

COUNCIL DECISIONS: GENERAL INSURANCE

CONVICTIONS

DARLENE LOUISE KOWTALUK

("FORMER LICENSEE")

LAKE COWICHAN, B.C.

(Level 2 General Insurance Agent)

On June 14, 2005, the Former Licensee plead guilty to one count of theft under \$5,000 and was sentenced as follows:

- eight month conditional sentence;
- eight months probation; and
- victim surcharge of \$50.

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

SHERRY LEE KAZAKOFF

("FORMER LICENSEE")

KAMLOOPS, B.C.

(Level 1 General Insurance Salesperson)

On May 16, 2005, the Former Licensee plead guilty to one count of theft over \$5,000 and was sentenced as follows:

- one year conditional sentence;
- victim surcharge of \$100; and
- restitution of \$2,721 to her former employer.

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

REPRIMANDS

J.T. INSURANCE SERVICES (CANADA) INC.

("AGENCY")

VANCOUVER, B.C.

(General Insurance Corporate Agent)

TERENCE ANTHONY CLAY

("NOMINEE")

VANCOUVER, B.C.

(Level 3 General Insurance Nominee)

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

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

Council found the Agency failed to properly handle a client's insurance premium.

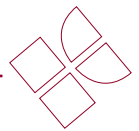
The Agency placed a client's commercial policy for the September 1, 2001 to September 1, 2002 term. On August 28, 2002 the Agency issued an invoice to the client showing the annual premium for the September 1, 2002 to September 1, 2003 term.

On September 11, 2002, the client appointed a new agent of record and filed a letter of brokerage with the insurer. The insurer elected to cancel the policy placed by the Agency and issue a new policy showing the new agent of record.

The Agency disagreed with the insurer's position that the client's original policy would be issued for time on risk and had several discussions with the insurer in this regard. The Agency argued it was entitled to the full annual commission as it negotiated renewal terms prior to the appointment of the new agent and had issued an account statement to the client on September 17, 2002 for the full annual premium. On September 30, 2002 the client forwarded full payment to the Agency.

No further action respecting this matter was taken by the Agency until February 24, 2003 in response to the insurer's December 2002 statement requesting the Agency remit the unpaid time on risk charge, less commission. Later that day, the client requested the Agency refund the annual premium.

On May 5, 2003, the Agency sent an e-mail to the client advising that it was prepared to refund the premium, less the annual commission and time on risk charge. On June 30, 2003, the Agency



forwarded the time on risk premium, less annual commission, to the insurer. On November 6, 2003, the Agency refunded the client the premium, less commission and time on risk charge.

The Agency failed to follow the insurer's instructions to remit the time on risk premium, less commission, and refund the difference to the client. At minimum, if the Agency believed the full annual premium was owed and/or it was entitled to the full annualized commission, it should have remitted the premium paid by the client in accordance with its agency agreement with the insurer. Instead, the Agency improperly held onto the premium for 14 months, during which time there were several long periods of inactivity where the Agency took no steps to resolve this dispute.

MARC-STEPHAN PARROUTY

("LICENSEE")

DELTA, B.C.

(Level 1 General Insurance Salesperson)

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 reprimanded;
- as a condition of his licence, if he seeks to transfer his insurance licence to another insurance agency, he must first inform the intended employer of the circumstances surrounding Council's investigation; and
- the Licensee be assessed the costs of Council's investigation.

The Licensee reviewed previous Autoplan transactions processed at his agency and identified Autoplan 12 clients whose insurance was due to expire. The Licensee proceeded to renew these clients' ICBC insurance policies without their knowledge or consent. He signed the clients' names on the insurance documents and promissory notes and mailed these to the clients with a renewal decal and covering letter explaining the transaction. The Licensee subsequently met with the clients to obtain their signatures.

In an unrelated issue, the Licensee signed his own signature on ICBC registration dealer transfers, rather than attending the dealerships to obtain the appropriate signatures.

In considering an appropriate disposition, Council took into account the Licensee was unlicensed for two months while the investigation was conducted. While a licence suspension would have been warranted had the Licensee remained licensed, Council was satisfied with the length of time the Licensee was unlicensed while it conducted its investigation.

WENDY LYNNE HILLEN

("APPLICANT")

ABBOTSFORD, B.C.

