

COUNCIL DECISIONS: GENERAL INSURANCE

CONVICTIONS

CARRIE LYNN TAYLOR
(“FORMER LICENSEE”)
FERNIE, BC

(Former Level 2 General Insurance Agent)

On August 27, 2003, the Former Licensee plead guilty to two counts of fraud and one count of theft under \$5,000 and was sentenced as follows:

- a fine of \$200 per count; and,
- required to make restitution to her former employer in the amount of \$1,671.

This matter arose after it was established the Former Licensee had misappropriated insurance premiums.

SUSPENSIONS

DAVID PEARSON KEEN
(“LICENSEE”)
VANCOUVER, BC

(Level 3 General Insurance Nominee)

VANGUARD INSURANCE BROKERS LTD.
(“AGENCY”)
VANCOUVER, BC

(General Insurance Corporate Agent)

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:

- the Licensee be suspended for two weeks;
- as a condition of his licence, the Licensee is required to take an Errors & Omissions course; and,
- the Agency be assessed the costs of Council’s investigation.

While handling the renewal of Directors & Officers Liability (“D & O”) coverage for a group based risk, of which he was a member, the Licensee concluded from discussions he had with the existing insurance company that D & O coverage would be renewed. The Licensee subsequently provided written notice and issued premium invoices to the group members advising their D & O coverage had been renewed.

Shortly thereafter, the existing insurance company advised the Licensee it would not renew the D & O insurance. The Licensee did not communicate this information to the group or return their premiums for approximately five months.

The Licensee acted improperly by communicating to the group members their D & O coverage had been renewed without having received confirmation from the existing insurance company. By doing so, and by collecting premiums from the members without notifying them about the lack of D & O coverage, the Licensee misled them to believe their coverage was in force, consequently exposing them to an uninsured loss.

After the Licensee learned the D & O coverage was not in force, it was improper for him to retain the aforementioned premiums over a five month period without ever notifying the members about their lack of coverage. His failure in this regard added to the perception that the D & O coverage was in effect.

REPRIMANDS

LORI ANN KIRK
(“FORMER NOMINEE”)
VANCOUVER, BC

(Former Level 3 General Insurance Nominee)

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

- be reprimanded.

The issues raised in this matter stemmed from the Former Nominee’s failure to provide proper supervision and training to her staff and her failure to follow appropriate procedures at the agency. The nominee of an agency is accountable for the actions of its staff.

A client’s insurer provided notice on October 25, 2000 to the Former Nominee’s agency of its decision not to renew a client’s policy when it expired on July 3, 2001. The insurer also requested the agency inform the client of their decision not to renew coverage. The client was not advised of the insurer’s

decision nor did the agency contact the client regarding obtaining coverage elsewhere.

The client's name appeared on the agency's non-renewal list on July 3, 2001. At that time the Former Nominee, who did not recall receiving the insurer's notice, abeyanced the file for follow-up to the week of July 19, 2001, when the agent responsible for the file returned from holidays. The abeyance stated "renewal" and did not indicate any concerns regarding coverage. The Former Nominee also e-mailed the agent reminding her of the policy's non-renewal.

The assigned agent was not trained to properly review her renewal lists to ensure her accounts were renewed prior to expiry. She relied solely on information received from insurers to confirm her accounts were renewed. In this case, because the insurer did not renew the policy, she did not receive any renewal documentation and the discrepancy was not identified until one month after the policy expired.

The Former Nominee acknowledged the Agency had renewal procedures in place which she did not follow. If the Nominee had followed these procedures, this matter could have been prevented. Upon receipt of the notice of non-renewal from the insurer, the nominee should have informed the client of the non-renewal and then abeyanced the file to be followed up well in advance of the expiration of the existing coverage. When the file appeared on the non-renewal list she should have reviewed the file immediately, and in the absence of the assigned agent, she should have had another agent handle the file. Due to staffing problems she did not reassign the file.

CONDITIONS

SUKHVINDER SINGH KALKAT
("LICENSEE")
SURREY, BC

(Level 2 General Insurance Agent)

Council determined the Licensee failed to act in good faith and in a trustworthy manner and ordered the following:

- the Licensee's Level 3 general insurance agent licence be amended down to a Level 2 general insurance agent licence;

- as a condition of his licence, the Licensee must be under the direct supervision of a named nominee approved by Council for a minimum of one year;
- the nominee will have a condition placed on his/her insurance licence making him/her accountable for the insurance actions of the Licensee;
- as a condition of his licence, if he seeks to transfer his insurance licence to another insurance agency, the Licensee must first inform the intended employer of these licence conditions and the circumstances surrounding Council's investigation; and,
- the Licensee be assessed the costs of Council's investigation.

