

In the Matter of the

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

and the

INSURANCE COUNCIL OF BRITISH COLUMBIA
 (“Council”)

and

ELDY SIU MAN LAM
(the “Licensee”)

ORDER

As Council made an intended decision on September 17, 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 Licensee with written reasons and notice of the intended decision dated November 26, 2024; 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’s general insurance licence is suspended for a period of one year, commencing on December 12, 2024 and ending at midnight on December 11, 2025;
- 2) The Licensee’s Level 2 general insurance agent licence is downgraded to a Level 1 general insurance salesperson licence and Council will not consider an application to upgrade to a Level 2 general insurance agent licence for a period of one year, commencing on December 12, 2025 and ending at midnight on December 11, 2026;
- 3) The Licensee is required to complete the following courses, or equivalent courses, as acceptable to Council, by March 12, 2025, and which must be completed prior to the Licensee’s licence suspension being lifted:
 - a) The Council Rules Course for general insurance and adjusters; and

- b) Ethics and the Insurance Professional course, available through the Insurance Institute of Canada (collectively, the “Courses”);
- 4) The Licensee is fined \$10,000 to be paid by March 12, 2025, and which must be paid in full prior to the Licensee’s licence suspension being lifted; and
- 5) The Licensee is assessed Council’s investigation costs in the amount of \$1,562.50, to be paid by March 12, 2025, and which must be paid in full prior to the Licensee’s licence suspension being lifted.

This order takes effect on the **12th day of December, 2024**



Janet Sinclair, Executive Director
Insurance Council of British Columbia

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA (“Council”)

respecting

ELDY SIU MAN LAM (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 relating to allegations that the Licensee improperly profited from commissions received from the Insurance Corporation of British Columbia (“ICBC”) by regularly processing one-year vehicle insurance policies for companies engaged in exporting vehicles out of Canada, that were then cancelled days later. Additionally, Council investigated whether the Licensee processed 11 ICBC transactions involving her own policies between 2017 and 2022.
2. On August 7, 2024, 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 Licensee prior to the meeting. Although the Licensee was notified of the Review Committee meeting the Licensee did not attend. Having reviewed the investigation materials and after discussing the matter, the Committee prepared a report for Council.
3. The Committee’s report, along with the investigation report were reviewed by Council at its September 17, 2024, 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 first became licensed with the Council as a Level 1 general insurance salesperson on March 4, 2002, and has been a Level 2 general insurance agent (“Level 2 Agent”) from November 16, 2006, to the present. The Licensee has been authorized to represent an agency (the “Agency”) since April 7, 2009.
6. On August 23, 2023, the Agency notified Council that both the Agency and the Licensee had received sanctions from ICBC for breaching their Autoplan Agency Agreement.
7. On August 30, 2023, Council requested documents from ICBC, including a request for transactional data, among other documentation, which led to the disciplinary actions imposed by ICBC.
8. On September 13, 2023, ICBC provided Council with the documents requested, including a transaction spreadsheet detailing the Licensee’s transactions and a report prepared by ICBC’s Special Investigation Unit (“SIU”) relating to ICBC’s investigation of the Licensee.
9. It was noted that the Licensee was processing transactions for two companies, Company S and Company J, and that both companies are or were involved in vehicle exporting. The data provided by ICBC shows that the Licensee issued 108 one-year Autoplan insurance policies for vehicles between February 26, 2019, and January 23, 2023, for Company S and Company J. Four of the policies were cancelled by the Licensee within three days or less. The remaining 104 one-year policies were all cancelled within eight days or less at different agencies. The Licensee stated that JY, owner of Company S and former owner of Company J, was referred to her by a client and that she did not have a business relationship with JY. The Licensee stated that JY initially wanted to purchase residential insurance and then later inquired about auto insurance.
10. On July 4, 2018, and February 16, 2020, ICBC issued Broker News Bulletins, Licensing Vehicles Appropriately, and Some Important Reminders for Temporary Operation Permits (“TOP”). ICBC reminded Autoplan agents that when a vehicle is licensed, it must be for the purpose of operation on a British Columbia highway. If a licensee is aware that the only reason a policy is being sold is to facilitate the export of the vehicle, and the intention of the customer is to cancel the policy within days of issuance, the customer should only be sold a TOP.
11. From the 108 one-year Autoplan insurance policies issued by the Licensee that are in question, it was noted that there were 14 common lessees listed as the primary insured of 100 of the policies in question.

