

In the Matter of

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

and

The INSURANCE COUNCIL OF BRITISH COLUMBIA
(“Council”)

and

PREETPAL SANGHA
(the “Licensee”)

DECISION AND ORDER
UNDER SECTIONS 231 & 238 OF THE ACT

INTRODUCTION

Pursuant to section 232 of the *Financial Institutions Act* (the “Act”), Council conducted an investigation to determine whether the Licensee’s conviction and incarceration on the criminal charge of uttering a threat to cause death or bodily harm brought into question his suitability as a general insurance licensee.

On June 9, 2014, a Review Committee (the “Committee”) met with the Licensee and his legal counsel to discuss the Licensee’s suitability in light of his criminal conviction, as well as allegations that he failed to disclose criminal charges and the conviction, as required by Council Rules. The allegations concerning non-disclosure are addressed in a separate decision.

A report of the Committee was considered by Council at its June 16, 2014 meeting. At the conclusion of its meeting, Council 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 Licensee of the action it intends to take under section 231 of the Act before taking any such action. The Licensee may then accept Council’s intended decision or request a formal hearing.

In this matter, Council made an intended decision, but considered the length of time required to proceed under section 231 of the Act to be detrimental to the due administration of the Act. Consequently, Council also made an order pursuant to section 238 of the Act.

This decision serves as written notice of Council's intended decision, its order, its reasons, and the Licensee's right to request a hearing before Council or appeal Council's order under section 238 of the Act directly to the Financial Services Tribunal ("FST").

FACTS

The Licensee has been licensed as a Level 1 general insurance salesperson ("Salesperson") since November 7, 2008. In May 2011, the Licensee was charged with four counts under the Criminal Code of Canada. On September 13, 2013, the Licensee pleaded guilty to uttering threats to cause death or bodily harm and, on May 7, 2014, he was sentenced to four months in jail followed by 18 months of probation. Contrary to section 7(3) of Council Rules, the Licensee failed to notify Council within five business days when he was charged with four counts under the Criminal Code of Canada in 2011, and failed to notify Council again in 2013 when he pleaded guilty to uttering a threat to cause death or bodily harm.

On May 14, 2014, after learning that the Licensee had been sentenced to four months of incarceration following his guilty plea, Council issued an order to suspend the Licensee's general insurance licence until such time as Council met with the Licensee and determined his suitability.

Circumstances of the Offence

In the Oral Reasons for Sentence of Mr. Justice Grist, indexed at *R v. Adiwal*, 2014 BCSC 921, the court set out the factual background to the Licensee's conviction, summarized here. The Licensee entered a guilty plea to a charge of uttering a threat to cause death or bodily harm. His co-accused, Mr. Adiwal, pleaded guilty to assault. Both occurred as a result of an incident on May 9, 2011.

The May 9, 2011 incident was a result of a dispute between the Licensee and an associate of the Licensee's father (the "Complainant") who, along with the Licensee's father and others, owned a lumber mill where the Licensee worked. The origins of the dispute are unclear. The court found that, however the dispute arose, from about April 1, 2011, there were several angry confrontations between the Licensee and the Complainant. This developed into demands by the Licensee that the Complainant pay certain sums of money. The Complainant contacted the Royal Canadian Mounted Police, who began an undercover investigation.

On May 9, 2011, the Licensee arranged for Mr. Adiwai and several others to accompany him to the mill. Mr. Adiwai is a person who has had, and was known to have, a history of gang involvement with other Indo-Canadian youth in South Vancouver. The confrontation at the mill consisted of the Complainant being accosted by the Licensee, Mr. Adiwai, and the others with them. The Complainant was threatened with being shot. Mr. Adiwai slapped him and asked the Complainant if he knew who Mr. Adiwai was. The court found the actual assault was more intended to humiliate the Complainant in the sight of the mill workers than to cause bodily harm. The attackers left after more talk of the Complainant paying money to the Licensee.

Mr. Justice Grist held that both accused had good prospects of rehabilitation and noted the Licensee was a first offender with positive references from the community. The court found that a jail sentence of four months was appropriate for both accused.

