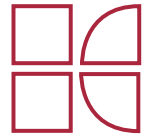


BULLETIN



The *INSURANCE COUNCIL*
of *British Columbia*

300 - 1040 W. GEORGIA STREET, P.O. BOX 7, VANCOUVER, B.C. V6E 4H1 **OCTOBER 2001**

Council Executive 2001 - 2002

At its June Annual General Meeting, Council elected Harry Tubbs, CFP, CLU, Ch.F.C., RHU (pictured) as its Chairperson for the coming year. Lynda MacKenzie, FIIC is Past-Chairperson and Doreen Gregson, CLU, Ch.F.C., CFP is Vice-Chairperson.

Harry entered the life insurance industry as an agent in 1984 and the mutual funds industry in December 1985. He took on a management position in October 1986 and subsequently held Sales Manager, Branch Manager, Training Manager, and Director of Training and Development positions. Harry is a former president of the local chapter of the Canadian Association of Insurance and Financial Advisors. He first joined Council as a non-voting member in 1992.

Lynda is the General Manager of Barton Black & Robertson Insurance and Thompson General Insurance. Doreen is a licensed life insurance agent, specializing as an Estate Planning Advisor with Raymond James Financial Planning Ltd.



Harry Tubbs, Chairperson

New Voting Members Appointed

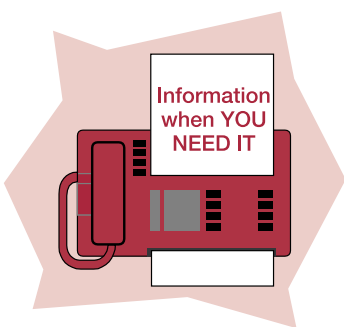
In June 2001, three voting Council members completed their six-year term on Council. These were Harry Geddes, AIC, CCIP with Barton Insurance Brokers Ltd., Jill Manuel, CIP, Branch Manager with ING Wellington Insurance

Company, and Kevin McLaughlin, CLU, an independent life insurance agent and financial planner. Harry, Jill, and Kevin all served as Chairpersons and were invaluable members of Council. Their efforts and contributions are appreciated and it was a pleasure being able to work with and learn from them.

Council was able to identify excellent candidates to replace the out-going members. These are Giovanni Bitelli, CFP, as a life insurance company representative; JoAnne Chase, CIP, with Stewarts Insurance Services Ltd. and Gloria Vannan, FCIP, with Baker, Russell & Ledgerwood Ltd., both as general insurance agent representatives. Giovanni, JoAnne and Gloria became Council members after serving as non-voting members. All three have been active in Council and represent a great addition to Council.

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 #1.



Unless otherwise qualified in this bulletin, read:

"Council" as Insurance Council of British Columbia

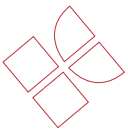
"Act" as *Financial Institutions Act*

"FICom" as Financial Institutions Commission

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



Disclosure of Service Fees

There are a couple of issues that have come up recently that may be of interest to brokers. The first involves the charging of service fees in addition to an insurance premium. In the past three months, Council has heard five different complaints from consumers regarding the payment of service fees. It is common practice within the industry to charge a service fee to a client, either instead of collecting a commission or in addition to receiving a commission from an insurer. It is acceptable to charge and collect such a fee.

However, when a service fee is charged, it is necessary to disclose, in writing, the amount of such a fee and the fee must be shown separately from the insurance premium. The disclosure of a service fee must be made in such a manner that will leave no doubt in a client's mind that a fee, in addition to the insurance premium, is being charged. All invoices and other relevant documents provided to a client must clearly distinguish between the insurance premium and any service fees.

In most of the complaints received by Council, the issue involved the client being invoiced a single dollar amount that included both the insurance premium and the service fee. This practice is unacceptable. Where a service fee is being charged, the invoice must clearly identify the service fee as a separate charge from that of the insurance premium.

It is also recommended that disclosure of a service fee should be made to the client as soon as possible, and definitely before the insurance transaction is complete, to avoid any confusion or problems later. Council recommends that nominees ensure their licensed staff and accounting departments are aware of these requirements and establish procedures to govern this practice, if some are not already in place.

Coming Soon!

New Renewal Application Forms

New renewal application forms will be ready for use in approximately 2 months. At that time you will notice that the forms will be specific to your class of licence and will be easier to complete.

