

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

and the

INSURANCE COUNCIL OF BRITISH COLUMBIA
(“Council”)

and

KULWINDERPAL SINGH KHOSAH
(the “Licensee”)

ORDER

As Council made an intended decision on March 9, 2021, pursuant to sections 231 and 236 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 May 5, 2021; and

As the Licensee has not requested a hearing of Council’s intended decision within the time period provided by the Act;

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

1. The Licensee’s general insurance licence is cancelled with no opportunity to apply for an insurance licence for three years, commencing on June 24, 2021 and ending at midnight on June 24, 2024;
2. The Licensee is fined \$5,000, to be paid by September 22, 2021, and which must be paid before the Licensee can qualify for a licence in the future;
3. The Licensee is required to complete the Council Rules Course, currently available through the Insurance Brokers Association of British Columbia, prior to being licensed in the future; and
4. The Licensee is required to complete the Insurance Brokers Association of British Columbia’s “Ethics for Insurance Brokers” course, or an equivalent course as acceptable to Council, prior to being licensed in the future.

Order
Kulwinderpal Singh Khosah
LIC-2019-0018614-R01, COM-2020-00072
June 24, 2021
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This order takes effect on the **24th day of June, 2021.**

A handwritten signature in black ink, appearing to read 'Janet Sinclair', written over a horizontal line.

Janet Sinclair, Executive Director
Insurance Council of British Columbia

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA
(“Council”)

respecting

KULWINDERPAL SINGH KHOSAH
(the “Licensee”)

1. Pursuant to section 232 of the *Financial Institutions Act* (the “Act”), Council conducted an investigation regarding allegations that the Licensee had failed to notify Council about a series of criminal charges and convictions he received throughout 2018 and 2019, and that the Licensee had made a material misstatement on a licence application submitted to Council in October 2019.
2. On January 12, 2021, as part of Council’s investigation, a Review Committee (the “Committee”) comprised of Council members met with the Licensee via video conference to discuss the investigation. An investigation report prepared by Council staff was distributed to both the Committee and the Licensee in advance of the meeting. A discussion of the investigation report took place at the meeting, and the Licensee was given an opportunity to make submissions or provide any further information. Having reviewed the investigation materials and discussed the matter with the Licensee, the Committee prepared a report for Council.
3. The Committee’s report, along with the aforementioned investigation report, were reviewed by Council at its March 9, 2021 meeting, where it was determined the matter should be disposed of in the manner set out below.

PROCESS

4. 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 and 236 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

5. The Licensee was first licensed as a Level 1 general insurance salesperson (“Level 1 Salesperson”) in April 2013 and held that licence until its termination for non-filing in August 2019. The Licensee subsequently submitted a licence application to Council in October 2019 and became relicensed in November 2019. His licence has been inactive since June 2020, due to not having authority to represent an agency.
6. On April 9, 2018, the Licensee was convicted for assault and breach of undertaking or recognizance. On August 22, 2018, the Licensee was convicted for breach of undertaking or recognizance and breach of probation order. On April 23, 2019, the Licensee was convicted for assault, flight from police, and breach of undertaking or recognizance.
7. The Licensee was licensed with Council at the time of all the above-noted convictions. However, he did not notify Council of any of the convictions, or the charges that preceded them, within five business days or otherwise, as required by Council Rule 7(3)(a)(iv).
8. When the Licensee submitted his licensing application to Council in October 2019, he answered “no” to the following question:

SECTION 10 BANKRUPTCY, JUDGMENTS, CRIMINAL OR COURT PROCEEDINGS

(a) Have you ever been convicted, or are you currently charged, under any law of any province, state, or country, including but not limited to the following?

- *Offences under federal statutes, such as the Income Tax Act and the Immigration Act;*
- *All Criminal Code offences (including impaired driving);*
- *Offences for which an absolute or conditional discharge has been granted. This excludes offences for which a pardon has been granted (and not revoked) under the Criminal Records Act.*

9. The Licensee’s history of undisclosed convictions was brought to Council’s attention in June 2020, when the insurance brokerage group that had employed the Licensee between

November 2019 and June 2020 (the “Complainant”) notified Council that they had been made aware of his April 2019 convictions.

10. In the course of Council’s investigation, the Licensee told Council’s investigator that he had answered “no” to the above application question because he had received legal advice advising him that “no charges have been put through.” The Licensee declined to provide information to Council about the identity of the lawyer who had given him this advice, stating that the information had been provided confidentially.

