

In the Matter of the

**FINANCIAL INSTITUTIONS ACT, RSBC 1996, c.141**

(the “Act”)

and the

**INSURANCE COUNCIL OF BRITISH COLUMBIA**

(“Council”)

and

**PAUL QUENTIN BULLOCK SPALDING**

(the “Licensee”)

**ORDER**

As Council made an intended decision on October 31, 2023, 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 January 8, 2024; and

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

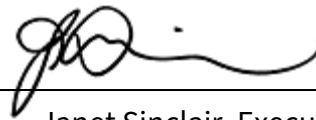
Under authority of sections 231, 236, and 241.1 of the Act, Council orders that:

- 1) The Licensee is fined \$2,500, to be paid by April 24, 2024;
- 2) The Licensee is required to complete the following courses, or equivalent courses, as acceptable to Council, by April 24, 2024:
  - i. the Council Rules Course for life and/or accident and sickness insurance; and
  - ii. the Nominee Responsibilities and Best Practice Course for life and/or accident and sickness insurance

(Collectively, the “Courses”);

- 3) The Licensee is assessed Council’s investigation costs in the amount of \$2,000, to be paid by April 24, 2024;
- 4) A condition is imposed on the Licensee’s life and accident and sickness insurance licence that failure to complete the Courses and pay the fine and investigation costs by April 24, 2024 will result in the automatic suspension of the Licensee’s licence, and the Licensee will not be permitted to complete the Licensee’s 2025 annual licence renewal until such time as the Licensee has complied with the conditions listed herein.

This order takes effect on the **25<sup>th</sup> day of January, 2024.**



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Janet Sinclair, Executive Director  
Insurance Council of British Columbia

## **INTENDED DECISION**

of the

### **INSURANCE COUNCIL OF BRITISH COLUMBIA**

(“Council”)

respecting

### **PAUL QUENTIN BULLOCK SPALDING**

(the “Licensee”)

1. Pursuant to section 232 of the *Financial Institutions Act* (the “Act”), Council conducted an investigation to determine whether the Licensee failed to fulfill his duties as a life and accident and sickness insurance agent supervisor by providing inadequate supervision to a licensee who was the subject of an investigation by Council.
2. On July 25, 2023, as part of Council’s investigation, a Review Committee (the “Committee”) comprised of Council members met via video conference to discuss the investigation. An investigation report prepared by Council staff was distributed to the Committee, the Licensee, and his counsel prior to the meeting, and the Licensee was given an opportunity to make submissions and provide further information. The Licensee, his counsel, and an agency representative attended the meeting. A discussion of the investigation report took place at the meeting.
3. Having reviewed the investigation materials and having discussed the matter at the July 25, 2023 meeting, the Committee prepared a report for Council which was reviewed by Council at its October 31, 2023 meeting. Council determined that 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, 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**

5. The Licensee has been licensed with Council as a life and accident and sickness insurance agent (“Life Agent”) since November 16, 1999, and has maintained an authorization to represent an insurance agency (the “Agency”) since the same date.
6. The Licensee has been the nominee of the Agency since July 26, 2011.
7. The Licensee was the Life Agent supervisor of an insurance licensee (the “Agent”) from December 17, 2018, to January 27, 2021.
8. On February 20, 2020, Council received correspondence from a complainant (the “Complainant”) raising concerns regarding the conduct of the Agent towards her and her family (the “Family”), including her spouse (the “Spouse”) and their adult children (“Child One” and “Child Two” respectively).
9. The Complainant said she had been approached by the Agent around April 2019 to join a first-time homebuyers’ seminar hosted by the Agency. She alleged that she was told to bring all existing life insurance policies for her family, as they would need to be replaced to be approved for a mortgage.
10. The Agent had recommended universal life policies to the Family. Ultimately, the Spouse, Child One, and Child Two’s new policies increased in price, and the Agent allegedly explained that this was due to larger coverage because they would be buying a home, and part of their life insurance payments would go toward the mortgage payments as well.

### The Licensee’s Submissions to Council

11. The Licensee informed Council that the Family’s policies were purchased through an insurer (the “Insurer”). The Licensee attached a supervisory pre-screen for Child Two which noted Child Two’s monthly combined household income as \$1,001–\$2,500 with combined household expenses of less than \$1,001. Household discretionary income was listed as \$1,001–\$2,500.
12. The Licensee stated that the Agent had not submitted all four policies of the Family for review and approval as per the Agency’s supervision process. The Agent had only submitted Child Two’s policy for review. The Licensee explained that he delegated the process of supervising new business and suitability, and the Agency’s compliance department was responsible for reviewing business conducted.