12. Between May 9, 2017, and May 9, 2022, the Licensee processed 11 transactions on her own ICBC Autoplan insurance policies. Additionally, the Licensee processed six transactions on Autoplan insurance policies for her spouse between November 27, 2018, and November 11, 2021.
13. On March 30, 2023, an SIU officer from ICBC obtained a recorded statement from the Licensee. The Licensee stated that JY was referred to her by one of her clients. JY would call her to confirm that she was in the office to conduct the transactions. The Licensee stated she did not know that the policies would be cancelled shortly after placement. In the summer of 2022, JY informed the Licensee that the vehicles were for export. The Licensee stated that she did not offer any other kind of insurance, such as a TOP, and did not receive any compensation from JY. The transaction spreadsheet provided by ICBC indicates that the Licensee placed two annual policies for Company S after being informed by JY that he was an exporter. The Licensee stated that she would only conduct transactions if she met the lessee in person, checked the British Columbia driver's licence ("BCDL") and witnessed the signature. The Licensee did not know any of the lessees personally.
14. The ICBC SIU officer further questioned the Licensee as to an Autoplan insurance document pertaining to lessee LW, which contained a signature for LW. The Licensee could not recall completing the Autoplan transaction. During a prior SIU investigation, LW confirmed via telephone that she had lived in China continuously since 2019. At the time, the insurance documents were signed in LW's name for a 2021 Mercedes GLC 43, when LW was not in Canada and, therefore, could not have attended the Licensee's office or signed the document in person. The Licensee was unable to explain why the document contained a signature that appeared to be signed in LW's name.
15. On April 21, 2023, an ICBC SIU officer interviewed JY. JY advised that he owns Company S and previously owned Company J. Company S and Company J are or were in the business of purchasing vehicles in British Columbia for export. JY stated that an individual from a dealership referred him to the Licensee. JY stated that his understanding is that dealerships require proof of an annual insurance policy prior to selling the vehicles, which is why he obtained annual insurance policies.
16. JY stated that he was aware that the lessees were not actually leasing the vehicles and that he cancelled the insurance policies a couple of days or a week after the initial placement. In the summer of 2022, JY stated that the Licensee asked him if he was exporting vehicles, which he confirmed to the Licensee. JY stated that he would attend the Licensee's office with the lessee to sign the insurance documents and that JY paid for all the insurance policies with a credit card. JY advised that he paid the lessees for their involvement but did not compensate the Licensee. JY stated that the lessees provided their own BCDL to the Licensee when completing the Autoplan insurance transactions, and some may have provided photocopies, but he could not be certain.

17. On March 20, 2024, the Licensee was interviewed by a Council investigator. In the interview, the Licensee stated that Autoplan business with JY increased during the pandemic in 2020. The Licensee stated that because of the pandemic and social distancing mandates, it was challenging for her to get a sense of who her clients were.
18. The Licensee stated that in the summer of 2022, she engaged in more conversations with JY, and it was at this time that the Licensee became aware that JY was in the vehicle export business.
19. The Licensee was questioned about her process when issuing the 108 Autoplan policies in question, and the Licensee stated that JY would bring the lessee to the office but they would stay outside in the car. The Licensee would check all the documents and go to the car and from outside the car she would check the lessee's ID. The Licensee would then bring the ID into the office and process the transaction, when she was complete she would go back outside and bring the document to the lessee to sign.
20. The Licensee stated that she did not receive any benefit from JY for completing these Autoplan transactions.
21. The Licensee stated that she conducted at least 10 transactions on her own policies and those of her family members between 2017 and 2023. The Licensee used her own ICBC broker ID to process transactions on two of her own vehicles and one vehicle under her husband's name. The Licensee admitted that these transactions were inappropriate and a mistake.
22. The Agency reimbursed ICBC for the commissions and merchant fees associated with the transactions completed by the Licensee, totaling \$21,485.19 in commissions and \$4,677.76 in merchant fees. As a result of the SIU investigation by ICBC, the Licensee was prohibited from conducting ICBC Autoplan business and accessing ICBC's Broker Connect portal for at least two years. The Licensee must request permission from ICBC to conduct Autoplan business even after the two-year prohibition is completed.