Council found the Licensee, while acting for himself in private transactions that were unrelated to his position as an insurance agent, failed to disclose information pertinent to the sale and registration of three vehicles [a sport utility vehicle ("SUV") and two pick-up trucks] he had purchased from an auction in Alberta.

When registering the first pick-up truck, the Licensee did not accurately represent the odometer reading on the vehicle to ICBC and he omitted to complete the Vehicle Status, Odometer Replaced/Broken, and Used Vehicle Damage Over \$2,000 sections on the APV9T Transfer Tax form.

Upon selling the first pick-up truck, the Licensee declared an odometer reading on the APV9T, which was significantly lower than that recorded on the bill of sale, and he did not advise the purchaser the vehicle had been acquired from an out-of-province auction.

When registering the second pick-up truck, the Licensee did not complete the Odometer Replaced/Broken section on the APV9T and declared an odometer reading which was lower than that stated on the bill of sale.

Upon selling the SUV, the Licensee did not advise the purchaser the vehicle had been acquired from an out-of-province auction or that the vehicle had sustained damage over \$2,000.

The Licensee later re-purchased the first pick-up truck and the SUV from the purchasers at their

original selling prices. Subsequent transactions involving the three vehicles were properly represented.

MATERIAL MISSTATEMENTS

KULWANT SINGH BASSI

(“LICENSEE”)

SURREY, BC

(Level 1 General Insurance Salesperson)

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

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

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

RICKY MANN

(“LICENSEE”)

SURREY, BC

(Level 1 General Insurance Salesperson)

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

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

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

LICENCE REFUSALS

(“APPLICANT”)

VANCOUVER, BC

(Level 1 General Insurance Salesperson Applicant)

In September 2003, the Applicant submitted a first application for a Level 1 general insurance salesperson licence. His criminal record check revealed information relating to non-convictions and that “charges may or may not exist”. The Applicant eventually admitted to taking a total of \$700 in cash on three separate occasions from his former employer, Real Canadian Superstore. As he had returned the monies he was not charged in this matter. In providing the above details, the Applicant had been less than forthcoming with Council staff, and later on, with his nominee, when he was asked to disclose the above information to his nominee as part of the application process.

Although the Applicant had not been convicted of a crime, Council took into consideration its policy regarding criminal convictions in determining the suitability of this applicant. Council concluded that even though he was able to obtain the sponsorship of an insurance agency, the Applicant was not suitable to hold an insurance licence due to these recent thefts. The application was denied and the Applicant was advised Council would not be prepared to consider another application from him until after September 2004.

COUNCIL DECISIONS: LIFE INSURANCE

CONVICTIONS

ARNEL FLORENDO BERNABE
(“FORMER LICENSEE”)
NANAIMO, BC

(Former Level 2 Life Insurance Agent)

On November 6, 2003, the Former Licensee plead guilty to two counts of theft over \$5,000. He was sentenced to 20 months imprisonment to be served in the community, subject to 11 conditions, including that he:

- not engage in any financial counselling or financial transactions on behalf of 3rd persons or engage in any brokerage or other 3rd party financial transactions during the Conditional Sentence;
- obey a curfew from 9:00 p.m. to 6:00 a.m. seven days a week; and,
- complete 100 hours of Community Service Work within the first nine months of the Conditional Sentence.

This matter arose after it was established the Former Licensee had misappropriated insurance premiums.

CAREY BRIAN DENNIS
(“FORMER LICENSEE”)
KAMLOOPS, BC

(Former Level 2 Life Insurance Agent)

On December 9, 2003, the Former Licensee was convicted of three counts of fraud over \$1,000 and one count of fraud over \$5,000. He was sentenced to 27 months imprisonment and ordered to make restitution in the amount of \$106,185.26.

This matter arose after it was established the Former Licensee had defrauded three individuals between June 1, 1993 and April 15, 1997.