Sub-broking Practice Guidelines

Sub-broking refers to a situation where an agent or broker, when unable to effect insurance coverage for a client, arranges to have the client's insurance placed through another agent's or broker's market. When insurance markets harden and specialized coverages become more difficult to place, particularly for smaller agents or brokers, the incidents of sub-broking increase. When this occurs, Council tends to see a corresponding increase in the number of complaints related to this issue. Sub-brokered transactions have proven to be problematic in many instances as the producing and contracting brokers are often unclear on their respective duties to the insurer and the client. In many cases, this has led to clients being placed at risk.

In June 1998, Council published a Notice setting out proposed guidelines governing the practice of sub-broking 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-broking arrangement in future, we recommend you review Council's Sub-broking Notice which can be easily obtained through our Fax-on-Demand system (document #66). If you have any questions relating to the Notice or sub-broking in general, please feel free to contact the Compliance Department.

IMPORTANT REMINDER FOR ALL LIFE AGENTS

Increase in your Continuing Education Requirement

- If your licence renewal is due on or after April 1, 2002, you **MUST** have 60 hours of qualified education for Council to consider your application.
- Please note that stand-alone business or professional reading does **NOT** qualify for continuing education credits.

For more information, request document #74 from our Fax-on-Demand system.



Council Decisions: General Insurance

LICENCE CONDITIONS

Gregory Bruce Knox ("Applicant") Langley, B.C.

(Level 3 General Insurance Agent Applicant)

Council granted the Applicant a conditional Level 2 general insurance agent's licence after determining he had failed to act in good faith, in a trustworthy manner and in accordance with the usual practice of the business of insurance while licensed as a Level 3 general insurance agent. In reaching its disposition, Council considered that the Applicant had been unlicensed for a period of one year while his conduct as a Level 3 agent was investigated.

The following conditions were imposed on the Applicant's Level 2 licence:

- the nominee of the agency employing the Applicant must be named on his licence as the person responsible and accountable for all of his insurance activities;
- the Applicant is prohibited from negotiating commissions or fees with any clients; and,
- the Applicant is assessed Council's investigative costs.

As part of the first condition, the nominee that agrees to be named on the Applicant's licence will also have a condition placed on their licence stating that they accept responsibility for the insurance activities of the Applicant and may be subject to disciplinary action for any wrongdoing by the Applicant.

This matter arose out of the following circumstances:

- While licensed as a Level 3 agent, the Applicant agreed to place insurance for a client on a "net" basis, charging a fee for service rather than receiving a commission from the insurer.

- However, after placing the policy, the Applicant learned that the insurer had paid a commission, contrary to his agreement with the client. The Applicant did not correct this discrepancy and subsequently renewed or procured four additional policies for the client knowing he would receive both commissions and fees contrary to the aforementioned agreement.

MATERIAL MISSTATEMENTS

Dolores Dusseault ("Licensee") Nanaimo, B.C.

(Level 1 Restricted Travel Agent)

Council took the following action after determining the Licensee made a material misstatement on her application for a restricted travel insurance agent's licence.

- the Licensee is fined \$200; and,
- the Licensee must pay the costs of Council's investigation.

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

Adam Van Staveren ("Licensee") White Rock, B.C.

(Level 1 General Insurance Salesperson)

Council took the following action after determining the Licensee made a material misstatement on his application for an insurance licence:

- the Licensee is fined \$200; and,
- the Licensee is assessed Council's investigative costs.

Council found that 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

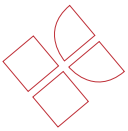
Peter Gordon Lindsay ("Licensee"), Langley, B.C. *(Level 2 General Insurance Agent)*

Council took the following disciplinary action after determining the Licensee failed to act in good faith, in a trustworthy manner and in accordance with the usual practice of the business of insurance:

- the Licensee is suspended for one week;
- as a condition of the Licensee's licence, his insurance activities will be under the close supervision of his current employer. As part of the supervision, the nominee will immediately report to Council any concerns arising from the Licensee's employment or medical condition affecting his ability and judgment to properly execute his duties as an insurance agent;
- as a condition of the Licensee's licence, he must disclose to any future employers his actions that led to this investigation and they must agree to the supervision condition set out above; and,
- the Licensee is assessed Council's investigation costs.

This matter arose out of the following circumstances: The Licensee improperly prepared and signed a false certificate of insurance for his brother-in-law, who required evidence of insurance coverage to meet a deadline to qualify as an exhibitor at the Calgary Stampede. Council reviewed the evidence obtained in this matter and found that:

- based on medical evidence provided by the Licensee's physician, the Licensee's memory at the time of this incident was unreliable because



the Licensee had been taking extensive medication to treat a number of medical conditions and the effects of this medication may have impacted his memory and judgment at the time;

- the Licensee’s motivation in preparing the certificate was to expedite evidence of insurance to assist the brother-in-law in meeting the deadline and to avoid the embarrassment of his having to tell his brother-in-law about the loss of his job at the agency where the coverage had been handled and of the personal and financial issues he was experiencing; and,
- there was no effort to personally benefit from this transaction, as the Licensee sent the premium cheque he received from his brother-in-law to the agency for handling.

