

In the Matter of the

FINANCIAL INSTITUTIONS ACT, RSBC 1996, c.141

(the “Act”)

and the

INSURANCE COUNCIL OF BRITISH COLUMBIA

(“Council”)

and

VICTORIA KWONG

(the “Former Licensee”)

ORDER

As Council made an intended decision on April 25, 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 May 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 an insurance licence from the Former Licensee for a period of three years, commencing on the date of this order and ending at midnight on June 14, 2026.
- 2) The Former Licensee is required to complete the Ethics and the Insurance Professional Course, offered by the Insurance Institute or equivalent course as approved by Council, prior to being licensed in the future.

Order

Victoria Kwong

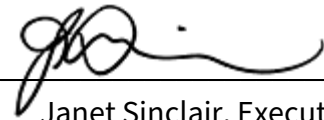
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- 3) The Former Licensee is assessed Council's investigation costs of \$1,781.25 to be paid by September 13, 2023, and which must be paid in full prior to becoming licensed in the future.

This order takes effect on the **15th day of June, 2023**



Janet Sinclair, Executive Director
Insurance Council of British Columbia

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA

(“Council”)

respecting

VICTORIA KWONG

(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”); and section 7 (“Usual Practice of Dealing with Clients”) of the Code of Conduct by accessing clients’ personal credit card information without consent or authority and fraudulently using the client’s credit card information.
2. On February 15, 2023, as part of Council’s investigation, a Review Committee (the “Committee”) comprised of Council members met via video conference with the Former Licensee 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 April 25, 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 held a Level 1 general insurance salesperson (“Level 1 Salesperson”) licence with the Insurance Council commencing February 7, 2018. The Former Licensee held a licence from 2018 to 2021. During the period of April 2021 to August 2021, the Former Licensee held an inactive licence, it was then terminated for non-renewal on August 4, 2021. The Former Licensee reinstated her Level 1 Salesperson licence on February 7, 2022, and held an active licence from February 7, 2022, to March 7, 2022, when she held an authority to represent (“ATR”) the “Agency.” The Former Licensee did not complete her 2022 licence renewal and her licence was terminated on August 3, 2022, for non-renewal.
6. On March 8, 2022, CS, Human Resources and Payroll Manager at the Agency, emailed a complaint to the Insurance Council pertaining to the termination of the Former Licensee. CS alleged that the Former Licensee had been involved in a fraudulent Insurance Corporation of British Columbia (“ICBC”) transaction where she had used the credit card of an unknown person to pay for her own ICBC transaction.
7. On February 28, 2022, MZ (the “Complainant”) contacted the Agency inquiring as to why a \$700 transaction from the Agency, dated February 17, 2022, had appeared on their credit card statement. The Agency asked the Complainant for the transaction details, which the Complainant provided. The Agency immediately began an investigation into this matter.
8. The Agency had not engaged in any prior business with the Complainant. However, upon investigation, the Agency confirmed that the credit card number showing on a receipt of the Agency dated February 17, 2022, matched the credit card statement provided by the Complainant.
9. The Agency investigation revealed that the Former Licensee had used the Complainant’s credit card information to pay a \$700 debt she owed to ICBC, which needed to be resolved before the Former Licensee’s ICBC renewal could be processed. The renewal was partially completed by an employee who had only been with the Agency for three days. When it came time to pay, the Former Licensee manually input the credit card number, and then the Former Licensee proceeded to renew her own ICBC auto insurance.
10. On March 4, 2022, two Agency employees interviewed the Former Licensee about the transaction in question. The Former Licensee told the interviewers that the credit card belonged to her husband (“DC”), and she may have incorrectly keyed the information into the credit card terminal. The Former Licensee was asked to contact DC and provide a copy of DC’s credit card and statement showing an ICBC charge, so that the Agency could verify whether DC’s credit card

was charged for this transaction. That same day, March 4, 2022, the Former Licensee advised CS that she had a family member in the hospital and left for the day. The Agency called the Former Licensee several times and indicated that this was a serious matter and that they required the Former Licensee's cooperation.

11. On March 4, 2022, the Agency continued its investigation and phoned DC who advised he had not given his credit card number to the Former Licensee. DC also advised that he had no knowledge of the Former Licensee using his credit card to process a \$700 transaction.
12. The Agency investigation revealed that the Complainant was a client of a second agency, where the Former Licensee had been employed prior to working at the Agency. The Agency returned the \$700 to the Complainant as their investigation revealed that the Complainant was not a client of the Agency and his credit card information had been used by the Former Licensee on her own ICBC transaction.
13. The Agency further discovered that the Former Licensee had completed another transaction without a physical credit card on February 14, 2022, in the amount of \$327. The transaction was for a debt that the Former Licensee owed ICBC. The Agency was unable to verify the identity of this credit card holder. The Agency never received a complaint regarding this charge.
14. On March 4, 2022, the Former Licensee was terminated from her employment with the Agency as a result of the investigation of this incident.
15. On March 8, 2022, the Agency notified the Royal Canadian Mounted Police ("RCMP") of the incident involving the two credit card transactions. The Agency also notified ICBC on March 8, 2022, of the \$700 credit card transaction. At a subsequent time, the Agency advised ICBC of the second credit card transaction.
16. ICBC investigated this matter, and the Former Licensee was suspended from conducting ICBC Autoplan business for a period of two years as of July 8, 2022.
17. The Insurance Council investigator was advised by the Constable at the RCMP, who was assigned to the case, that the Former Licensee was initially charged for theft under \$5,000, but that charges were not pursued as the Agency agreed not to press charges if the Former Licensee agreed to reimburse the Agency the \$700. The Constable advised that the Former Licensee admitted to using a credit card number that did not belong to her and knew it did not belong to her husband as she had indicated.

