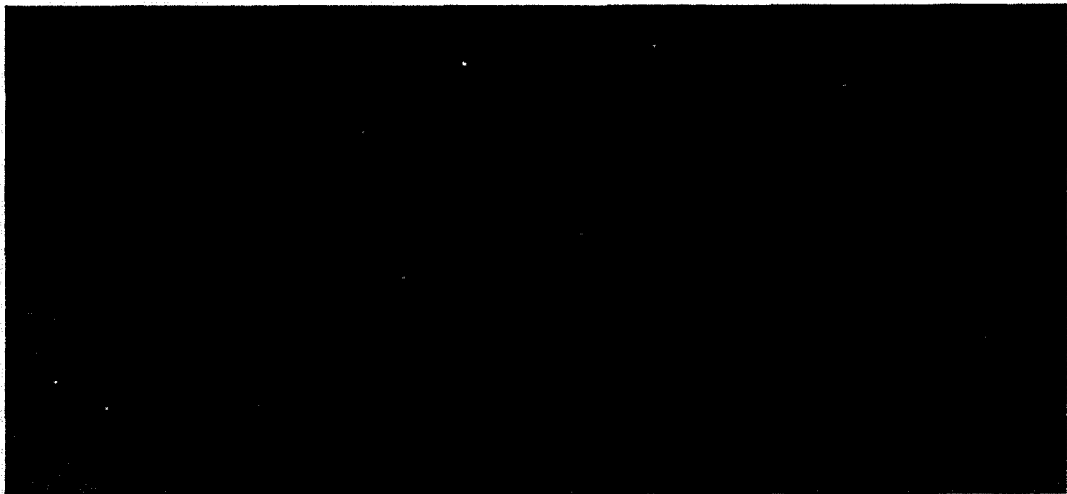
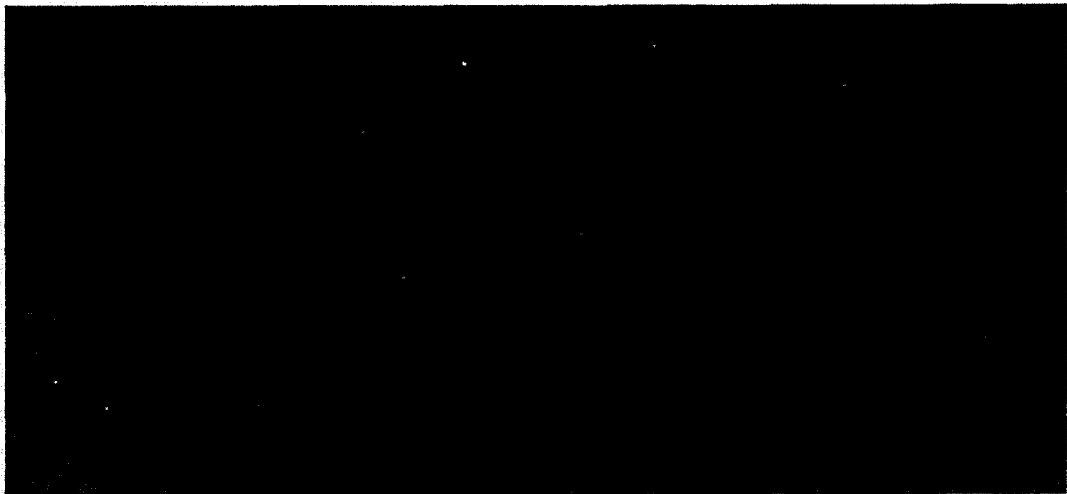
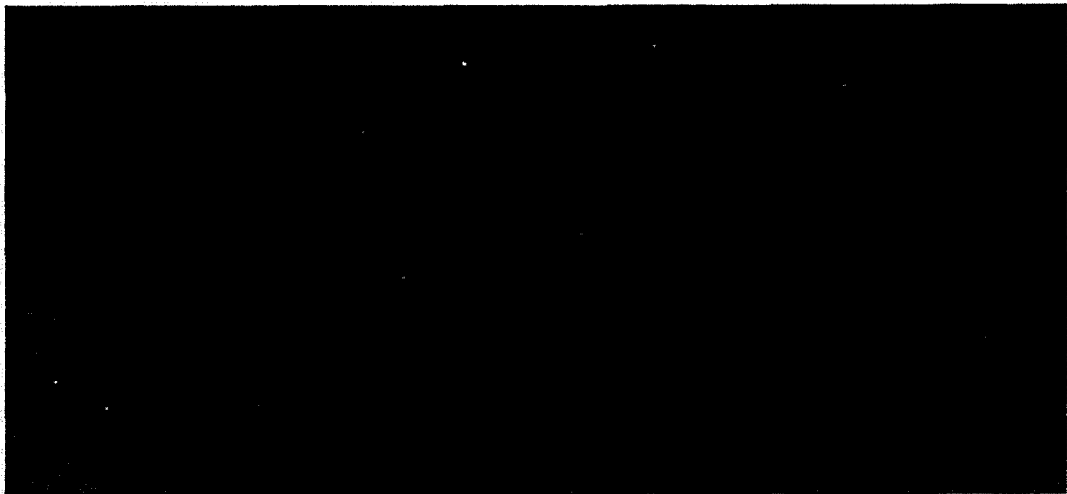
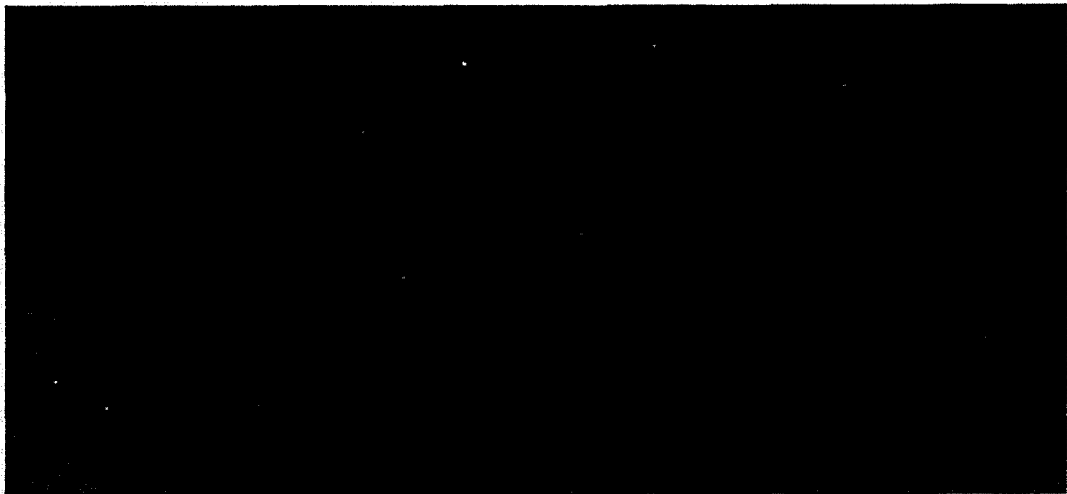
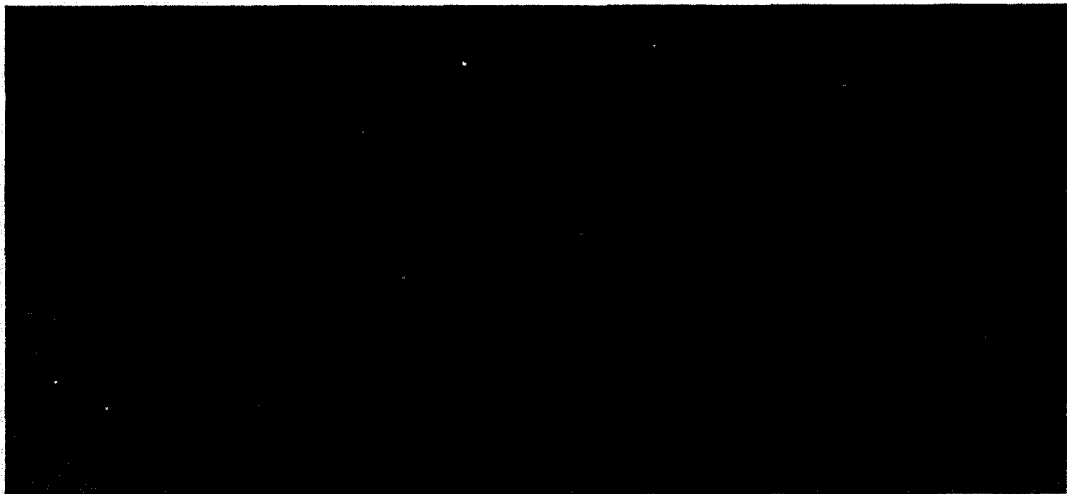