REPRIMANDS

Sukwinder Singh Jammu (“Licensee”), Surrey, B.C.

(Level 1 General Insurance Salesperson)

Council took the following action after determining the Licensee failed to act in a trustworthy manner, in good faith and in accordance with the usual practice of the business of insurance:

- the Licensee is reprimanded;
- as a condition of the Licensee’s licence, he must remain as a Level 1 general insurance salesperson until August 2, 2002;
- as a condition of the Licensee’s licence, he is required to disclose to any future employer the licence condition set out above until such time as he is a Level 2 general insurance agent; and,
- the Licensee is assessed Council’s investigation costs.

This matter arose out of the following circumstances:

- the Licensee prepared and attempted to use notes in an effort to cheat on his CAIB III exam.

Sadrudin Merali (“Licensee”) North Vancouver, B.C.

(Level 2 General Insurance Agent)

Council took the following action after determining the Licensee failed to act in accordance with the usual practice of the business of insurance:

- the Licensee is reprimanded; and,
- the Licensee is assessed the costs of Council’s investigation.

This matter arose out of the following circumstances:

- The Licensee failed to make proper disclosure to a client that she would be charged a policy fee in addition to the premium.
- In consideration of this matter Council found that there was no evidence of bad faith and that the situation arose as a consequence of inadequate communication with the client.

Michael Douglas Ring (“Ring”) Chilliwack, B.C.

(Level 2 General Insurance Agent)

Marnie Joan Connolly (“Connolly”), Chilliwack, B.C.

(Level 1 General Insurance Salesperson)

Mainland Agencies Ltd. (“Agency”), Chilliwack, B.C.

(Corporate General Agent)

Council took the following action after determining that Ring, Connolly and the Agency acted contrary to the *Financial Institutions Act* (the “Act”).

- Ring, Connolly and the Agency each receive a reprimand;
- Ring and Connolly must, as a condition of their licences, successfully complete the first available Errors and Omissions seminar offered by the Insurance Brokers Association of B.C.;

- the Agency must, as a condition of its licence, submit to random audits by Council during the next eighteen months; and,
- the Agency is assessed Council’s investigative costs.

This matter arose out of the following circumstances:

- In several insurance transactions, Ring did not adequately disclose policy fees he had charged to clients. Although he had verbally advised his clients that their insurance premium included a policy fee and had provided invoices to clients reflecting the aggregate cost of their insurance, the exact amount of the fee was never disclosed. Ultimately, Council found that Ring did not intend to mislead his clients, however, an agent acting in a competent manner and in accordance with the usual practice of the business of insurance would have disclosed the exact amount of the policy fee prior to the transaction.
- In another matter, Connolly altered the premium shown on a client’s policy declaration page to reflect a policy fee which had been charged to the client. While it was Connolly’s intention to correlate the premium on the declaration page with the amount invoiced to the client and not to mislead the client, it is fundamentally improper to unilaterally alter a policy document. Accordingly, Council found that Connolly failed to act in a competent manner and in accordance with the usual practice of the business of insurance.
- Finally, an agency is ultimately responsible for all its insurance practice and the insurance business conduct of all agency employees. An agency owes a duty to clients and the insurers



to conduct its general insurance business and transactions in accordance with the usual practice. Where an insurance transaction is not properly completed or there is otherwise a breach of the usual practice, it is not sufficient for the agency to lay the responsibility at the feet of a particular employee. Accordingly, by failing to ensure that activities such as described above do not occur and by not preventing them, the Agency failed to act in accordance with the usual practice of the business of insurance.

False or Misleading Advertising

Council's Code of conduct for Insurance Agents, Salespersons and Adjusters states that licensees must honestly represent themselves and the products and services they provide so as not to mislead the public.

Recently, Council has seen a rise in the number of complaints arising out of poorly written advertisements and promotional material. In many cases, Council determined the advertisements in question were false or misleading, when read without qualification.

Council has seen statements used such as "creditor proof". While this may be true in some circumstances, it is not true in all cases and is misleading without appropriate qualification. Another common statement is advertising life insurance values as "tax free". This

Equivalency Requests

Council regularly receives requests from applicants for a review of their education and experience qualifications ("equivalency requests"), to determine whether their background can be considered equivalent to the prescribed licensing requirements under the Insurance Licensing Regulation. To assist applicants, we have outlined the process for making an equivalency request.

