

In the Matter of the

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

and the

INSURANCE COUNCIL OF BRITISH COLUMBIA
 (“Council”)

and

GURJEET SINGH MALHI
(the “Licensee”)

ORDER

As Council made an intended decision on September 14, 2021, pursuant to sections 231, 236, and 241.1 of the Act; and

As Council, in accordance with section 237 of the Act, provided the Licensee with written reasons and notice of the intended decision dated October 5, 2021; and

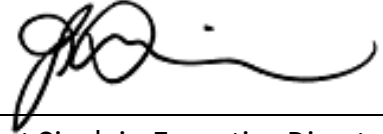
As the Licensee has not requested a hearing of Council’s intended decision within the time period provided by the Act;

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

1. The Licensee is fined \$2,000, to be paid by January 20, 2022;
2. The Licensee is required to complete the Council Rules Course, currently available through the Insurance Brokers Association of British Columbia, by January 20, 2022;
3. The Licensee is assessed investigation costs in the amount of \$1,700, to be paid by January 20, 2022; and
4. A condition is imposed on the Licensee’s general insurance license that failure to pay the fine and investigative costs or to complete the Council Rules Course by January 20, 2022 will result in the automatic suspension of the Licensee’s licence, and the Licensee will not be permitted to complete his 2023 annual filing until such time as the fine and costs are paid in full and the course requirement is met.

Order
Gurjeet Singh Malhi
LIC-183776C129823R1, COM-2020-00080
October 22, 2021
Page 2 of 2

This order takes effect on the **22nd day of October, 2021.**

A handwritten signature in black ink, appearing to read 'Janet Sinclair', written over a horizontal line.

Janet Sinclair, Executive Director
Insurance Council of British Columbia

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA

(“Council”)

respecting

GURJEET SINGH MALHI

(the “Licensee”)

1. Pursuant to section 232 of the *Financial Institutions Act* (the “Act”), Council conducted an investigation to determine whether the Licensee acted in compliance with the requirements of the Act, Council Rules, and Code of Conduct, and in particular to determine whether the Licensee breached sections 3 (“Trustworthiness”), 4 (“Good Faith”), 5 (“Competence”), 7 (“Usual Practice: Dealing with Clients”), and/or 8 (“Usual Practice: Dealing with Insurers”) of the Code of Conduct by allowing Insurance Corporation of British Columbia (“ICBC”) transitional documents to leave his presence while authorized signatures were being obtained and by not witnessing the signature of the person who signed the documents.
2. On July 6, 2021, as part of Council’s investigation, a Review Committee (the “Committee”) comprised of Council members met with the Licensee via video conference to discuss the investigation. An investigation report prepared by Council staff was distributed to the Committee and the Licensee prior to the meeting. A discussion of the investigation report took place at the meeting and the Licensee was given an opportunity to make submissions and provide further information. Having reviewed the investigation materials and discussed the matter with the Licensee, the Committee prepared a report for Council.
3. The Committee’s report, along with the aforementioned investigation report, were reviewed by Council at its September 14, 2021 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 Licensee of the action it intends to take under sections 231, 236 and 241.1 of the Act before taking any such action. The 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 Licensee.

FACTS

5. The Licensee was first licensed with Council as a Level 1 general insurance salesperson ("Level 1 Salesperson") in March 2011, and as a Level 2 general insurance agent ("Level 2 Agent") since October 2016. At all material times, the Licensee held an authority to represent an agency (the "Agency").
6. On October 18, 2018, DT purchased a 2017 Chevrolet Malibu (the "Chevrolet") from a dealership in the name of his daughter, MT.
7. That same day, DT attended the Agency and met with the Licensee. In MT's absence, the Licensee processed the ICBC APV9T Transfer/Tax Form, resulting in the transfer of the Chevrolet to MT. Also in MT's absence, the Licensee processed the ICBC APV250 Form, registering and insuring the Chevrolet in MT's name.
8. On October 23, 2018, DT purchased a 2017 Nissan Rogue (the "Nissan") from a dealership in MT's name. The Licensee again met with DT and in MT's absence, the Licensee again processed the APV9T Transfer/Tax Form, resulting in the transfer of the Nissan to MT. Also in MT's absence, the Licensee processed the ICBC APV250 Form, registering and insuring the Nissan in MT's name.
9. The Licensee admitted that his handwriting, name, and signature are on the bottom portions of the APV9Ts. The Licensee confirmed that MT was not present during the transactions.
10. The Licensee stated that DT brought all vehicle purchase information to him and that he completed the purchaser information on the Chevrolet and the Nissan. On both transactions, DT told the Licensee that MT was ill and unable to come into the office, but that she was outside in a car. DT then took the papers out of the office, ostensibly to be signed by MT. It is believed that DT forged MT's signature on the documents.

