

BULLETIN



INSURANCE COUNCIL
of British Columbia

COUNCIL
DECISIONS

300 - 1040 W. GEORGIA STREET, P.O. BOX 7, VANCOUVER, B.C. V6E 4H1

NOVEMBER 2002

COUNCIL EXECUTIVE 2002 - 2003

At its June Annual General Meeting, Council elected Doreen Gregson, CLU, Ch.F.C., CFP (pictured) as its Chairperson for 2002/03. Harry Tubbs, CFP, CLU, Ch.F.C., RHU is Past-Chairperson and Giovanni Bitelli, CFP is Vice-Chairperson.

Doreen has 23 years' experience in life insurance and financial planning and is currently the Vice President, Insurance and Estate Planning Services, with Raymond James Financial Planning Ltd.

Doreen's election as Chair of Council is a continuation of her ongoing commitment to contributing back to the industry. Doreen has been actively involved in industry associations, including the Canadian Institute of Insurance and Financial Advisors, the Life Insurance Managers Association of Canada, and the Canadian Institute of Chartered Life Underwriters and Chartered Financial Consultants.

Giovanni is a life company representative. He first joined Council as a non-voting member and has served as a voting member for over a year.



Doreen Gregson
CHAIRPERSON

NEW GENERAL INSURANCE COMPANY REPRESENTATIVE APPOINTED TO COUNCIL

In August 2002, the Minister of Finance appointed a new general insurance company representative, David Brenner. David is Regional Director for British Columbia with RBC Travel Insurance Company. Prior to this appointment, David served as a non-voting member of Council. David has worked on the general insurance company side, specializing in travel insurance, for 15 years.

David replaces Jill Manual who served as a voting member for 6 years (maximum allowable term), during which time she served on the Council Executive. Jill's contributions to Council were significant and her efforts were appreciated.

NEW ADJUSTER REPRESENTATIVE APPOINTED TO COUNCIL

In August 2002, the Minister of Finance appointed a new adjuster representative, Garth Holfeld, to Council. Garth is a Manager and Partner with Coast Claims Services Ltd. and has served on Council as a non-voting member for many years. Garth brings over 30 years of adjusting experience to his position on Council.

Garth replaces Martin Clingwall who served as a voting council member for 6 years (maximum allowable term). Martin's contributions were invaluable to Council and greatly appreciated.

Unless otherwise qualified in this bulletin, read:

"Council" as Insurance Council of British Columbia

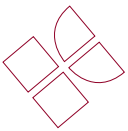
"Act" as *Financial Institutions Act*

"FICom" as Financial Institutions Commission

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For additional copies of the Bulletin, request document #61 from our Fax-on-Demand system.



LIFE LICENSING QUALIFICATION PROGRAM (“LLQP”)

Over the last four years Council has worked, in conjunction with other Canadian jurisdictions, to develop a new, one-step, educational program for obtaining a life insurance agent’s licence. The LLQP was completed in the Fall, 2000. After considerable consultation with the industry, Council announced on April 29, 2002 the implementation of the LLQP. As agreed to with the industry, the LLQP would be offered on a voluntary basis for 90 days, with the LLQP becoming mandatory on September 1, 2002. (Council’s Notice ICN#02-003)

Generally, Council has received a positive response to the introduction of the LLQP. Agents and brokers, as well as their associations, are expressing strong support for the LLQP and have recommended the LLQP be implemented as soon as possible. Council is aware that concerns with, and opposition to, the LLQP are coming from representatives of insurance companies, primarily the Canadian Life and Health Insurance Association and Primerica Life Insurance Company of Canada.

In early July 2002, in response to a request from the Minister of Finance, Council announced a delay in the mandatory implementation of the LLQP until January 1, 2003. (Council’s Notice ICN# 02-004) Since publication of this notice, there have been inquiries from the industry seeking further explanation as to why another extension to the mandatory implementation of the LLQP was made.

While Council was reluctant to delay mandatory implementation for an additional four months, it felt it appropriate to support the Minister’s request. Council believes the existing licensing requirements are inappropriate and it was these concerns that led Council to develop the LLQP. By delaying mandatory implementation until January 1, 2003, it may allow time to resolve the concerns of some insurance companies.

Council anticipates no further delays in the mandatory implementation of the LLQP. It recommends individuals who are just considering entering the industry give serious consideration to completing the LLQP over the existing educational requirements. Council is convinced the LLQP’s improved standards will provide individuals with better education, as well as a fair exam leading to entry into the life insurance industry.

Frequently Asked Questions regarding the LLQP can be found on page 5 of this Bulletin, and on Council’s Fax-on-Demand system, document number 84.

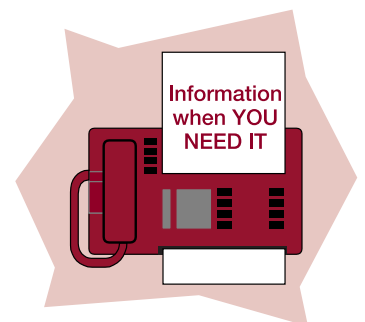
IMPORTANT INFORMATION FOR ALL LIFE INSURANCE AGENTS

With the continuing education requirement increased to 60 hours of qualified education effective April 1, 2002, Council will now accept up to a maximum of 60 qualified hours per course.

