

COUNCIL DECISIONS: GENERAL INSURANCE

SUSPENSIONS

William Con (“Licensee”) Vancouver, B.C.

(Level 1 (Grandfathered) General Insurance Salesperson)

Council took the following action after determining the Licensee failed to act in good faith and in accordance with the usual practice of the business of insurance, and made material misstatements on two licence applications:

- ◆ The Licensee was suspended for one week.
- ◆ The Licensee was fined \$400.00.
- ◆ The Licensee must pay the costs of Council’s investigation.

The Licensee was asked by the insurer to obtain the policyowners’ signatures on a cancellation receipt as it no longer wanted to provide coverage for the risk. The Licensee subsequently signed the policyowners’ names on the cancellation receipt.

In reviewing this matter, Council noted the policyowners were not at risk from the Licensee’s actions since they had previously secured substitute coverage for the dwellings from another insurer. Council also found that the Licensee signed the policyowners’ names on the cancellation receipt as a matter of convenience and did not stand to benefit from his actions.

With respect to the material misstatements, the Licensee failed to disclose pending legal proceedings against him and a business of which he was an officer, director or partner. Council found the Licensee knew or ought to have known, had he exercised reasonable diligence, that the information he provided on his application was untrue.

Wendy Margaret Fraser (“Licensee”)

Port Alberni, B.C.

(Level 2 General Insurance Agent)

The Licensee was suspended for four weeks and assessed the costs of Council’s investigation after it was determined she failed to act in good faith and in accordance with the usual practice of the business of insurance. In particular, the Licensee knowingly placed ICBC Autoplan insurance for her son while he was a resident of Alberta, in contravention of the *Insurance (Motor Vehicle) Act* and ICBC’s Autoplan manual.

The Licensee’s son had taken up residence in Alberta and inquired with an insurance broker in that province about purchasing insurance for his vehicle. After learning that the cost would be significantly higher than he had been paying in B.C., he requested the Licensee to renew his Autoplan coverage. The Licensee knew that her son was not entitled to purchase insurance in B.C. because he was living and using the vehicle in Alberta. The Licensee apprised her son of this, but ultimately capitulated and renewed his Autoplan coverage under the Autoplan 12 option. The Licensee also failed to have the required promissory note for Autoplan 12 signed by her son.

Janis Naylor (“Former Licensee”)

Dawson Creek, B.C.

(Former Level 3 General Insurance Agent)

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

- ◆ The Former Licensee is to be suspended for one week.
- ◆ The Former Licensee must successfully complete the next available Errors and Omissions Course.
- ◆ The Former Licensee must pay the costs of Council’s investigation.

While licensed as a Level 3 general insurance agent, the Former Licensee met with a client, completed an application for insurance on the client’s mobile home and accepted a premium payment. The Former Licensee provided the client with a copy of the application, which indicated coverage was in effect immediately, even though she was aware that coverage could not be bound on the mobile home until certain underwriting requirements were met.

Although the Former Licensee indicated she verbally advised the client that coverage on his mobile home was not in force, she failed to document on the application or in file notes that coverage was not bound. Since the application included an immediate effective date of coverage and a premium was paid, the client understood coverage to be in force and forwarded the application to the mortgagee as evidence of insurance. The client subsequently suffered an uninsured loss to his mobile home.

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.



REPRIMANDS

Roberta Anderson (“Licensee”) Coquitlam, B.C.

*(Level 1 General Insurance
Salesperson)*

The Licensee was reprimanded and assessed investigative costs for failing to act in a competent manner and in accordance with the usual practice of the business of insurance. In particular, she back-dated coverage on an automobile storage policy.

The Licensee cancelled a policyowner’s automobile insurance policy as requested and waived the insurer’s cancellation fee, with the insurer’s consent, since the policyowner had intended to purchase an automobile storage policy on his vehicle within a few days.

Approximately two weeks later, the policyowner dropped off the storage policy premium with the Licensee and left the agency. Later

that day, the Licensee processed the storage policy and back-dated coverage two days as she believed it correlated with the cancellation date of the policyowner’s automobile insurance policy.

The Licensee acknowledged she made an error back-dating the policy to accommodate the policyowner, but did not stand to benefit personally from her actions.

Tanya Leamont (“Licensee”) Vancouver, B.C.

*(Level 1 General Insurance
Salesperson)*

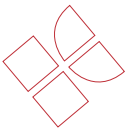
Council took the following action after determining the Licensee failed to act in good faith, in a trustworthy manner and in accordance with the usual practice of the business of insurance:

- ◆ The Licensee was reprimanded.
- ◆ The Licensee must pay the costs of Council’s investigation.