ANALYSIS

23. Council concluded that the Licensee repeatedly processed and collected commissions for one-year Autoplan insurance policies where the Licensee ought to have known the transactions were suspicious and were not intended for the purpose of operation on a BC highway. Although the Licensee only processed the cancellation of four of the 108 one-year Autoplan insurance policies placed by the Licensee, the Licensee cannot rely on willful blindness in determining that the issuance of the Autoplan policies was suspicious. The Licensee issued one-year Autoplan policies to 14

common lessees listed as the primary insured of 100 policies in question. One of the lessees was listed as the primary insured for 23 different vehicles and two of the lessees were each listed as the primary insured for 15 different vehicles. The Licensee should have been aware or questioned why one lessee would be insured for such a magnitude of motor vehicles and ought to have known that the intention of the customer was not to carry multiple one-year Autoplan policies. Additionally, once the Licensee became aware that JY was involved in exporting motor vehicles abroad, the Licensee processed two additional one-year Autoplan insurance policies, when the Licensee ought to have known that the intention was not for those vehicles to be driven in British Columbia. As an experienced Level 2 Agent, the Licensee should have been aware of the July 4, 2018, and February 16, 2020, ICBC Bulletins relating to the issuance of TOP rather than one-year Autoplan insurance policies. The Licensee should have known issuing the 108 policies was contrary to the procedures and interests of ICBC. Council found that the Licensee demonstrated a lack of trustworthiness, good faith and competence and did not act in the best interest of the insurer by conducting 108 one-year Autoplan insurance policies that were cancelled within days of being issued.

24. Council was further concerned by the Licensee conducting Autoplan transactions for both her and her spouse. The Licensee completed several transactions between 2017 and 2022 on her own policies and those of her spouse, which is contrary to the Licensee's authority with ICBC and its Autoplan Procedures. Again, this behaviour was repeatedly conducted over multiple years, which, in Council's view, showed the Licensee's flagrant disregard of her authority and obligations to the insurer.
25. Although the Licensee stated that she would verify and check the ID of the lessee and have them physically sign the Autoplan policies, there is at least one instance in which the lessee LW was residing in China at the time the policy was issued and would not have been able to sign the policy documents in front of the Licensee or provide a valid ID. Council determined that the Licensee did not follow signature requirement protocols for the issuance of this policy and did not act in the usual practice or in the interest of the client.
26. Council considered the impact of Council Rule 7(8) and Council's Code of Conduct guidelines on the Licensee's conduct, including section 3 ("Trustworthiness"), section 4 ("Good Faith"), section 5 ("Competence"), section 7 ("Usual Practice: Dealing with Clients") and section 8 ("Usual Practice: Dealing with Insurers"). Council concluded that the Licensee's conduct amounted to breaches of the above Code of Conduct sections and the professional standards set by the Code.