Please note that stand-alone business or professional reading does not qualify for continuing education credits.

FAX-ON-DEMAND

Keep an eye out for Fax-on-Demand document numbers. You can easily access these documents as well as application forms, licensing requirements and Notices whenever you need, by calling our main telephone number and following instructions. For a complete list of documents available, request Document number 1.





DUTY OF CARE

Council regularly receives complaints alleging licensees failed to act on a client's instructions or misrepresented an aspect of their insurance coverage. In many cases, it is difficult to establish what transpired between the licensee and the client because of a lack of documentation, file notes or correspondence. The purpose of this article is to remind insurance agents, adjusters and salespersons of the importance of documenting a client's instructions and maintaining good file notes of what was discussed and agreed to at the time of the transaction.

The following are relevant excerpts from Council's Code of Conduct for Insurance Agents, Salespersons and Adjusters.

Rule

When dealing with clients you must:

- **Protect clients' interests and privacy.**
- **Evaluate clients' needs.**
- **Disclose all material information.**
- **Act with integrity, competence and the utmost good faith.**

Disclosure

- What information is material and should be provided to a client depends on the circumstances of the transaction. You should disclose any information relevant to the client's insurance needs that a reasonable and prudent licensee would disclose in the same circumstances.
- Prior to conducting a transaction you must disclose any fees you charge in addition to the policy premium.
- You should disclose to the client any arrangements to place the client's insurance through another agent.
- You must fully inform clients about all aspects of the insurance products they purchase, including any changes that occur during the term of the policy.

- You must make full and fair disclosure of all material facts so as to enable clients to make informed decisions regarding their insurance.

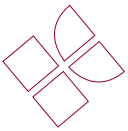
Duty of Care

- You have an obligation, before conducting a transaction, to conduct sufficient fact-finding and needs analysis to properly assess a client's circumstances, goals and needs.
- You have a responsibility to maintain proper records of clients' insurance matters and provide for the safekeeping and confidentiality of those records.
- You must maintain records and be able to account for all monies received from or on behalf of a client.
- Communications and instructions between you and a client should be properly documented to ensure mutual understanding and provide a record of the transaction.

Section 185 of the Act states:

A Licensee under this Division must keep proper records and books of account relating to the insurance business transacted by the licensee.

The various aspects of an insurance transaction often appear clear to both parties at the time of the transaction and making detailed file notes or confirming the client's instructions in writing may seem unnecessary. However, after the passage of time or in the event of an unforeseen situation arising, the client and licensee can have significantly different recollections of the same event. The only way to verify what was discussed, understood and agreed to at the time of the transaction is to properly document the file and confirm important particulars in writing. Where disputes or complaints arise, Council places the responsibility on the licensee to demonstrate the transaction occurred in accordance with the client's direction and understanding.



The following are examples where maintaining good file documentation is particularly important:

General Insurance Agents and Salespersons

- the client declines insurance coverage offered or recommended by the licensee such as a watercraft policy, rental income protection, additional third party liability, increased policy limits, jeweller's block, glass coverage, etc.;
- the client elects to purchase a less comprehensive product such as a broadform or named peril's policy;
- any time the client requests additions, deletions or changes to their insurance coverage or elects not to renew their policy;
- specific issues are discussed including perils or property insured, special limits of insurance, policy conditions, exclusions, warranties and the like; and,
- the policy premium is financed, policy fees are charged or the policy contains special terms and conditions including a co-insurance clause, minimum retained premium, etc.

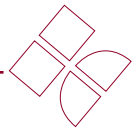
Life Insurance Agents

- the client declines insurance coverage offered or acts contrary to the licensee's recommendations;
- a needs analysis is conducted, policy illustrations are used and coverage options discussed with the client;

- there is discussion surrounding premium offset, limited premium payment schedules, policy guarantees and investment options;
- the client requests additions, deletions or changes to their insurance coverage for any reason;
- the policy is issued with unusual terms or conditions or other than as applied for, particularly if it impacts any projections or assumptions used during the initial discussions;
- there are difficulties arranging for policy delivery, the policy is mailed or the client requests you retain possession of their contract; and,
- policy fees are charged.

In addition to the duties articulated in Council's Code of Conduct and the Act, the Courts have also confirmed a licensee's duty to obtain and understand the client's instructions, determine the client's needs and requirements, provide appropriate counsel and advice, effectively market the client's risks, confirm coverage or the absence of coverage and service the client's ongoing needs. Licensees should maintain sufficient notes, documentation and correspondence to show that they have complied with the duties outlined in this article.

For more information or clarification, please contact Council's Compliance Department.



FREQUENTLY ASKED QUESTIONS LIFE LICENSING QUALIFICATION PROGRAM (“LLQP”)

After successfully completing the LLQP education course, how long do I have to write the exam?

You have up to one year from the completion date of the course to successfully pass the Council’s LLQP examination.

I wrote an examination similar to the one described by Council when I took the course. Does this mean I do not have to write Council’s LLQP examination?