REVIEW COMMITTEE MEETING

11. In the course of his interview with the Committee, the Licensee submitted that the initial email from the Complainant to Council, in which Council was made aware of the Licensee’s April 2019 convictions, should be “stricken from the record” due to the email containing a misspelling of the Licensee’s surname. The Licensee did not claim that the email was not about himself, but alleged that the document should be considered invalid due to the misspelling. The Licensee also submitted that the Complainant’s various emails to Council should be discarded due to inaccurate allegations.
12. The Licensee told the Committee that he had received legal advice advising him that he was not required to provide notification to Council. He stated that, for confidentiality reasons, he was not required to provide the Committee with his lawyer’s name or contact information.
13. When asked whether he had in fact been convicted in 2018 and 2019, as sentencing information from Court Services Online indicated, the Licensee stated that his understanding had been that he was not convicted. He stated that he had not been notified that he had been convicted, and suggested that he had not been made aware of having been sentenced until the Court Services Online information was pointed out to him by the Committee.
14. Several questions were put to the Licensee about the Court Services Online information, and the Licensee confirmed that the information was accurate, including the indicated jail sentences and probation periods. Even so, the Licensee maintained that he had not known that he had been convicted of anything.
15. The Committee asked the Licensee whether he was familiar with the Council Rules. He stated that he had never reviewed the Council Rules, and said that he did not think doing so “was ever a recommendation or requirement of the Council.” When asked specifically about his familiarity with the notification requirements set out in Rule 7, the Licensee admitted that

he had not known about them. In response to a follow-up question about his familiarity with the Code of Conduct, the Licensee explained that he had little knowledge of the Code, and that “it wasn’t a recommendation and it had never been made aware to [him] that it was something that should be reviewed.” He compared it with being expected to be familiar with the entirety of the *Criminal Code* of Canada.

ANALYSIS

16. Council’s conclusion is that the Licensee’s multiple failures to disclose his charges and convictions to Council constituted repeated breaches of Council Rule 7(3)(a)(iv). Furthermore, the Licensee’s “no” answer to the question on his October 2019 application concerning charges and convictions was a “material misstatement” under section 231(1)(c) of the Act. Council is also of the opinion that the Licensee’s conduct amounted to serious breaches of the Code of Conduct, including sections 3 (“Trustworthiness”), 4 (“Good Faith”), and 12 (“Dealing with the Insurance Council of British Columbia”).
17. Overall, based on statements made by the Licensee to both Council’s investigator and the Committee, Council found the Licensee not to be credible. In particular, Council did not consider the Licensee’s submission that he had been unaware of his various convictions to be believable, especially considering that the Licensee acknowledged that the Court Services Online sentencing information was accurate, and even confirmed that he had served jail time.
18. Council considered the Licensee’s argument that the Complainant’s initial email to Council should be considered invalid due to a minor spelling error to have been a bad faith effort to avoid culpability. The error in question was an insignificant misspelling that clearly had no bearing on the substance of the Complainant’s correspondence. In regard to the Licensee’s submission that the Complainant’s emails contained inaccurate allegations, Council notes that, although the Complainant alerted Council to the Licensee’s history of undisclosed charges and convictions, all evidence confirming that the Licensee had not complied with the Act, Council Rules, and Code of Conduct, was drawn from either Court Services Online or Council’s own records.
19. Council took both mitigating and aggravating factors into consideration prior to making its determination. The only potential mitigating factor identified, however, was that the Licensee’s various charges and convictions did not appear to relate to insurance or other financial matters.

20. The aggravating factors identified were much more extensive and significant. The Licensee's convictions are recent, dating from 2018 and 2019. Additionally, Council found that the Licensee had behaved dishonestly throughout his interview with the Committee, providing statements and answers to questions that were simply not credible – particularly his claim that, despite having spent time incarcerated, he had not known that he had been convicted. Furthermore, the Licensee's admission that he had never reviewed the Council Rules or Code of Conduct – and his accompanying suggestion that Council had not informed him of his obligations regarding the Rules or Code – was considered to be another aggravating factor.
21. Prior to making its disposition, Council took three previous Council decisions into consideration as precedents, each of which dealt with failures by licensees to report information as per the Council Rules. Although Council is not bound to follow the outcomes from prior decisions, it acknowledges that similar conduct should result in similar outcomes within a reasonable range depending on the particular facts of the case.
22. *Noel Francine Smith* (February 2015) concerned a licensee who, prior to applying to Council for licensing in British Columbia, had been subject to two disciplinary actions by the Registered Insurance Brokers of Ontario. The licensee had also twice been subject to personal bankruptcy. When the licensee submitted applications to Council in 2010, she answered “no” to the questions asking whether she had previously been the subject of disciplinary action, or subject to bankruptcy proceedings. Additionally, the licensee was disciplined by the Financial Services Commission of Ontario in 2014, but did not notify Council as required by the Council Rules. Council concluded that the licensee's repeated non-disclosures brought into question her ability to act in a trustworthy manner, in good faith and in accordance with the usual practice of the business of insurance, and raised serious questions about her suitability. Council terminated both the licensee's life and accident and sickness agent (“Life Agent”) licence and general insurance licence for one year, and fined her \$5,000. She was also assessed investigative costs of \$1,000, and hearing costs of \$3,283.08.
23. *Rey Orlando Sua Carreno* (March 2019) concerned a Life Agent licensee who declared personal bankruptcy but did not report the fact to Council, as required by the Council Rules. The licensee's licence was subsequently terminated for non-filing, and when he submitted a re-application form he answered “no” to the question asking whether he had ever been subject to a bankruptcy proceeding. Council ordered that the licensee be fined \$1,000 for failing to report the bankruptcy to Council, and an additional \$1,000 for making a material misstatement on his licence re-application. He was also required to be supervised for a period of two years of active licensure, and required to complete the Council Rules Course

as well as Parts I and II of Advocis' "Making Choices: Ethics and Professional Responsibility in Practice."