In making an equivalency request, Council requires a completed licence application in the prescribed form and a written submission outlining the basis for the equivalency review. The submission should include details regarding related educational qualifications, including course content, dates taken, and whether

successful completion was obtained. Copies of certificates confirming successful completion of courses will also be required.

Details regarding related work experience are also to be provided. While a completed resumé is beneficial, the submission must include specific details of the related duties performed and percentage of time spent on those duties.

An equivalency review may be requested in advance of an application being made, however, a final decision is subject to receipt of a completed application. Requests associated with a completed application are given priority over those that do not form part of a licence application.

MISSION STATEMENT

We serve and protect the public by regulating insurance licensees under the *Financial Institutions Act* and by promoting ethical conduct, integrity and competence.

is only true under certain conditions, and, on its own, may lead a consumer to believe it is true under any circumstance.

Marketing materials should clearly disclose that you are soliciting insurance and financial products. They should include your name and state that you are a licensed life insurance agent.

You should avoid describing yourself as a Financial Planner, Financial Advisor or similar title unless you have sufficient formal training to support such a title. Council is currently developing a policy on this issue and has recently sent a Notice to all life insurance licensees for comment. (You can get a copy of this Notice from our Fax-on-Demand system, document #78.)

Advertisements should contain sufficiently complete information so that an average consumer will not be misled. You should refer to premiums as premiums, cash value as cash value, and a policy as a policy. Do not minimize insurance features such as the death benefit, which is the primary feature of a policy, to emphasize features that are incidental or of secondary importance.

Be certain that all information is completely accurate. Most insurers have compliance departments that can review proposed advertisements and identify possible issues of concern. In addition, many insurers have pre-designed marketing materials that a licensee need only personalize to use.

FINANCIAL STATEMENTS OF THE INSURANCE COUNCIL OF BRITISH COLUMBIA

Year ended May 31, 2001

AUDITORS' REPORT TO THE MEMBERS

We have audited the balance sheet of the Insurance Council of British Columbia as at May 31, 2001 and the statements of revenue and expenses, 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, 2001 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.

Chartered Accountants



Vancouver, Canada

July 4, 2001

BALANCE SHEETS		
Year ended May 31, 2001, with comparative figures for 2000		
	2001	2000
Assets		
Current assets:		
Cash	\$442,034	\$410,687
Short-term investments (note 3)	1,182,789	1,882,876
Accounts receivable	13,081	4,126
Inventory	33,883	41,427
Prepaid	11,846	14,424
	<u>1,883,412</u>	<u>1,853,538</u>
Capital assets (note 4)	377,307	370,301
	<u>\$2,080,719</u>	<u>\$1,883,639</u>
Liabilities and Net Assets		
Current liabilities:		
Accounts payable and accrued liabilities	\$225,827	\$237,062
Pending application fees	277,867	342,891
Deferred revenue	889,272	1,028,648
	<u>1,491,168</u>	<u>1,808,601</u>
Net assets:		
Invested in capital assets	377,307	370,301
Unrestricted operating surplus (deficit)	182,246	(48,783)
	<u>559,553</u>	<u>351,518</u>
	<u>\$2,030,718</u>	<u>\$1,933,838</u>

Lease commitment (note 5)
See accompanying notes to financial statements.

STATEMENTS OF REVENUE AND EXPENSES		
Years ended May 31, 2001 and 2000		
	2001	2000
Revenue (collections)	\$2,983,791	\$2,982,016
Operating expenses:		
Advertising	12,480	13,148
Automobile and travel	82,861	73,668
Computer support	2,100	3,100
Data processing	7,832	7,818
Equipment rental and service	13,940	7,518
Exam room rental	7,888	8,326
Hearings	23,001	32,889
Insurance	8,257	8,158
Maintenance	11,005	11,884
Meetings	188,033	189,034
Office and miscellaneous	37,428	40,883
Postage and delivery	88,040	88,386
Proctor and reader fees	23,248	22,810
Professional fees	220,631	78,048
Rent	274,724	280,288
Salaries and benefits	1,480,623	1,480,518
Stationery, printing and supplies	82,108	142,088
Telephone	32,161	40,982
Training	18,384	14,450
	<u>2,519,910</u>	<u>2,544,184</u>
Excess of revenue over expenses before depreciation	344,281	17,822
Depreciation	(89,289)	(28,028)
Excess (deficiency) of revenue over expenses	<u>\$245,015</u>	<u>\$81,304</u>

See accompanying notes to financial statements.

