

## COUNCIL DECISIONS: GENERAL INSURANCE

### CONVICTIONS

#### JANICE LORRAINE ROBINSON

("FORMER LICENSEE")

DELTA, BC

(Former Level 1 General Insurance Salesperson)

On August 20, 2004, the Former Licensee plead guilty to one count of fraud and was sentenced as follows:

- six month conditional sentence;
- 15 months probation; and
- restitution to her former employer.

This matter arose after it was established the Former Licensee had misappropriated ICBC funds.

### SUSPENSIONS

#### LYNNE YVONNE SWERHUN

("LICENSEE")

VANCOUVER, BC

(Level 3 General Insurance Nominee)

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

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

The Licensee signed another person's name to an ICBC vehicle transfer/tax form (APV 9T) and subsequently processed the document as though it were genuine.

In 1997, the Licensee purchased a 1930 Model A Ford. For personal reasons, the Licensee registered ownership of the vehicle in the name of a close friend, with his agreement. Sometime later, the Licensee's relationship with her friend deteriorated, and she took steps to transfer the vehicle into her own name. With his consent, the Licensee signed her friend's name on the APV 9T and processed the document in her capacity as an insurance agent, transferring registered ownership of the vehicle into her name.

Council found the Licensee was not attempting to deprive anyone of rightful ownership of the vehicle, removing any suggestion she was acting in an untrustworthy manner or in bad faith. This was an isolated matter which arose out of a difficult personal situation and was generally unrelated to the Licensee's practice as an insurance agent. Notwithstanding, it is improper to sign another person's name on a document and process that document as though it is genuine.

### REPRIMANDS

#### BEVERLY MAY PHILLIPS

("NOMINEE")

CASTLEGAR, BC

(Level 3 General Insurance Nominee)

#### CHRISTINE ANNE MOTA

("LICENSEE")

CASTLEGAR, BC

(Level 2 General Insurance Agent)

#### CASTLEGAR SAVINGS INSURANCE

AGENCIES LIMITED

("AGENCY")

CASTLEGAR, BC

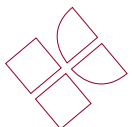
(General Insurance Corporate Agent)

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

- the Agency, Nominee and Licensee each receive a reprimand; and
- the Agency be assessed the costs of Council's investigation.

The Licensee failed to renew a contractor's equipment policy which resulted in an uninsured loss for a client.

The Agency placed the client's Commercial General Liability ("CGL") policy and contractor's equipment policy through a sub-broker. Prior to expiry, the sub-broker faxed renewal terms to the Agency for the



CGL policy. The Licensee erroneously assumed the quote also included the contractor's equipment policy, resulting in only the CGL policy being renewed prior to expiry.

After learning the contractor's equipment policy had not been renewed, the sub-broker sent a facsimile to the Agency quoting a renewal premium for the upcoming term. The Agency discussed the new quote with the client, who expressed uncertainty about renewing his equipment policy altogether. The Agency informed him that the lease agreement for his Caterpillar Loader required he maintain insurance on it. The Licensee then requested the sub-broker provide a quote on this unit only.

The sub-broker faxed the Agency a quote for the Caterpillar. The client subsequently instructed the Licensee to renew coverage for all equipment. On the sub-broker's quote for the Caterpillar, the Licensee wrote "please renew" and forwarded her instructions via facsimile. In accordance with the Licensee's instructions, the sub-broker renewed coverage on the Caterpillar only.

The client's Skidsteer Loader was subsequently stolen and the insurer denied the claim.

Council identified that the Agency's staff were not accustomed to dealing with commercial business. The Licensee also erred by writing ambiguous renewal instructions on the sub-broker's facsimile. She should have clearly stated the client wished to renew all equipment. Additionally, several individuals had been involved with the client's file which contributed to the errors that were made. The Nominee, who is responsible for the Agency's insurance activities, should have ensured the client's file was only handled by those familiar with commercial risks and in accordance with the usual practice of the business of insurance.

