

**IN THE MATTER OF THE *FINANCIAL INSTITUTIONS ACT***  
**(RSBC 1996, c. 141)**  
(the “Act”)

and the

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

and

**VARINDER GREWAL**  
(the “Licensee”)

**ORDER**

Pursuant to section 237 of the Act, Council convened a hearing at the request of the Licensee to dispute an intended decision of Council dated September 22, 2017.

The Hearing Committee initially heard the matter on April 26, 2018 and Council issued an order against the Licensee on September 11, 2018 (the “Order”).

The Licensee appealed the Order to the Financial Services Tribunal (the “FST”). The FST issued its decision on February 3, 2021 and directed that the matter be referred back to Council for reconsideration of the issue of whether or not the Licensee had encouraged or assisted others to cheat on the Life Licence Qualification Program (LLQP) examinations.


The Hearing Committee heard the reconsideration hearing on June 9, 2021 and then prepared its Reasons for Decision, dated December 1, 2021.

In accordance with the decision-making powers delegated to the Hearing Committee pursuant to section 223 of the Act, Council makes the following order:

1. the Licensee’s licence is cancelled for a period of four years, with no opportunity to reapply for a licence, commencing on the date of Council’s original order, September 11, 2018;
2. the Licensee does not have to pay a fine in addition to the licence cancellation penalty set out above;

3. the Licensee must pay Council's investigation costs in the amount of \$3,180 and hearing costs in the amount of \$7,476.17; and
4. the Licensee must pay both the investigation and hearing costs before being eligible to reapply for a licence.

This order takes effect on the 1<sup>st</sup> day of December 2021.



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Janet Sinclair, Executive Director  
Insurance Council of British Columbia

**IN THE MATTER OF THE *FINANCIAL INSTITUTIONS ACT***  
(R.S.B.C. 1996, c. 141)  
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**INSURANCE COUNCIL OF BRITISH COLUMBIA**  
 (“Council”)

and

**VARINDER GREWAL**  
(the “Licensee”)

**Date:** June 9, 2021  
9:30 a.m.

**Before:** Chamkaur Cheema Chair  
Gary Barker Member  
Karl Krokosinski Member

**Location:** By video-conference  
Suite 300, 1040 West Georgia Street  
Vancouver, British Columbia V6E 4H1

**Present:** David McKnight Counsel for Council  
Varinder Grewal Licensee  
[REDACTED] Agent for Ms. Grewal  
Michael Shirreff Counsel for the Hearing Committee

**REASONS FOR DECISION OF THE HEARING COMMITTEE**

**A. BACKGROUND AND ISSUES**

*a.) Initial hearing*

1. This matter came before the Hearing Committee for reconsideration following a decision of the Financial Services Tribunal (the “FST”), dated February 3, 2021.
2. By way of background, the Licensee received her licence as a life agent in British Columbia on February 16, 2017. During the period of time material to the issues in the Notice of Hearing, the Licensee was authorized to represent a local agency licensed to engage in life insurance activities in British Columbia (the “Agency”).

3. Based on the results of an investigation undertaken by Council in 2017, it appeared that a number of candidates who had written the Life Licence Qualifying Program (“LLQP”) examinations had potentially cheated or colluded on the exams by using the same answer sequence (the exam format is multiple-choice questions).

4. As part of its investigation, Council commissioned a statistical report authored by Chris Beauchamp, Ph.D. from Yardstick Testing and Training Experts, dated January 26, 2018 (the “Yardstick Report”). In the Yardstick Report, Dr. Beauchamp analyzed and reviewed the LLQP results from a number of recent exam sittings and provided a statistical analysis setting out his views, on the basis of the multiple-choice answers provided by the examinees, that there had been collusion or cheating on the exams (as per Dr. Beauchamp, a statistically impossible sequence of answers, both correct and incorrect, were provided by a number of LLQP examinees; it turned out that these examinees were also linked to the Agency).

5. The Licensee was identified during the course of Council’s investigation as having cheated or colluded on the LLQP exams. A Notice of Hearing was issued by Council against the Licensee and the matter eventually proceeded to a hearing on April 26, 2018 (the “First Hearing”). Although she had proper notice of it, the Licensee did not attend the First Hearing and it took place in her absence.

6. Following the First Hearing, the Hearing Committee at that time issued its report and recommendations to Council on August 13, 2018 (the “Committee Report”). In the Committee Report, the Hearing Committee concluded that the Licensee had cheated and colluded on her LLQP examinations and had also encouraged and facilitated cheating on the exams by at least one other LLQP examinee by providing another candidate with a sequence of answers intended to result in a passing exam grade. This latter conclusion of the Hearing Committee is the primary focus of this reconsideration hearing.

