



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

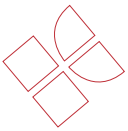
Peter Gordon Lindsay ("Licensee"), Langley, B.C. *(Level 2 General Insurance Agent)*

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)

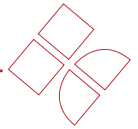
Council took the following action after determining that Ring, Connolly and the Agency acted contrary to the *Financial Institutions Act* (the “Act”).

- 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.

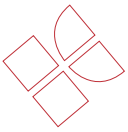
This matter arose out of the following circumstances:

- 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.



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

PASS IT ON



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.**

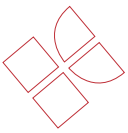
(Level 2 Life Insurance Nominee)

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.