

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

and

The INSURANCE COUNCIL OF BRITISH COLUMBIA
(“Council”)

and

CHARANJIT KAUR AUL
(the “Licensee”)

ORDER

As Council made an intended decision on May 12, 2015, pursuant to sections 231, 236, and 241.1 of the Act; and

As Council, in accordance with section 237 of the Act, provided the Licensee with written reasons and notice of the intended decision dated June 8, 2015; and

As the Licensee requested a hearing of Council’s intended decision in accordance with the Act, but subsequently withdrew her request for a hearing on October 8, 2015.

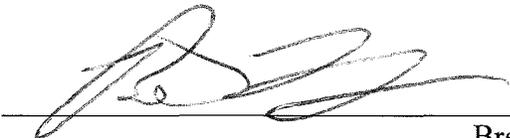
Under authority of sections 231, 236, and 241.1 of the Act, Council orders:

1. The Licensee’s life and accident and sickness insurance licence is suspended for a period of six months, commencing on **November 2, 2015** and ending at midnight on **May 1, 2016**.
2. A condition is imposed on the Licensee’s life and accident and sickness insurance licence that requires her to be supervised by a qualified life and accident and sickness insurance agent until such time as she accumulates an additional 24 months of active licensing.
3. The Licensee is fined \$2,500.00.
4. The Licensee is assessed Council’s investigative costs of \$3,062.50.

Order
Charanjit Kaur Aul
167081-I1320
October 14, 2015
Page 2 of 2

5. A condition is imposed on the Licensee's life and accident and sickness insurance licence that requires her to pay the above-ordered fine and investigative costs no later than **May 1, 2016**. If the Licensee does not pay the ordered fine and investigative costs in full by this date, the Licensee's life and accident and sickness insurance licence will remain suspended until the ordered fine and investigative costs are paid in full. As long as the above-ordered fine and investigative costs remain unpaid, the Licensee will not be permitted to complete any annual filing.

This order takes effect on the **14th day of October, 2015**.



Brett Thibault
Chairperson, Insurance Council of British Columbia

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA

("Council")

respecting

CHARANJIT KAUR AUL

(the "Licensee")

INTRODUCTION

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 April 20, 2015, a Review Committee (the "Committee") met with the Licensee and her legal counsel to discuss allegations that the Licensee recommended an inappropriate investment and received undisclosed commissions related to the investment recommendation. Council's investigation also addressed concerns that an insurer the Licensee had represented found more than 100 pre-signed blank, incomplete, or altered insurance forms in the Licensee's client files.

The Committee was comprised of one voting member and three 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 and her legal counsel were 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's consideration.

The Committee's report, along with the aforementioned investigation report, were reviewed by Council at its May 12, 2015 meeting, where it was determined that 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 has been licensed as a life and accident and sickness insurance agent (“life agent”) since July 2006. In November 2012, an insurer (the “Insurer”) ended the Licensee’s authority to represent it following a civil claim by the Licensee’s former insurance client (the “Client”), who alleged the Licensee recommended she invest in what turned out to be a Ponzi scheme.

Following the Licensee’s termination, the Insurer found more than 100 pre-signed blank, incomplete, or altered insurance forms in the Licensee’s client files. It appeared the Licensee was instructing clients to sign blank forms, which she could later complete or alter, and then use to further an insurance transaction.

Rashida Samji Ponzi Scheme (the “Samji Investment”)

On July 22, 2014, the British Columbia Securities Commission (“BCSC”) found that Rashida Samji (“Samji”), a former notary public, perpetrated fraud, contrary to section 57(b) of the *Securities Act*, RSBC 1996, c. 418, when she traded securities to not fewer than 200 investors, resulting in proceeds of not less than \$100,000,000.00.

Over the course of approximately nine years, from 2003 to 2012, Samji told investors that she would hold their money in a trust account that was monitored and audited by the Society of Notaries Public of British Columbia. The trust account would allow Samji to provide wineries with a comfort letter which would permit the wineries to use the trust funds as collateral for loans in foreign countries. The understanding was that no funds would be withdrawn from the trust account and, in return, investors would receive fee payments.

In late 2011 or early 2012, it was discovered that there was no trust account and the funds were not used as described by Samji. The investment was actually a Ponzi scheme in which new investment capital was used to pay investment fees to existing investors, yielding the promised returns to earlier investors. The investors’ funds were, in fact, deposited into bank accounts in the name of Rashida Samji Notary Corporation and Samji & Assoc. Holdings Inc., two companies of which Samji is the sole director and officer.

The Licensee was referred to the Samji Investment through one of her insurance clients, who told the Licensee about receiving strong returns through the Samji Investment for a number of years. The Licensee stated that she invested a very significant amount of her own funds in the Samji Investment and has recovered nothing to date. The Licensee had no previous connection with Samji other than as an investor.

The Client's Submission

The Client met the Licensee in May 2011, when the Licensee was assigned to handle her husband's life insurance policy. The Client was self-employed and earned an average of \$70,000.00 per year. Following her husband's death, the Client received approximately \$70,000.00 from her husband's life insurance policies.

In August 2011, the Client purchased two insurance policies from the Licensee. At that time, the Client stated she wanted to earn more than three percent interest on her investments, and asked the Licensee for suggestions. The Licensee told her that she knew of an investment that the Client might be interested in, referencing a return of about 10%, which piqued the Client's interest.