- ◆ The Licensee is restricted to holding a Level 1 salesperson’s licence until September 2001.
- ◆ The Licensee is required to disclose to any future employer the licence condition set out above until such time as she becomes a Level 2 agent.

The Licensee obtained and reviewed a CAIB II answer key and used information from the CAIB II answer key to prepare for her CAIB II exam written on September 15, 1999.

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**Clarence Rein (“Licensee”)
Kamloops, B.C.**
(Level 2 General Insurance Agent)

Council ordered the following action after determining that the Licensee failed to act in a competent manner and in accordance with the usual practice of the business of insurance:

1. The Licensee’s Level 3 general insurance licence is amended to Level 2 for a minimum of one year.
2. The Licensee is prohibited from binding any insurance coverage, with the exception of the Mushroom Grower’s Association and Golf Advantage Package, for a minimum of one year.
3. The insurance companies that underwrite the two programs mentioned in #2 above must provide written confirmation that each is aware of Council’s decision.
4. The Licensee’s insurance activities are to be under the direct supervision of the nominee of the Licensee’s sponsoring agency for a minimum of one year.
5. The license conditions set out in items #2 and #4 above will be removed upon receiving favourable reports from his nominee and the insurance companies mentioned in #3 above on his insurance practices during this period.
6. The Licensee must pay the costs of Council’s investigation.

Council reviewed the manner in which the Licensee advised and assisted his client in creating documentation relating to insurance coverage issues for a horse-stabling operation. In particular, in early 1994, the Licensee’s client was interested in a business for his ranch which involved the stabling of horses for the general public. The

client subsequently sought advice from his lawyer, who advised him to discuss insurance issues with his insurance agent, the Licensee.

The client later contacted the Licensee and discussed the subject of defraying the costs of the ranch’s liability insurance and charging an insurance levy to clients who stabled their horses at the ranch. In so doing, Council found that it was reasonable for the client to approach the Licensee and rely on his insurance knowledge and experience to provide him with proper insurance advice and direction in the circumstances.

The Licensee responded to the client’s inquiries by drafting a letter which Council found clearly indicated that first-party liability coverage to a limit of \$1,000,000 and animal mortality insurance to a limit of \$10,000 per animal, was available to horse owners who stabled their animals at the ranch. In fact, this coverage did not exist.

Council found that the client obtained the letter from the Licensee, and relying on the Licensee, incorporated the document as part of the stabling agreement.

Despite the Licensee’s submission that he instructed the client to take the document to his lawyer, Council concluded it was not unreasonable to expect the client would rely on the document provided to him by his insurance agent. The Licensee’s letter did not indicate that it was a draft document or that it was incomplete. The Licensee acknowledged that he did nothing to follow up with the client to prevent him from using the document.

Ultimately, Council found that, in response to a request for advice from his client, the Licensee drafted a document that was misleading as to the insurance coverage in force, and then provided the document to the client in circumstances where it

was reasonable to expect the client would rely on it.

Council found that a reasonable and prudent insurance agent acting competently and in accordance with the usual practice of the business of insurance would not have drafted the letter or let it reach the client as it was drafted. Council found the Licensee knew or ought to have known that the letter referred to coverage which did not exist and which the Licensee did not try to place. Council further found that it was reasonably foreseeable that the client could rely on the letter as part of his stabling operation to the detriment of himself and his clients.

Council also found the Licensee’s actions in this matter exposed the client and the ranch to liability and resulted in financial prejudice to a horse owner, as her claim to recover damages for the death of her horse, while stabled at the ranch, was denied by the insurer. Council found, based on the Licensee’s actions and advice in this matter, that the ranch’s clients were misled about the nature and extent of available insurance coverage while stabling their animals.

MATERIAL MISSTATEMENTS

**Tarlock (Tony) Chandi
 (“Licensee”)
Surrey, B.C.**

(Level 2 General Insurance Agent)

The Licensee failed to disclose pending legal proceedings against him on a licence application. On a subsequent licence application, the Licensee failed to disclose pending legal proceedings against him and a business of which he was an officer, director, or partner. Council determined the Licensee made a material misstatement on each application. He was fined \$300.00 for each misstatement and ordered to pay Council’s investigative costs.



COUNCIL DECISIONS: LIFE INSURANCE

CONVICTIONS

James Brian Courtney
 (“Former Licensee”)
 Victoria, B.C.

(Former Level 2 Life Insurance Agent)

On April 28, 2000, the Former Licensee pleaded guilty to a charge of theft over \$5,000.00 and was sentenced to six months’ imprisonment. As all monies had previously been repaid, no order of restitution was made.

