

**In the Matter of**

**The *FINANCIAL INSTITUTIONS ACT***  
**(RSBC 1996, c.141)**  
(the “Act”)

**and**

**The INSURANCE COUNCIL OF BRITISH COLUMBIA**  
(“Council”)

**and**

**BHUPINDER SINGH ATWAL**  
(the “Former Licensee”)

## **ORDER**

As Council made an intended decision on July 11, 2017, pursuant to sections 231, 236, and 241.1 of the Act, at which time the Former Licensee held a general insurance licence; and

As Council, in accordance with section 237 of the Act, provided the Former Licensee with written reasons and notice of the intended decision dated August 9, 2017; and

As the Former Licensee’s general insurance licence automatically terminated on August 2, 2017 under Council Rules for non-filing; and

As the Former Licensee requested a hearing of Council’s intended decision in accordance with the Act, but no longer wishes to proceed with the hearing;

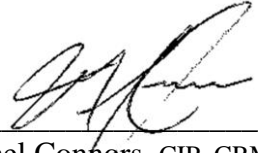
Under authority of sections 231, 236, and 241.1 of the Act, Council orders:

1. The Former Licensee is prohibited from acting as an officer, director, or shareholder of an insurance agency for a minimum period of five years.
2. The Former Licensee is assessed Council’s investigative costs of \$3,000.00.
3. As a condition of this order, the Former Licensee is required to pay the above-ordered investigative costs no later than **April 5, 2018**. If the Former Licensee does not pay the ordered investigative costs in full by this date, the Former Licensee will not be permitted to apply for an insurance licence until such time as the investigative costs are paid in full.

In making this order, Council determined that the Former Licensee is not suitable to hold an insurance licence for a period of five years.

Order  
Bhupinder Singh Atwal  
LIC-164739C121602R1 / COM-2017-00035  
January 5, 2018  
Page 2 of 2

This order takes effect on the **5<sup>th</sup> day of January, 2018.**



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Michael Connors, CIP, CRM  
Chairperson, Insurance Council of British Columbia

## **INTENDED DECISION**

of the

### **INSURANCE COUNCIL OF BRITISH COLUMBIA** (“Council”)

respecting

### **BHUPINDER SINGH ATWAL** (the “Licensee”)

Pursuant to section 232 of the *Financial Institutions Act* (the “Act”), Council conducted an investigation to determine whether the Licensee acted in compliance with the requirements of the Act.

As part of Council’s investigation, on June 5, 2017, a Review Committee (the “Committee”) met with the Licensee to discuss allegations that the Licensee asked for kickbacks from a vendor in exchange for a contract with the agency where the Licensee was employed (the “Agency”). The Committee also discussed possible conflicts of interest involving the Licensee.

The Committee was comprised of one voting member and two non-voting members of Council. Prior to the Committee’s meeting with the Licensee, an investigation report was distributed to the Committee and the Licensee for review. A discussion of this report took place at the meeting and the Licensee was provided an opportunity to make further submissions. Having reviewed the investigation materials, and after discussing this matter with the Licensee, the Committee prepared a report for Council.

The Committee’s report, along with the aforementioned investigation report, were reviewed by Council at its July 11, 2017 meeting, where it was determined the matter should be disposed of in the manner set out below.

#### **PROCESS**

Pursuant to section 237 of the Act, Council must provide written notice to the Licensee of the action it intends to take under sections 231, 236, and 241.1 of the Act before taking any such action. The Licensee may then accept Council’s decision or request a formal hearing. This intended decision operates as written notice of the action Council intends to take against the Licensee.

## **FACTS**

The Licensee was first licensed in British Columbia in 2008 and currently qualifies for a Level 2 general insurance agent licence. The Licensee joined the Agency in December 2011 and was employed as an assistant vice-president. The Licensee worked primarily in the new-home warranty division at the Agency but was also responsible for sales, continuing professional development seminars, and webinar initiatives in related fields.

The Licensee resigned from the Agency on February 10, 2017, after the allegations came to light.

### **Financial Concerns**

In 2016, the Licensee met with two people (“P” and “R”) to discuss their contracting company becoming a vendor for the Agency. At this meeting, the Licensee discussed the application process for becoming a preferred vendor. The process required registration with the Homeowner Protection Office (“HPO”). The Licensee advised P and R that he could complete the HPO application for a \$300.00 fee. The Licensee acknowledged to Council that asking for such a fee was unacceptable.

The Licensee also advised P and R that there was a \$600.00 fee for a licence, which had to be obtained from the HPO. This fee was subsequently charged to P’s credit card by the Licensee.

There was a further \$750.00 fee to the Agency that covered registration with the Agency’s insurer, but this was later waived by the Agency.

The Licensee also allegedly asked P to paint his father’s fasciae as a part of registering him as a vendor for the Agency.

The Licensee subsequently received \$2,300.00 in cash from P to process his registration with the HPO. The Licensee stated he advised P that the \$2,300.00 was too much money, but was told to hold onto it for the time being. The Licensee held this money until the matter came to light in January 2017.

On January 10, 2017, the Agency was contacted by R to advise that the Licensee was demanding “kickbacks” and had taken money from P. R advised the Agency that the Licensee had received an initial payment of \$2,300.00, which was followed by a further \$2,500.00 at a later date.

