In the Matter of the

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

and the

INSURANCE COUNCIL OF BRITISH COLUMBIA
("Council")

and

ROBINDER SINGH
(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 of Council dated November 28, 2017.

The subject of the hearing was set out in an Amended Notice of Hearing dated April 20, 2018.

A Hearing Committee heard the matter on May 3, 2018 and presented a Report of the Hearing Committee to Council at its December 18, 2018 meeting.

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

1. The Licensee's life and accident and sickness insurance licence is cancelled with no opportunity to reapply for a life and accident and sickness insurance licence for a period of 4 years, commencing January 23, 2019 and ending at midnight on January 22, 2023;

2. The Licensee is assessed investigation costs of $3,055.00, which are due and payable no later than April 23, 2019;

3. The Licensee is assessed hearing costs of $5,712.37, which are due and payable no later than April 23, 2019; and

4. The Licensee is required to complete an ethics course (or equivalent), as approved by Council, before Council will consider a licence application from the Licensee.

This order takes effect on the **23rd day of January, 2019**.

Ken Kukkonen
Chairperson, Insurance Council of British Columbia

INSURANCE COUNCIL OF BRITISH COLUMBIA
("Council")

REPORT OF THE HEARING COMMITTEE

IN THE MATTER OF THE *FINANCIAL INSTITUTIONS ACT*
(S.B.C. 1996, c. 141)
(the "Act")

AND

ROBINDER SINGH
(the "Licensee")

Date:	May 3, 2018 9:30 a.m.	
Before:	Lesley Maddison	Chair
	David Russell	Member
	Chamkaur Cheema	Member
Location:	Suite 300, 1040 West Georgia Street Vancouver, British Columbia V6E 4H1	
Present:	Lanny Robinson	Legal counsel for Council
	Michael D. Shirreff	Independent legal counsel for the Hearing Committee
	No appearance	Licensee, Mr. Singh

BACKGROUND AND ISSUES

This is the third matter that the Hearing Committee considered in relatively short order in which Council raised very similar allegations against licensees who were alleged to have colluded with respect to Council Life Licence Qualifying Program ("LLQP") examinations.

The evidence called by Council at each of these hearings was quite similar. One witness was called – Michael Stitt, who investigated the matter for Council. Mr. Stitt provided evidence with respect to the steps that he took pursuant to Council's investigation, as well as the specific allegations of cheating and collusion that Council alleged against the Licensee in this hearing. In addition to the evidence from Mr. Stitt, Council introduced an expert opinion report authored by Dr. Chris Beauchamp that provided a statistical analysis of certain issues pertaining to the LLQP examinations.

As set out in the Amended Notice of Hearing for this Licensee, dated April 20, 2018, the purpose of the Hearing was to determine whether or not the Licensee's life and accident and sickness

insurance licence should be cancelled on the basis that the Licensee is not suitable to hold such licence.

At the hearing, it was alleged by Council that the Licensee had colluded with other applicants in writing certain of his LLQP examinations.

Council initially considered the allegations against the Licensee at its meeting on August 15, 2017. At that time, Council made an intended decision to cancel the life and accident and sickness insurance licence of the Licensee. In accordance with section 237 of the Act, on November 28, 2017, Council provided the Licensee with written reasons and notice of its intended decision. In response to the intended decision, the Licensee requested a hearing.

The Hearing Committee was then constituted pursuant to section 223 of the Act and this is the written report that the Hearing Committee has prepared in accordance with section 223(4) of the Act.

At the outset of the hearing, the Hearing Committee had to determine whether or not it was appropriate to proceed in the absence of the Licensee, who in a similar manner to other licensees subject to earlier hearings, decided not to attend the hearing. Council tendered evidence through the affidavit of Jenny Wong (an assistant at the office of counsel for Council) that established that the Licensee had been represented by legal counsel in the weeks and days leading up to the hearing. Notably, legal counsel for the Licensee was the same lawyer who had acted for Varinder Grewal and Kiranpreet Dhillon in the two earlier matters heard by the Hearing Committee.

Ms. Wong's evidence confirmed that legal counsel for the Licensee had acknowledged service of the Amended Notice of Hearing and had advised Council by email on April 28, 2018 that the Licensee would not be attending the hearing and wished to withdraw his objection to the proposed order cancelling his licence.

In light of this evidence, the Hearing Committee was satisfied that the Licensee had notice of the hearing and was prepared to proceed in his absence.