Kimberly Karen Kilback
 (“Former Licensee”)
 Summerland, B.C.

(Former Level 1 Life Insurance Agent)

On January 24, 2000, the Former Licensee pleaded to seven charges of theft under \$5,000.00. On August 21, 2000, she was sentenced to six months in jail, placed on probation for two years and ordered to make restitution in the amount of \$28,454.00.

Ross Mario Marchio
 (“Former Licensee”)
 Kamloops, B.C.

(Former Level 1 Life Insurance Agent)

On May 31, 2000, the Former Licensee pleaded guilty to a charge of fraud under \$5,000.00. He received a suspended sentence, one-year probation, was ordered to pay restitution in the amount of \$2,995.77 and complete 100 hours of community service work.

SUSPENSIONS

Atul Kaul (“Licensee”)
 Surrey, B.C.

(Level 1 Life Insurance Agent)

Council took the following action after determining the Licensee failed to act in a trustworthy and

competent manner, in good faith and in accordance with the usual practice of the business of insurance:

- ◆ The Licensee is suspended for four months.
- ◆ The Licensee must successfully complete IFATC 101, 102, and 103 by December 30, 2001.
- ◆ The Licensee must be supervised by a named Level 2 life agent approved by Council until successful completion of IFATC 101, 102 and 103.
- ◆ The Licensee must pay the costs of Council’s investigation.

This matter arose out of the following circumstances:

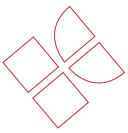
- ◆ The Licensee failed to act on instructions to reduce a client’s monthly premium, and later, to cancel his life insurance policy when advised he could not afford it.
- ◆ The Licensee failed to deliver the client’s life insurance policy.
- ◆ The Licensee misrepresented information to the insurer on the client’s application for insurance. In particular, the Licensee stated he conducted a financial needs analysis when he had not; and, the Licensee did not accurately reflect the client’s personal, financial and occupational information and circumstances on the application for insurance.
- ◆ The Licensee provided inappropriate insurance advice to the client. Specifically, the particular premium and amount of insurance was not set up to best reflect the client’s stated goals and objectives.

Harmeet (Harry) Singh Parihar
 (“Licensee”)
 Coquitlam, B.C.

(Level 1 Life Insurance Agent)

The Licensee was suspended for two weeks, fined \$500.00, and assessed the costs of Council’s investigation after Council determined he failed to act in accordance with the usual practice of the business of insurance and in accordance with a restriction and condition of his insurance licence. In particular, the Licensee:

- ◆ terminated his licence sponsorship with an insurer in March 1998, but retained insurance information pertaining to clients whom he had not yet contacted;
- ◆ breached a restriction of his Level 1 life agent’s licence that required him to only act on behalf of the insurance company sponsoring his licence;
- ◆ when contacting the orphan clients, failed to adequately explain to them he no longer represented his previous employer or why he had information on their existing insurance policies;
- ◆ used the information relating to the orphan clients, which was a breach of confidentiality contrary to section 16 of the Insurance Licensing Regulation; and,
- ◆ held himself out doing business under the name “Parihar and Associates”, although he was twice directed by Council not to use the name “Parihar and Associates” in his insurance business because the company name was not registered or licensed.



**Jack Leonard Parkin
("Licensee")**

Castlegar, B.C.

(Level 2 Life Insurance Agent)

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

- ◆ The Licensee was suspended for 3 weeks.
- ◆ The Licensee must successfully complete the CLU 327 Law course before the expiry of his current insurance licence.
- ◆ The Licensee must pay the costs of Council's investigation.

This matter arose out of the following circumstances:

- ◆ The Licensee advised a client to conduct an Absolute Assignment of four insurance policies in a manner that failed to meet the client's stated objective of remaining beneficiary under the contracts. The Licensee failed to take adequate steps to determine the appropriate course of action required to meet the client's objectives.
- ◆ The Licensee did not conduct an adequate review of the transaction once it was completed. Council noted that a proper review would have detected the failure of this transaction to meet the client's objective at that time.

**Lawrence James Robinson
("Licensee")**

Ladner, B.C.

(Level 1 Life Insurance Agent)

The Licensee received a one-week suspension and was ordered to pay the costs of Council's investigation after it was determined that he failed to act in a trustworthy manner, in good faith and in accordance with the usual practice of the business of insurance. In particular, the Licensee

signed a client's name on an insurance document.

The Licensee was approached by a client concerning the replacement of his universal life insurance policy. The client, a truck driver from northern British Columbia who travelled frequently, met with the Licensee in Richmond to complete an application for insurance. The application was forwarded to the insurer and coverage was subsequently offered on a rated basis due to his recent medical history. After a second medical opinion showed that the client's health had been misdiagnosed, the insurer offered coverage to the client with a more favourable rating.