18. On July 15, 2022, the Insurance Council investigator met with the Former Licensee for an interview. During the interview the Former Licensee advised that for the \$327 transaction that occurred on February 14, 2022, she believed the credit card was her husband's as she took the credit card number from her notebook. The Former Licensee again advised that she believed the \$700 transaction on February 1, 2022, was her husband's credit card information. The Former Licensee advised she had written her husband's credit card number on the same page as other credit card numbers. The Former Licensee admitted the other credit card numbers written in her notebook were from transactions at her previous job, which involved her writing down the credit card information.
19. The Agency has not received payment for the \$700 transaction by the Former Licensee.

ANALYSIS

20. 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. Council noted that the Former Licensee was entrusted with client credit card information and that the Former Licensee failed to properly safeguard that information by writing down credit card information in her notebook. Additionally, the Former Licensee did not act honestly, when without consent or authorization, the Former Licensee accessed client credit card information and used the information for a purpose other than expressly authorized.
21. Council concluded that when the Former Licensee used client credit card information for her own transactions, it amounted to conduct in the nature of theft or fraud. Council noted that the Former Licensee admitted to the misconduct to the RCMP but advised the Council investigator that she believed the credit card information was her husband's. Council concluded that the Former Licensee did not respond to Council inquiries honestly and provided material misstatements to an inquiry by Council.
22. Council has concluded 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").
23. Prior to making its recommendation, Council took several past decisions regarding fraud and misappropriations of money into consideration as precedents. While Council recognized that it 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.

24. [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 considered 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 cannot be tolerated." Council ordered that no application from her would be considered for three years; required her to complete an ethics course before being licenced in future; and assessed investigation costs of \$1,562.50.
25. [Sun Kyung Oh](#) (August 2018): The licensee was terminated by the agency she worked for in October 2017, when she was found to be responsible for misappropriation of approximately \$8,000 in premiums. The licensee admitted to taking the funds and stated that she had needed the money to pay for a relative's medical expenses, and that she had intended to repay the money. She repaid the agency within two weeks of the funds being found missing. Council took the licensee's repayment and cooperation into consideration as mitigating factors but found that a lengthy disqualification period was necessary to "send a clear message to the industry and to reinforce to the public that Council will not tolerate this type of conduct under any circumstances." Council ordered that her licence be cancelled, with no opportunity to re-apply for three years; they also assessed investigation costs of \$1,000.
26. [Mark Daniel Norris](#) (March 2019): The licensee was found to have misappropriated funds from two agencies he was authorized to represent, totaling \$6,928. The licensee showed remorse for his actions and repaid the funds. He 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; be downgraded to a Level 1 licence for two years following the suspension; and he was assessed investigation costs of \$1,750.
27. [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 he represented at the time and a motor vehicle dealership where he conducted automobile insurance transactions. He kept cash intended to pay for Autoplan premiums for himself. Council ordered that no applications by the former licensee for insurance licenses would be considered for three years; and they assessed him \$812.50 in investigation costs.

28. [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 in good faith. She was prohibited from holding an insurance licence for a minimum period of two years and ordered to pay Council's investigation costs.
29. Council identified aggravating factors relevant to determining an appropriate penalty. Council was troubled that the Former Licensee did not pay the Agency back the \$700, despite one of the considerations for the Agency not to pursue criminal charges was because the Former Licensee agreed to pay the Agency back. Additionally, Council noted it did not appear that the Former Licensee took accountability for her actions or recognized her wrongdoing, as she told the Council investigator that she had used her husband's credit card information when she had already admitted to the RCMP Constable that she had knowingly used a credit card number that did not belong to her.
30. As for mitigating factors, Council considered that the Former Licensee was facing consequences for her actions as she is suspended by ICBC from Autoplan business for two years, and that the Former Licensee was involved in a difficult situation at home when the incident occurred.
31. 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 necessary to communicate to the industry and public that such misconduct cannot be tolerated.
32. For the licensing prohibition period, Council determined that it is appropriate that Council will not consider an insurance licence application from the Former Licensee for a period of three years. Council further concluded that it is appropriate the Former Licensee complete an ethics course prior to Council considering an application for an insurance licence in the future.

33. With respect to investigation costs, Council concludes 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

34. Pursuant to sections 231, 236 and 241.1 of the Act, Council made an intended decision to:
- a. 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. Require the Former Licensee 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
 - c. Assess the Former Licensee 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.
35. 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

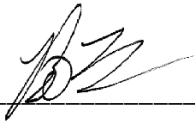
36. If the Former Licensee wishes to dispute Council's findings or its intended decision, the Former Licensee may have legal representation and present a case in a hearing before Council. Pursuant to section 237(3) of the Act, to require Council to hold a hearing, the Former Licensee must give notice 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.
37. 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

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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 **10th day of May, 2023**

For the Insurance Council of British Columbia



Per Janet Sinclair
Executive Director