Finally, as outlined in greater detail below, the lawyer for the Licensee in this matter advised Council that the Licensee's actions needed to be assessed and compared to the allegations that were advanced against Ms. Grewal. Council, in effect, echoed the Licensee's submission with respect to the position that Council took in terms of an appropriate disciplinary action.

EVIDENCE

a. Witnesses

Michael Stitt was the only witness called by Council at the hearing. Mr. Stitt is an investigator employed by Council and he was responsible for conducting the underlying investigation with respect to the possible collusion on the LLQP examinations.

b. Exhibits

In addition to Mr. Stitt, Council tendered the following documentary evidence:

Exhibit 1 Affidavit of Ms. Wong, dated May 2, 2018, which provided the evidence relating to the Licensee and his lawyer advising that they were not going to attend the hearing on May 3, 2018.

Exhibit 2 Council's Book of Documents, which contained six tabs providing information about aspects of the LLQP examinations and the investigation, including notes taken by Mr. Stitt when he spoke with the Licensee.

Exhibit 3 Expert report, dated January 26, 2018, prepared for Council by Chris Beauchamp, Ph.D., of Yardstick Testing & Training. Mr. Beauchamp's report provided a statistical analysis of certain issues relating to the LLQP examination results.

Council's Book of Authorities and Closing Submissions were also filed as **Exhibit 4** and **Exhibit 5**, respectively.

c. Facts

Apart from the unique circumstances of the Licensee, including his specific exam results, the facts of this matter are effectively the same as the Grewal and Dhillon hearings. For the sake of brevity, the Hearing Committee will not repeat all of the facts outlined in its reports to Council on Grewal and Dhillon, but will instead focus on the evidence in this matter that was unique to the Licensee, particularly the evidence concerning the links between the Licensee to the same Agency in Surrey, British Columbia.

The Licensee in this matter was licensed as a life agent in British Columbia on November 17, 2016. At the time that he obtained his licence, the Licensee became affiliated with an agency in Surrey, British Columbia that is licensed to engage in life insurance activity. As noted, this was the same Agency where Ms. Grewal and Ms. Dhillon were also affiliated.

During the course of Council's investigation, the Licensee was identified by Council as having used a common answer sequence on two of his LLQP exams – Segregated Funds and Ethics. The Licensee had written the Segregated Funds exam on October 12, 2016 and the Ethics exam on September 13, 2016.

On the Segregated Funds exam, the Licensee obtained an exam score of 63.33% (19/30). His score was identical to at least 19 other candidates who had written the exam during the period of Council's investigation. More importantly, the Licensee had not only obtained the same raw score on the exam (19/30), but he had used exactly the same answer sequence as the 19 other candidates.

That is, all 30 of the responses given by the Licensee on the exam matched the 30 responses given by the 19 other persons who obtained the same score (19/30).

On the Ethics exam, the Licensee obtained an exam score of 70% (21/30). For that exam, the Licensee again used the exact same answer sequence as six other examinees who had written the exam during the period of Council's investigation. Again, this raw score was obtained using the exact sequence of correct and incorrect answers as the six other examinees, all of whom were affiliated with the same Agency.

Mr. Singh was not identified in the Yardstick report that had been provided to Council by the Canadian Insurance Services Regulatory Organizations ("CISRO") near the outset of the investigation, but due to his exam answers being identical to the collusion sequence, he was included in the investigation.

During the course of Council's investigation, Mr. Stitt communicated with the Licensee on two occasions and directly asked him whether he had used a collusion sequence or had cheated on the two exams. The Licensee denied that he had cheated in any way. The Licensee told Mr. Stitt that he had studied for the exams with a friend and he offered to rewrite the exams.

The Hearing Committee noted that during Council's investigation, Mr. Stitt had reviewed the exam results from 77 sittings of the LLQP examinations (over 7,000 exams). Mr. Stitt testified that he had identified as many as 46 candidates who appeared to have cheated or colluded on the examinations. Notably, all 46 licensees were affiliated with the same Surrey Agency. Even though the Licensee in this instance wrote his examinations at or near the beginning of the material time period, there were examples of other candidates using the collusion sequences in or around the same period of time as the Licensee (prior to the Licensee having his exam results). In the result, the Hearing Committee was satisfied that this was not a situation where the Licensee had passed the examinations on his own merit. The only reasonable conclusion is that the Licensee colluded with respect to these exams.

