

## COUNCIL DECISIONS: GENERAL INSURANCE

### CONVICTIONS

**ROBERT EDWARD BURNETT**

**(“FORMER LICENSEE”)**

**WHITE ROCK, B.C.**

*(Former Level 1 General Insurance Salesperson)*

On May 13, 2005, the Former Licensee plead guilty to one count of theft under \$5,000 and was sentenced as follows:

- conditional sentence with 24 months probation.

This matter arose after it was established the Former Licensee had misappropriated Insurance Corporation of British Columbia (“ICBC”) funds.

### LICENCE CANCELLATIONS

**JAGJIT SINGH CHEEMA**

**(“FORMER LICENSEE”)**

**NEW WESTMINSTER, B.C.**

*(Former Level 2 General Insurance Agent)*

Council determined the Former Licensee was not trustworthy and did not intend to publicly carry on the business of insurance in good faith and ordered:

- the Former Licensee’s insurance licence be cancelled.

The Former Licensee improperly accessed the Insurance Corporation of British Columbia (“ICBC”) computer system to obtain sensitive personal and confidential information about the registered owner of a motor vehicle, with the intention to share such information with a third party he knew to be involved in criminal activity. The Former Licensee knew, or ought to have known, that releasing information of this nature to the third party could endanger the safety and security of the vehicle’s owner, driver or others.

Licenses are reminded they are afforded access to the ICBC computer system for bona fide ICBC business purposes only. Council considers any

misuse of their position as an insurance agent or salesperson for personal reasons or benefit to be a serious breach of trust.

### CONDITIONS

**MORGAN GREGORY NEWTON**

**(“LICENSEE”)**

**VANCOUVER, B.C.**

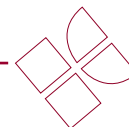
*(Level 1 General Insurance Salesperson)*

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

- be reprimanded;
- have a condition placed on his licence requiring him to advise any future employer of the details of Council’s investigation;
- be fined \$200; and
- be assessed the costs of Council’s investigation.

The Licensee logged onto the Insurance Corporation of British Columbia (“ICBC”) computer system for the purpose of renewing his personal Autoplan insurance which was to expire at the end of the day. The Licensee had an outstanding debt with ICBC which he was required to pay before he could renew his insurance. Although the Licensee did not have the money to pay the debt, he processed the debt as having been paid and then renewed his Autoplan insurance. The Licensee did not immediately repay the money and when asked for payment by an agency employee, he attempted to pay the debt with a personal cheque, knowing he did not have sufficient funds in his account.

Council found the Licensee’s overall conduct in these matters called into question his trustworthiness. Council concluded the Licensee’s intention was not to defraud ICBC, as he was aware the money would be found to be missing when the Agency batched the ICBC transactions for that day. Council found that by delaying payment of an outstanding ICBC debt so he could renew his auto insurance, the Licensee’s



actions were for personal benefit. The Licensee’s attempt to pay the debt by personal cheque was also viewed as an attempt to further delay payment.

Licenses are afforded access to the ICBC computer system for bona fide ICBC business purposes only and Council considers any misuse of a licensee’s position for personal reasons or benefit to be a serious breach of trust.

In determining the penalty, Council noted the Licensee is a salesperson, not an agent, which means he is an employee of an agency and therefore has limited authority to act on his own due to the conditions applicable to a salesperson licence. Council concluded the Licensee is still suitable to be a salesperson, but determined the Licensee be required to disclose this matter to any potential employer prior to transferring his licence, as an employing agency is responsible for the actions of its salespersons.

In an unrelated matter, the Licensee was found to have made a material misstatement on his application for an insurance licence.

## REPRIMANDS

**ADA SUK YEE LAU**  
 (“LICENSEE”)

**VANCOUVER, B.C.**

*(Level 2 General Insurance Agent)*

Council determined the Licensee did not act in accordance with the usual practice of the business of insurance and ordered the Licensee be:

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

The Licensee facilitated the placement of homeowner’s insurance coverage knowing the client’s signature on the application had been forged by the client’s husband. The Licensee was aware that it was improper for the husband to sign the client’s name on the application, but proceeded with the transaction given there was an immediate need for the insurance and the client was out of the country.

In considering an appropriate disposition Council noted: the client was aware of and had consented to the transaction; the client was not prejudiced by the Licensee’s actions; the Licensee’s motivation was to assist the client in difficult circumstances; and the Licensee insisted the client come in and properly execute the insurance documents on her return to Canada.

Notwithstanding the Licensee’s good intentions, the proper execution of documents is fundamental to the business of insurance. It is never acceptable to: sign another person’s name to a document; improperly witness a signature; or accept and process a document knowing the signature has been forged. There were other options available to the Licensee, including discussing the matter with the underwriter or approaching her nominee for direction.

