

In the Matter of the

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

and the

INSURANCE COUNCIL OF BRITISH COLUMBIA
 (“Council”)

and

YUVRAJ SIDHU
(the “Former Licensee”)

ORDER

As Council made an intended decision on August 1, 2023, 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 10, 2023; and

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

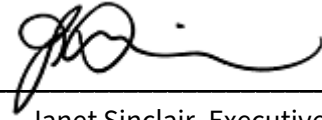
Under authority of sections 231, 236, and 241.1 of the Act, Council orders that:

- 1) Council will not consider an application for any insurance licence from the Former Licensee for a period of three years, commencing on September 11, 2023 and ending at midnight on September 10, 2026.
- 2) The Former Licensee is fined \$5,000 to be paid by December 11, 2023, and which must be paid in full prior to the Former Licensee being licensed in the future;
- 3) The Former Licensee is required to complete the Ethics and the Insurance Professional course, offered by the Insurance Institute, or an equivalent course as approved by Council, and which must be completed prior to the Former Licensee being licensed in the future; and

Order
Yuvraj Sidhu
COM-2023-00002 / LIC-188664C135081R1
September 11, 2023
Page 2 of 2

- 4) The Former Licensee is assessed Council's investigation costs of \$1,781.25 to be paid by December 11, 2023, and which must be paid prior to the Former Licensee being licensed in the future.

This order takes effect on the **11th day of September, 2023**



Janet Sinclair, Executive Director
Insurance Council of British Columbia

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA

(“Council”)

respecting

YUVRAJ SIDHU

(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 acted in compliance with the requirements of the Act, Council Rules, and Code of Conduct, and in particular to determine whether the Former Licensee breached section 3 (“Trustworthiness”), section 4 (“Good Faith”), section 5 (“Competence”), section 6 (“Financial Reliability”), section 7 (“Usual Practice: Dealing with Clients”) and section 12 (“Dealing with the Insurance Council of British Columbia”) of the Code of Conduct by misappropriating funds from an agency that the Former Licensee held an Authority to Represent (“ATR”) with and by failing to respond to inquiries from Council.
2. On June 6, 2023, as part of Council’s investigation, a Review Committee (the “Committee”) comprised of Council members met via video conference to discuss the investigation. An investigation report prepared by Council staff was distributed to the Committee and the Former Licensee prior to the meeting. The Former Licensee was given notice of the Review Committee meeting; however, the Former Licensee did not attend. A discussion of the investigation report took place at the meeting. Having reviewed the investigation materials and discussed the matter, the Committee prepared a report for Council.
3. The Committee’s report, along with the aforementioned investigation report, were reviewed by Council at its August 1, 2023, meeting, where it was determined 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

5. The Former Licensee obtained a Level 1 general insurance salesperson (“Level 1 Salesperson”) licence with the Insurance Council on July 5, 2012. The Former Licensee held a Level 1 Salesperson licence from 2012 to 2020. The Former Licensee’s Level 1 Salesperson licence was terminated on August 1, 2020, for non-renewal.
6. On September 8, 2021, Insurance Council staff received a phone call from the Former Licensee, who had been surprised to learn that his licence had been terminated for non-renewal on August 1, 2020. The Former Licensee disclosed during the call that he had been continuously practising, as he had believed he was licensed.
7. Multiple attempts were made by Council staff through email, telephone, and registered mail between October 27, 2021, and April 19, 2022, to contact the Former Licensee to obtain additional information. Council’s investigator telephoned the Former Licensee on July 29, 2022, and asked if he had seen the emails previously sent. The Former Licensee stated he had changed to a new system and could not access his old emails. Council’s investigator further asked if the Former Licensee received an email dated July 15, 2022, and the Former Licensee confirmed that he did. During the telephone call, the Former Licensee stated to Council’s investigator that an agency (the “Agency”) handled his annual licence renewals as this was where the Former Licensee had held an ATR. The Former Licensee was unaware that the renewal had not been completed.
8. Council staff had no further communication with the Former Licensee after July 29, 2022, as the Former Licensee stopped responding to Council staff.
9. The Former Licensee held an ATR with the Agency from April 28, 2016, to August 1, 2020. The Former Licensee continued to work at the Agency from August 1, 2020, until May 28, 2021, when he was terminated from the Agency. The Agency confirmed they did not submit the licence renewal documents on behalf of the Former Licensee for the 2020 year which caused the Former Licensee’s licence to be terminated for non-filing.
10. Council’s investigator requested that the Agency provide the circumstances of the Former Licensee’s termination that took place on May 28, 2021. MJ, a representative of the Agency, stated that the Former Licensee had been terminated from the Agency for a lack of compliance with policies and procedures. The Former Licensee was found to be collecting premiums from some of his clients by personally accepting Interac e-Transfers and cash and not forwarding the funds to the Agency, and not safeguarding clients’ credit card information.
11. The Agency provided Council’s investigator with various documentation regarding the misappropriation of client funds. The Agency further provided a summary of the supporting