24. *Amarpal Singh Atwal* (March 2021) concerned a former Life Agent licensee who failed to disclose two bankruptcies to Council, as required by the Council Rules. Furthermore, the former licensee had submitted three applications to Council over the years on which he had answered "no" to the question asking whether he had previously been subject to bankruptcy proceedings. The former licensee had also received reminder letters from Council on two occasions, relating to failures to notify Council in accordance with the Council Rules. Council concluded that the former licensee's pattern of failing to make required disclosures revealed that he had no regard for his professional obligations, and required a significant penalty. Council prohibited the former licensee from being licensed for a period of at least two years, and fined him \$7,500. Council also ordered that the former licensee be subject to a two-year supervision period if he should become licensed again, and that he must complete the "Ethics for Insurance Brokers" course provided by the Insurance Brokers Association of British Columbia, or an equivalent course acceptable to Council. The former licensee was assessed hearing costs of \$4,054.72. Following appeal of Council's decision to the Financial Services Tribunal, the former licensee's prohibition against being licensed was shortened to a period of at least one year, but the other terms of Council's decision were unchanged.
25. Council's opinion is that the Licensee is not suitable to hold a licence, and that it is in the interests of public protection for his licence to be cancelled for a significant period of time. The Licensee's multiple failures to notify Council of charges and convictions amounted to repeated breaches of the Council Rules, as well as breaches of sections 3, 4, and 12 of the Code of Conduct. The Licensee's misconduct was made worse by the material misstatement he made on his October 2019 licensing application, and the dishonesty displayed when meeting with the Committee. Council's conclusion is that the Licensee has little concern for his professional obligations and cannot be relied on to act in a trustworthy manner, in good faith, and in accordance with the usual practice of the business of insurance.
26. Council intends to cancel the Licensee's licence for three years, as well as impose a \$5,000 fine that will need to be paid prior to the Licensee receiving a licence in the future. Council believes that such a result is appropriate given the Licensee's repeated failures to notify of charges and convictions, the serious dishonesty displayed by his conduct, and the ongoing concerns about his trustworthiness and overall suitability. Council also intends to require the Licensee to complete the Council Rules Course, as well as an ethics course, prior to becoming licensed in the future.
27. In making this disposition, Council is cognizant of the fact that the disciplinary sanctions it intends to levy against the Licensee, and particularly the three-year licence cancellation, are

harsher than the sanctions levied in the precedent decisions. *Rey Orlando Sua Carreno* did not result in a licence suspension or cancellation, while both *Noel Francine Smith* and *Amarpal Singh Atwal* resulted in licence cancellations significantly shorter than what Council intends for the Licensee. Council considers the misconduct of the Licensee, in conjunction with the noted aggravating factors, to be of a level of egregiousness beyond the facts dealt with in the precedent cases. Council is of the opinion that the dishonestly and lack of regard for professional obligations demonstrated by the Licensee creates a risk to the public if he is allowed to continue conducting insurance business. A three-year licence cancellation will protect the public, while also giving the Licensee a reasonable period of time in which to rehabilitate himself if he wishes to return to conducting insurance business in the future.

INTENDED DECISION

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

- a. Cancel the Licensee's licence with no opportunity to apply for an insurance licence for three years, commencing on the date of Council's order;
- b. Fine the Licensee \$5,000, to be paid within 90 days of Council's order, and which must be paid before the Licensee can qualify for a licence in the future;
- c. Require the Licensee to complete the Council Rules Course, available through the Insurance Brokers Association of British Columbia, prior to being licensed in the future; and
- d. Require the Licensee to complete the Insurance Brokers Association of British Columbia's "Ethics for Insurance Brokers" course, or an equivalent course as acceptable to Council, prior to being licensed in the future.

29. Subject to the Licensee's right to request a hearing before Council pursuant to section 237 of the Act, the intended decision will take effect after the expiry of the hearing period.

RIGHT TO A HEARING

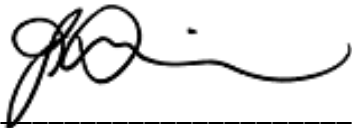
30. If the Licensee wishes to dispute Council's findings or its intended decision, the Licensee may have legal representation and present a case at a hearing before Council. Pursuant to section 237(3) of the Act, to require Council to hold a hearing, **the Licensee must give notice to Council by delivering to its office written notice of this intention within 14 days of receiving this intended decision.** 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 within 14 days of receiving this intended decision, the intended decision of Council will take effect.**

31. Even if this decision is accepted by the Licensee, pursuant to section 242(3) of the Act, the British Columbia Financial Services Authority (“BCFSA”) still has a right of appeal to the FST. The BCFSA 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 visit the guide to appeals published on their website at www.fst.gov.bc.ca/pdf/guides/ICGuide.pdf.

Dated in Vancouver, British Columbia, on the **5th day of May, 2021.**

For the Insurance Council of British Columbia



Janet Sinclair
Executive Director
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