13. The Licensee stated that agents provide information about the business they submit via an online application to the Agency's head office. The information is reviewed by the Agency's branch managers (the "Managers"). The documentation is submitted directly to the Managers before it is submitted to the insurer; The Licensee is only informed if there are any questionable submissions requiring his input.
14. The Licensee confirmed that he did not receive commissions from the Agent's business activities during her supervision period.

#### Review Committee Meeting

15. The Licensee explained to the Committee that the Agency required its agents to submit applications to the Managers for review prior to sending them to insurers. In this case, the Licensee claimed the Agent knowingly bypassed the aforementioned requirement by submitting three of the Family's applications directly to the Insurer. An email dated September 27, 2019, was shown to the Committee during the meeting. The email contained a reminder to agents under supervision to have their applications reviewed by the Managers before sending them to insurers. However, the Licensee could not confirm whether there was an internal procedure in place to ensure the agents submit all applications to the Managers for review.
16. When asked by the Committee to explain the training that the Agency agents received around 2018-2019, the Licensee claimed that the Agency sent monthly emails to its agents and hosted monthly webinars covering various compliance-related topics. Also, insurers provided training on its products and the agents could contact the Managers for insurance-related questions.
17. The Licensee agreed with the Committee that Child Two's application required further details regarding his financial circumstances to warrant the need for permanent insurance. However, the Licensee stated that it was the Agent's responsibility to collect accurate financial information from Child Two and that it was not reasonable for him to question every application.
18. The Licensee argued that this was an isolated incident and that he did not fail to supervise because that would require a standard of perfection. The Licensee stressed that he has been the nominee of the Agency since 2011 and has never been disciplined by Council.

#### Additional Submissions

19. The Insurer confirmed to Council that an electronic submission file is sent daily to the Agency's head office that includes details for each policy placed. The Insurer confirmed that it sent two electronic submission files to the Agency for each of the Family's policies at the policy setup and settled stages.
20. The Insurer clarified that the electronic submission files are proprietary files constructed by the Agency to feed directly into their systems and include information such as plan code, policy number and coverage number, premium information, province and client name, and compensation information. The files included the Agent's servicing agent code.
21. The Licensee submitted to Council policies regarding supervision dated July 2018 and March 2019. The policies were not delivered to the Agent but were made available on the Agency's internal website.
22. On January 8, 2020, the Managers approved Child Two's application after requesting the Agent to provide a side-by-side comparison of the existing and proposed coverage and to provide the rationale for the proposed coverage based on insurable need.
23. On August 17, 2023, the Licensee confirmed that he did not receive the electronic submission files from the Insurer regarding the Family's policies.

#### **ANALYSIS**

24. Council considered the impact of section 5 ("Competence") of Council's Code of Conduct (the "Code") on the Licensee's conduct. Council concluded that the Licensee's conduct amounted to clear breaches of the aforementioned section of the Code and professional standards set by the Code. In addition, Council determined that the Licensee breached Council Rule 7(6). Licensees are required by Council Rule 7(8) to comply with the Code.
25. Council found that the Licensee did not fulfill his supervisory duties competently and adequately. Council noted that the Agency policies submitted by the Licensee dated July 2018 and March 2019 were not delivered to the Agent, and instead, were only made available on the Agency's internal website. The Licensee was not aware that three of the Family's applications were not submitted to the Managers for review. As a whole, the Council found that the Licensee demonstrated a casual approach to supervision and that he failed to ensure adequate supervision was provided to the Agent.
26. Council was concerned about the Licensee's repeated attempts to deflect his responsibilities as a supervisor to the Managers. While Council acknowledged that the Licensee could delegate supervision

responsibilities, the onus is still on the Licensee to prove that adequate supervision was provided. Council questioned how the Licensee could ensure adequate supervision when he was not aware of the insurance business that his supervisees were conducting and did not have access to the electronic submission files from the Insurer. In addition, there was no evidence to suggest that the Licensee actively engaged with the Managers to ensure the delegated supervision was conducted properly and in accordance with Council's expectations.

27. Council found that the Family's policies brought the Licensee's competence as a supervisor into question. Council determined that the Agent's misconduct stemmed in part from a lack of training, which the Licensee was partly responsible for. Council believed that the Licensee could have been more diligent in considering the Family's interests. Further, Council found that the Licensee breached Council Rule 7(6). As the nominee of the Agency, the Licensee is responsible to Council for all activities of the Agency and must ensure that its agents are properly supervised. Given the above, Council concluded that the Licensee should bear culpability for the placement of the Family's policies.

