



COUNCIL DECISIONS: LIFE INSURANCE

MATERIAL MISSTATEMENTS

Brian Clifford Gaetz
(“Licensee”)

White Rock, BC

(Former Level 1 Accident & Sickness Agent)

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

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

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

Ronald Gerald O’Connor
(“Licensee”)

New Westminster, BC

(Level 1 Life Insurance Agent)

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

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

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

Justin Dae Hee Lee
(“Licensee”)

Vancouver, BC

(Level 1 Life Insurance Agent)

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

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

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

CONDITIONS

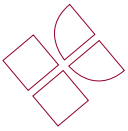
Wendy Frances Fox
(“Applicant”)

Surrey, BC

(Level 1 Accident & Sickness Agent)

Council took the following action after determining the Applicant failed to act in good faith and in accordance with the usual practice of the business of insurance and ordered:

- as a condition of the Applicant’s licence, she must:
 - 1) appoint a Level 2 life agent, subject to approval by Council, to supervise and be accountable for her insurance activities for a minimum of one year. The supervising Level 2 agent must agree to have a condition placed on his/her insurance licence making him/her accountable for the insurance actions of the Applicant; and,
 - 2) if the Applicant elects to change her supervising Level 2 life agent or enters into a new contract with another insurance company, she must first inform the new supervisor and/or insurance company of these conditions and the circumstances leading to Council’s investigation; and,
- the Applicant be assessed the costs of Council’s investigation.



The Applicant improperly used \$290 in cash premium money she collected from the renewal of three accident and sickness insurance policies for personal use. At the time, the Applicant was expecting a quarterly bonus cheque and intended to use this to repay the money. Although the Licensee was not initially forthright with her manager regarding her handling of the three policies in question, when her bonus cheque did not arrive as expected, the Applicant repaid the premium money due to the insurer and admitted to her manager that she had used the money for personal reasons.

Council reviewed the issue of the Applicant's suitability and fitness to hold an insurance licence and, in particular, whether she constituted a continuing risk to the public. Council determined that the Applicant did not pose an ongoing risk to the public and that with conditions, it would not be contrary to the public interest to permit her to retain her insurance licence. Council found the Applicant did not intend to misappropriate the funds and noted that no clients were prejudiced as a result of the Applicant's actions.

Notwithstanding, Council found the Applicant's conduct to be improper. In making their decision, Council took into consideration the fact that the Applicant had been unlicensed for approximately three months while the investigation was conducted. Due to Applicant's unlicensed status, Council was limited in its authority to take disciplinary action. Council viewed the three month period the Applicant's licence application was pending to be representative of the suspension warranted for this type of misconduct.

Jerome Robert Reiber
("Licensee")
Kelowna, BC

(Level 2 Life Insurance Agent)

On January 23, 2003, the Licensee was convicted of unlawfully attempting to evade payment of income tax owing to Canada Customs & Revenue Agency ("CCRA"). He was sentenced to pay a fine of \$13,000 and assessed a victim surcharge of \$1,950.

The circumstances leading to the conviction stemmed

from the Licensee owing back taxes, interest, and penalties. CCRA had obtained an order requiring a former employer to remit monies owed to the Licensee to CCRA. The Licensee created a false document, which alleged that CCRA had cancelled the remittance order, and faxed it to his former employer.

Council reviewed the issue of the Licensee's suitability and fitness to hold an insurance licence and, in particular, whether he constituted a continuing risk to the public.

Council determined the Licensee did not pose an ongoing risk to the public and that with conditions, it would not be contrary to the public interest to permit him to retain his insurance licence. Council based its decision on the following factors:

- The Licensee has been licensed in good standing as an insurance agent for approximately 20 years.
- The Licensee's conduct was out of character, limited to this one occurrence, and did not arise out of his practice as an insurance licensee.
- None of the Licensee's insurance clients were prejudiced as a result of his conduct.
- This did not relate to or affect his practices as an insurance agent and/or the manner in which he serviced clients, and,
- The Licensee's sponsoring insurance company and managing general agent are aware of the Licensee's conviction and provided reference letters supporting his ongoing employment.