No, you still have to write Council’s LLQP examination. Some course providers may design their course examination to be similar to Council’s in order to assist students with Council’s examination. Until you have successfully completed both the course and Council’s examination, you have not met the education requirements to hold a life insurance licence.

How much does it cost to write the LLQP examination?

The LLQP examination is written through Council’s office, after successful completion of the LLQP course. The cost to write any LLQP examination is \$75.00.

Is there an Accident & Sickness only version of the LLQP available?

Yes. Check with the course providers for information regarding an A&S only course. The examination is written through Council’s office at a cost of \$75.00.

How much does the LLQP course cost and how long is it?

Each course provider sets the cost of the course. So whether you are taking the full LLQP, the Restricted LLQP, or the A&S version of the course, you must check with the provider. If you are taking the Restricted (two-part) LLQP course, ensure you discuss both sections with the course provider to obtain accurate costing. How long the course is depends on a number of factors and you should contact the course provider for further information.

What mark do I need to pass?

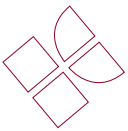
The pass mark has initially been set at 60% for all LLQP examinations.

How long are my marks valid for?

Marks are valid for a period of one year from the date of successful completion of the examination. If you do not hold a life licence at the end of one year, you will be required to requalify.

If I am not successful in passing the LLQP exam are there waiting periods before I can rewrite?

You may write a second examination at any time. After two unsuccessful attempts there is a one-month waiting period, and after three unsuccessful attempts there is a six-month waiting period. Examination waiting periods do not extend the validity period for the LLQP course.



If I am a level 1 agent and write the exam can I claim continuing education credits for successful completion of the LLQP?

Yes. Successful completion of the full course and examination will give you 60 hours of continuing education credits. Successful completion of the A&S course and examination will give you 20 hours of continuing education credits.

If I obtain a conditional level 2 licence by writing the first part (A) of the restricted LLQP, can I claim continuing education credits for successful completion of the second part (B) of the LLQP?

Yes. Successful completion of part B of the Restricted LLQP course and examination will give you 30 hours of continuing education.

If I am already licensed as a level 2 agent, and wish to take the full LLQP, can I claim continuing education credits for successful completion?

Yes. Successful completion of the full course and examination will provide you with 60 hours of continuing education credits.

After successful completion of the LLQP Part A, what type of restricted licence am I qualified for?

NOTE: The information provided may be subject to change if there is any change in the governing legislation.

Successful completion of the LLQP Part A qualifies you to obtain a conditional level 2 life insurance licence. The conditions that would be applicable to the licence are:

The Licensee must:

1. enroll in the LLQP Part B course within 180 days of the effective date of the licence; and,
2. successfully complete the LLQP Part B course and Council examination within two years of the effective date of the licence; and,
3. be under the direct supervision of a qualified level 2 life insurance agent approved by Council, until such time as the licensee successfully completes the licence condition described in number 2 above.

The supervisor must have been licensed as a level 2 life insurance agent for the last five years and be acceptable to Council. Applications for equivalency to the 5 years as a level 2 agent will be considered, however, it should be noted that lengthy licensing as a level 1 life insurance agent is not, of itself, considered equivalent.

What effect does the LLQP have on reactivating my level 1 life insurance agent's licence?

NOTE: The information provided may be subject to change if there is any change in the governing legislation.



If you do not hold an active level 1 life insurance licence on December 31, 2004, you will be required to successfully complete the full LLQP before a licence is granted.

***NOTE:** All other reinstatement or reapplication requirements apply, including the requirement to re-qualify every four years. Further information on the standard requirements and application forms are available on Fax-on-Demand.

If you apply to reactivate a terminated licence prior to December 31, 2004 then you will not be required to write the LLQP prior to applying for a level 1 licence*. Any licensed level 1 life insurance agent as of January 1, 2005, will not be permitted to conduct any further life insurance activity as of January 1, 2005, until he or she has successfully completed the full LLQP.

More Frequently Asked Questions regarding the LLQP are available on Council's Fax-on-Demand system, document number 84.

INSURANCE COUNCIL STAFF ACHIEVEMENTS

Council is pleased to announce that Kathy Lee, Compliance Coordinator, completed the Canadian Accredited Insurance Broker (CAIB) program in December, 2001.

In addition, Council is also pleased to announce that Scott Wallace, Manager, Compliance Department, has recently completed the Chartered Insurance Professional (CIP) program. Scott began employment with Council in August, 1992.

Congratulations to both Kathy and Scott for their hard work and commitment to improving their knowledge and understanding of the insurance industry.

AUDITORS' REPORT TO THE MEMBERS

We have audited the balance sheet of the Insurance Council of British Columbia as at May 31, 2002 and the statements of operations, changes in net assets and cash flows for the year then ended. These financial statements are the responsibility of the Council's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with Canadian generally accepted auditing standards. Those standards require that we plan and perform an audit to obtain reasonable assurance whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation.