Submissions of the Licensee

Following this sentencing decision and his initial incarceration, the Licensee filed an appeal of his criminal sentence and was released from custody on May 23, 2014, pending the hearing of the appeal, which is scheduled for September 25, 2014. The conviction is not under appeal.

Regarding suitability, the Licensee acknowledged that he made a serious mistake, over three years ago, for which he is remorseful. He has maintained regular employment since and has the support of his employer and many references in his community. The Licensee submitted that he no longer associates with the individuals, including Mr. Adiwai, who were involved in the May 9, 2011 incident.

The Licensee submitted that he did not disclose the charges and conviction in the required timeframes because he was not aware of the requirements of Rule 7(3), and was focused on dealing with the criminal charges against him.

DISPOSITION

Suitability

Council heard from the Committee about its meeting with the Licensee. The Committee determined the Licensee was truly remorseful about his actions and is not the same person who engaged in the activities that resulted in the criminal conviction. The Committee also noted that he has strong support from his employer and community. While finding the actions of the Licensee that resulted in the conviction to be serious in nature, the Committee felt the Licensee's conviction was not relevant to the Licensee's trustworthiness and his overall fitness to be an insurance licensee.

Section 3.2 of Council's Code of Conduct provides that trustworthiness extends beyond insurance business activities, and that conduct in other areas may call suitability to hold an insurance licence into question.

Council gave serious consideration to the Licensee's submissions and the recommendations of the Committee, but concluded the Licensee's actions that resulted in a conviction for uttering threats to cause death or bodily harm to be both serious and relevant to his trustworthiness. In reaching this determination, Council took into consideration aggravating factors, including the serious and premeditated nature of the offence. Council is primarily concerned with protection of the public and noted that the Licensee has not yet completed his custodial sentence.

In determining a proper course of action, Council considered its Policies and Guidelines on relevancy of a criminal conviction. In its Policies and Guidelines, it states that where a conviction is determined to be relevant and an indictable offence, a minimum two-year suspension from the completion of the sentence is appropriate. In this case, Council took into consideration the positive references and support from the Licensee's employer and community, the comments of the Committee, and the steps that the Licensee has taken to turn his life around, and determined that it supported a shorter licence suspension period.

ORDER UNDER SECTION 238 OF THE ACT

Pursuant to section 231 of the Act, Council made an intended decision to suspend the Licensee's general insurance licence for a period of six months.

In light of the evidence obtained in this matter, the reasons for sentencing in *R v. Adiwai*, 2014 BCSC 921, and the fact that the Licensee is no longer incarcerated, Council has determined the Licensee is unsuitable to hold an insurance licence and the length of time required for this matter to proceed under section 231 of the Act would be detrimental to the due administration of the Act.

Accordingly, Council orders that the Licensee's general insurance licence is suspended for a period of six months, effective May 14, 2014. In determining the commencement and length of the suspension period, Council noted the Licensee's licence was originally suspended on May 14, 2014 and concluded the six month suspension should be calculated from the May 14, 2014 date.

RIGHT TO A HEARING

Take notice that pursuant to section 238 of the Act, the Licensee has the right to require a hearing on the suspension of his general insurance licence before Council, by delivering written notice within 14 days of receipt of this order to Council at Suite 300, 1040 West Georgia Street, Vancouver, British Columbia, V6E 4H1. Alternatively, the Licensee may appeal this order directly to the FST.

Please direct written notice to the attention of the Executive Director.

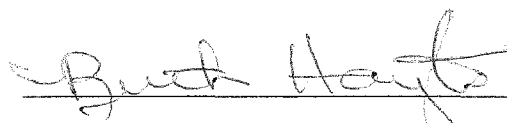
For more information respecting appeals to the FST, please visit their website at www.fst.gov.bc.ca or contact them directly at:

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 Vernon, British Columbia, on the 20 day of June, 2014.



Ruth Hoyte
Chairperson, Insurance Council of British Columbia