

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

and

THE INSURANCE COUNCIL OF BRITISH COLUMBIA (“Council”)

and

Maninder Kaur Ravinder Benipal (the “Licensee”)

ORDER

Pursuant to section 237 of the Act, Council convened a Hearing at the request of the Licensee to dispute an Intended Decision dated March 31, 2008.

The subject of the Hearing was set out in the Notice of Hearing dated October 27, 2008.

A Hearing Committee heard the matter on November 17, 2008, and presented a Report of the Hearing Committee to Council at its February 17, 2009 meeting.

Council considered the Report of the Hearing Committee and made the following order, pursuant to section 231, 236 and 241.1 of the Act:

1. the Licensee’s Level 1 general insurance salesperson’s licence be suspended for a period of four months commencing from **March 27, 2009**;
2. a condition of the Licensee’s licence is that she be required to successfully complete a course or seminar on ethics approved by Council within four months of the date of the final order;
3. the Licensee pay 50 percent of Council’s investigative costs in this matter, assessed at \$1,312.50 = \$656.25;
4. the Licensee pay 100 percent of Council’s Hearing costs in this matter, assessed at \$3,575.00;
5. Council not recognize any qualifying CAIB 2 examination written until at least one year from the date of the final order; and

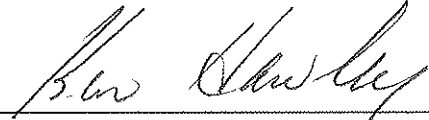
ORDER

Maninder Kaur Ravinder Benipal

Page 2 of 2

6. as a condition of a Council decision, the Licensee be required to pay the above mentioned costs within 90 days of the final order. Failure to pay the costs by this date, will result in the Licensee's licence not being reinstated by Council.

This order takes effect on the **24th day of February, 2009.**



Ken Hawley, BComm-FLMI CFP CLU ChFC
Chairperson, Insurance Council of British Columbia

Benipal is the sister of Sidhu and both are currently employed at A & T Insurance Broker Ltd. In July 2007, Council was notified by the Insurance Brokers Association of British Columbia (“IBABC”) that Benipal and Sidhu had written the Canadian Accredited Insurance Broker Level 2 (“CAIB 2”) examination. The CAIB 2 examination is a closed book examination with no calculators or other papers allowed in the examination room. The examination is marked out of 100 and is comprised primarily of narrative questions – with 90 marks going to the narrative questions and ten marks going to multiple choice questions. The examination is approximately three hours in length. During the marking of the examinations, IBABC discovered similarities in the answers provided by both Benipal and Sidhu. The answers in both examinations were almost identical with respect to content, sentence structure, grammar, and spelling. Sidhu scored 71 percent and Benipal scored 70 percent, with the differences in marks weighing to a one word variation in an answer provided on the first question.

IBABC determined that Benipal and Sidhu had acted in a dishonest manner when completing their examinations and disqualified their results. This matter was then referred to Council by IBABC to determine whether any action is appropriate. This resulted in the matter being reviewed by Council with an intended decision being issued in March 2008, which resulted in Benipal requesting a Hearing pursuant to section 237 of the Act.

Evidence

Evidence reviewed by the Committee in consideration of this matter:

- Exhibit 1: Agreed Statement of Facts – provided by Benipal’s counsel and counsel for Council
- Exhibit 2: Book of Documents of Council
- Exhibit 3: Income Tax Statement for Benipal, her husband and immediate family members
- Exhibit 4: TE Reference letters for Benipal
- Sworn testimony of Benipal

The Committee also considered submissions from both counsels on investigation and Hearing costs, which were provided after the initial Hearing.

Benipal’s Testimony

Benipal attested to the following:

1. Benipal came to Canada in 2000 with her husband. Before coming to Canada, she had completed grade 12 and obtained a bachelor of Commerce and Accounting, and had a year of computer training and two years training in electronics.