RODNEY FRANK JELLISON
(“FORMER LICENSEE”)
KELOWNA, BC

(Former Level 2 Life Insurance Agent)

On November 3, 2003, the Former Licensee plead guilty to two counts of unlawfully trading securities relating to offshore investments and one count of unlawfully trading securities relating to bank debenture trading programs.

The Former Licensee was sentenced to 30 days imprisonment.

CONDITIONS

DOUGLAS ARNOLD CLARKE
(“LICENSEE”)
NANAIMO, BC

(Level 2 Life Insurance Agent Nominee)

The Licensee was licensed as a Level 2 life insurance agent nominee and as a mutual funds registrant under the *Securities Act*. While licensed as an insurance agent, Council learned the Licensee had solicited mutual fund and insurance clients to invest with ICL Insta-Cash Loans Systems (Canada) Inc. (“ICL”), a pawn broker specializing in writing high risk vehicle title loans.

Council attempted to obtain information from the Licensee regarding the nature and extent of his involvement with ICL and the relationship between ICL and a related company called Bick Financial Services Inc. (“Bick”). The Licensee is registered as Bick’s sole director and officer. His responses were repeatedly tardy and insufficient to determine if the Licensee was still suitable to hold a licence under the Act.

Also, a review of the Licensee’s investment recommendations for one client raised concerns about his competence, trustworthiness, financial reliability, and intention to publicly carry on the business of insurance in good faith. Council also had concerns as the Licensee failed to advise Council immediately in writing that he had ceased to be registered under the Securities Act in April 2003, contrary to a condition on his insurance licence.

Accordingly, Council considered it to be in the public interest to attach the following conditions to the Licensee's insurance licence while the investigation was on-going:

1. The Licensee must:
 - i) provide Council investigators with unfettered access to all client files for Doug Clarke Insurance Services Inc. and Bick;
 - ii) make himself available to be interviewed by Council investigators; and,
 - iii) at that time, address questions and provide the information previously requested by Council.
2. The Licensee is prohibited from accepting, in his name or that of a corporation controlled by him, any funds from the public, in connection with his activities as an insurance agent; and,
3. The Licensee must immediately cease soliciting funds for investment in Bick or ICL.

SUSPENSIONS

DALE LAWRENCE CAMPBELL
("LICENSEE")

KELOWNA, BC

(Level 2 Life Insurance Agent Sole Proprietor)

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 the Licensee:

- be suspended for two weeks; and,
- be assessed the costs of Council's investigation.

During a life insurance policy replacement transaction, the Licensee failed to recognize the replacement policy would be issued on a rated basis,

thereby making replacement of the existing insurance inappropriate.

After completion of the new insurance application, the insurer advised the Licensee it was prepared to issue the client's policy with a permanent rating due to abnormal lab test results. They also indicated they required completion of an Attending Physician's Statement. The Licensee responded by stating "Please proceed w/ APS." The Licensee believed the medical rating was tentative, dependent on the lab results. He did not advise the client of the "possible" rating.

The insurer issued the client's policy on a rated basis and required the client's signature on a policy amendment page. The client signed the amendment page agreeing to the rated policy. The Licensee witnessed the client's signature on this document but he failed to review the policy and did not realize the policy had been rated.

The Licensee acknowledged he should have identified the rating on the policy and, given the rating, his recommendation to replace the existing insurance was inappropriate. The Licensee stated he should not have recommended the client proceed with the replacement given these circumstances.

LICENCE REFUSALS

VINCENT HEINZ HARTMANN
("FORMER LICENSEE")
MISSION, BC

(Level 1 Life Insurance Agent Applicant)

Council determined the Applicant is not trustworthy, financially reliable and cannot be relied upon to publicly carry on the business of insurance in good faith and ordered the following:

- the Former Licensee be refused a Level 1 life insurance agent licence;
- Council will not consider a licence application from him until two years have elapsed from July 15, 2003; and,
- the Former Licensee be assessed the cost of Council's investigation.

In 2000, the Former Licensee filed two false insurance claims concurrently on his tenant and vehicle insurance policies. He staged a break and enter incident, during which he removed material possessions from a property and then filed a false theft report with the police. He subsequently filed a false proof of loss form with his insurer and included false merchandise receipts from vendors claiming for property he never replaced. As well, he included a piece of property he did not own. Further, he withheld from Council, and other authorities who had investigated this matter, the fact that he had made the false claim through his vehicle insurer.