The insurer then forwarded the policy to the Licensee and advised that the client's signature was required on an amendment form in order to secure the existing rates. Given this deadline and the difficulty the Licensee had arranging for the client to sign the form, the Licensee signed the client's name on the document.

In reaching its disposition on this matter, Council noted the Licensee did not stand to benefit from his actions and he acted to protect his client's interest. Notwithstanding, it is always improper to sign someone else's name to a document, regardless of the circumstances.

REPRIMANDS

**Terence Colton ("Licensee")
Coquitlam, B.C.**

(Level 2 Life Insurance Agent)

The Licensee was reprimanded and assessed investigative costs after Council determined he failed to act in accordance with the Insurance Contracts (Life Insurance Replacement) Regulation (the "Regulation") and the usual practice

of the business of insurance. In particular, the Licensee failed to present and review Basic Disclosure Statements ("BDSs") with two policyowners before taking applications for replacement insurance and failed to forward the BDSs to the existing insurer within 3 working days. The Licensee also improperly signed his name as "witness" on two supplementary applications, having not actually witnessed the policyowners sign their names.

The Licensee was originally contacted by the policyowners, who live in a remote area, by telephone. The Licensee was not aware prior to meeting with the policyowners that it was their intention to replace their existing insurance and he did not have any BDSs with him at the meeting. The Licensee completed the BDSs several days after the applications and mailed them to the policyowners for signature, along with supplementary applications which were needed.

The Licensee received the BDSs and supplementary applications back from the policyowners by mail approximately two weeks later. He then signed his name as "witness" to the policyowners' signatures on the supplementary applications and forwarded them, along with the BDS forms, to his managing general agent. The existing insurer did not receive the BDS forms until approximately two months later.



Hugh Roger McLeod
 (“Licensee”)
Richmond, B.C.
 (Level 2 Life Insurance Agent)

Council reprimanded the Licensee and ordered that he pay the costs of the investigation after determining he made false and misleading statements in the solicitation of insurance.

The Licensee produced written material for the purpose of promoting segregated funds to prospective clients. Some of the content of this material was found to be false and misleading. Council took into consideration that the Licensee meant to reflect an exuberant and fun approach to promoting segregated funds and did not intend to mislead his prospective clients.

Manish Pathak (“Licensee”)
Hamilton, Ontario
 (Level 1 Life Insurance Agent)

The Licensee was reprimanded, fined \$300.00, and assessed the costs of Council’s investigation after Council determined he failed to act in accordance with the Insurance Contracts (Life Insurance Replacement) Regulation (the “Regulation”) and the usual practice of the business of insurance. In particular, the Licensee did not complete and forward a Basic Disclosure Statement (“BDS”) until three months after an application for replacement insurance had been taken. The Licensee also failed to complete disclosure forms as required by section 90 of the Act in approximately 12 cases.

The Licensee works in a call centre environment and conducted the transaction with a resident of British Columbia over the telephone. The applicant indicated an intention to replace her existing life insurance with the insurance she was purchasing from the Licensee. The Licensee proceeded with the application for insurance and

did not complete and forward a BDS to the applicant until he received a copy of her contract by mail, approximately 3 months later. The Regulation requires BDSs to be completed before taking an application for replacement insurance and to be forwarded to the existing insurer within 3 working days.

Aaron William Bruce Ruston
 (“Licensee”)
Kelowna, B.C.
 (Level 2 Life Insurance Agent)

Council took the following action after determining the Licensee breached a condition of his insurance licence by failing to notify Council immediately in writing that he had ceased to be registered as a mutual funds representative under the *Securities Act*:

- ◆ The Licensee was reprimanded.
 - ◆ The Licensee must pay the costs of Council’s investigation.
- Pursuant to section 19 of the Insurance Licensing Regulation, it is a condition of every licence issued under the Act that the licensee notify Council immediately in writing
- ◆ if the licensee is or becomes licensed under the *Real Estate Act* or registered under the *Securities Act* or *Mortgage Brokers Act*;
 - ◆ of any changes in the status of the licensee as licensee under the *Real Estate Act* or as a registrant under the *Securities Act* or *Mortgage Brokers Act*, as the case may be;
 - ◆ of ceasing to be licensed under the *Real Estate Act* or registered under the *Securities Act* or *Mortgage Brokers Act*, as the case may be; and,
 - ◆ of any disciplinary action that has been commenced against the licensee under the *Real Estate Act*, *Securities Act* or *Mortgage Brokers Act*, as the case may be.

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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