7. The Hearing Committee’s conclusions that the Licensee had assisted another LLQP examinee cheat on the exams was based on evidence introduced at the First Hearing by Council in the form of a statutory declaration sworn by an individual, “RK”, who provided evidence that the Licensee had provided her with purported answer sequences for two versions of the LLQP exams. As a result of RK’s evidence, the Hearing Committee concluded that the Licensee had been an active participant in *perpetuating* the collusion by encouraging RK to also cheat on the exams.

8. After reviewing the Committee Report, Council issued an order on September 11, 2018 cancelling the Licensee’s licence and prohibiting her from reapplying for a licence for a period of five years from the date of the order. Council also imposed a penalty of \$7,500 against the Licensee and ordered that she pay investigation costs in the amount of \$3,180, and hearing costs in the amount of \$7,476.17.

*b.) FST appeal*

9. The Licensee appealed Council's order to the FST, which issued a written decision on the appeal on February 3, 2021. A number of issues were raised by the Licensee on appeal, but the FST focused its decision on whether Council had breached certain aspects of the duty of procedural fairness at the First Hearing by not disclosing to the Licensee and the Hearing Committee some emails that were exchanged between a Council investigator and RK on July 23 and 26, 2018 (the "RK Emails"). These emails were exchanged *after* the First Hearing had concluded, but prior to the Committee Report being delivered to Council.

10. The FST concluded that Council ought to have brought the RK Emails to the attention of the Licensee and the Hearing Committee for possible consideration as part of the evidence at the First Hearing.

11. The FST viewed the lack of disclosure of the RK Emails as a breach of procedural fairness and concluded that Council's penalty order against the Licensee was therefore invalid. At paragraph 114 of its decision, the FST ordered that the Licensee's proceeding be remitted back to the Hearing Committee for reconsideration, with the following directions:

[114] Based on my conclusions above, I order that the penalty order is set aside and that **only the matter of the factual findings of encouragement and assistance of others to cheat, and whether any reduction in penalty is warranted**, be remitted to Council for reconsideration with the following directions:

a. If Council delegates this reconsideration hearing to a hearing committee under section 223(1) of the Act, I direct that if practicable, the members of the Hearing Committee should make up the reconsideration hearing committee.

b. The "record" to be considered by Council on its reconsideration is to be made up of the following:

- i. the record on the Appeal (including the RK Emails);
- ii. this decision;
- iii. written (and/or oral) submissions from the parties; and
- iv. any additional evidence tendered by the Appellant, as addressed below and admitted by Council in accordance with the Hearing Guidelines.

- c. The Appellant is granted leave to elect whether to adduce further evidence related only to the matter under reconsideration.
- d. The Appellant is also granted leave to elect whether to cross-examine RK on her statutory declaration.
- e. Written submissions, restricted to the matter under reconsideration, will be exchanged by the parties on a schedule to be set by Council.
- f. Based on my reasons for requiring this reconsideration hearing, I direct that costs of the reconsideration hearing are not to be imposed on the Appellant by Council.
- g. Given my reasons with respect to the reasonableness of the original enforcement costs, those costs are not subject to reconsideration.
- h. Upon completion of the reconsideration hearing, Council will make its decision on the matter and provide written reasons for whatever decision it then may make, which reasons are required to be adequate and reasonable and guided by this decision.

[Emphasis added]

12. Following the FST's decision, this reconsideration hearing was convened on June 9, 2021. Given the above order and directions from the FST, the investigation and hearing costs ordered by Council after the First Hearing were not to be reconsidered by the current Hearing Committee.

13. The *only* question for the Hearing Committee in this matter was whether or not the evidence established that the Licensee encouraged and/or assisted another examinee (RK) to cheat on the LLQP exams and, depending on the Hearing Committee's findings on this issue, whether any reduction in the Licensee's earlier penalty was warranted.

## **B. EVIDENCE**

14. In light of the FST's directions and the limited scope of this reconsideration hearing, the Hearing Committee will not canvass all of the evidence from the First Hearing that resulted in a finding that the Licensee had cheated and colluded on her LLQP examinations. The evidence with respect to those conclusions, which included the testimony of the Council investigator, as well as the statistical opinions provided by Dr. Beauchamp, was overwhelming in terms of establishing that aspect of the Licensee's misconduct.

15. At the reconsideration hearing, in accordance with the FST directives, the focus of the evidence related to whether or not the Licensee had encouraged or assisted RK to also cheat on the LLQP examinations.