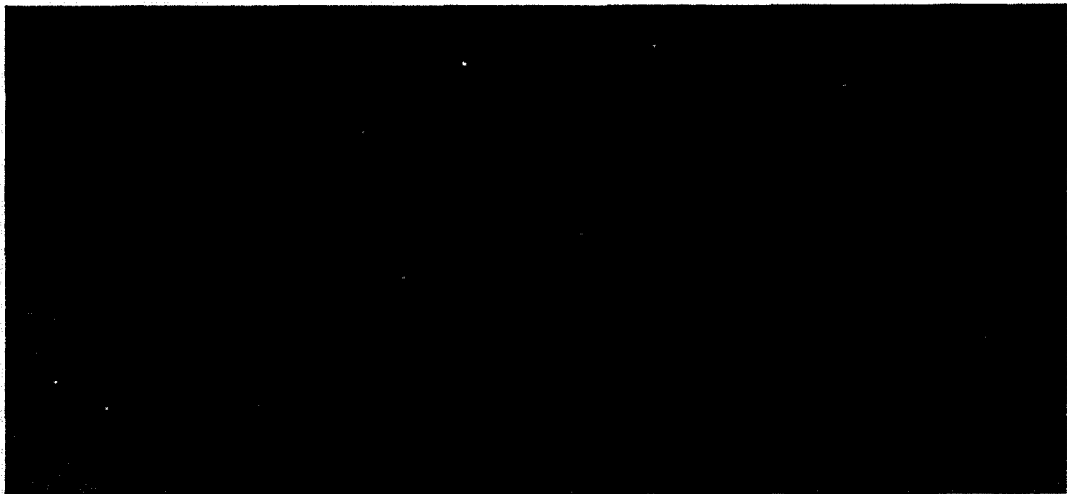
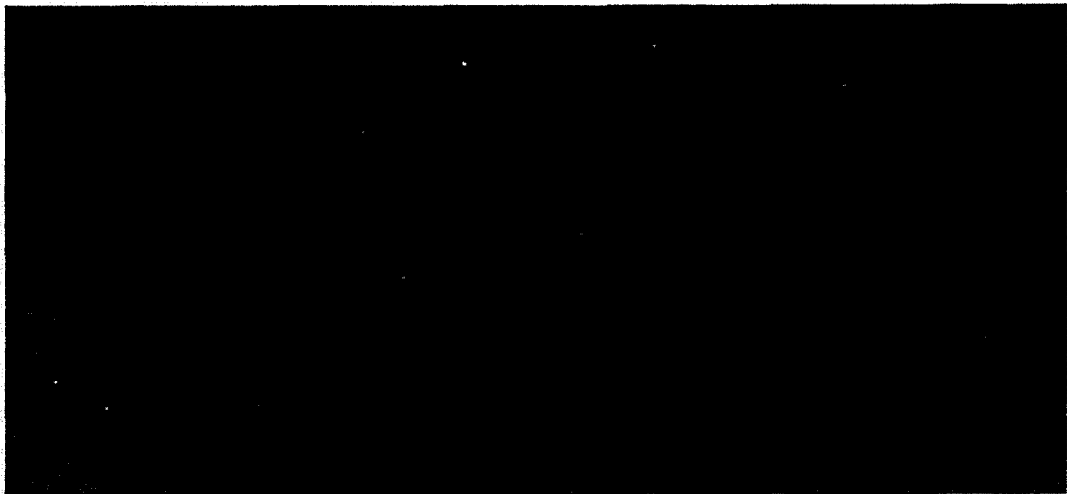
Constable Martin WILLIAMSON
Royal Canadian Mounted Police
Integrated Market Enforcement Team
20 Queen Street West, Unit 1501
Toronto, Ontario.
647-280-9761

