

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

and the

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

and

**ALLEN KARL RADLEY ANICETO**  
(the “Licensee”)

**ORDER**

As Council made an intended decision on February 9, 2021 pursuant to sections 231 and 236 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 March 17, 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 and 236 of the Act, Council orders that:

1. The Licensee is fined \$1,000 for his failure to maintain errors & omissions coverage, to be paid by October 6, 2021;
2. The Licensee is reprimanded for his failure to notify Council in accordance with the Council Rules;
3. The Licensee is required to complete the Council Rules Course, available through Advocis, by July 8, 2021; and
4. A condition is imposed on the Licensee’s life and accident and sickness insurance agent (“Life Agent”) licence that failure to pay the fine or complete the Council Rules Course by their respective deadlines will result in the automatic suspension of his Life Agent licence, and he will not be permitted to complete his 2022 annual filing until such time that the fine is paid in full and the course requirement is met.

Order  
Allen Karl Radley Aniceto  
LIC-2018-0009968-R01, COM-2020-00105  
April 9, 2021  
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This order takes effect on the **9<sup>th</sup> day of April, 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

### **ALLEN KARL RADLEY ANICETO**

(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 whether the Licensee breached Council Rule 7(11)(a) by allowing his errors & omissions ("E&O") insurance to lapse in 2020, and whether he had breached Council Rules 7(3)(b) and/or 7(11)(c)(i) by failing to make required disclosures of information to Council.
2. On December 16, 2020, 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 both the Committee and the Licensee in advance of the meeting. A discussion of the investigation report took place at the meeting, and the Licensee was given an opportunity to make submissions or provide any 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 February 9, 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 and 236 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 life and accident and sickness insurance agent (“Life Agent”) in June 2014. His licence was terminated for non-filing in August 2016. The Licensee became licensed again in May 2018 and has been licensed continuously since.
6. In June 2020, Council was notified by the Licensee’s employer (the “Agency”) that the Licensee had not renewed his E&O insurance. The subsequent investigation by Council staff identified that the Licensee’s E&O coverage had lapsed for a 113-day period between April 2020 and July 2020, contrary to Council Rule 7(11)(a). The Licensee had not informed Council about his lack of E&O coverage, as required by Council Rule 7(11)(c)(i).
7. The Agency confirmed to Council’s investigator that the Licensee had not written any insurance policies during the period he was without E&O coverage.
8. In the course of the investigation, Council staff ascertained that Council’s records showed the Licensee as having authority to represent a second agency (the “Second Agency”). The Licensee confirmed that it had been years since he had been employed by the Second Agency. However, he had not notified Council of his departure from the Second Agency, and by extension, had not notified Council that he no longer had authority to represent them. Council Rule 7(3)(b) requires licensees to notify Council when their authorization to represent an agency is withdrawn.

#### **REVIEW COMMITTEE MEETING**

9. The Licensee was apologetic and forthcoming with information throughout his interview with the Committee. He described his failure to maintain E&O coverage as being the result of a high level of personal and financial stress that he was under at the time. The Licensee told the Committee that the COVID-19 pandemic had severely impacted the non-insurance related business run by himself and his spouse. He explained that, due to financial strain, he did not immediately renew his E&O coverage.
10. The Licensee stated that he had not known that the Council Rules required him to notify Council about lapses in E&O coverage, and explained that the stress he had felt at the time had distracted him from paying adequate attention to his duties as a licensee. He noted, however, that he had been careful to ensure that he did not conduct insurance activities during the time he was without E&O coverage.

11. In response to questions from the Committee as to how he was able to completely avoid any insurance business during his time without E&O coverage, the Licensee described his Life Agent activities as being very minimal, with most of his attention being instead focused on his family's other business. As such, he explained that it was relatively simple to completely remove himself from insurance related activities. The Licensee stated that he had not done any insurance business since March 2020, preceding the E&O lapse, and that his insurance activities continued to be quite limited at the time of the Committee meeting.
12. When questioned by the Committee about why he had not notified Council when his authority to represent the Second Agency ended, the Licensee admitted that he had not been aware that he was required by the Council Rules to do so. The Licensee described himself as lacking an overall familiarity with the Council Rules.

#### **ANALYSIS**

13. Council considered staff's investigation report, the Committee's report to Council, and the Licensee's statements throughout the meeting, and determined that the Licensee had breached the following sections of the Council Rules:
  - a) Council Rule 7(11)(a) by failing to maintain E&O coverage for a 113-day period between April 2020 and July 2020;
  - b) Council Rule 7(11)(c)(i) by failing to notify Council that he was without E&O coverage; and
  - c) Council Rule 7(3)(b) by failing to notify Council that he no longer had authority to represent the Second Agency.
14. Although Council has sympathy for the stressful personal circumstances described by the Licensee, Council nevertheless considers it necessary to sanction the Licensee for his breaches of the Council Rules. The requirement for licensees to maintain E&O coverage is an important one, and the Licensee's personal circumstances did not justify his failure to comply. Even when a licensee's insurance activities are minimal, a failure to maintain E&O insurance can adversely impact clients.
15. Council took both mitigating and aggravating factors into consideration during its review. The mitigating factors identified included that the Licensee had not done any insurance business during the period he was without coverage, and that he was remorseful about his breaches of the Council Rules. Council also accepted the Licensee's description of the COVID-19 pandemic as having contributed, at least in part, to the difficult financial situation that had led him to postpone renewal of his E&O coverage.