documentation that revealed the Former Licensee had misappropriated a total of \$36,771.00 from the Agency. A significant portion of funds (\$19,597.00) were misappropriated by way of credit card fraud. The Former Licensee had utilized the credit card of a client (AT) between January 31, 2020, and May 28, 2021, to process payments for 14 unrelated client accounts and kept the funds for himself. The outstanding balance of \$17,174.00 was misappropriated through either cash payments not forwarded to the Agency, personal e-transfers to the Former Licensee's accounts, and cheques made out to the Former Licensee's personal name.

12. The Agency provided copies of emails between MJ and the Former Licensee pertaining to this incident. On May 28, 2021, MJ emailed the Former Licensee, stating his termination from the Agency was effective immediately, and he was to return the funds (\$3,500) he had admitted to collecting from clients in February 2021. A second email from MJ to the Former Licensee on May 31, 2021, noted that the funds had not yet been returned as promised.
13. On July 20, 2022, MJ confirmed with Council staff that all misappropriated funds have been repaid to the Agency.

ANALYSIS

14. Council concluded the Former Licensee did not act honestly or with sincere intention, when, without consent or authorization, the Former Licensee used clients' credit card information for purposes other than expressly authorized and for personal benefit. Additionally, the Former Licensee did not act honestly or in good faith when he kept cash payments, cheques and e-transfers from clients and failed to remit the money to the Agency. Council further determined the Former Licensee made improper use of his position as an insurance salesperson and collected funds from clients for his own personal benefit and use. Council is troubled that the Former Licensee misdirected payments intended for insurers for the Former Licensee's own use. The Former Licensee's conduct reflects on the Former Licensee's trustworthiness, ability to act in good faith and the Former Licensee's suitability to hold an insurance licence.
15. Council has concluded the Former Licensee's actions constituted serious breaches of the fundamental licensing requirements of trustworthiness, and the intention to carry on the business of insurance in good faith.
16. Council identified at least six instances of unauthorized credit card use by the Former Licensee, from January 31, 2020, to July 21, 2020, during the time the Former Licensee was licensed with Council. It is unclear as to the dates when the Former Licensee collected cash from clients and did not remit the money to the Agency.

17. Council noted that the Former Licensee did not respond to Council inquiries and failed to reply to the inquiries during the course of the investigation.
18. Council has determined that the Former Licensee's misconduct amounted to breaches of Code of Conduct sections 3 ("Trustworthiness"), 4 ("Good Faith"), 6 ("Financial Reliability"), 7 ("Usual Practice: Dealing with Clients"), and 12 ("Dealing with the Insurance Council of British Columbia").

PRECEDENTS

19. Council took into consideration the following precedent cases regarding fraud and misappropriation of money. While Council recognizes that Council is not bound by precedent and that each matter is decided on its own facts and merits, Council found that these decisions were instructive in terms of providing a range of sanctions for similar types of misconduct.
20. [*Lisa Anne Allan*](#) (January 2020): in September 2018, the former licensee's agency found that she had misappropriated \$16,409.90 of ICBC funds for her own use. The former licensee admitted to taking the money. She was charged with theft over \$5,000 and was found guilty in May 2019. Through the restorative justice program, she received a conditional discharge that included three years of probation, 50 hours of community service, and a requirement to pay \$6,000 of restitution to the agency. Council gave consideration to the fact that the former licensee was dealing with consequences for her actions through the restorative justice program, but also concluded that "as Council continues to encounter incidents of professional misconduct involving licensees misappropriating funds, it was determined that a lengthy period of disqualification from holding an insurance licence is necessary to communicate to the industry and public that such misconduct can not be tolerated." Council ordered that no application from the licensee would be considered for three years; required the licensee to complete an ethics course before being licensed in future; and assessed investigation costs.
21. [*Mark Daniel Norris*](#) (March 2019): the licensee was found to have misappropriated funds from two agencies he was authorized to represent, totalling \$6,928. The licensee showed remorse for his actions and repaid the funds. The licensee explained that he had been driven to misappropriate the funds due to financial and personal problems he faced at the time. Council ordered that the licensee be suspended for one year; the licensee's licence was downgraded to a level 1 licence for two years following the suspension; and assessed investigation costs.
22. [*Vladimir Prokopchik*](#) (September 2019): between March and May 2018, the former licensee misappropriated about \$2,484 in funds relating to five insurance transactions for mutual customers of an agency the licensee represented at the time and a motor vehicle dealership where he conducted automobile insurance transactions. The licensee kept cash intended to pay

for Autoplan premiums for himself. Council ordered that no applications by the former licensee for insurance licences would be considered for three years; and assessed investigation costs.