Following the August meeting, the Licensee and the Client met socially and became friends. They discussed the Samji Investment multiple times during their social events. According to the Client, the Licensee told the Client that the investment would be reasonably lucrative, paying interest of 10% per year, with the ability to take her money out after six months. The Client stated the Licensee never advised her that the Samji Investment was inappropriate for her, in light of her relatively modest financial circumstances.

On October 14, 2011, the Client accompanied the Licensee to meet with Samji. The Client stated she brought a cheque for \$50,000.00 from the proceeds of her husband's life insurance policy and gave it to Samji. The Client stated that the Licensee told her she would not receive a fee for introducing her to Samji and was simply introducing her as a favor.

In November 2011, the Client met with Samji alone and gave her an additional \$15,000.00 to invest.

Approximately a month later, the Licensee contacted the Client to inform her that the investment had "*gone sideways*" and her money was gone.

The Licensee's Submission

The Licensee stated that the Samji Investment was first discussed when the Client asked the Licensee where she invested her own money. The Licensee's position is that she did not refer or recommend the Samji Investment to the Client. The Licensee states she told the Client that the Samji Investment was not appropriate for her situation. Under pressure from the Client, the Licensee eventually introduced the Client to Samji and, against the Licensee's recommendation, the Client gave Samji \$50,000.00 to invest.

Payments from Samji

The Licensee said she discussed the Samji Investment with a total of three individuals who ended up investing with Samji (the "Investors"), one of whom was the Client.

In total, 12 cheques payable to the Licensee from the account of Rashida Samji, Notary Corporation or Samji & Assoc. Holdings Inc. were identified. Each of these cheques included a handwritten name of one of the Investors in the "*RE*" section and the amount related to the commission earned by the Licensee.

Samji stated that she paid the Licensee 1.5% commission every six months for the three individuals who placed funds in the Samji Investment. Samji stated that the 12 cheques represented commission payments to the Licensee for the investments received from the Investors.

The Licensee maintains she did not knowingly receive commissions from Samji. The Licensee explained that she believed the cheques were for investment returns or interim payments on her own investments, which she would request from Samji from time to time. The Licensee was unable to explain how the amounts of the cheques were determined, whether they represented interest payments or interim payments, or why the Investors' names were in the "*RE*" section of the cheques.

Pre-signed Blank, Incomplete, or Altered Insurance Forms

The Licensee submitted that the pre-signed forms identified by the Insurer were completed with the knowledge of the Licensee's clients, were for her clients' convenience, and were not used for any improper purpose. The Licensee submitted that she is now aware that keeping pre-signed forms on file is an improper practice.

ANALYSIS

Council was troubled by the Licensee's explanation of events relating to the Client's investment in the Samji Investment. The Licensee stated that she advised the Client that the Samji Investment was not in her best interests, but could provide no evidence, such as documentation in the client file, to support her statement. Council determined that a prudent life agent, notwithstanding any pressure the Client may have made to introduce her to the Samji Investment, would have either declined to make the introduction or, at the very least, would have maintained a clear record of her recommendation against the Samji Investment. Such a record would have included a letter to the Client recommending against the Samji Investment.

At the time of this event the Licensee was an experienced life agent, having been licensed for six years. Council determined that the Licensee knew, or ought to have known, that the Samji Investment was not appropriate for the Client and failed to act in the Client's best interests when she facilitated the introduction of the Client to Samji.

Council determined that the Licensee's actions, in introducing the Client to Samji, were inappropriate, even if she was not being compensated by Samji. However, the 12 cheques and the statement provide by Samji regarding these cheques, suggests that the Licensee benefited from her introduction of, and subsequent investment by, the Client in the Samji Investment. Ultimately, Council did not accept the Licensee's position that she did not knowingly receive commission payments from Samji.

Council determined that, by failing to be forthright with Council regarding the receipt of payments from Samji, the Licensee failed to act in a trustworthy manner. As set out in Council's Code of Conduct, the principle of trustworthiness extends beyond insurance activities.

Council concluded that the evidence supported a determination that the Licensee failed to exercise the required care with her insurance practice, particularly given the Licensee's lengthy experience in the insurance industry. Council felt the Licensee demonstrated improper practices, including by having clients pre-sign forms; by failing to recognize the Client's reliance on her for financial advice, despite her attendance at the Client's meeting with Samji; and by failing to maintain a record of her direction to the Client not to invest with Samji.

Council determined that these circumstances reflected on the Licensee's competence, trustworthiness, and ability to carry on the business of insurance in accordance with the usual practice.

INTENDED DECISION

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

1. Suspend the Licensee's life and accident and sickness insurance licence for a period of six months.
2. Impose a condition on the Licensee's life and accident and sickness insurance licence that requires her to be supervised by a qualified life and accident and sickness insurance agent until such time as she accumulates an additional 24 months of active licensing.
3. Fine the Licensee \$2,500.00.
4. Assess the Licensee Council's investigative costs of \$3,062.50.

The Licensee is advised that, should the intended decision become final, the fine and investigative costs will be due and payable within 90 days of the date of the order.

The Licensee's suspension will begin on **July 15, 2015**, and end at midnight on **January 14, 2016**.

The intended decision will take effect on **June 30, 2015**, 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 **June 29, 2015**. 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.

If the Licensee does not request a hearing by **June 29, 2015**, 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 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

Dated in Vancouver, British Columbia, on the **8th day of June, 2015**.

For the Insurance Council of British Columbia



Gerald D. Matier
Executive Director
604-695-2001
gmatier@insurancecouncilofbc.com

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