RENATO LAXAMANA NICOLAS

(“APPLICANT”)

RICHMOND, BC

(Life Insurance Agent Applicant)

The Applicant failed to satisfy Council he is trustworthy and intends to carry on business in good faith. Accordingly, Council determined the Applicant did not meet the requirements for licensing and ordered the following:

- the Applicant’s application for a life insurance agent licence be refused.

This matter arose out the Applicant’s conduct while licensed as a life insurance agent in 1996. In particular, an investigation into the Applicant’s conduct raised the following concerns:

- misrepresenting the sale of insurance by stating he could offer two months free insurance;
- failing to deliver an insurance policy in a timely manner;
- completing insurance applications without a contract to represent that insurer and/or when he was not licensed as an insurance agent in BC; and,
- making material misstatements in response to inquiries from Council.

The Applicant left the insurance industry in 1996 but recently re-applied for a life insurance agent licence. Council determined the nature of the allegations and the time elapsed since the events occurred would not necessarily render the Applicant unsuitable to be

licensed. However, the manner in which the Applicant responded to inquiries surrounding his conduct failed to satisfy Council that he would act in good faith and in a trustworthy manner if granted a licence. In particular, the Applicant deflected responsibility for his actions by providing evasive, inconsistent, and conflicting statements and repeatedly attempted to limit or mitigate his involvement by shifting blame towards others.

(“APPLICANT”)

VANCOUVER, BC

(Life Insurance Agent)

On his application for a life insurance agent licence, the Applicant disclosed two pending legal proceedings, one from a group of former clients and the other from the Royal Bank. The Applicant’s former clients are alleging misappropriation of funds in excess of \$249,000 and the bank is seeking in excess of \$50,000 for repayment of personal credit line agreements and two promissory notes. The Applicant had been a registered Certified General Accountant from 1969 to 1999 and operated his own consulting firm, which specialized in accounting and business management.

Council acknowledged the Applicant has not yet been charged or convicted of a crime, but he is facing civil proceedings. Of particular concern is the allegation that he may have misappropriated a significant amount of money for personal expenses. As the Applicant was a CGA, he fully understood the fiduciary duties placed upon him.

Council was not satisfied the Applicant would carry on business in a competent, financially reliable manner and in good faith and denied the application. The Applicant was advised Council would not consider a licence application from him until the civil matters have been resolved.

MATERIAL MISSTATEMENTS

CHRISTOPHER NICHOLAS DIGNAN

(“LICENSEE”)

BURNABY, BC

(Level 1 Life Insurance Agent)

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

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

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

MARK THOMAS STOWE

(“LICENSEE”)

VANCOUVER, BC

(Level 1 Life Insurance Agent)

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

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

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

COUNCIL DECISIONS: RESTRICTED VEHICLE WARRANTY INSURANCE

REPRIMANDS

**PEACH GROVE INVESTMENTS INC. (DBA)
OKANAGAN TRAVEL LAND
("DEALERSHIP")
SUMMERLAND, BC**

(Restricted Vehicle Warranty Corporate Agent)

**JOHN DOUGLAS LONSTRUP
("NOMINEE")
SUMMERLAND, BC**

(Level 1 Restricted Vehicle Warranty Nominee)

Council determined the Dealership and Nominee failed to act in accordance with the usual practice of the business of insurance and ordered:

- the Dealership be reprimanded;
- the Nominee be reprimanded; and,
- the Dealership be assessed the costs of Council's investigation.

On five occasions between October 2002 and July 2003, the Dealership failed to pay the full pro-rata refund of premiums to clients who cancelled the vehicle warranty insurance policies they had

purchased from the Dealership. The refund provisions were set out in the clients' warranty insurance policies and in the Dealership's contract with the insurance company.

The Dealership had numerous warranties prematurely cancelled by clients, resulting in substantial losses for the Dealership. A pro-rata refund includes a commission chargeback to the Dealership. The commission earned at the time of sale is shared between the Dealership and the salesperson who sells the policy. The Dealership often had difficulty collecting the salesperson's portion of the commission chargeback, particularly when the salesperson was no longer employed with the Dealership.

Council determined the Dealership should have addressed the premium refund issue with the underwriter. By failing to do so the Dealership may have placed the underwriter in contravention of the vehicle warranty policies in question.

The Dealership has since issued full pro-rata refunds to the five clients in question.