23. [Elaine Draney](#) (February 2014): the former licensee had failed to place insurance coverage as directed by clients, thereby generating premium refund cheques by the agency. The agency discovered that the insurance premium cheques intended for clients had not been delivered. The former licensee was terminated by the agency. The former licensee misappropriated a total of \$10,254 and paid back a total of \$9,842 to avoid the matter being referred to the RCMP. By the time the matter had come before Council, the former licensee had not held an insurance licence since November 2011. With that in mind, Council held that the former licensee was not eligible to hold an insurance licence for a period of two years, fined the licensee \$10,000 and assessed investigation costs.
24. [Beata Stepniewski](#) (October 2013): concerned a level 1 general insurance salesperson who had on several occasions accepted cash payments from clients but failed to remit funds to the agency. The licensee committed additional misconduct, including using the credit cards of other agency clients to pay some of the premiums she did not remit and processing several changes to a policy to either increase or decrease coverage and forging the client's signature to do so. Council held that the licensee had failed to act in a trustworthy and financially reliable manner and good faith. The licensee was prohibited from holding an insurance licence for a minimum period of two years and ordered to pay Council's investigation costs.
25. [Sukhraj Singh Soos](#) (May 2017): concerned a level 1 general insurance salesperson who had failed to remit Autoplan fees of over \$10,000 to ICBC. The licensee gave up his licence and repaid the fees when the failure to remit was discovered and was prohibited by ICBC from conducting Autoplan for a period of one year. Council considered the ICBC ban and determined that a fine and additional educational courses were appropriate discipline by Council. The licensee was ordered to pay a fine of \$2,500. Council further ordered the licensee to complete a series of courses before being licensed in the future. Council further ordered that in the event the licensee became licensed again in the future, he would be required to be supervised for a year.

MITIGATING AND AGGRAVATING FACTORS

26. Council considered the relevant mitigating and aggravating factors in this matter. Council notes that the Former Licensee's misconduct took place over an extended period and was not an isolated event. Council considers the multiple instances of misconduct and significant misappropriation of client funds to be aggravating factors relevant to determining an appropriate penalty.

27. Council considered that the Former Licensee repaid the Agency all the misappropriated funds as a mitigating factor.

CONCLUSIONS

28. Having considered the precedent cases, as well as mitigating and aggravating factors, Council concluded that a period of disqualification from holding an insurance licence is required to communicate to the industry and public that such misconduct cannot be tolerated.
29. For the licensing prohibition period, Council has determined that it is appropriate for Council not to consider an insurance licence application from the Former Licensee for three years. Council further determined that it is appropriate for the Former Licensee complete an ethics course prior to Council considering an application for an insurance licence in the future.
30. Additionally, Council concludes that it is appropriate for the Former Licensee to be assessed a fine in order to communicate to the Former Licensee, the insurance industry, and the public that insurance agents are expected by Council to perform their roles and conduct insurance business competently. Council considered the [Soos](#) and [Draney](#) cases to be the most informative and concluded that a \$5,000 fine is appropriate in the circumstances.
31. 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. Council has not identified any reason for not applying this principle in the circumstances.

INTENDED DECISION

32. Pursuant to sections 231, 236 and 241.1 of the Act, Council made an intended decision that:
- a. Council not consider an application for an insurance licence from the Former Licensee for a period of three years from the date of Council's order;
 - b. The Former Licensee be fined \$5,000, to be paid within 90 days of Council's order, and which must be paid prior to the Former Licensee being licensed in the future;
 - c. The Former Licensee complete the Ethics and the Insurance Professional course, offered by the Insurance Institute, or an equivalent course as approved by Council, and which must be completed prior to the Former Licensee being licensed in the future; and

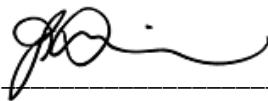
- d. The Former Licensee be assessed Council's investigation costs of \$1,781.25, to be paid within 90 days of Council's order, and which must be paid prior to the Former Licensee being licensed in the future.
33. Subject to the Former Licensee's right to request a hearing before Council pursuant to section 237 of the Act, the intended decision will take effect after the expiry of the hearing period.

RIGHT TO A HEARING

34. 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 Licensees does not request a hearing within 14 days of receiving this intended decision, the intended decision of Council will take effect.
35. 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 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 **10th day of August, 2023**

For the Insurance Council of British Columbia



Janet Sinclair
Executive Director