

In the Matter of the

FINANCIAL INSTITUTIONS ACT, RSBC 1996, c.141
(the “Act”)

and the

INSURANCE COUNCIL OF BRITISH COLUMBIA
 (“Council”)

and

SHAWN SINGH KANDOLA
(the “Former Licensee”)

ORDER

As Council made an intended decision on December 14, 2021, 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 January 19, 2022; 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 that:

1. Council will not consider an application for any insurance licence from the Former Licensee for a period of three years, commencing on February 14, 2022 and ending at midnight on February 14, 2025;
2. The Former Licensee is prohibited from acting as a shareholder, partner, officer, director or employee of any licensed insurance adjusting firm for a period of three years, commencing on February 14, 2022 and ending at midnight on February 14, 2025; and
3. The Former Licensee is assessed Council’s investigation costs of \$1,500, to be paid by May 16, 2022, and which must be paid in full prior to the Former Licensee being licensed in the future.

Order
Shawn Singh Kandola
LIC-2019-0014041-R01, COM-2020-00138
February 14, 2022
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This order takes effect on the **14th day of February, 2022.**

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
SHAWN SINGH KANDOLA
(the "Former Licensee")

1. Pursuant to section 232 of the *Financial Institutions Act* (the "Act"), Council conducted an investigation to determine whether the Former Licensee breached the Council Rules and/or the Code of Conduct (the "Code") when he failed to disclose a potential conflict of interest to his former employer (the "Firm"). The Firm alleged that the Former Licensee had family ties with a third-party company (the "Vendor") and would often refer business to the Vendor. The Former Licensee was also alleged to have made material misstatements to Council staff during its investigation.
2. On October 6, 2021, as part of Council's investigation, a Review Committee (the "Committee") comprised of Council members met virtually to discuss the investigation. A copy of the investigation report was forwarded to the Former Licensee and the Former Licensee was given an opportunity to make submissions and provide further information. Despite being given advance notice, the Former Licensee did not attend the meeting.
3. Having reviewed the investigation materials and having discussed the matter at the October 6, 2021 meeting, the Committee prepared a report for Council which was reviewed by Council at its December 14, 2021 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 Former Licensee of the action it intends to take under sections 231, 236 and 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

Background

5. The Former Licensee became licensed with Council as a Level 2 Insurance Adjuster (“Level 2 Adjuster”) on August 20, 2019. His licence was terminated on August 4, 2021. At all material times, the Former Licensee held an authority to represent the Firm.
6. On October 5, 2020, the Firm advised Council by letter (the “Letter”) that the Former Licensee was terminated on September 24, 2020 for failing to disclose a potential conflict of interest. The Firm alleged that the Former Licensee had family ties with the Vendor and would often refer business to the Vendor. The Firm provided the following information:
 - The director of the Vendor is the Former Licensee’s spouse (the “Spouse”).
 - The registered address of the Vendor belongs to the Former Licensee’s mother (the “Mother”).
 - The principal operator of the Vendor is the Former Licensee’s friend.
7. The Letter stated that, on September 15, 2020, a customer had complained to the Firm about the services delivered by the Vendor. It was revealed that the claim was adjusted by the Former Licensee. Further investigation confirmed that the Former Licensee had recommended and used the Vendor on 49 claims while authorized to represent the Firm. The Firm determined that the Former Licensee had been adding additional charges to the invoices, though customers were not directly impacted by the overcharges.
8. Council staff performed a BC Registry Services search, which confirmed that the Vendor is registered to the Spouse. In addition, the Vendor’s registered address belongs to the Mother.
9. On January 12, 2021, the Firm submitted information from the Firm’s internal and human resources management systems that further illustrated the Former Licensee’s family ties with the Vendor.
10. Council staff became aware that the Spouse had been employed with the Insurance Corporation of British Columbia (“ICBC”). On February 24, 2021, ICBC provided Council staff with documents that proved a familial relationship between the Former Licensee and the Spouse.

The Former Licensee’s Submissions

11. The Former Licensee stated that he had advised the contractor manager that he knew the Vendor was a distant family friend, and that he had received approval from the manager

to use the Vendor. The Former Licensee also claimed that he had not received any remuneration from the Vendor.

12. The Former Licensee clarified to Council staff that the registered address of the Vendor was his parents' home as the contents manager of the Vendor rented his parents' basement. In addition, he confirmed to Council staff that he was not aware of the name of the tenant residing at his parents' address and did not know the Spouse.
13. After Council staff had informed the Former Licensee that Council had evidence indicating the Former Licensee was able to identify the Spouse, the Former Licensee again denied that he knew the Spouse.
14. The Former Licensee confirmed that he had already provided the full spectrum of information and details needed to Council staff. He informed Council staff that he was no longer working in the insurance industry.