*a.) Exhibits and witnesses*

16. The evidentiary record at the reconsideration hearing was limited. The parties consented to the FST Appeal Record being entered as **Exhibit 1** (which included both the RK Emails, as well as the statutory declaration sworn by RK that was entered at the First Hearing). The only other exhibit was an affidavit from a lawyer for Council, Lawrence Robinson, which was entered at the hearing by agreement of the parties as **Exhibit 2**.

17. In addition to the documentary evidence, RK was called as a witness by the Licensee and was examined by Council, as well as by the Licensee's agent, [REDACTED].<sup>1</sup>

*b.) Evidence of RK*

18. At the First Hearing, Council had entered into evidence a sworn statutory declaration from RK in which she had sworn that the Licensee had actively facilitated and encouraged her to cheat on the LLQP examinations. The statutory declaration was not lengthy and the material parts are reproduced here:

1. In or about September 2016, I met Varinder Grewal. At that time, I was enrolled as a student at Discovery College and Ms. Grewal was a classmate of mine. In getting to know Ms. Grewal, she advised me that she worked for [the Agency] and she told me some things about her job selling insurance and the potential to earn income as an employee of [the Agency].
2. In or about October 2016, after several conversations with Ms. Grewal, she convinced me to pursue a job with [the Agency] as her "recruit". She told me that I had to obtain a license to sell insurance and that I would need to write and pass a series of examinations.
3. On the advice of Ms. Grewal, I paid \$120 to obtain on-line course materials so that I could study for the licensing exams. I then proceeded to study the on-line course materials during my spare time.
- ...
7. In March 2017, I wrote and passed the Ethics exam and Segregated Funds exam.

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<sup>1</sup> Council consented to [REDACTED] appearing at the hearing as the agent for the Licensee.

8. Sometime around March 2017, while I was in class with Ms. Grewal, she gave me two sequences of letters which she told me were the answer sequences for two different versions of the accident and sickness licensing exam. She told me that she passed by using the answers on the accident and sickness licensing exam and that I should try to use the same answer sequence.
9. I then wrote down the two different answer sequences that Ms. Grewal had given to me so that I could try to memorize it for the next time I write the Accident and Sickness exam.
10. On April 6, 2017, I wrote the accident and sickness licensing exam again and I used one of the answer sequences that Ms. Grewal had given to me. However, I did not pass the exam.
11. I then rewrote the accident and sickness exam on May 4, 2017 and used the other answer sequence that had been given to me by Ms. Grewal. Again, I did not pass the exam. Ms. Grewal said it was OK and that I can write the exam again.
12. I did not provide the answer sequences to anyone else. I did not recruit anyone.

19. After swearing that statutory declaration, following the conclusion of the First Hearing, RK had an email exchange with an investigator at the Council and attempted, to some degree, to retract or alter the evidence she had provided in the earlier statutory declaration, writing as follows in an email:

Hi [REDACTED]. I hope u doing well. Actually I just to to say I accept that Varinder grewal gives me some answer from what she remember on her recent exam I think she just help me with some study and she give me some answer what she use on her exam according to her sense. I think this is not cheating bcoz she did not give me any series she just help me out like all other study how we help our classmate. Am in so stress I don't want anything happen with anyone bcoz everyone have responsibilities on their family and kids I feel so stress I don't want anyone gets loose their job .Please think before you take any decision with anyone. Please it's hambling request to you.

20. At the reconsideration hearing, in broad terms, RK testified that the evidence she had initially provided to Council in the statutory declaration was not entirely accurate. She explained in her evidence before the Hearing Committee that, although the Licensee had assisted her to prepare for the LLQP examinations, she had not encouraged or assisted RK to cheat on the exams.

21. RK provided a number of explanations for why her evidence in the statutory declaration was not true, including that she had not read the document before signing it;



English is her second language and she did not appreciate that she could have requested an interpreter at the time she signed the document; she felt pressured by Council to sign the declaration given the attendance of the investigator and a lawyer at her place of employment, as well as given the manner in which an investigator had cornered her during one of her own LLQP exam sessions; and she had signed the statutory declaration without taking steps to ensure that it was entirely accurate.

22. RK was very clear in her evidence at the reconsideration hearing that the Licensee had not given her a specific answer sequence for the LLQP exams.

23. RK testified that after she signed the statutory declaration for Council, she tucked it away in a desk at her home without paying much additional attention to it. She said that she later came across the document some months down the road and, on reflection at that time, concluded that her statements in the statutory declaration did not accurately reflect her discussions with the Licensee. She decided that she had to do something about this. In an attempt to correct the “errors” in the statutory declaration, RK reached out to Council’s investigator by way of the email set out above.