11. On January 22, 2020, ICBC's Special Investigations Unit obtained an audio statement from MT in which she stated that her father, DT, had falsely purchased and then registered the Nissan in her name. MT stated she was not present during the purchase and did not sign any documents relating to the purchase and insurance transactions.
12. MT became aware that the Nissan was in her name after a bank contacted her regarding a loan that was taken out for the Nissan. DT then advised MT that he had taken the loan out, and told her that he would pay it off, to which MT agreed. Later, MT received a call from the bank's collections division as the loan was in arrears. When the loan went into default in October 2019, the bank re-possessed the Nissan. The Chevrolet was eventually repossessed by another bank when that loan went into default.
13. The Licensee agreed that he did all the transactions on the dates they are stamped, and admitted that he did not take any steps to meet with MT, verify whether MT was in a car outside the Agency office as claimed by DT, or verify that MT had signed the documents.
14. The Licensee acknowledged that he has been in the insurance industry for seven years prior to the two incidents, and has been licensed as a Level 2 Agent for two years prior to the incidents. The Licensee stated he does primarily Autoplan and home insurance with a split of 80% Autoplan and 20% home insurance.
15. The Licensee accepted full responsibility and expressed remorse for his actions. He described his conduct as being an error in judgment. He stated that he deeply regretted believing DT's story about MT being in a car outside the Agency office, and regretted accepting DT's claim that the documents had been signed by MT.
16. The Licensee claims the incidents have embarrassed him, the Agency, and ICBC. The Licensee told the Committee that he will work with the utmost due diligence in the future. The Licensee says he is now extra careful in his dealings with clients and performs more due diligence than previously, as per Council's guidelines.
17. On June 22, 2020, ICBC prohibited the Licensee from conducting Autoplan business and accessing ICBC's Broker Connect for a period of 180 days. The Licensee later asked ICBC to consider reducing the prohibition to three months, to which ICBC agreed. ICBC also issued a one-day basic premium sanction against the Agency.

ANALYSIS

18. Council has concluded that the Licensee failed to engage in the usual practice of the business of insurance by allowing ICBC transitional documents to leave his presence for the authorized signatures, not witnessing the signature of MT or the person who signed the documents on behalf of MT, and then processing the transactions once the paperwork was brought back to him.
19. Council notes that witnessing signatures on insurance documents is fundamental to the usual practice of the business of insurance. The question of identification for a person who has an insurable interest in a vehicle must always be confirmed by a licensee. In this case, Council was troubled by the fact that the Licensee processed two insurance vehicle transactions for the Chevrolet and Nissan to the same party (DT) within a five-day span.
20. On both occasions the Licensee acquiesced to DT's representation that his daughter MT was too ill to meet with the Licensee, and allowed DT to take ICBC transitional documents away from the Agency in order to obtain the authorized signatures. On both occasions, the Licensee did not take any steps to confirm that MT was present for the transactions or to witness the signatures of MT or the person who signed the documents on her behalf. Certainly, after the first incident on October 18, 2018, "alarm bells" should have sounded for the Licensee that something was amiss about the transactions DT sought to conduct.
21. Council considered the impact of Council's Code of Conduct on the Licensee's conduct, including sections 3 ("Trustworthiness"), 4 ("Good Faith"), 5 ("Competence"), 7 ("Usual Practice: Dealing with Clients"), and 8 ("Usual Practice: Dealing with Insurers"). Council found the Licensee's conduct to constitute clear breaches of the Code of Conduct and the professional standards set by the Code.
22. Prior to making its determination, Council considered four precedent decisions. While Council acknowledged that it is not bound by precedent and that each matter is decided on its own facts and merits, Council found the matters of *Grant Donald Stobbe and Okanagan Valley Insurance Services Ltd.* (August 2020), *Melanie June Lund* (February 2017), *Melissa Almeda Skelton* (April 2016), and *Peter Hing-Fu Hung* (January 2015) were on point and instructive in terms of providing a range of sanctions for similar misconduct.

23. *Grant Donald Stobbe and Okanagan Valley Insurance Services Ltd.* concerned a licensee who allowed a client to take Temporary Operating Permit paperwork out of the office, into the parking lot, supposedly to be signed by the vehicle owner. The owner's signature was then forged by the client, and the licensee took no action to confirm that it was the owner's signature. Council concluded it was appropriate for the licensee to be fined as well as required to complete educational courses. However, Council's determination was that the fine should be in the higher range to reflect that the licensee was a nominee and an experienced Level 3 agent at the time of the misconduct. As a result, Council imposed a fine of \$2,500, required the licensee to complete the Council Rules Course and the Insurance Brokers Association of British Columbia's Duties and Responsibilities for Level 3 Agents and Nominees in British Columbia course, and assessed the agency investigative costs in the amount of \$2,375.
24. *Melanie June Lund* concerned a Level 2 Agent who conducted a vehicle transfer and Autoplan transaction without the vehicle's purchaser being present. The transaction occurred at the licensee's agency office, with the seller and the purchaser's boyfriend present. The purchaser was a friend of the licensee, and the licensee was trying to assist by conducting the transaction without the purchaser present. Council determined that providing licence plates and insurance for a vehicle without the purchaser present brought the licensee's competency into question, as well as her ability to act in accordance with the usual practice of the business of insurance. The licensee was reprimanded, fined \$1,000, and assessed investigative costs of \$587. The licensee was also required to complete ICBC's Autoplan Basics for Brokers program, an errors and omissions insurance course, and the Council Rules Course.
25. *Melissa Almeda Skelton* concerned a Level 1 Salesperson who circumvented ICBC procedures for a friend's convenience. The licensee's friend, who she lived with, had a debt that needed to be paid before he could renew his Autoplan insurance. The licensee attempted to help the friend by setting up conditions that would allow him to use ICBC's financing plan to make monthly payments. The friend's vehicle was gifted to the licensee, who registered it in her own name. The licensee then conducted an Autoplan transaction for herself, using a monthly financing option. She arranged for the monthly payments to come from the friend's bank account, and listed herself as the primary operator, despite having her own vehicle. These transactions circumvented several ICBC procedures and involved the licensee claiming a PST exemption that she did not qualify for. Council fined the licensee \$1,000 and assessed investigative costs of \$1,025.
26. *Peter Hing-Fu Hung* concerned a Level 1 Salesperson who worked mostly as a mobile road services agent, who completed insurance transactions for two different luxury