**DIANE LOUISE HOLLAND**  
**("NOMINEE")**

**VERNON, BC**

*(Level 3 General Insurance Nominee)*

**BARBARA LYNN BROWN**

**("LICENSEE")**

**KELOWNA, BC**

*(Level 2 General Insurance Agent)*

**MCDONALD BYCHKOWSKI & HOLLAND LTD.**

**DBA SILVER STAR INSURANCE AGENCY**

**("AGENCY")**

**VERNON, BC**

*(General Insurance Corporate Agent)*

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

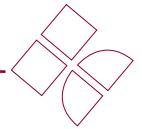
- the Nominee be reprimanded;
- the Licensee be reprimanded; and
- the Agency be assessed the costs of Council's investigation.

The Licensee, while employed with the Agency, cancelled the insurance on the wrong trailer unit insured under a client's ICBC fleet program, resulting in an uninsured loss. The Agency subsequently failed to respond to the claim in a proper and timely manner.

When the fleet plan was set up, two trailer units were registered with the same temporary vehicle identification number. This caused confusion when the client requested the insurance be terminated for one of the trailers, and resulted in the Licensee cancelling coverage on the wrong unit.

Shortly thereafter, the Licensee cancelled the insurance on the correct trailer but failed to identify her error and reverse the previous transaction. As a consequence, when the trailer that should not have been deleted from the fleet program was damaged in an accident, ICBC declined to respond to the loss.

While the client immediately reported the loss to the Agency, the Nominee did not take further action until the client's legal counsel contacted her seven months later. Council found the Nominee did not take sufficient steps to properly manage this incident consistent with the client's best interests. In particular, after learning of the erroneous cancellation



of coverage, the Agency should have immediately contacted ICBC to request consideration for the loss. Council also noted the Agency should have detected the error when the client returned the correct unit's plate and related documentation.

**DAVID MACGROTTY**  
 ("LICENSEE")  
**PORT COQUITLAM, BC**  
*(Level 2 General Insurance Agent)*

Council determined the Licensee failed to 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.

At the request of a client and as a matter of convenience to the client, the Licensee signed the client's name on an ICBC document to facilitate cancellation of the client's vehicle insurance.

Regardless of the reason, it is improper to sign another person's name to a document as the proper execution of insurance documents is fundamental to their validity and enforceability.

## COUNCIL DECISIONS: LIFE INSURANCE

### SUSPENSIONS

**BRANISLAV NOVKO**  
 ("LICENSEE")  
**VANCOUVER, BC**  
*(Life Insurance Agent)*

Council determined the Licensee failed to act in good faith, in accordance with the usual practice of the business of insurance and contrary to a condition on his licence. Council ordered the Licensee be:

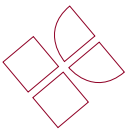
- suspended for two weeks;
- fined \$1,000; and
- assessed the costs of Council's investigation.

The Licensee was approached by former life insurance agent Slavica Nukmanovic ("Former Licensee"), who was unknown to the Licensee, to procure insurance coverage based on life insurance applications she had taken. The Former Licensee led the Licensee to believe she had solicited the business and taken the applications while licensed, but could not place the coverage herself due to licensing issues with Council. In fact, the Former

Licensee had solicited the insurance and taken the applications after the expiry of her licence.

Without determining the veracity of the Former Licensee's representations, the Licensee placed the requested insurance coverage through his agent contract. In particular, the Licensee accepted the applications and related documentation from the Former Licensee, signed as "witness" to applicant signatures without having met or discussed the transactions with any of the applicants, and then remitted the documentation to insurers as if he had produced the business. The Licensee also compensated the Former Licensee for her activities.

In reaching its disposition, Council noted that before these matters came to Council's attention, the Licensee met with the applicants in question and conducted a comprehensive review and analysis of their circumstances to ensure that the issued policies were in their best interests.



**MARIA PAVICIC  
("LICENSEE")  
BURNABY, BC**

*(Life Insurance Agent)*

Council determined the Licensee failed to act in good faith, in accordance with the usual practice of the business of insurance and contrary to a condition on her licence. Council ordered the Licensee be:

- suspended for two weeks;
- fined \$1,000; and
- assessed the costs of Council's investigation.

The Licensee was approached by former life insurance agent Slavica Nukmanovic ("Former Licensee"), who was unknown to the Licensee, to procure insurance coverage based on life insurance applications she had taken. The Former Licensee led the Licensee to believe she had solicited the business and taken the applications while licensed, but could not place the coverage herself due to licensing issues with Council. In fact, the Former Licensee had solicited the insurance and taken the applications after the expiry of her licence.