RCMP File 2016-1383373

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[REDACTED] Assistance Order(s) and Order Denying Access
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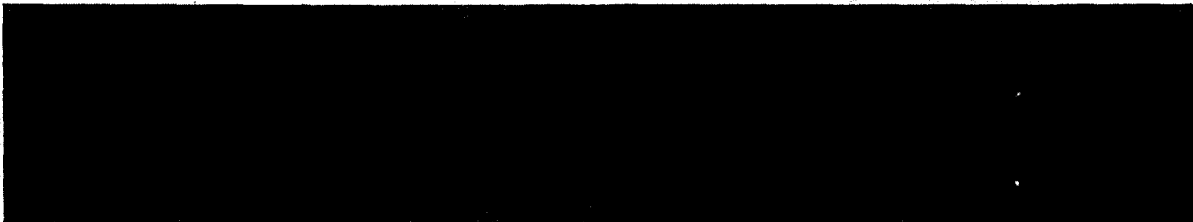


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ORDER DENYING ACCESS TO INFORMATION (Sealing Order)128

ONTARIO COURT OF JUSTICE
(Toronto Region)

IN THE MATTER OF an application for a Search Warrant pursuant to section 487(1) of the *Criminal Code*;



AND IN THE MATTER OF an application for an Assistance Order(s), pursuant to s. 487.02 of the *Criminal Code*;

