

In the Matter of the

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

and the

**INSURANCE COUNCIL OF BRITISH COLUMBIA**  
 (“Council”)

and

**DOMINO MAN NGAI AU-YOUNG**  
(the “Former Licensee”)

## **ORDER**

As Council made an intended decision on June 18, 2024, 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 6, 2024; and

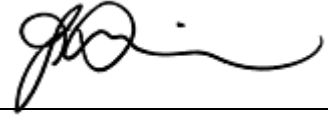
As the Former Licensee has not requested a hearing of Council’s intended decision within the time period provided by the Act;

Under authority of sections 231, 236, and 241.1 of the Act, Council orders that:

1. The Former Licensee is fined \$3,000, to be paid by December 10, 2024;
2. The Former Licensee is assessed Council’s investigation costs of \$1,125, to be paid by December 10, 2024;
3. The Former Licensee is required to take the Insurance Council Rules for Life and/or Accident & Sickness Agents course prior to being licensed in the future; and
4. Council will not consider any future licensing applications from the Former Licensee until such time as the Former Licensee has complied with the conditions listed herein.

Order  
Domino Man Ngai Au-Young  
LIC-120116C75928R1, COM-2022-00078  
September 11, 2024  
Page 2 of 2

This order takes effect on the **11<sup>th</sup> day of September 2024.**



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Janet Sinclair, Executive Director  
Insurance Council of British Columbia

## **INTENDED DECISION**

of the

### **INSURANCE COUNCIL OF BRITISH COLUMBIA**

(“Council”)

respecting

### **DOMINO MAN NGAI AU-YOUNG**

(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 had acted in compliance with the requirements of the Act, Council Rules, and Code of Conduct.
2. An investigation report prepared by Council staff indicated the Former Licensee failed to maintain required errors and omissions (“E&O”) insurance between July 22, 2020 to January 26, 2022, a period of 553 days (the “E&O Lapse Period”); failed to notify Council of either that his E&O insurance lapsed or that his authority to represent an insurance agency was withdrawn; and failed to respond promptly to inquiries from Council.
3. On March 21, 2024, as part of Council’s investigation, a Review Committee (the “Committee”) met with the Former Licensee via video conference to discuss the investigation report and to allow the Former Licensee an opportunity to provide additional information and make further submissions.
4. Having reviewed the investigation materials, the Committee prepared a report for Council. The Committee’s report, along with the investigation report, were reviewed by Council at its June 18, 2024, meeting, where it was determined the matter should be disposed of in the manner set out below.

## **PROCESS**

5. 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

6. The Former Licensee became licensed with Council as a life and accident and sickness insurance agent (“Life Agent”) on November 3, 2011. He held an authority to represent (“ATR”) one agency (the “First Agency”) from January 1, 2012 to May 29, 2020. His license status was inactive from May 29, 2020 to July 21, 2020. After this inactive period, the Former Licensee held an ATR with a second agency (the “Second Agency”) from July 22, 2020, to April 12, 2022. The Former Licensee did not renew his Life Agent licence, which was subsequently cancelled on August 2, 2023.
7. When the Former Licensee joined the Second Agency on July 22, 2020, an add ATR form was submitted to Council in which the Former Licensee indicated he carried E&O insurance. On January 13, 2022, Council received an email from the Second Agency’s nominee (the “Nominee”), advising that during the Second Agency’s internal review, they discovered the Former Licensee did not carry E&O insurance between July 22, 2020 and January 26, 2022, a period of 553 days.
8. The Nominee also advised Council that the Former Licensee had sold a policy through a life insurance company (the “First Insurance Company”) in April 2021. Council’s investigation indicated the Former Licensee did not have a contract with the First Insurance Company during the E&O Lapse Period. No documents were produced by the Former Licensee, the First Agency, or the First Insurance Company to support the statement that business was conducted during this period.
9. Council staff reviewed the Former Licensee’s E&O insurance certificates, which demonstrated he had E&O insurance coverage from January 27, 2022, to April 1, 2023.
10. The Former Licensee advised Council that he joined the Second Agency in July 2020, and during the onboarding process he filled out an E&O insurance application and submitted it to the Second Agency’s then-nominee (the “Former Nominee”).
11. While at the Second Agency, the Former Licensee was listed as the selling advisor on another insurance company’s policy (the “Second Insurance Company” and “Policy,” respectively). The Former Licensee explained that concerning the Policy, he had been notionally listed as the advisor of record (“AOR”) while an advisor at a different brokerage shopped around for better quotes with other providers.