2. Benipal is married, has two children and lives in the family home with her husband's immediate family members.
3. In 2003, Benipal obtained a Level 1 general insurance salesperson licence and has subsequently worked at three different agencies.
4. Sidhu is her sister who came to Canada in October 2003. Benipal's husband is a seasonal worker and as such, Benipal is the primary income earner for the family. In support of this submission, Notice of Assessments from the Canada Revenue Agency were provided for the last three tax years for Benipal, her husband and his family.
5. Benipal stated that in the summer of 2006, both she and Sidhu attempted the CAIB 2 examination but were unsuccessful. The two of them set about studying saying that they studied three to four hours per day, over the last year, in preparation of rewriting the examination.
6. Benipal stated that leading up to the examination, her sister had been distraught and was having to deal with family problems which had resulted in the two of them not studying together for the week before the examination.
7. Benipal stated that on their way to the examination, Sidhu advised her that she was very upset, did not think she could do the examination and asked her sister to help her. Benipal acknowledged that she agreed to help her sister by letting her copy the answers to exam questions but said that she did not copy anything from her sister's examination. Benipal stated that she felt her sister knew the answers as they had studied together for the past year, but the circumstances in her personal life were making her incapable of focusing on that day.
8. Benipal acknowledged that she realized she had made a terrible mistake, and continued to lie about her involvement after she was caught. Benipal stated that she has only told her husband and the rest of her family is not aware of the trouble that she is currently in.
9. Benipal realizes she was wrong to have assisted her sister and reiterated that she did not cheat from her sister and that the answers were hers that were contained on her examination.

Arguments of Council by Mr. McKnight

1. Council argued that Benipal's statements that she did not cheat, other than to allow her sister to see her answers, is not plausible. Throughout Council's investigation, and right up until a few weeks before the Hearing, Benipal had denied she had cheated or even knew that her sister had been copying her answers off of her examination. It was only in the few weeks leading up to the Hearing that Benipal changed her statement and now wants the Committee to believe that her decision to let her sister copy her answers was a decision made at the spur of the moment on the day of the examination.
2. Benipal has not been forthright with Council about her involvement in what occurred when both her and her sister wrote the CAIB 2 examination. During the investigation process, Benipal had a number of opportunities to explain to Council what her involvement was. Benipal was interviewed and was also given an opportunity to provide her explanation in writing. On each occasion, she stated that she was not aware that her sister was copying off of her answer sheet.
3. Benipal now acknowledges she allowed the cheating to occur. She would also like Council to believe that it was not planned ahead of time and that her sister was only cheating off her and not vice versa.
4. It was also argued that Benipal's credibility in this matter is circumspect, and that throughout this process Benipal has been less than forthright in her activities regarding the writing of the CAIB 2 examination. To believe that she did not work closely with Sidhu (in cheating) on the examination day goes against the evidence before it.
5. McKnight further argued that Benipal was a willing participant in this process and it must be determined that her actions demonstrate that she has not acted in good faith and therefore has brought into question her trustworthiness. Further, if the Committee determines that her actions bring into question her trustworthiness and ability to act in good faith, it must invoke the appropriate penalty and that this penalty should include not only this very action but a portion of the cost for the investigation and the costs of the Hearing.
6. In closing it was submitted that the Committee would be provided with the details of the costs of the Hearing as part of its consideration in this matter and that the copies of this would be shared with Benipal.

Submission of Benipal by Mr. Marcinkow

1. Benipal does not dispute that she allowed her sister to copy her questions on the examination, but this was a one-time occurrence and was done to assist her sister at a time when her sister was under some personal stress.
2. Benipal acknowledges that it was wrong for her to have allowed her sister to copy her examination and realizes that her subsequent actions to deny the events were also inappropriate and she regrets her actions. Benipal faces embarrassment and shame that goes with having been caught cheating and realizes that she should have been forthright once caught.
3. Benipal is the primary breadwinner for her family and any sort of suspension would have a dire affect on them economically. Benipal acknowledges that while she exercised poor judgment, this is an isolated incident and would never be repeated either in her work experience, or in other parts of her life.

Recommendations of the Hearing Committee

After evaluating the evidence before it, the Committee concluded that Benipal's conduct in this matter constituted a breach of section 231 of the Act and Rule 3(2) of the *Council Rules* in that she failed to act in a trustworthy manner and in good faith.