vehicles for an individual who was later found to have been an imposter. There were suspicious circumstances involved with the transactions, but the licensee did not put a notation on the transaction documents or take any other action to flag the suspicions to ICBC or his supervisor. Council believed the licensee had “turned a blind eye” to the suspicious circumstances, and that he had not appreciated his responsibilities when conducting the transactions. The licensee was fined \$1,000, assessed costs of \$2,625, and required to complete three ICBC courses. The licensee was also required to complete the Insurance Brokers Association of British Columbia’s Ethics for Insurance Brokers course and was only allowed to conduct insurance business from his agency’s office until his courses were completed.

27. In the present matter, Council acknowledges, as mitigating factors, that the Licensee has no prior discipline history, and that he is remorseful, admitting he had made serious errors by processing the ICBC transactional documents without MT’s instructions or witnessing her signature on the documents. Council is also mindful of the sanctions imposed on the Licensee by ICBC.
28. In terms of aggravating factors, Council notes that at the time of the misconduct the Licensee was a Level 2 Agent with seven years of experience in the industry. In addition, actual harm was caused by the Licensee’s failure to adhere to the Code of Conduct. While the Licensee may not have known of DT’s motives in forging MT’s signatures, bank loans were registered under false pretenses and the loans later went into default with the vehicles being repossessed.
29. Council views the Licensee’s conduct to be a serious breach of the Code of Conduct and, in keeping with the precedents, concludes that it is appropriate for the Licensee to be fined and required to complete relevant educational courses. Even with consideration given to the mitigating circumstances, Council believes the misconduct, which is unacceptable for any individual in the Licensee’s position, is more egregious because of the Licensee’s experience and the fact that it occurred on two occasions in the same circumstances with the same individual over a short period of time. As stated above, the Licensee ought to have known that something was amiss in his dealings with DT.
30. Accordingly, Council’s disposition includes a fine of \$2,000 (\$1,000 per incident) in order to communicate to the Licensee, the insurance industry, and the public that insurance agents are expected to perform their roles and conduct insurance business ethically and competently and in accordance with the usual practice of the business of insurance.

31. With respect to the investigation costs, Council finds that these costs should be assessed to the Licensee. As a self-funded regulatory body, Council looks to licensees who have engaged in misconduct to bear the investigative costs of their discipline proceedings so that the costs are not otherwise borne by British Columbia's licensees in general.

INTENDED DECISION

32. Pursuant to sections 231, 236 and 241.1 of the Act, Council made an intended decision to:
- i. Fine the Licensee \$2,000, to be paid within 90 days of Council's order;
 - ii. Require the Licensee to complete the Council Rules Course, currently available through the Insurance Brokers Association of British Columbia, within 90 days of Council's order;
 - iii. Assess Council's investigative costs in the amount of \$1,700 against the Licensee, to be paid within 90 days of Council's order; and
 - iv. Impose a condition on the Licensee's general insurance license that failure to pay the fine and investigative costs or to complete the Council Rules Course within 90 days of Council's order will result in the automatic suspension of the Licensee's licence, and the Licensee will not be permitted to complete his 2023 annual filing until such time as the fine and costs are paid in full and the course requirement is met.
33. Subject to the 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.

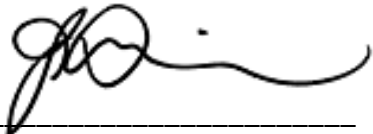
RIGHT TO A HEARING

34. If the Licensee wishes to dispute Council's findings or its intended decision, the 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 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 Licensee 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 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.fst.gov.bc.ca or visit the guide to appeals published on their website at www.fst.gov.bc.ca/pdf/guides/ICGuide.pdf.

Dated in Vancouver, British Columbia on the **5th day of October, 2021.**

For the Insurance Council of British Columbia

A handwritten signature in black ink, appearing to read 'Janet Sinclair', written over a horizontal line.

Janet Sinclair
Executive Director