12. As a result of being the AOR, the Second Insurance Company requested the Former Licensee's licence and E&O insurance certificates to finalize the contracting process. However, the Former Licensee was unable to demonstrate compliant E&O insurance coverage, and ultimately was not contracted with the Second Insurance Company.
13. The Former Licensee appeared as the AOR in relation to the renewal of an extended health group insurance policy dated February 8, 2021, for a business (the "Business").
14. The Former Licensee told Council investigators that he was a part owner of the Business and had not prepared any of the renewal paperwork for the health group insurance policy nor had he been compensated for the renewal.
15. In April of 2021, the Former Licensee sold one contract through the First Insurance Company. The First Insurance Company had contracted the Second Agency as a corporation to complete the application. The advisor agreement stipulated that the Second Agency would be paid 100% of the commission, and the Former Licensee was listed as the Advisor Contact only.
16. On April 12, 2024, the Former Licensee's authority to represent the Second Agency was terminated for failing to maintain E&O insurance coverage and for insufficient demonstration of adherence to Council rules.
17. At the Committee meeting, the Former Licensee explained that, prior to working with the Second Agency, he had been employed by a major bank where he had primarily worked in the security industry, but occasionally did insurance business through the bank's insurance department. While with the bank, the Former Licensee did not carry his own E&O insurance policy, but rather was covered by the bank's E&O insurance.
18. In July 2020 the Former Licensee joined a financial services company to provide securities services. The Former Licensee advised that that financial services company was not licensed as an insurance agency. Rather, it conducted its insurance business through its subsidiary, the Second Agency.
19. The Former Licensee explained that he had resigned from the financial services company at the end of November 2022, when he relinquished his securities licence. The Former Licensee's ATR with the Second Agency had ended in April 2022.
20. The Former Licensee was asked by the Committee about his plans to return to the insurance industry, given he had not renewed his licence. The Former Licensee

explained he was reaching retirement age and had no plans to return to either the insurance industry or the investment industry.

21. The Former Licensee later revealed that he had been disciplined by the Investment Industry Regulatory Organization of Canada (“IIROC”), the investment industry regulator, for misappropriating between \$75,000 and \$80,000. A publicly available notice of sanctions demonstrates that the Former Licensee had been permanently banned from registration with the IIROC.
22. The Former Licensee explained that when his insurance licence was transferred to the Second Agency, he was provided a number of onboarding forms by the Former Nominee. The Former Licensee explained he was not informed by the Former Nominee that he required E&O insurance.
23. The Former Licensee also explained he was not aware that E&O insurance was available for his situation, and had only become aware of the availability and requirement to obtain E&O insurance for himself, rather than being covered by his employer’s E&O insurance, in November or December of 2021.
24. When shown documents that he had signed indicating that he was acknowledging he had to obtain E&O insurance, the Former Licensee explained that he was under the impression the Second Agency would obtain E&O insurance on his behalf, and that he trusted that process.
25. While the Former Licensee had become aware of the requirement to obtain E&O insurance in November of 2021 at the earliest, he did not obtain E&O insurance until January of 2022. He explained the gap by stating that he had personal matters to deal with.
26. The Former Licensee was asked about his delayed responses to Council’s inquiries, including that Council had first contacted the Former Licensee on March 15, 2022, and he had not responded until June 1, 2022, despite several follow-up emails from Council staff. The Former Licensee explained he had not received Council’s March correspondence and that his response had been further delayed because he did not know whether his employer at the time would obtain legal representation for him in this matter. The Former Licensee explained that he responded to Council when he knew he was free to respond on his own, once he received confirmation that he would not be supplied with legal representation.

