

In the Matter of

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

and

The INSURANCE COUNCIL OF BRITISH COLUMBIA
("Council")

and

KIRAN LATA PARMAR
(the "Former Licensee")

ORDER

As Council made an intended decision on August 14, 2012, pursuant to sections 231, 236 and 241.1 of the Act; and

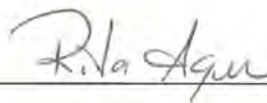
As Council, in accordance with section 237 of the Act, provided the Former Licensee with written reasons and notice of the intended decision dated August 24, 2012; and

As the Former 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:

1. The Former Licensee is prohibited from holding an insurance licence for two years from the date of this order.
2. The Former Licensee is assessed Council's investigative costs of \$612.50.
3. As a condition of this order, the Former Licensee is required to pay the above-ordered investigative costs no later than **December 12, 2012**.

This order takes effect on the **12th day of September, 2012**.



Rita Ager, CFP, CLU, RHU, CSA
Vice Chairperson, Insurance Council of British Columbia

INTENDED DECISION
of the
INSURANCE COUNCIL OF BRITISH COLUMBIA
(“Council”)
respecting
KIRAN LATA PARMAR
(the “Former Licensee”)

INTRODUCTION

Pursuant to section 232 of the *Financial Institutions Act* (the “Act”), Council conducted an investigation to determine whether the Former Licensee acted in compliance with the requirements of the Act. The Former Licensee was previously a Level 2 general insurance agent.

As part of Council’s investigation, on June 25, 2012, an Investigative Review Committee (the “Committee”) met with the Former Licensee to discuss allegations that she misappropriated insurance premiums between 2009 and 2011.

The Committee was comprised of one voting member and two non-voting members of Council. Prior to the Committee’s meeting with the Former Licensee, an investigation report was distributed to the Committee and the Former Licensee for review. A discussion of this report took place at the meeting and the Former Licensee was provided an opportunity to clarify the information contained therein and make further submissions. Having reviewed the investigation materials and the Former Licensee’s written submission, and after discussing this matter with the Former Licensee, the Committee made a recommendation to Council as to the manner in which this matter should be disposed.

A report setting out the Committee’s findings and recommended disposition, along with the aforementioned investigation report, was reviewed by Council at its August 14, 2012 meeting. Council also considered a subsequent written submission provided by the Former Licensee to Council on July 17, 2012. Based on its review, Council accepted the Committee’s recommended disposition and determined the matter should be disposed of in the manner set out below.

PROCESS

Pursuant to section 237 of the Act, Council must provide written notice to the Former Licensee of the action it intends to take under sections 231, 236 and/or 241.1 of the Act before taking any such action. The Former 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 Former Licensee.

FACTS

The Former Licensee was first licensed in November 1990 as a Level 1 general insurance salesperson. In December 2001, the Former Licensee commenced employment with a new agency ("Agency A") and subsequently obtained a Level 2 general insurance agent's licence while in Agency A's employment. The Former Licensee ceased to represent Agency A on May 7, 2010, and subsequently became authorized to represent another agency ("Agency B") on May 17, 2010.

The Former Licensee's authority to represent Agency B was terminated on March 9, 2011, after Council received notice from Agency B that it had terminated its relationship with her.

On March 18, 2011, the Former Licensee's general insurance licence was reactivated after she obtained authority to represent a third agency ("Agency C").

In or around March 2011, a credit union affiliated with Agency B conducted an audit of the Former Licensee's credit union account and identified a suspicious number of pre-authorized payments being withdrawn by Agency A.

In response to the concerns, the Former Licensee admitted she took cash insurance premium payments from Agency A clients who made full cash payments on general insurance policies and, rather than remitting the premiums, she personally used the funds. To ensure the funds were reimbursed, the Former Licensee arranged in-house financing for the outstanding premiums through Agency A with regular payments being made through her personal credit union account. It was ultimately determined the Former Licensee had arranged at least 14 unauthorized financing arrangements involving five different Agency A insurance clients. Both the clients and Agency A were unaware of the Former Licensee's conduct.

The amount of insurance premiums misappropriated by the Former Licensee between 2009 and 2011 totalled approximately \$18,612.27. Agency A did not pursue the matter criminally as the Former Licensee in effect reimbursed the funds by fulfilling the terms of the financing contracts she had arranged on the clients' policies.

When approached by Council staff regarding the concerns with her conduct, the Former Licensee admitted to wrongdoing and requested the termination of her general insurance licence. This termination took effect on April 14, 2011.

ANALYSIS

In responding to this matter, the Former Licensee was very contrite, accepted full responsibility for her actions, and acknowledged her conduct was clearly inappropriate. She explained being in a unique position of financial distress at the time and provided a written submission detailing her particular circumstances.

While Council acknowledged the severity of the particular hardship that motivated the Former Licensee and her otherwise unblemished record during her lengthy career as an insurance licensee, Council maintained her misconduct was unacceptable and clearly constituted a breach of the fundamental licensing requirements of trustworthiness and the intention to carry on the business of insurance in good faith. Council found the Former Licensee's motivation for her actions was not a justification for her inexcusable behaviour.

Council considered the *K. Wagenaar* and *M. Gansekoele* precedents. In *K. Wagenaar*, Council determined the licensee had taken cash payments totalling \$28,340.00 from the insurance agency she was authorized to represent, and attempted to conceal her actions through substitute cheques drawn on the agency's operating account and false journal entries in the agency's internal record-keeping system. The agency opted to pursue a restorative justice initiative in that case. Council found the licensee was not suitable to hold an insurance licence for two years from the date on which she completed the conditions of her restorative justice agreement and ordered her to pay the costs of Council's investigation.

Similarly, in *M. Gansekoele*, Council determined the licensee had taken cash payments received from clients for general insurance premiums and used the funds for his own purposes. Council determined that the licensee, who had not repaid the misappropriated funds, was not suitable to hold an insurance licence for a minimum period of two years commencing from the date on which he made restitution of the funds. He was also assessed investigation costs.

INTENDED DECISION

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

1. prohibit the Former Licensee from holding an insurance licence for two years from the date of Council's order; and
2. assess the Former Licensee Council's investigative costs of \$612.50.

Council determined that should the Former Licensee decide to return the general insurance industry after the two-year prohibition, she will be required to re-qualify educationally, and then will only be permitted to hold a Level 1 general insurance salesperson's licence until the licence has been active for 24 months. In addition, during this 24-month period, the Former Licensee will be required to notify any employer of Council's decision.

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

The intended decision will take effect on **September 12, 2012**, subject to the Former Licensee's right to request a hearing before Council pursuant to section 237 of the Act.

RIGHT TO A HEARING

If the Former Licensee wishes to dispute Council's findings or its intended decision, the Former 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 Former Licensee must give notice to Council by delivering to its office written notice of this intention by **September 11, 2012**. 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 Former Licensee does not request a hearing by **September 11, 2012**, the intended decision of Council will take effect.

Intended Decision
Kiran Lata Parmar
89985-1994
August 24, 2012
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Even if this decision is accepted by the Former 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 www.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 **24th day of August, 2012.**

For the Insurance Council of British Columbia



Gerald D. Matier
Executive Director

GM/cc