16. An aggravating factor that caused Council concern was the Licensee's admitted lack of familiarity with the requirements of the Council Rules.
17. Council also took four previous cases into consideration as precedents prior to reaching its decision. Council recognizes that similar conduct should result in similar outcomes within a reasonable range depending on the particular facts of the case.
18. *Varinder Kaur* (July 2020) concerned a Life Agent licensee who failed to notify Council that her authority to represent an agency had been withdrawn, and failed to be covered by E&O insurance for a period of approximately one month. The licensee did not notify Council that she was without E&O insurance and did not immediately stop conducting insurance business after she ceased to be covered. Council found that the breaches were unintentional and that the licensee was remorseful. However, Council concluded that the licensee ought to have known the responsibilities and duties conferred upon her by the Council Rules. Furthermore, the licensee's failure to maintain E&O coverage put her clients at risk. The licensee was fined \$1,500 for failing to maintain E&O insurance and conducting insurance business while without coverage. She was also reprimanded for her failure to notify Council of either her E&O coverage lapse or the withdrawal of her authority to represent, and she was required to complete the Council Rules Course.
19. *Maria Rhodora Banada Thomas* (October 2018) concerned a Life Agent licensee who failed to maintain her E&O insurance for approximately seven months. She was apologetic and explained that the failure to renew was in error and partially due to personal circumstances. She also advised that she had not conducted insurance business during the period she was without coverage. Nevertheless, the licensee was responsible for maintaining E&O coverage as per the Council Rules, and Council concluded that a \$1,000 fine was appropriate for a failure to comply with this requirement, regardless of the reason for the breach. As such, the licensee was fined \$1,000.
20. *Harold Wong Yang* (August 2016) concerned a Life Agent licensee whose E&O insurance lapsed in November 2013. He became aware of the lapse about two weeks later, but did not at that time advise Council, cease all insurance activities, or take steps to renew. The licensee stated that he had failed to follow up because he became ill. In December 2013, the licensee purchased new E&O insurance, but it did not meet Council's minimum requirements and his licence was terminated in early January 2014. The licensee subsequently obtained proper E&O insurance, and his licence was reissued later that month. Council took the licensee's health issues into consideration but found that they did not justify his failure to comply with the Council Rules. Council concluded that the licensee had been aware of the E&O insurance requirement but had chosen not to comply. The licensee was fined \$2,000 for his breaches relating to E&O insurance, and ordered to complete the Council Rules Course. He was also

fined an additional \$3,000 for not meeting his continuing education requirements in three successive years.

21. *Ma-Isabel Perez Javillo* (October 2014) concerned a Life Agent licensee whose E&O insurance expired in June 2013. She received notice of the expiration but subsequently submitted her annual filing to Council, confirming that she was in compliance with all of the Council Rules. Due to a number of personal challenges, the licensee continued to engage in insurance activities while without E&O insurance. Although Council was sympathetic to the licensee's personal circumstances, they were not considered mitigating factors, and Council emphasized that the licensee's actions had the potential to put the public at risk. Council found that a substantial fine is appropriate in cases where a licensee intentionally operates without E&O insurance. As such, the licensee was fined \$2,800 for her failure to maintain E&O coverage, and an additional \$500 for making a material misstatement in her annual filing.
22. After weighing all relevant considerations, Council determined that the Licensee should be fined \$1,000 for his failure to maintain E&O coverage in accordance with the Council Rules. Such a fine is in keeping with the precedents, and particularly with the *Maria Rhodora Banada Thomas* decision, in which Council expressed that licensees should be fined a minimum of \$1,000 for failure to maintain E&O coverage. However, Council concluded that the Licensee should be given a 180-day period to pay the fine, rather than the standard 90-day period, in recognition of the COVID-19 pandemic's significant impact on the Licensee's livelihood.
23. In addition to the fine, Council intends to reprimand the Licensee for his failure to notify Council about either his E&O coverage lapse or the withdrawal of his authority to represent the Second Agency, and require him to complete the Council Rules Course.

#### **INTENDED DECISION**

24. Pursuant to sections 231 and 236 of the Act, Council made an intended decision to:
  - I. Fine the Licensee \$1,000 for his failure to maintain E&O coverage, to be paid within 180 days of Council's order;
  - II. Reprimand the Licensee for his failure to notify Council in accordance with the Council Rules;
  - III. Require the Licensee to complete the Council Rules Course, available through Advocis, within 90 days of Council's order; and


- IV. Impose a condition on the Licensee's Life Agent licence that, if he fails to pay the total fine or complete the Council Rules Course by their respective deadlines, his licence will be automatically suspended, and he will not be permitted to complete subsequent annual filings until such time that the fine is paid in full and the course requirement is met.

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

25. If the Licensee wishes to dispute Council's findings or its intended decision, the Licensee may have legal representation and present a case at 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 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.
26. 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 FST. The BCFSA has 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 [fst.gov.bc.ca](http://fst.gov.bc.ca) or visit the guide to appeals published on their website at [www.fst.gov.bc.ca/pdf/guides/ICGuide.pdf](http://www.fst.gov.bc.ca/pdf/guides/ICGuide.pdf).

Dated in Vancouver, British Columbia, on the **17<sup>th</sup> day of March, 2021.**

For the Insurance Council of British Columbia



For Janet Sinclair  
Executive Director  
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