In our opinion, these financial statements present fairly, in all material respects, the financial position of the Council as at May 31, 2002 and the results of its operations and its cash flows for the year then ended in accordance with Canadian generally accepted accounting principles. As required by the Financial Institutions Act of British Columbia, we report that, in our opinion, these principles have been applied on a basis consistent with that of the preceding year.

KPMG LLP



Chartered Accountants
Vancouver, Canada
June 28, 2002

Balance Sheets

May 31, 2002 and 2001



| | 2002 | 2001 |
|--|---------------------|---------------------|
| Assets | | |
| Current assets: | | |
| Cash | \$ 549,815 | \$ 442,034 |
| Short-term investments (note 3) | 1,466,245 | 1,152,789 |
| Accounts receivable | 14,592 | 13,061 |
| Inventory | 45,180 | 33,683 |
| Prepays | 18,624 | 11,845 |
| | <u>2,094,456</u> | <u>1,653,412</u> |
| Capital assets (note 4) | 288,051 | 377,307 |
| | <u>\$ 2,382,507</u> | <u>\$ 2,030,719</u> |
| Liabilities and Net Assets | | |
| Current liabilities: | | |
| Accounts payable and accrued liabilities | \$ 215,916 | \$ 223,927 |
| Pending application fees | 207,659 | 277,967 |
| Deferred revenue | 1,083,309 | 959,272 |
| | <u>1,506,884</u> | <u>1,461,166</u> |
| Net assets: | | |
| Invested in capital assets | 288,051 | 377,307 |
| Unrestricted operating surplus | 587,572 | 192,246 |
| | <u>875,623</u> | <u>569,553</u> |
| | <u>\$ 2,382,507</u> | <u>\$ 2,030,719</u> |

Lease commitment (note 6)

Contingency (note 7)

See accompanying notes to financial statements.

Approved on behalf of the Council:

 Member
 Member

Statements of Changes in Net Assets

Years ended May 31, 2002 and 2001

| | Invested in capital assets | Unrestricted operating surplus | 2002 Total | 2001 Total |
|--|-------------------------------|--------------------------------------|-------------------|-------------------|
| Balance, beginning of year | \$ 377,307 | \$ 192,246 | \$ 569,553 | \$ 324,538 |
| Excess (deficiency) of revenue over expenses | (138,630) | 444,700 | 306,070 | 245,015 |
| Purchase of capital assets | 49,374 | (49,374) | - | - |
| Balance, end of year | <u>\$ 288,051</u> | <u>\$ 587,572</u> | <u>\$ 875,623</u> | <u>\$ 569,553</u> |

See accompanying notes to financial statements.

Statements of Operations

Years ended May 31, 2002 and 2001

| | 2002 | 2001 |
|---|-------------------|-------------------|
| Revenue (schedule) | \$ 3,148,755 | \$ 2,963,791 |
| Operating expenses: | | |
| Advertising | 7,155 | 12,490 |
| Automobile and travel | 52,294 | 82,551 |
| Computer support - | - | 2,100 |
| Data processing | 9,255 | 7,632 |
| Equipment rentals and service | 11,412 | 13,640 |
| Exam room rental | 14,391 | 7,868 |
| Hearings | 27,222 | 23,001 |
| Insurance | 9,800 | 9,257 |
| Maintenance | 9,919 | 11,005 |
| Meetings | 158,487 | 186,033 |
| Office and miscellaneous | 50,133 | 37,426 |
| Postage and delivery | 84,738 | 88,040 |
| Proctor and marker fees | 23,347 | 23,245 |
| Professional fees | 332,699 | 220,431 |
| Rent | 260,134 | 274,724 |
| Salaries and benefits | 1,522,866 | 1,490,423 |
| Stationery, printing and supplies | 83,660 | 82,109 |
| Telephone | 27,894 | 32,151 |
| Training | 18,649 | 15,384 |
| | <u>2,704,055</u> | <u>2,619,510</u> |
| Excess of revenue over expenses before depreciation | 444,700 | 344,281 |
| Depreciation | (138,630) | (99,266) |
| Excess of revenue over expenses | <u>\$ 306,070</u> | <u>\$ 245,015</u> |

See accompanying notes to financial statements.

Statements of Cash Flows

Years ended May 31, 2002 and 2001

| | 2002 | 2001 |
|--|------------|------------|
| Operations: | | |
| Excess of revenue over expenses | \$ 306,070 | \$ 245,015 |
| Depreciation, an item not involving cash | 138,630 | 99,266 |
| Changes in non-cash operating working capital (note 5) | 25,911 | (146,748) |
| | 470,611 | 197,533 |
| Investment: | | |
| Increase in short-term investments | (313,456) | (59,814) |
| Purchase of capital assets | (49,374) | (106,272) |
| | (362,830) | (166,086) |
| Increase in cash | 107,781 | 31,447 |
| Cash, beginning of year | 442,034 | 410,587 |
| Cash, end of year | \$ 549,815 | \$ 442,034 |

See accompanying notes to financial statements.

Notes to Financial Statements

Years ended May 31, 2002 and 2001

1. Operations:

The Council is constituted under the Financial Institutions Act of British Columbia. The Council determines the qualification and suitability of applicants for licensing as insurance agents, insurance salesmen and insurance adjusters, administers examinations to such applicants, and issues the respective licences. In addition, the Council investigates complaints and determines any required disciplinary action.