Notwithstanding the above, Council found the Licensee's alteration of a CCRA document to be a serious matter, bringing into question his trustworthiness and ordered:

- as a condition of his insurance licence, the Licensee must:
 - 1) appoint a Level 2 life insurance agent with a minimum of five years' experience as a Level 2 life agent, subject to approval by Council, to supervise and be accountable for the Licensee's insurance activities for a minimum of three years. The



“supervising” Level 2 life agent will have a condition placed on his/her insurance licence making him/her accountable for the insurance actions of the Licensee; and,

- 2) immediately notify all insurance companies he contracts with of these licence conditions and the conviction and provide Council with proof he has done so. If the Licensee enters into a new contract with an insurance company, he must first inform the insurance company of these conditions and the conviction; and,
- be assessed the costs of Council’s investigation.

SUSPENSION

Jack Leonard Parkin
 (“Licensee”)
 Creston, BC

(Level 2 Life Insurance Agent)

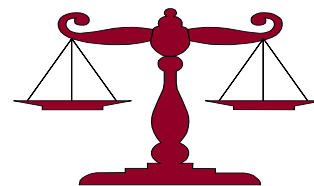
Council determined the Licensee failed to act in a trustworthy manner, in good faith, and in accordance with the usual practice of the business of insurance and ordered the Licensee:

- be suspended for four months; and,
- be assessed the costs of Council’s investigation.

With the objective of ensuring that his grandchildren would be protected should their guardians (his family members) die, and believing that the family members could not be relied upon to maintain adequate life insurance coverage for the benefit of the grandchildren, the Licensee placed insurance coverage on the lives of his family members with the understanding they had consented to the coverage. In doing so, the Licensee, who paid the premiums for the policies, carried out the following misconduct:

- On three occasions he signed the name of a family member on an insurance application.
- He answered health underwriting questions on an insurance application for a family member based on representations made by the family member’s spouse.

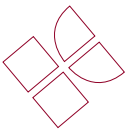
- Without the knowledge or consent of a family member, he drafted a cancellation letter for their policy, signed their name on the letter, and forwarded it to the insurer, resulting in cancellation of the policy, and,
- On two occasions he signed the name of a family member on the back of a policy demutualization dividend cheque and then deposited the cheque into his account. As payor for the demutualized policy, the Licensee believed he was entitled to the demutualization proceeds. In the end, he used the proceeds for the benefit of his grandchildren.



CAUTION

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.*

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.



COUNCIL DECISIONS: GENERAL INSURANCE

CONVICTIONS

Debbie Anne Cross
(“Former Licensee”)
Surrey, BC

(Former Level 2 General Insurance Agent)

On May 7, 2003, the Former Licensee plead guilty to two counts of fraud under \$5,000 and was sentenced as follows:

- suspended sentence;
- 12 months probation;
- 40 hours community service; and,
- must pay restitution in the amount of \$3,089 to her former employer.

Sung-Min (Scott) Kim
(“Former Licensee”)
Burnaby, BC

(Former Level 1 General Insurance Salesperson)

On March 20, 2003, the Former Licensee plead guilty to five counts of theft under \$5,000. He was sentenced to three years probation with the following conditions:

- required to make restitution to his former employer in the amount of \$11,144.82;
- must keep the peace and be of good behavior; and,
- is not to be employed in the insurance industry or apply for or hold a licence to sell insurance in British Columbia during his probation.

This matter arose after it was established the Former Licensee had misappropriated insurance premiums.

FINES

Macon Shaw Agencies Inc.
(“Agency”)
Delta, BC

(General Corporate Agent)

Nancy Phyllis Wells
(“Former Nominee”)
Delta, BC

(Level 3 General Insurance Agent)

Council determined the Agency breached a condition of its insurance licence and the Former Nominee and Agency failed to act in a competent manner and in accordance with the usual practice of the business of insurance and ordered:

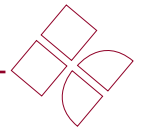
- the Former Nominee’s licence be cancelled and a Level 3 general insurance agent’s licence be issued in its place;
- the Agency be fined \$1,000 for breaching a condition of its insurance licence; and,
- the Agency be assessed the costs of Council’s investigation.

Between 1998 and January 2003 the Agency did not employ adequate financial controls which resulted in numerous financial irregularities, including:

- the Agency’s failure to remit premiums to insurers in a timely manner;
- insurers receiving Agency cheques which were NSF;
- non-compliance with the Agency’s ICBC Autoplan Agency Agreement;
- improperly processing credit card transactions; and,
- inadequate reconciliation of insurance premiums.