On behalf of the Council:



Member

STATEMENTS OF CHANGES IN NET ASSETS

Years ended May 31, 2001 and 2000

	Invested in capital assets	Unrestricted operating surplus	2001 Total	2000 Total
Balance, beginning of year	\$370,301	\$(48,783)	\$321,518	\$408,742
Excess (deficiency) of revenue over expenses	(89,289)	344,281	245,015	(81,204)
Purchase of capital assets	196,272	(108,272)	88,000	-
Balance, end of year	\$577,307	\$182,246	\$759,553	\$324,838

STATEMENTS OF CASH FLOWS
Years ended May 31, 2001 and 2000

	2001	2000
Operating:		
Excess (deficiency) of revenue over expenses	\$248,016	\$81,304
Depreciation, an item not involving cash	89,289	89,029
Changes in non-cash operating working capital (note B)	(148,748)	334,138
	187,557	304,471
Investment:		
Increase in short-term investments	(89,814)	(82,047)
Purchase of capital assets	(308,272)	(167,774)
	(398,086)	(249,821)
Increase in cash	31,447	82,137
Cash, beginning of year	410,587	318,450
Cash, end of year	\$442,034	\$410,587

See accompanying notes to financial statements.

NOTES TO FINANCIAL STATEMENTS
Years ended May 31, 2001 and 2000

1. Organization:

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 licenses. 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:

License fee revenue recorded upon issuance is recognized over the term of the license. As license 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 license.

Receivables from licensees for Council fees billed but not collected prior to the year end are not recognized in the accounts, as removal 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	Base	Rate
Furniture and equipment	Straight-line	10 years
Computer hardware	Straight-line	5 years
Computer software	Straight-line	2 years
Leasehold improvements	Straight-line	Lease term expiring May 2002

(d) Pending application fees:

Pending application fees represent amounts collected for license fees where the licensee has not been licensed prior to the year end.

(a) 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.

3. Short-term investments:

Short-term investments are carried at principal plus interest earned to date. The weighted average term to maturity is 412 days (2000 - 775 days). The weighted average effective interest rate is 5.278% (2000 - 5.289%).

4. Capital assets:

	2001		2000	
	Accumulated Cost	Net book value	Accumulated Cost	Net book value
Furniture & equipment	\$248,709	\$100,500	\$148,209	\$188,486
Computer hardware	214,779	187,551	47,218	70,802
Computer software	74,818	74,818	-	12,564
Leasehold improvements	112,897	55,256	24,188	48,372
System under development	180,705	-	180,705	82,317
	\$808,908	\$431,024	\$377,320	\$379,301

5. Statement of cash flows supplementary information:

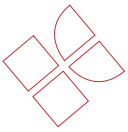
	2001	2000
Changes in non-cash operating working capital:		
Accounts receivable	(5,836)	1,029
Inventory	7,744	(31,424)
Prepays	3,578	(4,831)
Accounts payable and accrued liabilities	(13,166)	(35,877)
Pending application fees	(84,894)	(88,884)
Deferred revenue	(70,278)	482,303
	\$148,748	\$334,138

6. Lease commitment:

The Council has entered into operating leases with respect to its office premises extending until May, 2002, which require monthly rental payments of \$11,788 plus operating costs and property taxes.

SCHEDULE OF REVENUE
Years ended May 31, 2001 and 2000

	2001	2000
Revenue:		
Council fees - Licensees:		
Agents - Life, Accident and Sickness	\$911,180	\$804,780
Agents - General / Vehicle	890,399	700,847
Salesmen - Travel	304,397	230,885
Non-visitor endorsement	29,700	38,050
Adjusters	49,425	42,168
Tuition and other	43,524	21,283
	\$2,233,514	\$1,827,983
Council fees - Insurers	238,700	348,800
Examination fees:		
Life	337,736	310,830
Other	836	2,498
Interest and other	112,891	82,309
Ref of insurance manuals, net	47,025	51,822
	\$2,969,701	\$2,682,018



Council Decisions: Life Insurance

REMOVAL OF LICENCE CONDITIONS

Ian Munro Callaway
("Licensee"), North Delta, B.C.
(Level 2 Life Insurance Sole
Proprietor)

In July 2000, the Licensee was charged with one count of theft over \$5,000 and one count of fraud over \$5,000 under the *Criminal Code*. Due to the seriousness of the charges, Council imposed conditions on the Licensee's licence pending the outcome of the criminal proceedings. These conditions were published in the Council's November 2000 Bulletin.

This matter was recently heard in Provincial Court and on June 1, 2001, the Honourable Judge P.L. Maughan found the Licensee not guilty on both charges. According to Judge Maughan, the complainant's testimony was not credible or reliable and was not sufficient to meet "even a minimal standard of acceptability". On the contrary, Judge Maughan stated in her Reasons for Judgment that the Licensee was a "...very credible and very reliable witness and I accept without any hesitation his version of the events as being what occurred...".