PRECEDENTS

27. Council took into consideration the following precedent cases. While Council is not bound by precedent and each matter is decided on its own facts and merits, Council found that these decisions were instructive in providing a range of sanctions for similar types of misconduct.
28. [Anthony Bryan Chua Cua](#) (February 2021) concerned a Level 2 general insurance agent licensee who unethically profited from commissions received from ICBC by regularly processing one-year vehicle insurance policies for an automobile dealership engaged in the export of vehicles out of Canada, and then cancelling the policies several days later. The licensee was found to have processed at least 129 transactions for the dealership and had served as a straw buyer on two occasions by purchasing two vehicles using funds provided by the dealership. In total, the licensee earned over \$24,000 in commissions from ICBC. Council found that the licensee's actions demonstrated an overall lack of trustworthiness and good faith and was exploitative of ICBC and its commissions system. In terms of mitigating factors, Council believed that the remorse shown by the licensee was genuine and noted that the licensee was a relatively inexperienced agent with no previous disciplinary history at the time of misconduct. Most notably, Council considered that the licensee had already experienced sanctions from ICBC, having had his Autoplan privileges suspended for a year and being required to complete courses. As for aggravating factors, Council found that the licensee's actions were financially motivated and demonstrated a lack of due diligence and an incredible amount of willful blindness. Council believed its decision should send a message to the insurance industry and public that generating commissions by processing exploitative transactions is not acceptable to Council, and that licensees should self-correct and seek guidance and clarification in situations in which they suspect there may be ethical problems. Council ordered that the licensee's general insurance licence be suspended for a period of one year and downgraded to a Level 1 Salesperson general insurance licence for a period of one year of active licensing. The licensee was also fined \$7,000 and assessed investigation costs.
29. [Ting En \(Brian\) Lin](#) (February 2021) concerned a Level 2 general insurance agent and a life and accident and sickness insurance agent licensee who unethically profited from commissions received from ICBC by regularly processing one-year vehicle insurance policies for an automobile dealership engaged in the export of vehicles out of Canada, and then cancelling the policies several days later. The licensee was found to have processed at least 30 transactions while employed at two insurance agencies and had served as a straw buyer on three occasions by purchasing vehicles using funds provided by the dealership. Council determined the licensee had facilitated grey market transactions involving the export of luxury vehicles. Council found that the licensee's actions demonstrated an overall lack of trustworthiness and good faith and was exploitative of ICBC and its commissions

system. In terms of mitigating factors, Council believed that the remorse shown by the licensee was genuine, and considered the licensee to have been open and forthright with information. Most notably, Council considered that the licensee had already experienced sanctions from ICBC, having had their Autoplan privileges suspended for a year and being required to complete courses. As for aggravating factors, Council found that the licensee's actions were financially motivated and demonstrated a lack of due diligence and an incredible amount of willful blindness. Council believed its decision should send a message to the insurance industry and public that generating commissions by processing exploitative transactions is not acceptable to Council, and that licensees should self-correct and seek guidance and clarification in situations in which they suspect there may be ethical problems. Council ordered that the licensee's general insurance licence and life and accident and sickness insurance licence be suspended for a period of six months and downgraded to a Level 1 Salesperson general insurance licence for a period of one year of active licensing. The licensee was required to be supervised for a period of one year. The licensee was also fined \$5,000 and assessed investigation costs.

30. [Peter Hing-Fu Hung](#) (January 2015) concerned a Level 1 Salesperson licensee who worked mostly as a mobile road services agent. Over the course of two days, the licensee 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 notation on the transaction documents or take any other action to flag suspicions to ICBC or their supervisor. Council believed that the licensee had "turned a blind eye" to the suspicious circumstances, and that they had not appreciated their responsibilities when conducting suspicious 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 their agency's office until their courses were completed.

31. [Wendy Chui Ping Kwan](#) (July 2022) concerned a Level 2 agent licensee who processed her own ICBC Autoplan transactions since the early 1990s and misrepresented the principal operator of her personal vehicle on several ICBC policies. The misrepresentation came to light after ICBC's investigation into the licensee's stolen vehicle claim. ICBC prohibited the licensee from conducting Autoplan business for nine months. By processing her own insurance transactions, Council found that the licensee engaged in a clear conflict of interest. Council determined that the licensee ought to have known that her conduct was unacceptable, given that the licensee has over 30 years of experience in the insurance industry. In addition, the licensee made material misstatements to Council during its investigation. The licensee derived a financial benefit from her misconduct, as the misrepresentation led to reduced premiums to the detriment of ICBC. Council accepted that the licensee did not have a prior discipline history with Council. The licensee was suspended for one year; had her Level 2 Agent

licence downgraded to a Level 1 Salesperson licence for one year; was required to complete an ethics course, the Council Rules Course and the Autoplan Basics program; and was assessed investigation costs of \$2,312.50.