## LICENCE DENIALS

**MICHELLE RAE KEENE**  
 (“FORMER LICENSEE”)

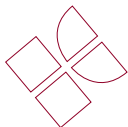
**KAMLOOPS, B.C.**

*(Level 2 General Insurance Agent)*

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

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, its regulations or the Rules.

It is the responsibility of all licensees to ensure their practices and procedures are within the requirements of the Act, its regulations and the Rules.



- the Former Licensee's application for licensing be declined and Council will not consider another licence application from her for one year. After that time, Council will only consider an application for a Level 1 general insurance salesperson licence; and
- the Former Licensee be assessed the costs of Council's investigation.

Council determined: the Former Licensee issued insurance binders to insureds and their representatives (i.e., legal counsel, notary public, real estate agents) without placing coverage with insurers; failed to advise insureds that no coverage was in force when insurers declined to approve insurance applications; failed to place coverage for insureds and/or to follow-up on details requested by insurers;

failed to document important details on her agency's files or computer log records surrounding the affected transactions; omitted details about the nature and status of an insured's application for insurance; and failed to record invoice numbers on cash receipt journals to verify payment had been collected from insureds.

Additionally, in five cases, the Former Licensee handled cash transactions without recording the details in her agency's cash receipt journal or receipt book. The related funds could not be accounted for.

In determining the appropriate disposition, Council considered that the Former Licensee had been unlicensed for one year while her conduct was investigated.

## COUNCIL DECISIONS: LIFE INSURANCE

### SUSPENSIONS

**RICHARD JONES**

("LICENSEE")

**PORT MOODY, B.C.**

*(Life Insurance Agent Nominee)*

Council determined the Licensee had, in some cases, failed to act in a trustworthy and competent manner, in good faith and in accordance with the usual practice of the business of insurance and ordered that:

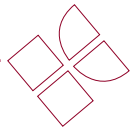
- the Licensee be suspended for nine months, with a reduction of the suspension to four months if the Licensee reimburses the clients who Council deemed to have incurred unnecessary deferred sales charges, which totalled more than \$25,000;
- the Licensee be fined \$10,000;
- the Licensee, as a condition of his licence, be required in each of the four years following the reinstatement of his licence from the suspension, to successfully complete a different course comprising Advocis' Certified Financial Planner Program ("CFP") or comprising a program with an equivalent curriculum;
- the Licensee, as a condition of his licence and until the successful completion of the aforementioned financial planning courses, be

supervised by a life insurance agent who meets Council's approval. The supervising life insurance agent must agree to have a condition placed on his/her insurance licence making him/her accountable for the insurance business conduct of the Licensee; and,

- the Licensee pay \$15,700 in investigative costs.

Council's order arose from the following conduct:

- To convenience two clients rather than for personal benefit, the Licensee directed the clients to sign incomplete or blank insurance documents, which he completed at a later date based on information he had previously obtained from them;
- To convenience a client rather than for personal benefit, the Licensee fabricated the client's signature on correspondence to insurers;
- The Licensee failed to advise a client about a delay in the transfer of the client's segregated fund investment from one insurer to another insurer, and then failed to revisit the fund transfer with the client before it was processed to ensure that it remained in keeping with the client's interests;
- The Licensee provided erroneous tax advice to clients on a subject matter which was beyond his level of expertise;



- The Licensee disregarded a requirement that he not rebate an insurance premium. Council noted this requirement has since been amended to allow a rebate of premium which is less than 25% of the premium; and,
- Contrary to the interests of several clients and in order to generate commissions, the Licensee:
  - recommended and facilitated a short term approach to clients' segregated fund investments by procuring multiple transfers of their fund investments. However, the fund transfers were procured on a deferred sales charge basis from which he earned greater commissions, to the disadvantage of the clients given that other less expensive sales charge options were available;
  - recommended and facilitated the replacement of an insurance policy for a client without conducting sufficient fact-finding and needs analysis to properly assess the client's circumstances, goals and needs; without making full and fair disclosure of all material facts about the proposed insurance to enable the client to make an informed decision; and based on a recommendation that was not reasonable in the circumstances; and,

➤ recommended and facilitated the purchase of insurance as well as the replacement of insurance policies for a client without being able to demonstrate the purpose behind the transactions.

Council identified a pattern of behaviour whereby the Licensee eschewed his duties and obligations as an insurance agent. In some cases, he had done so to convenience the client rather than for personal benefit. However, in other cases, he was found to be motivated by commissions.