Based on the Reasons for Judgment outlined above, Council concluded there are no further issues regarding the Licensee's suitability arising from the charges and orders that the conditions previously placed on the Licensee's insurance licence be removed.

DENIAL OF LICENCE APPLICATIONS

Ronald Bruce Clark
("Applicant"), Kelowna, B.C.
(Level 2 Life Insurance Agent
Applicant)

Council considered an application for a Level 2 life insurance licence from an applicant who had been charged and convicted of theft over \$1,000. The conviction occurred in January 2000 and the Applicant had been given a conditional sentence that was in force until January 5, 2001. In the case of an indictable offence, it is Council's policy not to consider an application until two years have elapsed since the completion of any term of sentence, parole or probation.

The Applicant had been licensed from 1992 until February 2000 when his sponsoring company cancelled its sponsorship in light of the conviction.

In 1995 and 1996, the Applicant had been experiencing personal problems that required him to dedicate less time to his insurance business, resulting in a decline in income. While working with a charity on a fundraising event, the Applicant misappropriated funds for his own personal use. The Applicant advised he kept detailed records of the amounts taken, as it was his intention to repay. The Applicant has since paid back all the monies to the organization.

Pursuant to Section 173 of the *Financial Institutions Act*, every Applicant for an insurance licence must satisfy Council that he or she is suitable to hold an insurance licence.

Council considered the Applicant, in 1995/96, to be in a position of responsibility and trust, both as an insurance agent and as a member of the charitable organization and concluded the theft was relevant in determining his trustworthiness and subsequently his suitability to hold a

life insurance licence. Council took into account the time elapsed since the theft occurred and the fact that the Applicant had been licensed for four of those years without any complaints. It concluded, that while the Applicant was unsuitable for licensing, it was prepared to amend its policy of two years after completion of sentence and will consider an application from him in 2002, instead of 2003.

CONDITIONAL LICENCES GRANTED

Walter Ralph Vipond
("Applicant"), Vancouver, B.C.
(Level 1 Life Insurance Agent
Applicant)

The Applicant had held a Level 1 life insurance agent's licence from November 1988 until November 1993. In January 2001, he rewrote the Level 1 life insurance qualifying examination and subsequently reapplied for a Level 1 life insurance licence.

In 1991, the Applicant arranged for two of his client's annuities to be surrendered and the monies put into the Applicant's company account. According to the Applicant, the policies were cashed in accordance with the client's instructions and secured by a promissory note. However, as a result of some "disasters", the Applicant notified the client that the company no longer existed.

According to the client, he had not authorized redemption of the two policies; was unaware that the policies had been redeemed; the signature on the requests for redemption were not his; and he did not receive the proceeds.

In 1993, the Applicant's former sponsoring company had contacted the Financial Institutions Commission ("FICOM") and an investigation into the Applicant's conduct in 1991 was

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started. This resulted in a criminal charge of one count of theft in the amount of \$12,020.67 and one count of fraud in excess of \$1,000 being laid in 1994. The Applicant was tried in 1996 and the charges were dismissed.

At the 1996 trial, the judge stated that credibility was the main issue in the case and he had serious concerns with the client's testimony, thereby concluding that the Crown had not proven its case beyond a reasonable doubt. The insurer reimbursed the client the \$12,010.67 and initiated a civil action claim against the Applicant to recover the money but subsequently withdrew it.

Pursuant to Section 173 of the *Financial Institutions Act*, every applicant for an insurance licence must satisfy Council that he or she is suitable to hold an insurance licence. Council considered the actions of the Applicant and the submissions by him. While the charges against the Applicant were ultimately dismissed and the conduct in question occurred ten years ago, it was the position of Council that his actions were serious and his conduct was outside the usual practice of the business of insurance. Council approved granting a Level 1 life insurance licence with the following condition:

- the Applicant be supervised by a named Level 2 life insurance agent suitable to Council, who will be responsible for the Applicant's insurance activities. This condition will remain in place until such time as the Applicant is granted a Level 2 life insurance agent's licence or Council agrees to remove this condition.

**Martin Horsburgh ("Applicant")
Burnaby, B.C.**

(Level 2 Life Insurance Agent Applicant)

Council considered an application for a Level 2 life insurance agent's licence from an applicant whose

licence had been terminated for cause. The issue considered was whether or not, in light of allegations made by the former sponsoring company, a licence could be issued while an investigation was conducted. The allegations made were that:

- the Applicant placed business with two life insurance brokers without the clients' knowledge and consent;
- the Applicant received secret commissions from these brokers for having placed business with them; and,
- the brokers did not provide services to these clients, and the clients were unaware of the brokers' appointments.