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7. Documents and/or Data of internal and/or external correspondence made by current and former employees of the businesses documented in paragraph 13(a) to (e) and related to Fortress Real Capital Inc. /Fortress Real Developments Inc. Syndicated Mortgages, including but not limited to emails, letters and memos.
8. Documents and/or Data pertaining to the business relationship between the businesses documented in Paragraph 13(a) to (e).
9. Documents and/or data identifying primary ownership or user information related to computers, tablets or other electronic devices;
10. Documents and/or data related to access of telephones, computers, tablets, or other electronic devices, including but not limited to user names and passwords, electronic keys, account names, account information, credentials for internet websites and email accounts that will assist police investigators in accessing the contents of these devices and decrypting any communications related to the devices;
11. Computing and telecommunication devices (other than mobile phones), including but not limited to computers, tablets, internal surveillance footage, remote cloud storage and related peripheral equipment, passwords, encryption keys, access codes and manuals that may be required to operate the devices; and
12. Electronic data storage devices including but not limited to CDs, DVDs, SIM Cards, USB devices, photocopier memory storage, portable hard drives and any related peripheral equipment, software, passwords, encryption keys, access codes and manuals that may be required to operate the devices and/or access the stored data.

AND THAT there are reasonable grounds to believe that the said items are located in;

13. The Business premises of;

- a. Fortress Real Capital Inc. and Fortress Real Developments Inc., (also known as the Fortress Corporate Centre) located at Unit #1, #1A and #2 of 25 Brodie Drive, Richmond Hill, Ontario.
- b. Building and Development Mortgages Canada Inc. and Canadian Development Capital and Mortgage Services Inc. located at Unit #8 of 25 Brodie Drive, Richmond Hill, Ontario.
- c. FDS Brokers Services Inc. located at Suite 202, 203 and 204 of 160 Traders Boulevard East, Mississauga, Ontario.
- d. FFM Capital Inc. located at unit #4 of 81 Zenway Boulevard, Woodbridge, Ontario.
- e. FMP Mortgage Investments Inc. located on the third floor of 930 The East Mall, Etobicoke, Ontario.
- f. Fortress Satellite Office located at Suite 1803 of 2 Bloor Street West, Toronto, Ontario.

information to be true because they are legally and morally obligated to convey accurate information as part of their duties.

18. I understand that this is an ex parte application and that I am obligated to provide full and fair disclosure of all material facts available to me. In the process of preparing this document, I did not include every single detail of this investigation. For example, I did not include information that did not relate specifically to this investigation. Also, many of the reports I read (and have summarized below) contained more information than I have included in this document. In an effort to prepare a document that is clear and concise, I have included information that I believe relates to this specific investigation and evidence that contributes to establish grounds for issuance and make full and fair disclosure. Despite the fact that I have summarized some of the information I read, I believe there is sufficient information in this document to support the requested, Warrant and Orders. I am also aware that my obligation to provide full and fair disclosure of the information relating to the issuance of the requested Warrants and Orders, requires me to disclose information known to me that materially detracts from or undermines the preconditions for the proposed warrants, and I have done so.
19. Throughout this affidavit, italicized texts within square brackets indicates my stated beliefs and/or information to assist the reader such as cross references, inferences or an explanation of the inferences I have drawn from the information provided.
20. To assist the Justice, I have attached as Appendix "A" a list of the common names and companies that will be found throughout this affidavit.

Abbreviations and Definitions.

21. Contained within this Affidavit are the following Abbreviations and Definitions;
 - a. FSCO - Financial Services Commission of Ontario. The governing body that regulates the Mortgage Broker Sector. FSCO's legislative mandate is to provide regulatory services that protect the public interest and enhance public confidence. FSCO issues licenses for Mortgage Brokerages, Administrators, Brokers and Agents.
 - b. IMET – Integrated Market Enforcement Team. A specialized unit that is staffed with RCMP officers and civilian members. Toronto IMET's mandate is to investigate serious Criminal Code capital markets fraud offences that are of regional or national significance and threaten investor confidence or economic stability in Canada.
 - c. Tactical Internet Intelligence Unit – A specialized unit staffed with RCMP officers and civilian members that gather and disseminate intelligence utilizing the internet as its primary source. All information used in this affidavit that has been obtained by the Tactical Internet Intelligence Unit are sourced to websites found on the Internet.

- r. Records - Accounts of acts, transactions, or instruments that are retained as evidence of the matters to which they are related.