24. At the re-hearing, RK testified before the Hearing Committee with the assistance of an interpreter. She explained that she has been in Canada for approximately seven years and described that she has a reasonable, but not fluent, understanding of the English language. She was more comfortable in her first language and preferred to give evidence through the interpreter. RK said that she welcomed the opportunity to testify at the re-hearing about what had actually happened; to testify honestly and completely; and to confirm for the Hearing Committee that the Licensee had not assisted or facilitated her in cheating on the LLQP examinations.

25. There were aspects of RK’s testimony before the Hearing Committee that confirmed that significant parts of her statutory declaration were accurate. For example, RK admitted that, at the time of the material events, she was studying at Discovery College, where she met the Licensee. RK also conceded that the Licensee told her that she worked for the Agency, which sold life insurance. Further, RK agreed that after several conversations, the Licensee offered to assist RK obtain employment at the Agency as a recruit of the Licensee. In order for this to occur, the Licensee advised RK that she would need to obtain a licence through Council and pass the LLQP exams.

26. The allegations of exam collusion in this matter focused on only one of the LLQP exams, the accident and sickness exam. RK wrote that exam on April 6, 2017 and May 4, 2017, but did not pass the exam on either occasion. In the statutory declaration, RK had sworn that the Licensee had provided her with an answer sequence prior to writing those exams. The statutory declaration was sworn a number of months later, on November 24, 2017, in the presence of Mr. Robinson, who RK understood at the time to be a lawyer for Council. In order to sign the document, RK met with Mr. Robinson and a Council

investigator at a restaurant in Richmond where she worked. RK confirmed that Mr. Robinson asked her if she was willing to sign the statutory declaration, but denied that Mr. Robinson read the statutory declaration out to her in whole when they met. RK's evidence at the hearing about the mechanics of how the statutory declaration was signed was different in many respects from how the events were described in the affidavit of Mr. Robinson. These differences are addressed below when reviewing the submissions of the parties.

### **C. SUBMISSIONS OF THE LICENSEE**

27. In light of the evidence from RK at the reconsideration hearing, the Licensee submitted that there was no basis upon which the Hearing Committee could now reasonably conclude that she had encouraged or assisted RK to also cheat on the LLQP exams.

28. In the absence of any evidence of additional collusion, the Licensee submitted that the appropriate order in this matter would be no fine and an order that her period of licence cancellation be reduced, such that she could immediately continue to pursue her career as an agent. Additionally, the Licensee submitted that she should be compensated by Council for the legal fees that she incurred in order to "prove her innocence."

29. The Licensee submitted that RK's evidence at the reconsideration hearing – which in broad terms confirmed that the Licensee did not attempt in any way to assist RK to also cheat on the LLQP exams – ought to be preferred by the Hearing Committee over the evidence that RK had previously given in the statutory declaration. The Licensee described this as a situation where RK had attempted to correct her statements in the statutory declaration shortly after it was signed in November 2017 and that RK's evidence at the hearing revealed that she was pressured to some degree to execute the statutory declaration and that a number of aspects of the statutory declaration were clearly inaccurate or misinterpreted by Council. Further, while she was generally able to communicate effectively in English, the Licensee emphasized that it was a second-language for RK and she was much more comfortable in her first-language (the suggestion being that this explained some of the lack of clarity in the statutory declaration).

30. The Licensee submitted that RK provided credible evidence at the hearing about the limited assistance that she received from the Licensee with respect to the LLQP exams. The Licensee took the position that there was no evidence available to suggest that RK was not telling the truth, or alternatively had some personal motive or reason to assist the Licensee during the course of her testimony at the reconsideration hearing. The Licensee emphasized RK's evidence that she was only there to ensure that the evidentiary record was clear with respect to what had occurred and to correct her earlier statutory declaration. RK admitted that the Licensee had encouraged her to apply for a licence and had helped

her study for the LLQP exams, but had not provided her with any purported answer sequences.

31. The Licensee submitted that, if the Hearing Committee accepts RK's evidence at the hearing, there was no evidence from which it would be reasonable for the Hearing Committee to conclude that the Licensee's misconduct was any more egregious than other licensees who had been found to have colluded or cheated on the LLQP examinations and that the initial penalty ordered against the Licensee at the First Hearing must now be reduced in the manner set out above.