Without determining the veracity of the Former Licensee's representations, the Licensee placed the requested insurance coverage through her agent contract. In particular, the Licensee accepted the applications and related documentation from the Former Licensee, signed as "witness" to applicant signatures without having met or discussed the transactions with any of the applicants, and then remitted the documentation to insurers as if she had produced the business. The Licensee also compensated the Former Licensee for her activities.

In reaching its disposition, Council noted that before these matters came to Council's attention, the Licensee reported the circumstances and sought direction from Council on what steps to take to help ensure the applicants in question would not be prejudiced.

**REMINDER TO ALL LICENSEES REGARDING  
THE TWO PRECEDING COUNCIL DECISIONS**

All licensees are reminded that if they intend to work jointly with another agent or brokerage, they must take adequate steps to ensure the other party is properly licensed. This applies to all agents, including general insurance licensees who place coverage for clients through a sub-brokering process. Using the *Search Licensee* section on our website, you may determine if an individual is licensed with Council.

Licensees should also be aware that it is an offence to pay or allow to be paid, or offer or promise a commission or other compensation to an unlicensed person for acting as an insurance agent.

**REPRIMANDS**

**GORDON EINAR BRUCE HAYWARD  
("LICENSEE")**

**PRINCE GEORGE, BC**

*(Level 2 Life Insurance Agent Nominee)*

**GOCAR HOLDINGS**

**DBA GORDON E. HAYWARD AND  
ASSOCIATES INSURANCE AND FINANCIAL SERVICES  
("AGENCY")**

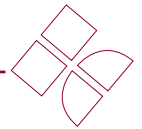
**PRINCE GEORGE, BC**

*(Life Insurance Corporate Agent)*

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

- the Licensee be reprimanded;
- the Agency be reprimanded;
- as a condition of their licences, the Licensee and the Agency must hold themselves out to the public in the manner in which they are licensed; and
- the Agency be assessed the costs of Council's investigation.

The Licensee sent a letter to a client which was intended to initiate replacement of the client's existing (\$100,000) 5 year term life insurance



policy with a (\$150,000) 10 year term policy being offered by her insurer under a new “health styles” rating system. The new rating system more closely scrutinized a person’s health and lifestyle enabling some clients to benefit from reduced insurance costs. Included with the letter sent to the client were the signature pages from a life insurance application and directions to the client to sign the forms and submit them along with a cheque for the first month’s premium. The letter and documents were sent to the client in this manner because the client had not responded to previous correspondence or voice messages left by the Agency. The client did not return the application forms to the Agency.

The package included all of the documents and instructions necessary for the client to make a change to her existing insurance without anyone having discussed replacement with her. Additionally, by signing the application, the client would be falsely declaring that she had read pages 1 through 16, which she had not been sent, and that the answers and statements were complete, current and accurate.

In determining the appropriate disposition in this matter, Council took into consideration that, although misguided, the Licensee was attempting to help the client increase her insurance coverage while reducing her monthly premium. He was not primarily motivated by the minimal financial gain to be achieved from the conversion.

Council also found the Licensee and Agency failed to hold themselves out to the public in the manner in which they were licensed.

**XUPING LIU**  
**(“LICENSEE”)**  
**RICHMOND, BC**

*(Level 2 Life Insurance Agent Nominee)*

Council determined the Licensee made two material misstatements in reply to inquiries from Council and failed to act in accordance with the usual practice of the business of insurance and ordered the Licensee be:

- reprimanded;
- fined \$400; and
- assessed the costs of Council’s investigation.

The Licensee signed as “witness” to the “Signature of the Policyowner” on a policy change form without actually witnessing the policyowner sign the document.

Council noted the Licensee did not personally benefit from this transaction and signed as witness as a matter of convenience only. Notwithstanding, the proper execution of insurance documents is fundamental to their validity and enforceability. Improperly executed documents could subject a client and/or insurer to future prejudice.

Council also found the Licensee knew or ought to have known had she exercised reasonable diligence that statements she provided in reply to inquiries from Council were not true.

**MATERIAL MISSTATEMENTS**

**RHONA KONNELLY**  
**(“LICENSEE”)**  
**BURNABY, BC**  
*(Life Insurance Agent)*

In June 1995, the Licensee made a material misstatement on her application for a Level 1 life insurance agent licence. Council learned of the misstatement in 2004 and ordered the Licensee be:

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