Pursuant to Section 173 of the Act, every applicant for an insurance licence must satisfy Council that he or she is suitable to hold an insurance licence. Council considered the nature of the complaint filed by the former sponsoring company and determined, based on information provided to date, that there was not sufficient evidence to warrant prohibiting the Applicant from holding a life insurance agent's licence while the allegations were being investigated. Council approved granting a Level 2 life insurance agent's licence with the following conditions:

- Council receives written confirmation from the Applicant's intended sponsor that it is aware of the allegations made by the former sponsor and that the Applicant is the subject of a Council investigation; and,
- the Applicant notify each insurance company he is contracted or doing business with, now or in the future, of the allegations made by the former sponsoring company and that the Applicant is the subject of a Council investigation.

SUSPENSIONS

**Abram Walter Rahn ("Abe")
Chilliwack, B.C.**

(Level 2 Life Insurance Sole Proprietor)

**John Daniel Rahn ("John")
Surrey, B.C.**

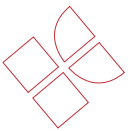
(Level 2 Life Insurance Nominee)

Council took the following action after determining that both licensees failed to act in a trustworthy manner, in good faith and in accordance with the usual practice of the business of insurance contrary to section 231(1)(a) of the Act:

- the licensees are each fined \$2,000 for improper use of confidential insurance information;
- the licensees will, as a condition of licensing, immediately reimburse a policyowner \$7,942.30;
- the licensees each receive a two-month suspension;
- the licensees, as a condition of licensing, will be under the direct supervision of a named Level 2 life insurance agent for a period of one year, commencing from the end of their suspensions; and,
- the licensees are each assessed 50% of Council's investigation costs.

This matter arose out of the following circumstances:

- Abram Rahn is a Level 2 life insurance sole proprietor doing business as Abe Rahn and Associates Financial Services, and John Rahn is a Level 2 life insurance nominee of J.D. Rahn Associated Inc. Both licensees are also directors and officers of the Rahn Financial Group Ltd. ("Rahn Financial"), a business that finds unclaimed assets, locates the owner of the asset and assists the owner in retrieving the asset for a fee.



- Occasionally, John would receive information pertaining to “orphaned” policies from an insurer in an effort to possibly service the policyowner and generate new insurance business. The policies were considered “orphaned” as the owner had not been in contact with the insurer for several years, did not have a current agent of record and/or had not provided a current address.
- In some cases, John would forward these orphan leads to Abe, who also had a contract to represent the insurer. The insurer was aware that John would refer some orphan leads to Abe and had consented to this. The insurer was not aware, however, that John and Abe operated Rahn Financial.
- In three specific cases, John forwarded orphaned leads to Abe for policies which appeared to have been abandoned by their owners. Each policy had been purchased between 1964 and 1976, but premium payments had not been made for many years. The insurer also did not have a current address for these people. The policies remained in force by virtue of the automatic premium loan provision of the contract and had subsequently accrued significant cash surrender values. One contract was an endowment at age 65 policy which was scheduled to mature this year.
- In each case, Abe located the policyowners but did not attempt to service their contracts or generate new insurance business. Rather, he approached the policyowners as a representative of Rahn Financial, represented their cash surrender values as an unclaimed balance and attempted to secure a consulting

agreement with the policyowners that would pay Rahn Financial a fee for recovering the unclaimed asset. In one of these circumstances, Rahn Financial secured a consulting agreement with the policyowner and subsequently received 50 percent of the policy’s surrender value as a fee.

Pursuant to section 95 of the Act, an insurer must not communicate or use confidential life insurance information received in a transaction with a customer except as necessary in the course of the insurer’s duty to the customer arising out of the original transaction or a similar subsequent transaction.

In this matter, the insurer provided confidential life insurance information to John in conjunction with its duty to these policyowners. Accordingly, both John and Abe could only legitimately receive this information to service the clients and possibly generate new insurance business. Moreover, an agent acting in good faith, in a trustworthy manner and in accordance with the usual practice of the business of insurance would realize that the confidential information provided by the insurer in these cases was only intended for the aforementioned purposes. The agent would also represent himself/herself as an insurance agent and disclose particulars of the insurance policy such that the client could make an informed decision as to how to best proceed. In the event the client chose to surrender the policy, an agent would facilitate the policy’s surrender in a manner consistent with the client’s best interests.