The Agency failed to comply with a condition of its insurance licence under section 17(2) of the Insurance Licensing Regulation by:

- collecting or receiving insurance premiums on behalf of insurers and using them for purposes other than as described in their agency agreements; and,
- failing to pay all premiums collected or received, less commissions or other deductions authorized by the insurers, in accordance with the terms of their agency agreements.



The Former Nominee and Agency also failed to handle the cancellation of an automobile insurance policy and refund owing in a proper and timely manner.

The above problems reflected on the Former Nominee's ability to competently manage the business and financial aspects of the Agency and called into question her suitability to be a nominee. The Former Nominee did not take sufficient and reasonable steps to manage and address the financial problems at the Agency between 1998 and January 2003. Council was also concerned that the Former Nominee had failed to take appropriate steps to investigate and resolve a consumer complaint, even after Council had brought the matter to her attention.

In January 2003, the Agency formed a partnership with another insurance agency. After reviewing the terms of the new partnership agreement and meeting with the parties involved, Council was satisfied that new financial management and accounting procedures had been implemented to prevent a recurrence of the problems identified above. The Agency has also appointed a new Nominee who is responsible for ensuring the Agency operates in a competent manner and in accordance with the usual practice of the business of insurance.

MATERIAL MISSTATEMENT

Jeffrey James Provencher

("Licensee")

Mississauga, ON

(Level 1 General Insurance Salesperson)

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

- be fined \$200; and,
- be assessed the costs of Council's investigation.

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

Sarabjit Singh Grewal

("Licensee")

Surrey, BC

(Level 1 General Insurance Salesperson)

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

- be fined \$200; and,
- be assessed the costs of Council's investigation.

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

REPRIMANDS

Andrew Ping-Tai Yan

("Nominee")

Vancouver, BC

(Level 3 General Agent Nominee)

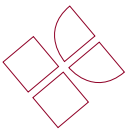
Marborough Insurance and Financial Services Ltd.

("Agency")

Vancouver, BC

(General Corporate Agent)

The Nominee placed commercial insurance coverage for a client over three consecutive terms with authorization from an insurer's underwriter. However, the underwriter did not properly manage the account and maintain an adequate record of her communication with the Nominee. The effect was that the insurer did not issue a policy and consequently did not invoice the Agency for the net premiums owed.



Although the Nominee had provided both the client and the insurer with binders evidencing the coverage and repeatedly requested the underwriter to process the client's policies, renewing coverage for the client through the underwriter on two occasions without having received any policy documentation from the insurer and without taking any other steps to confirm issuance of the client's policies was improper. An agent acting in a competent manner and in accordance with the usual practice of the business of insurance would have contacted someone other than the underwriter, in particular a person with authority over the underwriter, to confirm issuance of the policies, notwithstanding the effect this may have had on the relationship between the agent and the underwriter.

The Nominee also handled and settled three glass claims experienced by the client without authority and did not promptly report the claims to the insurer as required. In the circumstances, the Nominee was acting in good faith and in a manner similar to his claims dealings with other insurers.

Further, as the Agency was not billed the net premiums owed for the client's coverage, it retained the net premiums over the course of all three policy terms and used a portion of these premiums for purposes other than as described in its agency agreement with the insurer. However, the Agency remitted the full net premium owed upon the insurer's request.

After consideration of the above facts, Council determined the Nominee failed to act in a competent manner 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 that:

- the Agency be fined \$1,000 for breaching a licence condition;
- the Nominee be reprimanded; and,
- the Agency be assessed the costs of Council's investigation.

AllWest Insurance Services Ltd.
("Agency")
Vancouver, BC
(General Corporate Agent)

Diane Mary Vincent
("Licensee")
Vancouver, BC
(Level 2 General Insurance Agent)

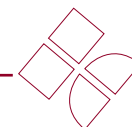
Council determined the Licensee and the Agency failed to act in a competent manner and in accordance with the usual practice of the business of insurance and ordered:

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

The Licensee had brokered a client's commercial insurance through an out-of-province specialty lines market and was given assurances by the sub-broker that coverage had been placed. The Licensee did not receive any policy documentation confirming coverage, despite making repeated requests for such information from the sub-broker. The Licensee did not independently verify the existence of the client's policy with the purported insurer and allowed an unreasonable period of time, ten months, to elapse from the anticipated effective date of the policy before securing replacement coverage with another insurer. It was determined that coverage was never placed with the purported insurer, and as a consequence, the client was uninsured for approximately ten months.