32. As part of her written submissions, the Licensee referenced a number of other Council discipline decisions in which she argued that licensees had received less severe penalties in relation to misconduct also associated with collusion on the LLQP exams. Many of these decisions were not available at the time of the First Hearing. When one reviews the various decisions relating to other licensees who were found to have cheated or colluded with respect to the LLQP examinations, the Licensee submitted that the only distinguishing feature of her matter was the idea that she had colluded or assisted RK to also cheat on the exams. As demonstrated by the evidence of RK at the reconsideration hearing, this did not occur and therefore her penalty ought to be reduced.

#### **D. SUBMISSIONS OF COUNCIL**

33. Council submitted that the Hearing Committee should prefer and accept the evidence given by RK in the initial statutory declaration as compared to her new and changed evidence at the reconsideration hearing. Council argued, quite forcibly, that RK's "late attempt to recant her evidence does not hold up to scrutiny and should be given no weight" by the Hearing Committee.

34. Council characterized RK's change in evidence as a transparent attempt to assist the Licensee with her professional discipline matter and submitted that the veracity of RK's recantation of her initial evidence at this late stage of the matter was entirely improbable given the overwhelming evidence that was introduced against the Licensee at the First Hearing.

35. In support of its position, Council emphasized the evidence in Mr. Robinson's affidavit with respect to what occurred at the time that RK signed the statutory declaration. Mr. Robinson, a member of the bar, provided detailed evidence as to the events that led to RK swearing the statutory declaration. Based on the evidence set out in Mr. Robinson's evidence, there could be no question that RK knew what she was signing and carefully reviewed what was set out in the document. Council stressed to the Hearing Committee the many areas where the evidence between RK and Mr. Robinson was aligned. For example, at the time that she signed the statutory declaration, RK acknowledged that she

told Mr. Robinson that the document was “right” and confirmed that Mr. Robinson gave her his business card before he left, yet she made no attempt after the fact to contact him. Further, RK acknowledged at the hearing that at no point during her meeting with Mr. Robinson did she tell him that she did not understand the contents of the statutory declaration or that she required an interpreter to assist with translation of the contents of the document. RK’s evidence in the statutory declaration and at the hearing on these issues was consistent with Mr. Robinson’s affidavit.

36. After noting all of these consistencies, Council then turned to the many instances where the evidence of Mr. Robinson and RK was *directly* at issue, including Mr. Robinson’s statements that he had read the entire statutory declaration out to RK, as well as the multiple steps that Mr. Robinson swore that he had taken in order to ensure that RK understood the context of the statutory declaration. Council submitted that RK was effectively suggesting that Mr. Robinson, an officer of the court, had lied in his affidavit evidence and submitted that there should be no question that the evidence of Mr. Robinson must be preferred wherever it might have diverged with what RK said. The fact that RK was willing to suggest that Mr. Robinson lied in his affidavit was submitted by Council to be fatal in terms of her credibility and the reliability of her evidence at the hearing.

37. In addition to comparing the credibility of Mr. Robinson and RK, Council also emphasized how much of RK’s statutory declaration was in fact acknowledged by RK to have been accurate. By way of example, RK admitted that: she had met the Licensee at Discovery College; the Licensee had recruited her to pursue a job with the Agency; and the Licensee had explained how RK would need to obtain a licence through Council and pass the LLQP exams.

38. Given that the majority of the evidence in the statutory declaration was accurate and truthful, Council submitted that the Hearing Committee could reasonably conclude that the remainder of the evidence was also truthful, including how the Licensee had encouraged RK to cheat.

39. Put simply, Council submitted that RK’s in-person evidence at the hearing was not credible and should be given no weight by the Hearing Committee. In its written submissions, Council described RK’s evidence that she did not understand the statutory declaration as a “bald lie” and a “poorly veiled attempt to assist the Licensee in this hearing.” It was submitted by Council that RK’s late change in her evidence did not accord with the other available evidence and had no air of reality.

40. At the end of the day, in her statutory declaration, RK deposed that the Licensee had provided two answer sequences to RK in order to assist in her in trying to pass the LLQP exams. Council submitted that this evidence should be accepted by the Hearing Committee at the reconsideration hearing – not only did the Licensee cheat in respect of her own LLQP

examinations, but she also facilitated and encouraged collusion on the exams with at least one other applicant.

41. Council provided extensive submissions on its public interest mandate and the importance of the LLQP exams in terms of ensuring that candidates have a base-line level of professional competency and submitted that in order for Council to adequately protect the public and ensure public confidence in the insurance industry, the Hearing Committee should order the following:

- a) the Licensee's licence be cancelled for a period of up to five years (no less than two years);
- b) the Licensee be fined an amount up to \$10,000; and
- c) as a condition of the order, the Licensee be required to pay the fine and hearing and investigation costs from the First Hearing before being eligible to re-apply for a licence.