When Abe received the confidential information from John, he knew or ought to have known he could only receive this information as an insurance agent. Having done so he was obliged to use it in a manner consistent with his duties as an insurance agent. Instead, he used the information for a purpose that was not

intended and in a manner that was inconsistent with the policyowners’ best interests and to the detriment of each individual.

Given John’s awareness that Abe might use the confidential information as a life insurance agent or as an officer of Rahn Financial, coupled with the fact he stood to benefit from Rahn Financial’s use of the information, Council found that John is equally responsible for the manner in which Abe used the information.

MATERIAL MISSTATEMENTS

Mark Mariotto (“Licensee”) Prince George, B.C.

(Level 1 Life Insurance Agent)

Council took the following action after determining the Licensee made a material misstatement on his application for an insurance licence:

- the Licensee is fined \$200; and,
- the Licensee must pay the costs of Council’s investigation.

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

Jeffrey Wright (“Licensee”) West Vancouver, B.C.

(Level 2 Life Insurance Nominee)

Council took the following action after determining the Licensee made a material misstatement on a corporate renewal application as well as on his personal renewal application for an insurance licence:

- the Licensee is fined \$200 for each misstatement; and,
- the Licensee is assessed the costs of Council’s investigation.

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



Council's New Licensing System

In October 2001, Council will be implementing a new licensing management system, after a period of parallel testing. This change is the initial step in the development and implementation of a long-term technology plan. In addition to providing a solid base for future development, the new system will provide users with increased efficiencies.

Licensees will see a few differences upon implementation of the new system. They are:

- **File Numbers:** The file numbers assigned to corporate licensees in the past have started with an "X". All file numbers under the new system will be numeric. This means that if a corporate file number is currently X123456, under the new system it will be 9123456. We will simply replace the X with a 9 in our conversion process.
- **Trade Names:** In the past, when a person was employed by or sponsored by a company with a trade name, a single trade name would appear on the licence certificate. This often caused confusion if there was more than one trade name, or if the employer licensee used both the legal name and trade name. Under the new system, the corporate licence will reflect both the legal name and all approved trade names, as it does now. Licences of those individuals employed or sponsored by a company having trade names will only reflect the legal name. However, individuals may use all trade names in accordance with the approval granted to the employer or sponsor.
- The last change visible to licensees immediately after implementation will be the new laser-printed certificates. Currently certificates are produced on an impact printer. The laser-printed certificates will provide for a cleaner layout and better "faxing" capabilities.

As noted earlier, this system is the basis of future development. Council's next project will be to develop a web site where public licensing information will be available to the industry and the public. Council also intends to include a variety of information on how to obtain a licence, application forms etc. in a general information web site. (But for now – remember that general information is available on our Fax-on-Demand system).

These two development issues are expected to result in cost benefits to Council as well as improved service to both the industry and the public. There are many other technology issues that Council intends to deal with in the future. As we progress and develop these technologies to better serve our licensees and the public, we will keep you posted. Keep an eye out for articles in future bulletins.

Address Change?

If your place of business or your residential address changes, Council urges you to make sure you inform us of your change of address. There is no cost attached to making a change of address. If we do not have your current address, we have no way of ensuring you receive licence renewal reminders, the Bulletin, Notices and other pieces of important correspondence concerning your insurance licence and practice.

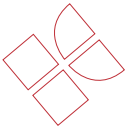


To effect a change of address simply send Council a letter or fax specifically requesting that your address be changed and provide us your file number, along with the particulars of the new address, including postal code and any new telephone or fax numbers.

To move or not to move... that was the question.

**Council will be remaining in its current location at
300 – 1040 West Georgia St. Vancouver, B.C. V6E 4H1**

Articles in this Bulletin are designed to provide licensees with concise information for use in their day-to-day business activities in a non-technical way. It is not intended to replace or provide legal advice or be a legal explanation of the Act or its regulations. It is the responsibility of all licensees to ensure their practices and procedures are within the requirements of the Act and its regulations.

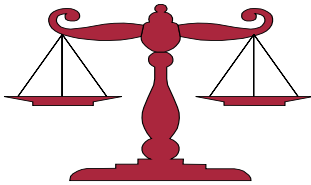


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Lynda MacKenzie, FIIC	Past-Chairperson



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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NOTICE BOARD

For your information: 2001 Council Notices are available on our Fax-on-Demand system.

- Document #77: Proposed changes to the licensing requirements for Life Insurance Agents June 7, 2001 (ICN#01-005)
- Document #78: Draft Financial Planning policy August 15, 2001 (ICN#01-006)
- Document #79: Proposed Mandatory Errors and Omissions Insurance for Licensees Amended recommendations in response to industry feedback (enclosed) October 15, 2001 (ICN#01-007)