ANALYSIS

15. Council considered the investigation report, the Committee's report to Council, and the Former Licensee's submissions and determined that the Former Licensee's conduct regarding the conflict of interest amounted to clear breaches of section 3 ("Trustworthiness"), section 4 ("Good Faith"), section 7 ("Usual Practice: Dealing with Clients"), section 11 ("Usual Practice: Conduct Specific to Insurance Adjusters") and section 12 ("Dealing with the Insurance Council of British Columbia") of the Code. Former licensees are required by Council Rule 7(8) to comply with the Code.
16. Based on the evidence and on a balance of probabilities, Council found that the Former Licensee engaged in a conflict of interest by having undisclosed family ties with the Vendor, and that he misled Council staff during the investigation. For example, Council concluded that it was factually incorrect that the Former Licensee only had a distant family relationship with the Vendor. Council was surprised at the vague responses that the Former Licensee provided to Council staff, which Council believed was the Former Licensee's attempts to satisfy Council's investigation.
17. Council was troubled that the Former Licensee did not display any level of trustworthiness and good faith to his clients, the Firm and to Council. In all, Council believed the Former Licensee's conduct was a clear breach of Council's Conflict of Interest Guidelines. The Former Licensee did not refuse to send clients' claims to the Vendor and did not actively disclose the conflict of interest to the Firm.

18. In particular, Council noted that the Firm terminated the Former Licensee's employment with cause within ten days after receiving the customer's complaint. Council was convinced that the Firm possessed evidence to substantiate the allegations put forth by the Firm.
19. Council took several aggravating factors into consideration. For instance, Council was troubled that the Former Licensee appeared evasive during the investigation. The Former Licensee continued to deny his familial relationship with the Vendor, even when presented with evidence. Council did not believe that the Former Licensee showed any remorse for the conflict of interest that he engaged in, nor did the Former Licensee demonstrate any ability to self-correct as he continued to make material misstatements to Council staff. In addition, Council noted that the 49 claims that the Former Licensee referred to the Vendor took place over a period, which also speaks to his intent.
20. Council believed that the Former Licensee ought to have known that his conduct was not acceptable. In his submission, the Former Licensee claimed that his family has been in the insurance industry for many years. Council is concerned that the Former Licensee will repeat his misconduct.
21. In terms of mitigating factors, Council accepted that the Former Licensee's conduct did not result in clear public harm. Council noted that the Firm only received one customer complaint regarding the Vendor. Further, Council took into consideration that the Firm terminated the Former Licensee's employment.
22. 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.
23. With respect to the Licensee's misconduct, Council considered the cases of *Bhupinder Singh Atwal* (January 2018) and *Karamjit Singh Rajwan* (July 2021).
24. *Bhupinder Singh Atwal* (January 2018) concerned a former level 2 general insurance agent who knowingly collected fees and requested other forms of kickbacks from a potential vendor in exchange for a contract with the agency where he was employed. The former licensee had relationships with companies that provided work for the agency. Council determined that the former licensee's activities with these companies constituted a serious conflict of interest. Council ordered that the former licensee is not suitable to hold an insurance licence for five years, prohibited the former licensee from acting as an officer, director, or shareholder of an insurance agency for a minimum period of five years and assessed investigation costs of \$3,000.

25. *Karamjit Singh Rajwan* (July 2021) concerned a life and accident and sickness insurance agent who knowingly used his position as a “supervisor” with his spouse’s company to sell policies to employees and then knowingly submitted claim forms to the insurer while representing himself as the employees’ supervisor. The licensee made no prior disclosure to the insurer of his relationship with the spouse’s company and/or its employees, who were his clients, and did not seek consent from the insurer to operate in the way he did. Council was troubled by the clear conflict of interest the licensee engaged in. In addition, the licensee knowingly placed policies for his spouse, who he knew or should have known was not eligible for insurance. Council ordered the suspension of the licensee’s licence for one year, supervision for two years of active licensing, required the licensee to complete the Council Rules Course and an ethics course, fined the licensee \$5,000 and assessed investigation costs of \$1,625.
26. Council determined that *Atwal* was more instructive as the facts were like the subject case. Although in *Atwal* there may have been higher public harm and more evidence of a financial benefit that stemmed from a conflict of interest, the subject case had far more evidence in terms of non-cooperation with Council’s investigation. In both cases, there was a clear breach of the Conflict of Interest Guidelines.
27. Council has determined that investigation costs should be assessed against the Former 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

28. Pursuant to sections 231, 236 and 241.1 of the Act, Council made an intended decision to:
- (a) Not consider an application for any insurance licence from the Former Licensee for a period of three years, commencing on the date of Council’s order;
 - (b) Prohibit the Former Licensee from acting as a shareholder, partner, officer, director or employee of any licensed insurance adjusting firm for a period of three years from the date of Council’s order; and
 - (c) Assess the Former Licensee Council’s investigation costs of \$1,500, to be paid within 90 days of the date of Council’s order, and which must be paid in full prior to the Former Licensee being licensed in the future.

29. Subject to the right of the Former Licensee 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.

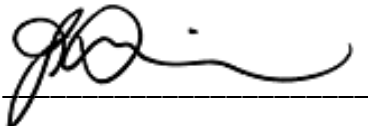
RIGHT TO A HEARING

30. If the 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 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 Former Licensee does not request a hearing within 14 days of receiving the intended decision, the intended decision of Council will take effect.**

31. Even if this decision is accepted by the Former Licensee, pursuant to section 242(3) of the Act, the British Columbia Financial Services Authority ("BCFSA") still has a right to appeal to the Financial Services Tribunal ("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 www.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 19th day of January, 2022.

For the Insurance Council of British Columbia



Janet Sinclair
Executive Director