As discussed in detail in the Hearing Committee's reports in Grewal and Dhillon, the expert statistical evidence provided uncontroverted circumstantial evidence that the Licensee had colluded and cheated on the two examinations. The expert opinion report prepared by Mr. Beauchamp provided a detailed statistical analysis of the probabilities of two candidates to a multiple choice examination having the same answer sequence, both in terms of the questions that were answered correctly as well as the answers that were given when questions were wrong (Exhibit 3).

FINDINGS OF THE HEARING COMMITTEE

The burden at this hearing lies with Council, which must prove the allegations of collusion against the Licensee on a balance of probabilities.

Having carefully reviewed and considered all of the evidence introduced by Council, even in the absence of an opportunity to hear from the Licensee, the Hearing Committee is of the view that the Licensee cheated and colluded on his LLQP examination by using a collusion sequence on two of his exams. When the statistical evidence is considered in conjunction with the linkages between the other licensees alleged to have colluded on the exams and the Agency in Surrey, the evidence of collusion becomes overwhelming.

We have carefully considered the evidence in this matter to determine whether or not Council has proven the allegations against this Licensee. As noted above, we have reached the view that Council has met its burden in this hearing. For the sake of convenience, the Hearing Committee adopts and relies on its Analysis from the Grewal and Dhillon reports, given the similarities between the allegations in these three proceedings.

Council's primary mandate is the protection of the public. It is the Hearing Committee's view that the Licensee's actions are contrary to the public interest mandate of Council and are a serious violation of a number of provisions of the Code of Conduct, particularly sections 3, 4 and 5, which establish that trustworthiness, good faith and competence are critically important characteristics of a licensee. Further, these provisions of the Code also reveal that licensees are expected to conduct all professional activities with the utmost of integrity and reliability.

A licensee who has engaged in collusion and cheating in the course of obtaining his licence has engaged in conduct that is diametrically opposed to the standards that a licensee is expected to uphold and represent. A willingness by the Licensee to cheat on the qualifying examinations should cause Council great concern about the Licensee's competency, but perhaps even more importantly, his character and honesty.

RECOMMENDATIONS OF THE HEARING COMMITTEE

In determining its recommendations to Council with respect to this matter, the Hearing Committee was referred to the same authorities as in the Grewal matter. In particular, the Hearing Committee has reviewed and considered the following: *Moore v. College of Physicians and Surgeons of Ontario*, [2003] O.J. No. 5200 (Ont. SC); *Financial Services Commission v. Insurance Council of British Columbia and Maria Pavicic*, November 22, 2005; *Gurvinder Singh Lehal and Sukhvir Singh Mann*, 2009; *Larry James Clark and Clark Thomas Insurance Services*, 1999; and *the Matter of Richard Jones*, FST 06-020.

The Hearing Committee believes that the key factors in determining an appropriate penalty for the Licensee in this instance are deterrence, both general and specific, as well as the maintenance of the public confidence in the integrity of the profession and the regulatory system itself. At the same time, although not bound by the prior decisions, the Hearing Committee has considered the above-noted prior decisions so as to ensure that the penalty for the Licensee is proportional to penalties levied by Council in similar previous matters.

There was no evidence in this matter that the Licensee had assisted others in cheating on the LLQP exams. This distinguished this matter from Grewal and, in the eyes of the Hearing Committee, the appropriate penalty for the Licensee is the same that this Hearing Committee recommended with respect to Ms. Dhillon:

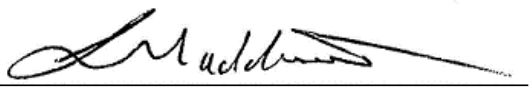
1. the Licensee's licence be cancelled for a period of 4 years;

2. the Licensee be required to pay Council's costs of the hearing, in an amount to be determined (with such costs to be paid prior to the Licensee reapplying for a licence); and

3. before reapplying to obtain a licence, the Licensee must also complete, at his own expense, an ethics course (or equivalent) that is approved by Council.

With respect to the hearing costs, the Licensee in effect raised the same position that had been raised by the same legal counsel on behalf of Ms. Dhillon and Ms. Grewal. For the reasons articulated in the Dhillon report, the Hearing Committee recommends to Council that the Licensee should be required to pay costs of the hearing despite the Licensee's concessions on the eve of the hearing.

Dated at Vancouver, British Columbia on December 3rd, 2018.



Lesley Maddison, Chair of the Hearing Committee
Insurance Council of British Columbia