(Level 2 General Insurance Agent Applicant)

Council considered an application to re-instate the Applicant's Level 2 general insurance agent licence in light of a finding that she had, when previously licensed in 2003, arranged to have her ICBC auto insurance renewed based on false information to avoid having to complete AirCare. The Applicant's actions were found to have brought into question her ability to act in good faith and in a trustworthy manner, however it was determined she was still suitable to hold a licence. Council decided to grant a Level 2 general insurance agent licence but ordered the Applicant be:

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

In determining disciplinary action, Council took into account that the Applicant's application was pending for approximately two months while the matter was under consideration.

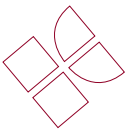
SANNE WIND

("NOMINEE")

SURREY, B.C.

(Level 3 General Insurance Nominee)

Council determined the Nominee 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;
- complete Parts 1 & 2 of *Managing the Errors & Omissions Exposure* through ILS Learning Corporation by April 16, 2006; and
- be assessed the costs of Council's investigation.

Council found the Nominee failed to adequately communicate to the client that he had not placed insurance coverage for her after having collected 50% of the projected premium from her.

The Nominee should not have collected premium money from the client without having placed the coverage or, in the alternative, should have followed up in writing with the client, clearly explaining that coverage was not yet in place. By collecting the premium, the Nominee contributed to the client's belief that coverage had been placed.

CONDITIONS

KATHARINE JOY FISHER
("LICENSEE")
VICTORIA, B.C.

(Level 2 General Insurance Agent)

Council determined the conduct of the Licensee called into question her trustworthiness, but with conditions it would not be contrary to the public interest to grant her a licence. Council ordered the following:

- as a condition of her licence, the Licensee must be directly supervised by her nominee; who will agree to have a condition placed on his licence to supervise and be accountable for the Licensee's insurance activities until her May 26, 2006 renewal;
- the Licensee must advise any future employer of the circumstances leading to these conditions until these conditions are removed; and
- the Licensee be assessed the costs of Council's investigation.

The Licensee falsified two employment letters to obtain mortgages on her personal residence and a rental property.

MATERIAL MISSTATEMENTS

JEFFREY MARCH
("FORMER LICENSEE")
VICTORIA, B.C.

(Level 2 General Insurance Salesperson)

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

- be fined \$200.

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



COUNCIL DECISIONS: LIFE INSURANCE

LYLE BRUCE REGIER
 ("FORMER LICENSEE")

VERNON, B.C.

(Level 2 Life Insurance Agent)

On July 16, 2004, the Former Licensee was convicted of four counts of fraud and was sentenced to two-and-a-half years' imprisonment.

Between 1993 and 1999 the Former Licensee defrauded four individuals of "a minimum sum of \$650,000 and possibly as high as \$1.34 million."

REPRIMANDS

WAYNE SHRIGLEY
 ("LICENSEE")

VICTORIA, B.C.

(Life Insurance Agent)

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

- fined \$2,500;
- reprimanded; and
- assessed the costs of Council's investigation.

The Licensee failed to conduct sufficient fact-finding and needs analysis to determine the client's circumstances, goals and objectives; failed to make full and fair disclosure of all material facts about the insurance transactions to enable the client to make informed decisions; and recommended and facilitated the replacement of the client's life insurance policies contrary to her best interests.

The client purchased three life insurance policies from the Licensee in the early 1990's as educational savings plans for her children.

Between 1998 and 2000 the insurer ceased offering the product purchased by the client, but offered existing clients the right to convert their coverage to a new universal life policy. The new policy would provide increased life insurance coverage for a

comparable premium, without any medical underwriting. However, a greater portion of the monthly premium was directed to pay the cost of insurance, resulting in reduced growth within the contract.

The Licensee subsequently facilitated the conversion of the client's existing policies to the new universal life policies, resulting in an increase of life insurance on each child while maintaining the same monthly premium deposit. Surrender values from the existing policies were put into separate segregated fund contracts for the children.

Other clients of the Licensee benefited from converting their policies, but this client did not. In her case, given that the primary purpose of the insurance was to fund her children's education, switching to the new policy was not advantageous as more of her monthly premium was used to pay for the insurance.

In making its decision, Council considered the Licensee had been licensed as an insurance agent since 1982 with an unblemished record; no concerns were identified respecting other policy conversions; and his recommendation to direct the surrender values of the original policies into segregated fund contracts was in keeping with the client's objective.



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Gloria Vannan, FCIP	General Agent

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Gloria Vannan	Past-Chairperson

COUNCIL STAFF

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