#### **E. ANALYSIS AND CONCLUSIONS OF THE HEARING COMMITTEE**

42. There is no question for the Hearing Committee that the Licensee's misconduct was serious and requires a significant penalty even if there is no conclusion that she facilitated or encouraged RK to also attempt to cheat on the exams.

43. The LLQP exams are intended to assess an applicant's basic competency and knowledge to effectively, properly and ethically engage in life insurance transactions. Applicants who cheat on these exams, or engage in collusion in the writing of the exams, commit serious professional misconduct, reveal a complete lack of trustworthiness and demonstrate personal character that is incompatible with what is expected and required of insurance licensees.

44. Cheating on the LLQP exams is conduct that is diametrically opposed to the professional standards a licensee is expected and required to uphold and the Hearing Committee has no hesitation in describing such conduct as being serious professional misconduct. In addition to the professionalism issues, exam collusion may also serve to mask a lack of basic knowledge or proficiency by a licensee, thereby placing the public at risk.

45. All of that being said, the initial findings from the First Hearing – that the Licensee cheated and engaged in collusion with respect to her own writing of the LLQP exams – was not to be revisited by the Hearing Committee as part of this reconsideration hearing. The sole purpose of the reconsideration hearing was to allow the Hearing Committee the opportunity to hear and consider the evidence of RK in order to assess whether or not the Licensee had also facilitated or encouraged RK to cheat.

46. This was a somewhat challenging issue for the Hearing Committee to assess despite the fact that the positions of the parties were relatively straightforward. The Licensee submitted that the circumstances under which RK signed the statutory declaration were such that it would not be reasonable for the Hearing Committee to rely on, or prefer, the evidence in the statutory declaration to the evidence RK gave in person at the reconsideration hearing.

47. Council, on the other hand, submitted for the various reasons outlined above that RK's evidence before the Hearing Committee was incredible and not worthy of any weight. As such, Council urged the Hearing Committee to disregard RK's evidence at the hearing and instead rely on her earlier statutory declaration to conclude that the Licensee had provided two sets of answer sequences to RK, thereby facilitating or encouraging RK to also cheat on the exam.

48. The issues before the Hearing Committee turned in large part on the credibility of RK. The Hearing Committee accepts that the usual principles to be applied in terms of assessing the credibility of a witness were set out in *Bradshaw v. Stenner*, 2010 BCSC 1398 aff'd 2012 BCCA 296, which was referred to in Council's written submissions. The Hearing Committee has carefully reviewed the evidence of RK with a mind to the factors enumerated by the court in *Bradshaw*.

49. Quite frankly, the Hearing Committee found RK's evidence at the reconsideration to be difficult to accept in many respects. Her evidence with respect to what happened on November 24, 2017 when she signed the statutory declaration was at odds in many material ways with what was set out by Mr. Robinson. At times during her evidence, for a witness purporting to have nothing personally at stake, RK was unnecessarily combative, asserting for example that Mr. Robinson must not have been telling the truth in his affidavit (note that the Hearing Committee is not at all suggesting there to be any merit to RK's assertions about Mr. Robinson's evidence).

50. There were other aspects of RK's evidence that were difficult for the Hearing Committee to reconcile with the objective facts. Although her evidence with respect to the events that led her to later come across the statutory declaration and send the RK Emails seemed improbable, on the other hand the Hearing Committee also noted that there was no evidence available that countered RK's evidence that her emails to the Council investigator were her attempt to correct what she testified to have been mistakes in her statutory declaration.

51. Council cross-examined RK about some personal and cultural issues that might have led RK to seek to retract what she had initially advised Council about the Licensee. For the most part, although the Hearing Committee understood the purpose of this line of questioning, RK was quite consistent in her denials that she had any ulterior motive in

reaching back out to the Council and the Hearing Committee was not presented with any evidence that RK had a personal interest in the outcome of the Licensee's hearing. The Hearing Committee did not believe it was able to make any conclusive findings about RK's motivations despite Council's position that her intentions ought to be questioned.

52. The Hearing Committee was also challenged by what to make, if anything, of the fact that the statutory declaration was signed by RK without the assistance of an interpreter. Mr. Robinson's evidence was quite clear that he did not understand RK to require (or ask for) an interpreter at the time that the statutory declaration was executed. That being said, RK had only moved to Canada a few years earlier and she explained to the Hearing Committee that that she was best-suited to testify through an interpreter, acknowledging that her command of English was reasonable but not fluent at the material time. Mr. Robinson's affidavit did not address any discussion with RK about the need for an interpreter at the time the statutory declaration was signed.