Overview of the Investigation

22. This RCMP investigation into criminal offences was commenced by Toronto IMET in October of 2016, following a complaint from David FRANKLIN ("FRANKLIN"). The complaint was in regard to the alleged fraudulent actions of Fortress Real Capital Inc. ("Fortress Real Capital"), Fortress Real Developments Inc. ("Fortress Real Developments"), Centro Mortgages ("Centro"), who are involved in the creation, marketing, raising and lending of funds associated to syndicated mortgages.
23. Investigators have learned that from 2012 to the present, Fortress Real Capital has created syndicated mortgage investment opportunities for real estate development projects throughout Canada. To broker the syndicated mortgage investments Fortress Real Capital uses Building Development and Mortgages Canada ("BDMC") [formerly Centro] and three additional brokerage firms, FDS Brokers Services Inc, FMP Mortgage Investments Inc. and FFM Capital Inc. (Collectively "Fortress Brokers").
24. Vincenzo PETROZZA ("PETROZZA") is the sole director of Fortress Real Capital and also the Director, Secretary and Vice President of Fortress Real Developments. Jawad RATHORE ("RATHORE") is the President of Fortress Real Developments. Ildina GALATI ("GALATI") is the President and Director of BDMC. All three companies are located in the same building in Richmond Hill, Ontario.
25. From 2012 to 2017, Fortress Real Capital, BDMC and the Fortress Brokers advertised the syndicated mortgages to the general public through a wide range of media outlets; including the internet, media distribution services and weekly seminars. These advertisements and seminars promise high returns through RRSP eligible investments, with investment principal being fully secured against the subject property. Investigators have learned that these advertisements presented to investors contain both false and misleading information.
26. In 2012, **Investor 1** and **Investor 2** were two of 310 individuals, who invested a total of \$16,897,682.55 in a Fortress Real Capital syndicated mortgage for a real estate development project in Barrie, Ontario ("the Collier Centre"). Both **Investor 1** and **Investor 2** each invested over \$25,000.00 from their respective RRSP's accounts into the Collier Centre.
27. **Investor 1** and **Investor 2** both relied upon false and misleading promotional material and other representations made to them by Fortress Real Capital and Centro, regarding their investment in the Collier Centre syndicated mortgage. Specifically;

30. In April of 2018 a former employee of FMP Mortgage Investments who sold Fortress Syndicated Mortgages for the past five years, came forward and spoke to investigators. He confirmed that none of the brokers at his office were aware that Fortress Real Capital retained 35% of the investors' money up front.
31. In May of 2015, **Investor 4** invested \$100,000 in a Fortress Real Capital Syndicated Mortgage development project called Crates Landing [*now called The South Shore*], located in Keswick Ontario. **Investor 4** investment was facilitated by Lulu KWOK of FDS Broker Services Inc. **Investor 4** received a Letter of Opinion dated in November 2014, that was presented to her in May of 2015, that valued the property appraised "as is" at \$22.6 million based on the "extraordinary assumption" that Phase 2. (a secondary development of the project) receives the various regulatory approvals and that the entire project is completed. Based on the Ontario land registry record, the property was transferred to the developer in December of 2009 for the consideration amount of \$4.8 million.
32. Investigators believe that the key aspects of this Fraud occurred from 2012 to 2017 and are as follows:
- Syndicated Mortgage Investors were presented with inflated "as is" property values securing their syndicated mortgage investment.
 - Loan to property value ratios that are in excess of 100%.
 - Promotion of the Syndicated Mortgage as RRSP eligible, when the investments that investigators have examined are not RRSP eligible and could be subject to adverse taxation by the Canadian Revenue Agency.
 - Investment funds being used for purposes other than what was disclosed to investors. A portion of the investor funds are not directed to the development project and instead are retained by Fortress Real Capital Inc. at the time of placement of the loan.
33. As a result of the inflated current as is land valuations, investigators believe that there are currently millions of investors dollars, including retirement savings, where the amount of mortgages on the property exceed the current value of the property. This is contrary to what was told to investors. This has created a risk of detriment to the financial and real estate markets.
34. This investigation is now at the stage where investigators are seeking to search for and seize/copy documents and data that will afford additional evidence of the named offence from locations that have been identified where business activities related to Fortress syndicated mortgages have occurred. On Friday April 13, 2018, investigators plan to execute the proposed search warrants (if judicially authorized) during the same general time frame in order to prevent any involved persons from alerting each other and likely discarding, concealing, moving and/or destroying valuable evidence in relation to the named offence.

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Analyst(s) and an Affiant as well as other ancillary peace officers and other civilian members. Over the next several paragraphs I have documented their experience.

Team Commander

48. S/SGT. Jeff FRANCIS is a peace officer and has been a member of the RCMP since 1996. He has gained experience in uniform patrol, criminal investigations, source development and organized crime units. He is presently assigned to the Integrated Market Enforcement Unit in Toronto. He has conducted numerous Criminal Code investigations of large scale during his career. S/SGT. FRANCIS has been involved in project ODYNASTY since February 5 of 2018. He is the Team Commander and has reviewed the contents of this affidavit and believes them to be true and accurate.