As well as making fee assessments against licensees and insurers to fund its expenses, the Council collects fees prescribed under the Financial Institutions Act on behalf of the provincial government.

2. Significant accounting policies:

(a) Revenue recognition:

Licence fee revenue recorded upon issuance is recognized over the term of the licence. As licence fees cover a two-year term, one-half of the fee is recognized as revenue in the initial year with the balance deferred and recognized as revenue in the second year of the licence.

Receivables from licensees for Council fees billed but not collected prior to the year end are not recognized in the accounts, as renewal is at the discretion of the member.

(b) Inventory: Insurance manuals are valued at the lower of cost and estimated net realizable value.

(c) Capital assets:

| Asset | Basis | Rate |
|---------------------------|---------------|------------------------------|
| Furniture and equipment | Straight-line | 10 years |
| Computer hardware | Straight-line | 5 years |
| Computer software - SQL | Straight-line | 3 years |
| Computer software - other | Straight-line | 2 years |
| Leasehold improvements | Straight-line | Lease term expiring May 2002 |

(d) Pending application fees:

Pending application fees represent amounts collected for licence fees where the licence has not been issued prior to the year end.

(e) Use of estimates:

The preparation of financial statements in conformity with Canadian generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities at the date of the financial statements, and the reported amounts of revenue and expenses during the period. Actual results could differ from estimates used in the preparation of the financial statements.

Notes to Financial Statements

Years ended May 31, 2002 and 2001

3. Short-term investments:

Short-term investments, which are carried at invested principal plus interest earned to date, represent three-year term investments with eight Canadian life insurers, no one of which holds more than 15% of the total invested. The weighted average term to maturity is 635 days (2001 - 412 days). The weighted average effective interest rate is 4.737% (2001 - 5.276%).

4. Capital assets:

| | 2002 | | 2001 | |
|-------------------------|------------|--------------------------|----------------|----------------|
| | Cost | Accumulated depreciation | Net book value | Net book value |
| Furniture and equipment | \$ 240,705 | \$ 113,716 | \$ 126,989 | \$ 145,209 |
| Computer hardware | 169,390 | 122,957 | 46,433 | 47,212 |
| Computer software | 88,906 | 81,410 | 7,496 | - |
| Computer software - SQL | 160,700 | 53,567 | 107,133 | 160,700 |
| Leasehold improvements | 112,391 | 112,391 | - | 24,186 |
| | \$ 772,092 | \$ 484,041 | \$ 288,051 | \$ 377,307 |

5. Statement of cash flows information:

| | 2002 | 2001 |
|--|------------|--------------|
| Changes in non-cash operating working capital: | | |
| Accounts receivable | \$ (1,531) | \$ (8,936) |
| Inventory | (11,497) | 7,744 |
| Prepays | (6,779) | 2,579 |
| Accounts payable and accrued liabilities | (8,011) | (13,165) |
| Pending application fees | (70,308) | (64,694) |
| Deferred revenue | 124,037 | (70,276) |
| | \$ 25,911 | \$ (146,748) |

Notes to Financial Statements

Years ended May 31, 2002 and 2001

6. Lease commitment:

The Council has entered into an operating lease with respect to its office premises extending until May 2012, which requires the following annual rental payments, plus operating costs and property taxes:

| | |
|------------|------------|
| 2003 | \$ 117,000 |
| 2004 | 117,000 |
| 2005 | 117,000 |
| 2006 | 117,000 |
| 2007 | 119,000 |
| Thereafter | 684,000 |

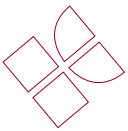
7. Contingency:

The Council has been advised of a possible claim by a licensee for costs and unquantified damages related to disciplinary proceedings against the licensee. Management believes the licensee's claim is without merit and, accordingly, no provision has been recorded in these financial statements in respect of this matter.

Schedules of Revenue

Years ended May 31, 2002 and 2001

| | 2002 | 2001 |
|--------------------------------------|--------------|--------------|
| Revenue: | | |
| Council fees - Licensees: | | |
| Agents - Life, Accident and Sickness | \$ 950,660 | \$ 911,160 |
| Agents - General / Vehicle | 919,130 | 890,298 |
| Salesmen - Travel | 281,880 | 304,397 |
| Non-resident endorsement | 23,325 | 29,700 |
| Adjusters | 49,405 | 49,425 |
| Transfers and other | 14,642 | 43,534 |
| | 2,239,042 | 2,228,514 |
| Council fees - Insurers | 239,400 | 236,700 |
| Examination fees: | | |
| Life | 411,620 | 337,755 |
| Other | 2,475 | 935 |
| Interest and other | 114,173 | 112,861 |
| Sale of insurance manuals, net | 142,045 | 47,026 |
| | \$ 3,148,755 | \$ 2,963,791 |



COUNCIL DECISIONS: GENERAL INSURANCE

CONTINUING EDUCATION AUDIT

Douglas Frank Butt
("Licensee")
Coquitlam, B.C.