53. Ordinarily, when a witness changes his or her evidence at various stages of a particular proceeding there can be concerns that arise with respect to that person's overall credibility. In this instance, the Hearing Committee was asked to consider changes between the evidence given earlier by RK in documentary form as compared to her evidence in-person, under oath at the hearing while subject to cross-examination.

54. This was also not a situation where the Hearing Committee had the benefit of significant other objective evidence from the material period that either harmonized with RK's initial statutory declaration or could be said to be entirely inconsistent with her evidence. In this matter, Council was asking the Hearing Committee to prefer the earlier written evidence over the evidence given at the hearing in large part on grounds that RK's earlier evidence was generally more probable given the other evidence introduced at the hearing and the manner in which it was initially secured by Council, while also asking the Hearing Committee to infer that RK had some ulterior motive to now change her evidence.

55. Based on the evidence given by RK at the reconsideration hearing, the Hearing Committee identified many aspects of her evidence that called her credibility directly into question. RK was not a reliable witness and her credibility was damaged when questioned by Council. That being said, the lack of credibility during her testimony also served, in the eyes of the Hearing Committee, to cast doubt on the reliability of her earlier sworn statement. RK did not appear to the Hearing Committee to understand or appreciate what it means to provide sworn, truthful evidence. In these circumstances, the Hearing Committee was not satisfied that it was appropriate to place much weight on any evidence given by RK, either in written form or in-person.

56. This then led the Hearing Committee to undertake an analysis of the other available evidence to assess if there was any further evidence, not associated with RK, from which the Hearing Committee could fairly conclude that the Licensee had facilitated or assisted

RK to also cheat on the LLQP exams. The position of Council at the First Hearing and the reconsideration hearing focused almost exclusively on the evidence of RK in establishing the additional component of facilitation of further collusion on the part of the Licensee. Council did not argue in this recent hearing that there was evidence of LLQP collusion between RK and the Licensee without reliance on the RK statutory declaration.

57. In the absence of other evidence from which a conclusion on the alleged collusion could reasonably be made by the Hearing Committee, given the issues that have been identified with RK's evidence at large and keeping in mind the fact that Council bears the burden of establishing the allegations against a licensee on a balance of probabilities, the Hearing Committee reluctantly determined that the evidence in this proceeding falls just short of allowing for the conclusion that the Licensee also facilitated RK's attempted cheating on the LLQP exams. No doubt there was some concerted effort by a collection of licensees associated with the Agency to cheat on the LLQP exams. The connections between the cheaters and the Agency was obvious from the opinions provided by Dr. Beauchamp. This alone might lead to a view that the Licensee was involved in some broader level of collusion. That being said, this matter was brought back before the Hearing Committee specifically to assess the alleged links between the Licensee and RK. Having carefully reviewed the matter, the Hearing Committee has concluded that the safest and most appropriate course, in light of the conflicting and changing evidence, is not to prefer and accept RK's statutory declaration as establishing further collusion. Despite the many valid points made by Council about RK's lack of credibility, there remained enough concerns about the truthfulness of the statutory declaration that the Hearing Committee concluded that the Council had not met its burden on this issue.

58. Ultimately, this is still a matter where in which a serious penalty must be ordered against the Licensee. A person licensed to engage in life insurance transactions is placed in an important position of trust. It is imperative that licensees adhere to the highest ethical standards and demonstrate both the ability and the will to discharge that trust.

59. The Licensee's actions in cheating on the LLQP exams constituted a clear violation of a number of sections of the Code of Conduct, which provide that trustworthiness, good faith and competence are of utmost importance and that licensees must conduct all professional activities with integrity and reliability.<sup>2</sup>

60. In circumstances such as this, where the Licensee's misconduct involved intentional deceit and dishonesty, Council must consider issues of deterrence, proportionality and public confidence in terms of determining the appropriate penalty.

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<sup>2</sup> Sections of the Code of Conduct include: Section 3 — Trustworthiness; Section 4 — Good Faith; and Section 5 — Competence.



61. There are a number of statements about sentencing in professional regulatory matters that are frequently cited by Hearing Committees, including Chair Hamilton's comments in *Financial Services Commission v. The Insurance Council of British Columbia and Maria Pavicic*, November 22, 2005, in which he noted that the factors to be considered in sentencing include "the need to promote specific and general deterrence, and, thereby protect the public"; the "need to maintain the public's confidence in the integrity of the ... profession"; and "the range of sentencing in other similar cases".