In considering this matter, Council noted the Licensee has on-going dealings with the sub-broker and in the past, although coverage was placed for clients as represented, the Licensee had encountered difficulties.

An insurance agent acting in a competent manner and in accordance with the usual practice of the business of insurance would verify directly with the insurer the existence of coverage in the event that policy documentation was not received within a reasonable period. If the agent determined that coverage was not



placed as expected, he or she would immediately notify the client of the circumstances and then attempt to secure replacement coverage to prevent any prejudice to the client.

**Intercity Equity Corporation
("Agency")
Vancouver, BC**
(General Corporate Agent)

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

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

The Agency failed to refund a client's insurance premium in a timely manner. In particular, a client's subscription policy was cancelled pro-rata by the lead insurer in December 2001 after another insurance agent filed a letter of brokerage. The Agency received the cancellation endorsement for the subscription policy and a premium refund for the lead insurer's majority portion in February 2002. A dispute as to who was entitled to the commission ensued, culminating with the Agency returning the lead and one subscribers premium refund back to the respective insurers four months later, claiming they no longer represented the client. The Agency directly refunded the client the portion of the premium refund received from a different subscriber, which the new insurance agent did not represent.

The Agency's delay in refunding the premium resulted in the client being required to pay a sizeable premium twice. Council did not accept the Agency's justification for withholding the refund. The Agency should not have allowed a commission dispute to interfere with a client receiving their refund. Alternatively, if the Agency believed it could not refund to the client, it should have immediately returned the money to the respective insurer.

SUSPENSION

**AIB Insurance Brokers (2000) Inc.
("Agency")
Vancouver, BC**
(General Corporate Agent)

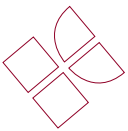
**Sophia Khatoon Khan
("Licensee")
Vancouver, BC.
(Former Level 3 General Insurance Nominee)**
(Current Level 2 General Insurance Agent)

Council determined the Agency failed to meet a licence condition and 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 suspended for two weeks;
- the Agency be fined \$5,000;
- as a condition of the Agency's licence, any future Agency nominee must be approved by Council; and,
- the Agency be assessed the costs of Council's investigation.

The Agency failed to meet a licence condition which required its office to be actively supervised by an individual who is in regular attendance and has a Level 3 general insurance agent's licence. The Agency failed to pay an insurer all premiums collected or received, less any commissions or other deductions authorized by the insurer, in accordance with the terms of its agency agreement.

By failing to ensure the Agency was adequately supervised and operating in accordance with the conditions on its licence and the requirements of the Financial Institutions Act, Council found the Licensee, who was the Agency's nominee at the time, failed to act in a competent manner and in accordance with the usual practice of the business of insurance.



A former insurance agent and sibling of the Licensee, who operated a tax service business within the Agency, acted as a general insurance agent on behalf of the Agency without being licensed. Insurance premiums collected or received by this individual were deposited into his own business bank account and were not remitted to the insurer for more than one year, contrary to the Agency's agreement with the insurer.

The Licensee was aware this individual was not licensed to carry on insurance business. However, on the basis that the Agency was operated mainly by other family members who were licensed with Council, she did not actively supervise the Agency and was unaware of the unlicensed activity and improper handling of premium money.

In considering this matter, Council noted the Licensee no longer holds a Level 3 general insurance licence. Should she apply for a Level 3 general insurance agent's licence, this decision will have a bearing on her suitability to hold such a licence.

**Wilson M. Beck Insurance Services
(Kelowna) Inc.
("Agency")
Kelowna, BC**

(General Corporate Agent)

**Stephen M. Pavelich
("Licensee")
Kelowna, BC**

(Level 3 General Insurance Agent)

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

- the Licensee be suspended for one month;
- the Licensee is no longer suitable to act as a nominee;
- as a condition of the Agency's licence, the Agency must notify all interested parties in writing of the circumstances surrounding the Agency's issuance of the applicable bonds, the

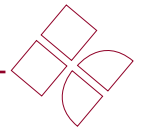
current status of the bonds, and the manner in which the premium money is being handled; and,

- the Agency be assessed the cost of Council's investigation.