(Level 3 General Insurance Nominee)

An audit of the Licensee's continuing education for his 2001 licence renewal revealed the Licensee had knowingly provided a false and misleading statement when applying for the renewal of his licence so as to hide the fact that he did not meet the continuing education licence condition. Council found he had obtained only 16 of the required 24 hours of qualified education for his 2001 renewal, and ordered that:

- the Licensee be fined \$1,000; and,
- the Licensee be required to obtain the 8 outstanding continuing education credits required for the 2001 renewal.

Failure to either pay the fine or obtain the outstanding education credits within the stated time period will result in the immediate suspension of his licence.

CONVICTIONS

Cynthia Ann Duxbury
("Former Licensee")
Gibsons, B.C.

(Former Level 1 General Insurance Salesperson)

On April 2, 2002, the Former Licensee pleaded guilty to a charge of theft over \$5,000, was sentenced to a 6 month suspended sentence, 2 years' probation, an order of restitution to her former employer, a 3 month curfew between the hours of 10:00 p.m. and 6:00 a.m., and 50 hours community service work. The Former Licensee was also ordered to send a letter of apology to her former employer.

Ian Stuart-Smith
(aka Ian Smith or Ian Stuart)
Newmarket, Ontario

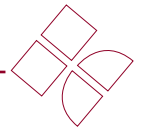
On June 13, 2002, Ian Stuart-Smith was convicted in the Saskatchewan Court of Queen's Bench of uttering a forged document contrary to section 368(1)(a) of the Criminal Code of Canada. In particular, knowing that a certificate of insurance was forged, Stuart-Smith caused a person to act upon it as if it were genuine. Stuart-Smith received a suspended sentence with the following conditions:

For the period of 2 years from June 13, 2002:

- keep the peace and be of good behavior;
- appear before the Court when required to do so by the Court;
- notify the probation officer (or Court) in advance of any change of the offender's name or address; and,
- promptly notify the probation officer (or Court) of any change of the offender's employment or occupation.

And in addition, Stuart-Smith shall:

- be prohibited from acting or holding himself out as an insurance agent, broker, general agent or wholesale insurance broker unless he holds such valid licence or licences as may be required in the jurisdiction in which he proposes to transact business. He is further prohibited from holding himself out as acting for any insurance company unless he has specific written authorization from such company to act on their behalf. For greater certainty, the above prohibitions apply to any corporation of which Ian Stuart-Smith is a directing mind;
- make restitution in the sum of \$770.41; and,
- pay a victim surcharge in the sum of \$100.



On January 6, 1999, Stuart-Smith and Heritage International Inc. were ordered by the British Columbia Superintendent of Financial Institutions to cease from either directly or indirectly carrying on insurance business in British Columbia. Council published the above-mentioned Order in a Notice to all licensed insurance agents in British Columbia on January 7, 1999, and advised that Stuart-Smith and Heritage International Inc. operated from an office in Ontario, purportedly offering markets for specialty coverages. The Superintendent's Order remains in effect.

Council takes this opportunity to remind all licensees of the importance of exercising proper diligence when dealing with intermediaries or other brokers to arrange insurance coverage. Council has twice published articles in its Bulletin dealing with this issue. Sub-brokered transactions have proven to be problematic as the producing and contracting brokers are often unclear on their respective duties to the insurer and the client. In some cases, the intermediary did not have access to the markets they purported to or did not place coverage as instructed. In any transaction where you are not able to place the insurance directly with an insurance company you are authorized to represent and must rely on another broker or intermediary, the likelihood of problems increases. Accordingly, you should exercise a correspondingly higher level of diligence in ensuring coverage is properly placed, including taking adequate steps to verify the insurance is in force as represented and following up for the policy within a reasonable period of time. The client should be informed of how the insurance is being brokered and kept apprised of any potential issues or problems with the coverage which may arise.

In June 1998, Council published a Notice setting out guidelines for sub-brokering general insurance and the respective duties of the producing and contracting brokers. If you currently sub-broker insurance or if you intend to enter into a sub-brokering arrangement in future, you should review Council's sub-brokering Notice which can be obtained through our Fax-on-Demand system, document number 66.

LICENCE CONDITIONS

Carl Eugene Rae ("Former Licensee") Kamloops, B.C.

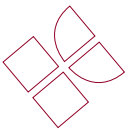
(Former Level 3 General Insurance Agent)

Council determined the Former Licensee, while licensed as a level 3 general insurance agent, failed to act in a competent manner and in accordance with the usual practice of the business of insurance, and ordered that:

- in the event the Former Licensee applies for a general insurance agent's licence in British Columbia, he be granted no higher than a level 2 licence, subject to the following conditions:
 - a) he must be under the direct supervision of a "named" nominee at the agency where he is licensed; and,
 - b) he be required to successfully complete an errors and omissions seminar offered through the Insurance Brokers Association of British Columbia or an equivalent course as determined by Council within 1 year from the reinstatement of his licence, and,
- he be assessed the costs of Council's investigation.