Primary Investigator

49. Sgt. Dominic MILOTTE is a peace officer and has been a member of the RCMP since 2001. He began his career performing general duty investigations, before transferring to the Integrated Market Enforcement Unit in Montreal in 2013, where he was involved in large scale Fraud and Market Manipulation investigations. He is presently assigned to the Integrated Market Enforcement Unit in Toronto. He has conducted numerous large scale Fraud investigations. SGT. MILOTTE has been involved in project ODYNASTY since its inception on October 16, 2016. He is the Primary Investigator [*also known as the lead investigator*] and has reviewed the contents of this affidavit and believes them to be true and accurate.

Intelligence Analysts

50. RCMP Civilian Member Alexandra BURCHESIN ("C/M BURCHESIN") has been a civilian member of the RCMP since 2014. She is one of two analysts with respect to this investigation. She has completed basic and advanced analytical training for the RCMP, as well as the Canadian Securities Course and various finance and economics university-level courses. She has been assigned to the Criminal Intelligence Branch of the RCMP since August of 2014 and project ODYNASTY since October of 2016. Her duties related to this investigation include analysis and creation of analytical association charts, intelligence profiles based on her own investigative work and information supplied by investigators.
51. RCMP Civilian Member David SLOVER ("C/M SLOVER") has been a civilian member of the RCMP since 2009. He is one of two analysts with respect to this investigation. He has completed basic and advanced analytical training for the RCMP, as well as a variety of Financial Crime and open source investigational courses. He has been assigned to the Criminal Intelligence Branch of the RCMP since October of 2015 and project ODYNASTY since January of 2018. His duties related to this investigation include analysis and creation of analytical association charts, intelligence profiles based on his own investigative work and information supplied by investigators.

- e. Investors are also provided with an inflated current value for the real estate investment. Investors are not told of the true (lower) value of the property that their investment is secured against.
- f. The investments are sold as eligible for RRSP and Tax Free Savings Accounts ("TFSA"), presenting investments as safe and secure for retirement and savings.

54. On December 13, 2016, Inspector Ann KOENIG¹² obtained from the Ontario Securities Commission ("OSC"¹³) details of 15 additional complaints received at the OSC Contact Centre¹⁴ in regard to Fortress Real Capital and/or Fortress Real Developments. I have read a summary of the complaints received by the OSC written by Sgt. MILOTTE, from this I learned the following:

- a. Nine complainants invested directly in Fortress Real Capital/Fortress Real Developments and are concerned about their investment.
- b. Three complainants were looking into investing but decided against it after conducting additional due diligence and now wanted to report/speak to somebody at the OSC.
- c. Three complainants are concerned about promotional material offered through Fortress Real Capital/Fortress Real Developments and wanted to report/speak to somebody at the OSC¹⁵.

55. On June 8, 2017, Sgt. MILOTTE obtained from the OSC three new complaints that were filed with the OSC since the last disclosure received by investigators in December of 2016. I have read a summary of the new complaints received by the OSC written by Sgt. MILOTTE, and from this I learned the following:

- a. A complaint was received from lawyer Kevin SHERKIN, ("SHERKIN") who requested that the OSC look into the improper actions of PETROZZA and other Fortress project entities. SHERKIN's complaint also consisted of a statement of claim and related documents that claimed, among other things, that his client invested in Fortress companies who took out fees and charges without proper disclosure.
- b. Two additional complainants, [names redacted] who invested funds with Fortress are concerned about their investment.

Overview of Companies Under Investigation.

Fortress Real Capital.

¹² Inspector KOENIG is a RCMP officer and at the time was the Officer in Charge of Toronto IMET.

¹³ Ontario Securities Commission is a regulatory body that administers and enforces compliance with provisions of the Securities Act and the Commodity Futures Act. The OSC does not regulate syndicated mortgages, the agency responsible for regulating syndicated mortgages is FSCO.

¹⁴ OSC Contact Centre receives complaints or concerns from the public, regarding companies, investment products or the conduct of a financial advisor(s). Source: www.osc.gov.on.ca/en/contactus_index.htm

¹⁵ Investigators have interviewed one of the OSC complainants [Investor 3]. His interview has been documented in this affidavit. Investigators are in the process of reaching out to the remaining complainants.

- ii. "There is no investment information on this website. If you are looking for information on funding Fortress projects please visit Building and Development Mortgages Canada".
- iii. "Fortress Real Developments Inc. is currently involved in over 50 real estate development projects."
- iv. "Fortress has been involved in over 70 projects, including rental apartments, high-rise condominiums, hotel, office space, big box retail, residential conversions, estate lot single-detached communities, stacked townhouses, ground-floor retail and more."
- v. "We have partnered with over 25 builders and developers in British Columbia, Alberta, Saskatchewan, Manitoba and Ontario. Our current portfolio includes over 10,000 units, with an estimated land value of over \$1 Billion and a built-out value exceeding \$6 billion."
- vi. Physical Address of 25 Brodie Drive, Unit 1 Richmond Hill. Ontario, Phone number 905-787-9266.