The Committee considered the arguments made as to whether or not Benipal had cheated off of her sister and that they had worked together to complete the examination. In the end, the Committee accepted the argument of Benipal that her only involvement was in allowing her sister to copy her answers and that they did not collude to complete the two examinations together. The Committee came to this conclusion by accepting Benipal's argument that her sister was under stress on the day of the examination, and that when asked by her sister to help her and allow her to view her answers, she agreed to do so.

The Committee found that the actions of Benipal in allowing her sister to cheat, was unacceptable and that had she admitted to her part in the affair when the cheating was discovered, her honesty may have mitigated the outcome. Instead, Benipal had a number of opportunities over a sixteen month period to admit to her wrongdoing, but did not do so until just before the commencement of the Hearing. On more than one occasion Benipal advised Council, both through interviews and in writing, that she was not aware of her sister's activities, even though she has now admitted that she had agreed to assist her sister and was conscious of her sister's cheating from her exam on the examination day. The Committee finds that Benipal's actions, by continuing to try to deceive Council and provide misstatements, caused greater concern than the actual cheating on the examination. Although Benipal stated this was an isolated incident, by failing to be forthright once caught, the Committee is left with concerns about Benipal's ability to act in a trustworthy manner and in good faith.

The insurance industry must be based on integrity, honesty and trustworthiness. In determining an appropriate course of action, the Committee feels that a message must not only be delivered to Benipal, but also to the industry that inappropriate conduct will not be condoned and that failure to take responsibility when such conduct has occurred will not be tolerated.

In considering a recommendation for penalty, the Committee reviewed two cases in which licensees were found to have facilitated others to cheat. In the case of *Swee Heng Teh*, Teh completed online examinations for another licensed agent, for compensation, in order to assist him in obtaining the continuing education (CE) credits required for the renewal of his insurance licence. Teh was found to have failed to act in a trustworthy manner, in good faith and in accordance with the usual practice of the business of insurance and was suspended for two months and fined \$2,000.00.

The second case related to the *Hee Dong Hong* decision. In this case, Hong provided three individuals, all of whom he was recruiting to work at his agency, with study sheets for the Life Licence Qualification Program (“LLQP”) course and Council’s qualifying examination, based on questions taken from a previous LLQP examination administered by Council. Hong also attempted to mislead Council about the source of the questions by implicating his former girlfriend, asking her to lie to Council and say that she was the one who had provided him with the LLQP questions. Hong was found not to be trustworthy or able to carry on the business of insurance in good faith and found not suitable to hold an insurance licence for a period of two years.

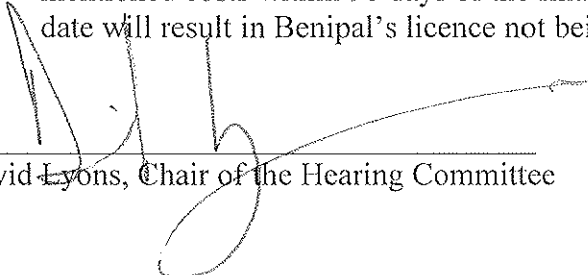
The Committee found the actions of Benipal to be more serious than that of Teh, but not as egregious as Hong. The Committee concluded that Benipal’s involvement was that of assisting her sister in copying her answers rather than cheating to improve her own exam results. The Committee concluded that Benipal’s actions were similar in nature to the Teh decision than to the Hong decision.

The Committee determined that while Benipal’s actions were cause for concern, it believes that she is still suitable to remain in the industry. It noticed that her current licence is a Level 1 general insurance salesperson. As a result, she is required to be under the direct supervision of a Level 3 general insurance agent and is limited in what activities she can do.

The Committee determined that a punitive fine would not be in order due to the potential for financial hardship on Benipal’s family.

Accordingly, the Committee makes the following recommendations:

1. Benipal's Level 1 general insurance salesperson's licence be suspended for a period of four months from the date of the final order;
2. a condition of Benipal's licence is that she be required to successfully complete a course or seminar on ethics approved by Council within four months of the date of the final order;
3. Benipal pay 50 percent of Council's investigative costs in this matter, assessed at \$1,312.50 = \$656.25;
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6. as a condition of a Council decision, Benipal be required to pay the above mentioned costs within 90 days of the final order. Failure to pay the costs by this date will result in Benipal's licence not being reinstated by Council.



David Lyons, Chair of the Hearing Committee