#### **PRECEDENTS**

28. Council is not bound by precedent to follow the outcomes from prior decisions, but similar conduct should result in similar outcomes within a reasonable range depending on the particular facts of the case.
29. With respect to the Licensee's misconduct, Council considered the case of [Hyung Jun \(Alex\) Kae](#) (May 2020).
30. [Hyung Jun \(Alex\) Kae](#) (May 2020): concerned a life agent supervisor who failed to act as a competent supervisor. The licensee was alleged to have failed to advise Council when new life agents ceased to be supervised by him and to report breaches of Council's Rules and the Code by licensees under his supervision. A former life agent under investigation by Council for misconduct was supervised by the licensee. The former life agent claimed that her misconduct was due to a lack of supervision and that new life agents' insurance applications were not reviewed. Other life agents under the supervision of the licensee also claimed that they were not aware the licensee was their supervisor. Council was concerned that after serious competence and trustworthiness concerns were identified with the former life agent, the licensee failed to take adequate steps to address or report the complaints. Council noted the licensee's approach to supervision appeared to be reactive to serious repeated concerns, rather than proactive to protect the clients' best interests. Council recognized that the licensee acknowledged he had not appreciated his responsibilities as a supervisor. Council believed that the licensee demonstrated a casual approach to supervision, with a focus on sales at the expense

of training and client service. In addition, Council was concerned by the lack of formal supervision guidelines in place for the licensee, and his failure to take responsibility for the actions of the former life agent. Council ordered that the licensee be prohibited from acting as a supervisor for six months and be required to complete the Council Rules Course and an ethics course. Also, the licensee was fined \$1,000 and assessed investigation costs.

### **MITIGATING AND AGGRAVATING FACTORS**

31. Council found several mitigating factors applicable to the subject case. Council determined that this was an isolated incident and noted that the Licensee cooperated with Council's investigation. Council acknowledged that the Licensee delegated his supervision of the Agent, which he was allowed to at the time, to the Managers. As such, Council acknowledged that it may be difficult for the Licensee to follow up on the information submitted by the Agent to the Managers. However, Council noted that the onus was on the Licensee as a Life Agent supervisor to demonstrate that adequate supervision was in place.
32. In terms of aggravating factors, Council was troubled that the Licensee did not display remorse and did not accept that there was inadequate supervision. Council treated the Licensee's tenure as an insurance licensee and status as nominee of the Agency to be aggravating factors. Further, Council noted that the Family was harmed as they paid premiums on policies that were unsuitable for their needs.

### **CONCLUSIONS**

33. After weighing all of the relevant considerations, Council concludes that the Licensee should be fined \$2,500. Although it was only one incident, Council considered that the case involved four clients.
34. Council also concluded that the Licensee should be required to take the Council Rules Course and a nominee course.
35. Council has determined that investigation costs should be assessed against the Licensee. As a self-funding regulator, the cost to investigate the misconduct of a licensee or former licensee should not be borne by members of the insurance industry unaffiliated with the investigation. This is particularly true when the evidence is clear that the actions of a licensee or former licensee have amounted to misconduct.



## **INTENDED DECISION**

36. Pursuant to sections 231, 236, and 241.1 of the Act, Council made an intended decision to:
- a. Fine the Licensee \$2,500, to be paid within 90 days of the date of Council's order;
  - b. Require the Licensee to complete the following courses, or equivalent courses, as acceptable to Council, within 90 days of the date of Council's order:
    - i. the Council Rules Course for life and/or accident and sickness insurance; and
    - ii. the Nominee Responsibilities and Best Practice Course for life and/or accident and sickness insurance;  
(Collectively, the "Courses")
  - c. Assess the Licensee Council's investigation costs of \$2,000, to be paid within 90 days of the date of Council's order; and
  - d. Impose a condition on the Licensee's life and accident and sickness insurance agent licence that failure to complete the Courses and pay the fine and investigation costs within 90 days of the date of Council's order will result in the automatic suspension of the Licensee's licence, and the Licensee will not be permitted to complete the Licensee's 2025 annual licence renewal until such time as the Licensee has complied with the conditions listed herein.
37. 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.

## **ADDITIONAL INFORMATION REGARDING FINES/COSTS**

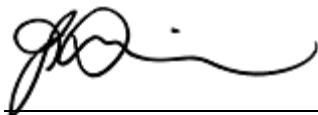
38. Council may take action or seek legal remedies against the Licensee to collect outstanding fines and/or costs, should these not be paid by the 90 day deadline.

## RIGHT TO A HEARING

39. If the Licensee wishes to dispute Council's findings or its intended decision, the Licensee may have legal representation and present a case in 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 fourteen (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.**
40. 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 Financial Services Tribunal ("FST"). The BCFSA has thirty (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 <https://www.bcfst.ca/> or visit the guide to appeals published on their website at <https://www.bcfst.ca/app/uploads/sites/832/2021/06/guidelines.pdf>.

Dated in Vancouver, British Columbia on the **8<sup>th</sup> day of January, 2024**.

For the Insurance Council of British Columbia



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Janet Sinclair  
Executive Director