The Licensee admitted receiving the \$2,300.00 but denied receiving a further \$2,500.00. The Licensee acknowledged he did not report that he received \$2,300.00 from P to the Agency. All parties involved later acknowledged that there was no \$2,500.00 payment. The Licensee subsequently paid R \$4,800.00 during a meeting that was attended by R, two members of the Agency’s executive staff, and the Licensee.

Council was provided with recordings of conversations between the Licensee and P. These recordings purported to confirm that the Licensee had requested fees from P in exchange for providing P's company with new-home warranty work as a vendor for the Agency. The recordings included the Licensee requesting P to paint the fasciae at the Licensee's father's home as part of the agreement. The Licensee acknowledged he engaged in the conversations with P, as reflected in the recordings, but denied he engineered a kickback scheme. The Licensee stated it was P and R who came up with the idea of a kickback scheme and he was just playing along, without any intention to follow through.

### **Conflict of Interest**

Council also discussed the Licensee's involvement with other related business activities. The Licensee incorporated a company in April 2014, of which he was an officer and director. The Agency used the company to conduct work relating to new-home warranty claims. The Licensee stated that he sold his interest in the company in July 2015 to avoid a potential conflict of interest. Even though the Licensee claimed to have sold the shares, he was still listed as an officer of the company, of which fact the Licensee stated he was unaware. The Licensee removed himself from being an officer of the company on January 13, 2017.

The Licensee was also involved with a home walk-through business. The walk-through business assisted new-home buyers as they took possession of a new home. Some of the walk-through business related to properties built by builders that were associated with the Agency. When one of the builders, who was also a client of the Agency, began utilizing the walk-through service more frequently, the Licensee ceased the walk-through work to avoid a potential conflict of interest.

### **ANALYSIS**

Council found that the Licensee had knowingly collected fees and requested other forms of kickbacks from a potential vendor for the Agency. Council noted that the Licensee had accepted the \$2,300.00 from P, which was neither documented nor declared to the Agency. While the Licensee stated it was never his intention to keep the money, Council found this difficult to accept as the Licensee held the money for approximately eight months with no evidence of any intention to return it.

Council found the recordings of the telephone conversations with P to be compelling and concluded that it was the Licensee's intention to receive kickbacks from the vendor.

Council considered the Licensee's relationships with companies that provided work, directly or indirectly, for the Agency. Council determined the Licensee's activities with these companies constituted a serious conflict of interest. The Licensee's home walk-through business was of particular concern, as it involved properties built by the Agency's clients and vendors and represented a clear conflict of interest to both the clients who contracted the Licensee's home walk-through service, as well as the builders who were contracted by the Agency. A licensee has a duty of care to the public, as well as to the agency they represent, to act with the utmost good faith. Council found the Licensee's actions were counter to this duty of care.

Council found that the Licensee's actions brought into question his trustworthiness, as well as his ability to act in good faith and in accordance with the usual practice of the business of insurance. Council concluded that the Licensee was no longer suitable to hold an insurance licence.

#### **INTENDED DECISION**

Pursuant to section 231, 236 and 241.1 of the Act, Council made an intended decision to:

1. Cancel the Licensee's general insurance licence for a period of five years.
2. Prohibit the Licensee from acting as an officer, director, or shareholder of an insurance agency for a minimum period of five years.
3. Assess the Licensee Council's investigative costs of \$3,000.00.

The Licensee is advised that should the intended decision become final, the investigative costs will be due and payable within 90 days of the date of the order. In addition, failure to pay the investigative costs will result in the Licensee not being permitted to apply for an insurance licence until such time as the investigative costs are paid in full.

The intended decision will take effect on **August 29, 2017**, subject to the Licensee's right to request a hearing before Council pursuant to section 237 of the Act.

#### **RIGHT TO A HEARING**

If the Licensee wishes to dispute Council's findings or its intended decision, the Licensee may have legal representation and present a case at a hearing before Council. Pursuant to section 237(3) of the Act, to require Council to hold a hearing, the Licensee must give notice to Council by delivering to its office written notice of this intention by **August 28, 2017**. A hearing will then be scheduled for a date within a reasonable period of time from receipt of the notice. Please direct written notice to the attention of the Executive Director.

Intended Decision  
Bhupinder Singh Atwal  
LIC-164739C121602R1 / COM-2017-00035  
August 9, 2017  
Page 5 of 5

If the Licensee does not request a hearing by **August 28, 2017**, the intended decision of Council will take effect.

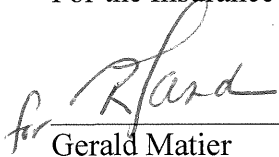
Even if this decision is accepted by the Licensee, pursuant to section 242(3) of the Act, the Financial Institutions Commission still has a right to appeal this decision of Council to the Financial Services Tribunal ("FST"). The Financial Institutions Commission has 30 days to file a Notice of Appeal, once Council's decision takes effect. For more information respecting appeals to the FST, please visit their website at [fst.gov.bc.ca](http://fst.gov.bc.ca) or contact them directly at:

Financial Services Tribunal  
PO Box 9425 Stn Prov Govt  
Victoria, British Columbia  
V8W 9V1

Reception: 250-387-3464  
Fax: 250-356-9923  
Email: [FinancialServicesTribunal@gov.bc.ca](mailto:FinancialServicesTribunal@gov.bc.ca)

Dated in Vancouver, British Columbia, on the **9<sup>th</sup> day of August, 2017**.

For the Insurance Council of British Columbia



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