## ANALYSIS

27. Council found that the Former Licensee had failed to maintain E&O insurance coverage as required, between July 22, 2020 and January 26, 2022, a period of 553 days, in breach of Council Rules 7(8) and 7(11), and Section 13 of Council's Code of Conduct. Council also found the Former Licensee had failed to respond promptly to inquiries from Council staff, in breach of Section 12 of Council's Code of Conduct.
28. Prior to making its recommendation, Council took several of its past decisions regarding E&O insurance coverage lapses into consideration as precedents. The following precedent summaries represent some of the most instructive of those past decisions.
29. [Jian Feng He](#) (August 2023): A former licensee's license was terminated for non-renewal. While licensed with Council, the former licensee's E&O insurance had lapsed twice, for a period of approximately one month and eight months respectively. The former licensee had not written any insurance policies during the E&O insurance coverage lapse periods. The former licensee was fined \$2,000 for failing to maintain E&O insurance coverage, was required to complete the Council Rules course prior to being licensed in the future and was assessed investigation costs.
30. [Varinder Kaur](#) (July 2020): A Life Agent's authority to represent her agency was terminated. Subsequently, the agency's E&O broker emailed the licensee advising that, because her contract had been terminated, her E&O insurance coverage was cancelled. After being advised that her E&O insurance coverage had been cancelled, the licensee wrote one insurance policy, followed by a second after Council informed her that her license status had been changed from active to inactive. She self-reported to Council that she had written the two policies. The licensee was fined \$1,500 for failing to maintain her E&O insurance coverage and for conducting insurance business without E&O insurance; reprimanded for failing to notify Council that she was without E&O insurance coverage; required to complete the Council Rules Course; and a condition was imposed on her Life Agent license that failure to complete the Council Rules Course by a prescribed date would result in automatic suspension of her licence.
31. [Maria Rhodora Banada Thomas](#) (July 10, 2018): A Life Agent's E&O insurance coverage lapsed. The licensee advised council that the lapse was due to inadvertence and that she had not conducted insurance business during the lapse period. Despite finding the breach of Council Rule 7(11) was unintentional, Council imposed a \$1,000 fine. This

decision stands for the proposition that Council will apply a minimum fine of \$1,000 for breaches of Council Rule 7(11), regardless of the reasons for that breach.

32. Council recognized, having reviewed the precedents, that the approach it has adopted for disciplining licensees who have breached the E&O requirements set out in the Council Rules is to assess a “baseline” fine of \$1,000 for each breach, as well as require the licensee to complete the Council Rules Course. In some cases, mitigating factors are identified that support lowering the fine. In this matter, however, Council did not find there were any mitigating factors which would support departing from the baseline precedent.
33. Council identified several aggravating factors. The Former Licensee’s E&O insurance coverage had lapsed for a significant period of time. Further, he had been in the industry for 25 years, suggesting that he ought to have been aware of the requirements to maintain E&O insurance coverage. Additionally, Council found the Former Licensee’s testimony deflected responsibility to others, including the Former Nominee. Finally, Council found the Former Licensee had knowingly breached his obligations, based on the fact he had previously applied for ATR with an agency which was denied on the basis that he lacked compliant E&O coverage. Despite that knowledge, the Former Licensee still failed to put adequate E&O insurance in place.
34. Given the aggravating factors and lack of mitigating factors, Council considered a departure from the baseline precedents was not warranted. Council determined that a fine of \$3,000 was appropriate, representing a fine both for having failed to maintain adequate E&O insurance and having failed to respond promptly to inquiries from Council.
35. With respect to investigation costs, Council believes that these costs should be assessed to the Former Licensee. As a self-funded regulatory body, Council looks to licensees who have engaged in misconduct to bear the costs of their discipline proceedings, so that those costs are not otherwise borne by British Columbia’s licensees in general. The Council has not identified any reason for not applying this principle in the circumstances.



#### **REVIEW COMMITTEE'S RECOMMENDATION TO COUNCIL**

36. Pursuant to sections 231, 236, and 241.1 of the Act, Council made the following intended decision to:

- a) Fine the Former Licensee \$3,000, to be paid within 90 days of Council's order;
- b) Assess the Former Licensee Council's investigation costs of \$1,125, to be paid within 90 days of Council's order;
- c) Require the Former Licensee to take the Insurance Council Rules for Life and/or Accident & Sickness Agents course prior to being licensed in the future; and
- d) That Council not consider any future licensing applications from the Former Licensee until such time as the Former Licensee has complied with the conditions listed herein.

#### **ADDITIONAL INFORMATION REGARDING FINES/COSTS**

37. Council may take action or seek legal remedies against the Former Licensee to collect outstanding fines and/or costs, should these not be paid by the 90-day deadline.

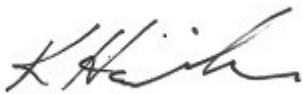
#### **RIGHT TO A HEARING**

38. 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 in 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 fourteen (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 this intended decision, the intended decision of Council will take effect.**

39. 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 of appeal to the Financial Services Tribunal (“FST”). The BCFSA has thirty (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 <https://www.bcfst.ca/> or visit the guide to appeals published on their website at <https://www.bcfst.ca/app/uploads/sites/832/2021/06/guidelines.pdf>.

Dated in Vancouver, British Columbia, on the **6<sup>th</sup> day of August 2024**.

For the Insurance Council of British Columbia



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for Janet Sinclair  
Executive Director