Building and Development Mortgages Canada Inc. [Originally Incorporated as Centro Mortgage Inc.]

59. From Cst. CHENG's summary of The Economic Report, I learned the following:

- a. Building & Development Mortgages Canada Inc. ("BDMC")
 - i. BDMC was originally registered in Ontario on September 21, 2007 as Centro Mortgage Inc. ("Centro")
 - ii. In 2016, Centro changed its name to BDMC.
 - iii. BDMC's head office is registered as 25 Brodie Drive, Unit 8, Richmond Hill, Ontario.
 - iv. The President and sole Director of BDMC is GALATI of [REDACTED] Address (Galati)
 - v. According to Foreign Jurisdiction Information, Centro Mortgage Inc. mailing address is Unit #2, 25 Brodie Drive, Richmond Hill Ontario.

60. On January 13, 2017, C/M GIBB of the RCMP prepared a report detailing her findings of the website domain www.bdmc.ca. I have read GIBB's report and viewed screen captures, and from this I learned the following:

- a. BDMC is the mortgage brokerage that collects money for Fortress Real Developments.
- b. BDMC was formerly known as Centro and the website www.centromortgage.ca, redirects to the www.bdmc.ca site.
- c. The domain registration for www.centromortgage.ca is anonymous. It was previously registered to PETROZZA at 1-A 25 Brodie Drive, Richmond Hill, Ontario. BDMC has a listed phone number of 905-508-4828.
- d. A screen shot of www.bdmc.ca was also captured, which only allows the viewer to access the BDMC website after agreeing to the following terms: "I acknowledge that investment in Fortress projects is offered by Building and Development Mortgages Canada (BDMC) license 10102."

FFM Capital Inc. (Formerly Fortress Financial Management Inc.)

63. From Cst. CHENG's summary of The Economic Report, I learned the following:

- a. Fortress Financial Management Inc.;
 - i. Was incorporated in Ontario on September 20, 2012 with an address of 81 Zenway Blvd, Woodbridge, Ontario. Phone Numbers 905-643-6556 and 905-264-9997.
 - ii. On June 6, 2013, Fortress Financial Management Inc. changed its name to FFM Capital Inc. ("FFM Capital")
 - iii. FFM Capital lists Krish KOCHHAR of [REDACTED] Address (Kochhar) [REDACTED] Tony MAZZOLI of [REDACTED] Address (Mazzoli) [REDACTED] and Saul PERLOV of [REDACTED] Address (Perlov) [REDACTED] as Directors.

64. On January 18, 2017, C/M GIBB prepared a report detailing her findings of the website domain www.ffmcapital.com. I have read GIBB's report and from this, learned the following:

- a. FFM Capital offers syndicated mortgages that fund Fortress Real Developments building projects.
- b. FFM Capital's Team includes Fortress Real Developments and syndicated mortgages that fund Fortress Projects – BDMC.
- c. The FFM Website also describes itself as being proud to offer syndicated mortgages in Fortress Projects.

FMP Mortgage Investments Inc. (Fortress Mortgage Professionals)

65. From Cst. CHENG's summary of The Economic Report, I learned the following:

- a. FMP Mortgage Investments Inc. ("FMP Mortgage");
 - i. Was incorporated in the Province of Ontario on April 16, 2013 with an address of 930 The East Mall, Etobicoke, Ontario and phone number 647-367-9734.
 - ii. FMP Mortgage lists Tonino AMENDOLA as Director, Michael DARAMOLA as General Manager and Josh WILL as President.

66. On January 27, 2017, C/M GIBB prepared a report detailing her findings of the website domain www.fmpmortgages.com; I have read GIBB's report and from this, I learned the following:

- a. FMP Mortgage facilitates the lending of funds for residential, commercial and syndicate mortgages for the Fortress Real Developments/Fortress Real Capital projects.

Fortress Syndicated Mortgage Environment.

67. Based on the aforementioned and other information documented in this affidavit, I have created a visual representation of the Fortress Real Capital syndicated mortgage environment depicted in "Image A".

mortgage instruments. Not a fund not a pool – it is a collateral in your personal name, security with title."