The Former Licensee did not:

- remit underwriting information to insurers in a timely manner;
- ensure that additional insurance coverage was endorsed on a client's commercial insurance policy as requested and that the policy was renewed prior to its expiry; and,
- ensure that a client's policy took effect immediately upon expiry of their previous coverage through a different agency.



MATERIAL MISSTATEMENTS

Coast Claims Service (Nanaimo) Ltd.

("Agency")

Nanaimo, B.C.

(Corporate Adjuster)

David Bedford Hart

("Nominee")

Nanaimo, B.C.

(Level 3 Adjuster Nominee)

Douglas Allan Damberger

("Licensee")

Nanaimo, B.C.

(Level 2 Adjuster)

Council determined the Agency, Nominee and Licensee each made a material misstatement on 2 licensing applications, and ordered that:

- the Agency be fined \$200 for each misstatement for a total of \$400;
- the Nominee be fined \$200 for each misstatement for a total of \$400;
- the Licensee be fined \$200 for each misstatement for a total of \$400; and
- the Agency be assessed the costs of Council's investigation.

Pending legal proceedings were not disclosed on licensing applications submitted by the Agency, Nominee and Licensee.

Council found the Agency, Nominee and Licensee knew, or ought to have known, had they exercised reasonable diligence, that the information provided on their application was not true.

Robert Bruce Tucker

("Licensee")

Burnaby, B.C.

(Level 1 Adjuster)

The Council determined the Licensee made a material misstatement on his application for an insurance licence, and ordered that:

- the Licensee be fined \$200; and,
- the Licensee be assessed the costs of Council's investigation.

The Council found that the Licensee knew, or ought to have known, had he exercised reasonable diligence, that the information provided on his application was not true.

COUNCIL DECISIONS: LIFE INSURANCE

LICENCE CONDITIONS

Jagmohan Bhandari

("Licensee")

Vancouver, B.C.

(Level 1 Life Insurance Agent)

Council determined the Licensee breached sections 177(a) and 231(1)(a)(c) and (e) of the Act by failing to act in a trustworthy, competent manner, in good faith and in accordance with the usual practice of the business of insurance; by making a material misstatement in reply to an inquiry from Council; and by failing to comply with the Insurance Contracts (Life Insurance Replacement) Regulation.

Specifically, the Licensee was found to have:

- failed to obtain an accurate statement from 7 applicants as to whether replacement was intended;
- failed to present and review with each applicant a completed Basic Disclosure Statement ("BDS");
- failed to forward a completed BDS for each applicant to the respective insurers;
- misstated the applicants' existing insurance on their insurance applications;
- improperly advised or assisted 3 clients to cancel their existing insurance prior to replacement insurance being issued;



- induced a client to replace an existing contract of life insurance that was detrimental to his interests; and,
- made a material misstatement in reply to an inquiry from Council.

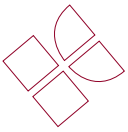
Council originally determined the Licensee to be unsuitable and made the following order, pursuant to section 238 of the Act, while the Licensee was given an opportunity to have a hearing before Council:

- as a condition of his licence, within 10 business days of the date of the Order, the Licensee is required to provide to Council the name of the level 2 life insurance agent who would directly supervise his insurance activities. The level 2 life insurance agent must meet the following criteria;
 - a) a level 2 life insurance agent with a minimum 5 years' experience as a level 2 life insurance agent;
 - b) the level 2 life insurance agent must be sponsored by the same insurer as the Licensee; and,
 - c) a condition would be attached to the level 2 insurance agent's licence making him/her accountable for the actions of the Licensee while under their supervision.
- as a condition of his licence, beginning 10 days after the date of the intended decision, the Licensee could not conduct insurance business except under the direct supervision of a level 2 life insurance agent who meets the criteria stated in condition above.

The Licensee did not meet the conditions ordered by Council and his licence was suspended effective August 26, 2001.

Given the length of time that the Licensee has been suspended and other factors, Council concluded it would not be contrary to the public interest to permit the Licensee an opportunity to become licensed, provided he obtains appropriate education and is properly supervised for a specified period of time. Council therefore made the following additional order:

- the Licensee be permitted to apply for a life insurance agent's licence;
- the Licensee pay the costs of the Council's investigation into this matter before receiving a life insurance licence; and,
- the following conditions will be attached to any life insurance licence issued to the Licensee:
 - (a) a named level 2 life insurance agent shall directly supervise his insurance activities for a period of 2 years. The named level 2 life insurance agent must meet the following criteria:
 - (i) a level 2 life insurance agent with a minimum 5 years' experience as a level 2 life insurance agent;
 - (ii) the level 2 life insurance agent must be sponsored by the same insurer as the Licensee; and,
 - (iii) a condition would be attached to the level 2 life insurance agent's licence making him/her accountable for the actions of the Licensee while under their supervision;
 - (b) the Licensee shall not conduct insurance business except under the direct supervision of the named level 2 life insurance agent who meets the criteria stated above for a period of 2 years;
 - (c) the Licensee shall enroll in and pass the Life Licensing Qualifying Program (LLQP) within 1 year of obtaining a life insurance agent's licence; and,
 - (d) failure to abide by or fulfill any of the above noted conditions will result in the immediate suspension of any life insurance agent's licence which is obtained by the Licensee.