62. In another frequently cited passage, in *The Regulations of Professions in Canada*, author James T. Casey discussed these same concepts in the following terms:

A number of factors are taken into account in determining how the public might best be protected, including specific deterrence of the member from engaging in further misconduct, general deterrence of other members of the profession, rehabilitation of the offender, punishment of the offender, isolation of the offender, denunciation by society of the conduct, the need to maintain the public's confidence in the integrity of the profession's ability to properly supervise the conduct of its members, and ensuring that the penalty imposed is not disparate with penalties imposed in other cases.

63. Council has a broad mandate to ensure public confidence in the insurance industry. In the present case, the impugned conduct of the Licensee was of a particularly egregious nature even without the additional notion that she may also have assisted RK to try to cheat on the exams. The Licensee engaged in conduct which fundamentally undermined the integrity of the licensing process and the penalty imposed by Council must reflect the serious nature of her misconduct.

64. The Hearing Committee is not bound by precedent and is able to determine what it views to be a fair and reasonable penalty given the individual circumstances of the Licensee. With that being said, the Hearing Committee recognizes that it should be alive to the principle of proportionality and should be guided by previous decisions where conduct of a similar nature was sanctioned by Council. The Hearing Committee has carefully reviewed a number of other decisions in which other licensees were found to have cheated on the LLQP exams, including but not limited to:

*Kiranpreet Kaur Dhillon (January 23, 2019)*

- four year licence cancellation;
- investigation costs of \$2,930;
- hearing costs of \$5,447.79; and
- completion of an ethics course.

*Robinder Singh (January 23, 2019)*

- four year licence cancellation
- investigation costs of \$3,055;
- hearing costs of \$5,712.37; and
- completion of an ethics course.

*Manjit Kaur Brar (February 5, 2019)*

- four year license cancellation;
- investigation costs of \$3,055;
- hearing costs of \$5,196.25; and
- completion of an ethics course.

*Paramjit Kaur Dhaliwal (February 6, 2019)*

- four year licence cancellation;
- cancellation of general insurance license for a period of one year;
- hearing costs of \$5,409.63;
- investigation costs of \$2,930; and
- completion of an ethics course.

*Manvir Singh Grewal (March 25, 2019)*

- four year licence cancellation;
- investigation costs of \$3,055;
- hearing costs of \$5,561.32; and
- completion of an ethics course.

65. The Hearing Committee takes guidance from these other matters in reaching a decision as to the appropriate penalty against the Licensee in this proceeding. The Hearing Committee has concluded that the Licensee's penalty should be in the same range established in the above-noted decisions, with no additional sanction given the Hearing Committee's conclusions that the evidence did not allow for the additional findings with respect to possible collusion with RK.

66. Finally, with respect to the Licensee's request that she receive some repayment on account of her legal fees, the Hearing Committee notes that there is no statutory or legal authority that allows the Hearing Committee to order any compensation be provided to the Licensee with respect to any legal expenses required to pursue the matter before the FST. As set out in the decision of the FST, the only task for the Hearing Committee in this matter was to determine whether the new evidence impacts on the penalty imposed on the Licensee at the First Hearing such that it should be reduced in some fashion. The FST

made clear that there are to be no additional costs of the reconsideration hearing to be imposed on the Licensee and the parties were not to be re-litigating the investigation and hearing costs initially ordered by Council on September 11, 2018.

67. The Hearing Committee does not have any legal authority to compensate the Licensee in relation to her legal expenses and there will be no such order to that effect. Even if such authority did exist, the Hearing Committee would not see this as being an appropriate matter in which to award compensation to a licensee given the serious misconduct that the Licensee was found to have committed.

#### **F. ORDERS OF THE HEARING COMMITTEE**

68. In light of the foregoing, the Hearing Committee makes the following orders:

- a) the Licensee's licence is cancelled for a period of four years, with no opportunity to reapply for a licence, commencing on the date of Council's original order, September 11, 2018;
- b) the Licensee does not have to pay a fine in addition to the licence cancellation penalty set out above;
- c) the Licensee must pay Council's investigation costs in the amount of \$3,180 and hearing costs in the amount of \$7,476.17; and
- d) the Licensee must pay both the investigation and hearing costs before being eligible to reapply for a licence.

Dated in Vancouver, British Columbia, on the 1<sup>st</sup> day of December 2021.



Chamkaur Cheema  
Chair of Hearing Committee