### CONDITIONS

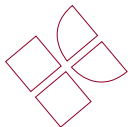
**JORDON MICHAEL CLARKE**  
 ("NOMINEE")  
**NANAIMO, B.C.**  
*(Life Insurance Agent Nominee)*

**DOUG CLARKE INSURANCE SERVICES INC.**  
 ("AGENCY")  
**NANAIMO, B.C.**  
*(Life Insurance Corporate Agent)*

Council determined the Nominee and the Agency failed to act in a competent manner, in good faith and in accordance with the usual practice of the business of insurance, and the Agency acted contrary to a condition on its licence and ordered:



*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.*



- the Nominee be fined \$5,000;
- the Agency be fined \$10,000;
- the Agency appoint an arm's length nominee who meets experience and educational requirements and is approved by Council;
- the Nominee is not suitable to hold a life insurance agent nominee licence for any corporation, partnership or sole proprietorship, other than one in which he will be the only licensed agent;
- the Nominee, the Agency and all current and future employees of the Agency have the following conditions placed on their insurance licences for a minimum of two years from the date the order takes effect:
  - will not, without the prior written approval of Council, promote, market, solicit or be affiliated with any financial products or services which are unregulated or exempt from regulation; and
  - agree to be subject to random inspections by Council at their usual place of business during regular business hours and to give Council unfettered access to individual and Agency records;
- as a condition of the Agency's licence, Douglas Arnold Clarke is prohibited from acting as a licensee, employee, director, officer, partner or shareholder of the Agency and he cannot be involved directly or indirectly in the Agency's operations; and
- the Nominee and the Agency be assessed the costs of Council's investigation.

Between February 26, 2004 and November 15, 2004, the Nominee and the Agency held themselves out to the public in a manner in which they were not licensed, despite the Nominee's earlier written assurance to Council that he and the Agency would not do so.

The Agency breached a condition of its insurance licence by permitting Douglas Arnold Clarke to be directly and indirectly involved with the Agency's operations.

The Nominee failed to review insurance client files inherited from Douglas Arnold Clarke, despite his written undertaking to Council that he would do so.

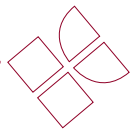
The Nominee attempted to mislead Council investigators by removing portions of Agency client files.

**ROBERT SCOTT RITCHIE**  
**("LICENSEE")**  
**KELOWNA, B.C.**  
*(Life Insurance Agent)*

Council determined the Licensee breached a condition of his insurance licence requiring he notify Council within 48 hours of the disposition of an Investment Dealers Association ("IDA") investigation and ordered:

- the Licensee be reprimanded;
- as a condition of his licence, the Licensee be under the direct supervision of a life insurance agent, acceptable to Council, who has a minimum of 5 years' licensed experience as a life insurance agent (formerly level 2 life insurance agent) who will be accountable for the Licensee's insurance activities. This condition will remain in effect until July 27, 2006;
- as a condition of his licence, the Licensee must notify Council within 5 business days of the commencement of any investigation by any financial sector regulator, or any professional or occupational body. This condition will remain in effect until July 27, 2006; and
- the Licensee be assessed the costs of Council's investigation.

The Licensee contravened an IDA by-law by engaging in personal financial dealings with a client, without the knowledge, consent or authorization of his member employer. The Licensee and the IDA signed a Settlement Agreement on July 27, 2005, which required, among other things, that the Licensee



pay a \$10,000 fine and be subject to close supervision for a period of 12 months.

Council considered whether the circumstances leading to the IDA decision reflected on the Licensee's suitability to be licensed as an insurance agent. In this respect, the IDA found: the Licensee was not ill-motivated; he had not intentionally concealed the matter from his employer; and his conduct did not render him unfit to be a securities representative. Council determined this single incident did not render the Licensee unfit to be an insurance agent but indicated a lack of attention to his obligations, which would reflect on his competency as an insurance agent.

While a breach of a licence condition generally results in a fine, Council was of the view in this situation that a further monetary penalty would be overly punitive.

## LICENCE DENIALS

**DAVID ALI RAZA**  
**("APPLICANT")**  
**VANCOUVER, B.C.**  
*(Life Insurance Agent Applicant)*

The Applicant failed to satisfy Council he is trustworthy.

Accordingly, Council determined the Applicant did not meet the requirements for licensing and ordered:

- the Applicant's application for a life insurance agent licence be denied.

In denying the application, Council stated it would not consider another application from the Applicant for at least one year from the date of this original application.

The Applicant provided a false answer to a question on the licence application that asked "Have you ever been licensed or registered in any other capacity with a financial service regulator, insurance or otherwise, or any other professional or occupational body in any jurisdiction inside or outside of Canada?". Council determined the Applicant made a material misstatement on his application with the intent to mislead Council about his termination from his previous employer.

## INSURANCE COUNCIL STAFF ACHIEVEMENTS

Council is pleased to announce Investigators Katherine Lee and Shelly Rickerby-Kuris recently achieved the Chartered Insurance Profession (CIP) designation granted by the Insurance Institute of Canada. Kathy and Shelly have both been employed with Council since 2000 and also hold the CAIB designation.

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