- e. It also provides a step by step explanation of how the investment process works:
- i. Step 1: Investment Application – "After meeting with a licensed FDS syndicated mortgage Specialist an investor decides to participate in a syndicated mortgage";
 - ii. Step 2: - Mortgage Processed – "The investors money is lent to blue chip developers who partner with Fortress Real Developments to finance the project's soft cost, such as, building sales centres, marketing, fees, consultants fees, etc.";
 - iii. Step 3: Project Starts – "Once the project raise is complete, the project development can begin. Your investment dollars are put to work.";
 - iv. Step 4: Interest Paid - "Interest payments begin – 8% fixed Annual interest, paid monthly or quarterly, the length of the term and payment schedule are disclosed in the investment documents"
 - v. Step 5: Project Completed – "The project is completed. Typically, Fortress projects are servicing and development or development and construction."
 - vi. Step 6: Principal is returned – "Investors principal is returned, possibly with a deferred lender Fee, depending on the success of the project. Each project has a pre-determined Deferred Lender Fee rate."

Syndicated Mortgage Offering for The Collier Centre.

69. On November 25, 2016, **Investor I** provided to Sgt. MILOTTE, a copy of a project fact sheet for The Collier Centre ("The Fact Sheet"). The Fact Sheet was provided to **Investor I** before her investment in the Collier Centre and features details of the Fortress Real Capital syndicated mortgage offering. I have read a copy of The Fact Sheet and learned the following:

- a. It was presented by Fortress Real Capital and Centro.
- b. The Collier Centre was going to be built by MADY, as a mixed use mid-rise development in downtown Barrie, Ontario at 90 Collier Street & 55 Mulcaster Street, Barrie Ontario.
- c. The Collier Centre would contain a six storey commercial tower with 85,000 sq. ft. of office space and midrise residential condominiums.
- d. The Land Valuation for the development was in the amount of **\$21,890,090.00**.
- e. The Loan to Value Ratio was 85%.
- f. The 85% Loan to Value Ratio is based on \$1,651,392.00 First Chargè in favour of Aviva Insurance and \$16,923,077.00 3rd charge mortgage, on a Market Value of \$21,840,090.00¹⁸.
- g. Interest Payments at an 8% annual (interest only) payment from the borrower paid Monthly.
- h. "Funding and Interest Reserve – There is no interest reserve".

¹⁸ The 2nd rank mortgage was reserved for financing the construction costs of the development. This information was disclosed to investors prior to their investment.

- f. **Investor 1** understanding was that 100% of her investment would go to the project, any fees associated to the investment were paid by the borrower and not her as the lender.
- g. After her investment began, **Investor 1** began to receive her 8% monthly interest payments, as agreed to:
- h. At an unknown date, **Investor 1** started to receive notices from Olympia Trust²¹ about liens being placed on [The Collier Centre] property from various suppliers that were not being paid by the developer [MADY]. **Investor 1** called GREUX, who after checking with his Fortress representative, told her not to worry about it; this was a standard process if people do not get paid, they put a lien out. **Investor 1** then later heard the whole project [The Collier Centre] had gone "belly up" and entered receivership.
- i. **Investor 1** contacted FRANKLIN and obtained legal advice. At that time, **Investor 1** did not understand The Collier Centre situation. FRANKLIN looked into the matter and began to gather more information on **Investor 1** investment with Fortress Real Capital. The information received from FRANKLIN included; The value the land was originally purchased for. That **Investor 1** interest payments from her investment was being paid by money from her own principal.
- j. The term of **Investor 1** loan in the syndicated mortgage matured in 2015 and she was supposed to receive her principal investment amount back. Her loss is currently at \$80,000.00, plus any applicable taxes, if the investment is not RRSP eligible²². Lastly, **Investor 1** was not provided an appraisal of the property that her investment was secured against, nor was she ever provided the actual loan agreement between the lender [Fortress Real Capital et. al.] and the borrower [MADY], which, contained her investment money.

Investment by **Investor 2** in The Collier Centre syndicated mortgage.

71. On February 2, 2017, Sgt. MILOTTE and Cst. PARHAR interviewed **Investor 2** an investor in the syndicated mortgage for the Collier Centre. I have listened to a copy of the audio recording of the **Investor 2** interview and learned the following:
- a. In 2012, **Investor 2** brother presented her with an opportunity to invest her retirement savings, through a broker named Scott SMEATHERS ("SMEATHERS") of Double Infinity Financial Inc.
- b. **Investor 2** has no investment experience and does not to this day understand what a syndicated mortgage is.
- c. **Investor 2** began emailing SMEATHERS and was eventually attracted to an investment in Barrie [The Collier Centre] and in Toronto [Empire Pace]. Both had an 8% rate of return on a two year investment.

²¹ As I will document later in this Affidavit, Olympia Trust is a company that acts as a trustee for the lender's account. The lender and borrower set and agree to the interest rate and terms of the mortgage, with all payments made to the lender's account through Olympia Trust Company.

²² As I will document later in this Affidavit, in order for **Investor 1** investment to be 'RRSP eligible' and thus avoid adverse tax consequences, the loan to value ratio should be under 100%.