MATERIAL MISSTATEMENTS

Troy Calvin Tunstall

("Licensee")

Vancouver, B.C.

(Level 1 Life Insurance Agent)

Council determined the Licensee made a material misstatement on his application for an insurance licence, and ordered that:

- the Licensee be fined \$200; and,
- the Licensee be assessed the costs of Council's investigation.

Council found the Licensee knew, or ought to have known, had he exercised reasonable diligence, that the information he provided on his application was not true.

SUSPENSIONS

Gwerfyl Richards

("Licensee")

Victoria, B.C.

(Life Agent Nominee 2)

Council determined the Licensee failed to act in a competent manner and in accordance with the usual practice of the business of insurance, and ordered that:

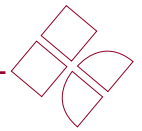
- the Licensee be suspended for 2 months;
- as a condition of his licence, the Licensee must successfully complete the Personal Financial Planning course under the Canadian Association of Insurance and Financial Advisors' ("CAIFA") Certified Financial Planner program, no later than December 31, 2002;
- as a condition of his licence, the Licensee must successfully complete the Wealth Accumulation course under CAIFA's Certified Financial Planner program, no later than December 31, 2003;

- as a condition of his licence, the Licensee must be supervised by an insurance agent who has been licensed as a level 2 life agent for the last 5 consecutive years, until he has successfully completed the aforementioned courses; and,
- the Licensee be assessed the costs of Council's investigation.

Council found that the Licensee sold a universal life insurance policy to a client that was inappropriate given her stated objectives and circumstances and that a reasonable, prudent and competent agent would not have recommended the policy.

Council reached this conclusion based on the following findings:

- the Licensee failed to conduct an adequate needs analysis and did not demonstrate sufficient knowledge about universal life insurance products sold within sophisticated leveraged investment plans, such as the Leveraged Deferred Compensation Plan;
- the Licensee sold the \$550,000 universal life policy to the client to provide a tax shelter for a death benefit payment she had received but was unable to demonstrate that the client had a need for sophisticated tax sheltering;
- the face amount of insurance coverage was increased to \$550,000 to keep the annual premium deposits of \$10,000 a year over a 10 year period tax exempt, even though the likelihood of the client making all of the proposed premium deposits was remote; and,
- the Licensee did not discuss any investment options with the client other than the universal life insurance policy and did not show her any policy funding illustrations other than the proposed annual premium deposits of \$10,000 over a 10 year period. Ultimately, the Licensee recommended a product to the client to fulfill an objective it was never intended to meet.



Council also found the Licensee did not accurately disclose to the client the income tax implications of arranging segregated funds “in trust” for her children. The segregated fund contracts were sold on the premise of transferring tax liability resulting from investment gains to the children. However, the client subsequently learned that investment gains generated by the fund, specifically interest income and dividends, were attributable back to her and would result in tax liabilities.

While the client’s income tax resulting from the fund investment gains was minimal, insurance agents must refrain from giving advice in areas beyond their expertise and are accountable for the accuracy of information they provide.

SUSPENSION

Randall Stephen Kerr “Licensee” Comox, B.C.

(Life Agent Nominee Level 2)

Council determined that the Licensee failed to act in accordance with the usual practice of the business of insurance, and ordered that:

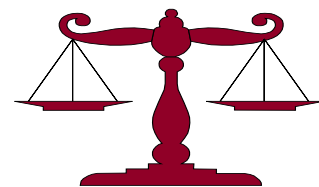
- the Licensee be suspended for 2 weeks, and,
- the Licensee pay the costs of Council’s investigation.

Council found the Licensee failed to fully assess his clients’ needs and objectives and failed to fully advise them of the significant changes to their insurance plan resulting from a rating.

Council reached this conclusion based on the following findings:

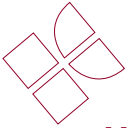
- the Licensee proposed a joint last-to-die universal life insurance plan with a face value of \$200,000, to the clients. The premium was set at an annual rate of \$8,400 and was projected to be fully funded in 6 years, with an assumed growth rate of 9%, based on standard issue;

- the clients wished to limit their total premium outlay to \$50,000;
- due to medical considerations, the insurer declined on one client’s life and offered a rated-up joint last-to-die policy on the other. The policy was issued March 5, 1997;
- the Licensee advised the clients that their policy had been medically rated, and that the face value had been reduced, but failed to advise them of the marked difference in the projected performance of the new policy;
- the Licensee did not meet with the clients to fully explain the ramifications of the rating, as they were out of town;
- the Licensee mailed the policy to the clients but did not fully explain, in his cover letter, the consequences of the rating on the insurance contract, including the fact that it was no longer projected to offset in 6 years; and,
- the Licensee did not conduct a needs analysis to establish the clients’ need for insurance or their ability to pay.



CAUTION

Warning: The use of any information in this Bulletin to discredit another licensee, or any other person, is not permitted and may result in disciplinary action against a licensee using the information in such a manner.



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When you are finished reading this issue, put it up on your office notice board or circulate it among your office colleagues.

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