The Licensee, who was the Agency nominee at the time, provided final performance and payment bonds to a client in advance of the insurer's approval. The insured previously issued a consent of surety for the client affirming they would approve the bonds. However, upon request by the Licensee for final bonds, the insurer requested additional information, which was not outstanding at the time the consent of surety was issued. The Licensee provided the bonds to the client prior to obtaining the insurer's consent with the expectation the bonds would be approved. When the Licensee followed up with the client he was advised the bonds were no longer required.

The Licensee had properly invoiced these bonds and upon an inquiry from his head office regarding the outstanding account receivable, advised that the bonds were not required and directed the invoice be reversed. The Licensee was instructed to collect the bonds from the client but was told by the client that the bonds had been destroyed. The bonds were later determined to have been used by the client. The Licensee acknowledged he should not have released the bonds to the client without the insurer's approval, and in doing so, failed to act in a competent manner and in accordance with the usual practice of the business of insurance.

In another case, an insurer requested a new general application, an indemnity agreement, and financial information from a contractor before they would approve the bond. The Licensee prepared the bond in advance of the insurers approval and, when pressed for delivery by the client, provided the bond in exchange for the indemnity agreement. Upon reviewing the indemnity agreement the Licensee discovered it was missing a seal signature and certificate and returned it to the client to correct. The Licensee did not follow up with the client to request the completed indemnity agreement nor did he forward a copy of the bond to the insurer. When questioned by the insurer during a bond audit, the



Licensee did not admit issuing the bond. The Licensee acknowledged he should not have provided the bonds without the completed indemnity agreement or, at least, should have kept a copy of the partially completed indemnity agreement, forwarded it to the insurer, and followed up with the client. By not doing so, the Licensee failed to act in a competent manner and in accordance with the usual practice of the business of insurance.

In both cases above, the Licensee failed to forward copies of the bonds to the respective insurers, as was the Agency's practice. In the first case, the Licensee misled his head office regarding the collection of the bonds. In the second case, the Licensee misled the insurer about the bond by advising that the bond had not been used, when it had. Council found the Licensee had not been forthright with his principles and in doing so, failed to act in good faith.

An agency is responsible for all its insurance practices and the insurance business conduct of agency employees. An agency owes a duty to clients and the insurers to conduct its general insurance business and transactions in good faith, in a competent manner, and in accordance with the usual practice. By failing to ensure that the activities described above did not occur, the Agency failed to act in accordance with the usual practice of the business of insurance.

BREACH OF LICENCE CONDITION

John Scott Hardman
("Licensee")
Vancouver, BC

(Level 2 General Insurance Agent)

The Licensee was granted a Level 2 general insurance agent licence in 2001, based on equivalency, with the condition he successfully complete CAIB II and III before his first renewal in 2003. When the Licensee failed to meet the condition, his licence was renewed as a Level 1 general insurance salesperson and Council fined him \$1,000 for breach of a licence condition.

At a hearing, Council considered the circumstances

and actions of the Licensee, noting that once the Licensee was aware of his error in not completing CAIB II and III, he took reasonable steps to enroll in and complete the courses in less than four months.

Council determined the Licensee had breached a licence condition but that the breach resulted from an error by the Licensee rather than a willful attempt to avoid complying with the condition. Council concluded the Licensee's failure to fulfill the licence condition rested solely with him and that disciplinary action was still appropriate. Council ordered the Licensee:

- be fined \$300 for failing to comply with a licence condition.

Garth William Keeler
("Licensee")
Cranbrook, BC

(Level 2 General Insurance Agent)

Council determined the Licensee breached a condition of his licence and ordered the Licensee:

- be fined \$1,000 for failing to comply with a licence condition.

In 2001 the Licensee was granted a Level 2 general insurance agent licence, based on equivalency, with the condition he successfully complete CAIB II and CAIB III prior to his first renewal. With his 2003 renewal application, the Licensee advised he had not completed either CAIB II or III and requested that his licence be renewed.

In reviewing the matter, Council gave serious consideration to the circumstances surrounding the Licensee's failure to comply with the licence condition. It noted while it appeared the Licensee knew well in advance of his licence renewal that he had no intention of fulfilling this licence condition, rather than immediately notifying Council, he informed Council only five weeks before his renewal date. Council found the Licensee had not acted responsibly in this matter and that his actions demonstrated a disregard for the condition placed on his licence.