32. [Jasbir \(Jessie\) Singh Minhas](#) (March 2023) concerned a Level 3 agent licensee who processed his own ICBC Autoplan transactions on 13 occasions between September 14, 2016, and January 12, 2019. Additionally, the licensee's son was involved in a motor vehicle collision where the son was driving the licensee's vehicle. The son left the scene of the accident. The licensee reported to ICBC that he was the driver involved in the collision and not his son. After an ICBC investigation, it was proven that the son was, in fact, the driver and not the licensee. The licensee admitted that he falsely declared being the driver in the accident when he knew his son had been the driver. ICBC restricted the licensee from conducting ICBC Autoplan business for one year and required to complete courses. Council determined that the licensee engaged in a conflict of interest by processing his own ICBC transactions, did not respond promptly and honestly to inquiries from Council and failed to disclose to Council his criminal charges. Council ordered that the licensee be suspended for a period of one year, downgraded the licensee to a Level 2 for one year following the suspension, required the licensee to complete courses, and assessed investigation costs of \$2,375.

MITIGATING AND AGGRAVATING FACTORS

33. Council considered relevant mitigating and aggravating factors in this matter. Council viewed the Licensee's co-operation throughout the investigation as a mitigating factor. A further mitigating factor Council considered was that the Licensee has been imposed a two-year prohibition from conducting ICBC Autoplan business, which is a significant penalty as a result of these transactions. However, Council found there to be several aggravating factors in this case. The Licensee repeated the misconduct over a period of time opposed to this being an isolated event. Additionally, Council believes that the Licensee's conduct in both processing her own Autoplan transactions as well as the 108 policies in question shows a flagrant disregard by the Licensee for adhering to ICBC's procedures.

CONCLUSIONS

34. After weighing all of the relevant considerations, Council found the Licensee to be in breach of the Council's Rules and the Code of Conduct.
35. Council concluded that the Licensee's processing of the transactions described above demonstrated an overall lack of trustworthiness and was exploitative of ICBC and its commission system. Council

considered the [Cua](#) precedent to be the most instructive; however, given the aggravating factors of this case and the Licensee's breaches of processing her spouse's and her own Autoplan policies, Council determined that a more significant fine is warranted in these circumstances.

36. Council has concluded that it is appropriate to suspend the Licensee's licence for a period of one year and to impose a fine of \$10,000. Further, Council determined that the Licensee's general licence should be downgraded for a period of one year of active licensing following the suspension. Additionally, Council requires that the Licensee complete the Council Rules Course as well as an ethics course.
37. With respect to investigation costs, Council has concluded 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 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

38. Pursuant to sections 231, 236 and 241.1(1) of the Act, Council made an intended decision that:
 - a. The Licensee's general insurance licence be suspended for a period of one year, commencing on the date of Council's order;
 - b. The Licensee's Level 2 general insurance agent licence be downgraded to a Level 1 general insurance salesperson licence and that Council will not consider an application to upgrade to a Level 2 general insurance agent licence for a period of one year, commencing at the end of the suspension period;
 - c. The Licensee be required to complete the following courses, or equivalent courses as acceptable to Council, within 90 days of Council's order and which must be completed prior to the Licensee's licence suspension being lifted:
 - i. the Council Rules Course for general insurance and adjusters; and
 - ii. Ethics and the Insurance Professional course, available through the Insurance Institute of Canada (collectively the "Courses");

- d. The Licensee be fined \$10,000, to be paid within 90 days of Council's order and which must be paid in full prior to the Licensee's licence suspension being lifted; and
 - e. The Licensee be assessed Council's investigation costs in the amount of \$1,562.50, to be paid within 90 days of Council's order and which must be paid in full prior to the Licensee's licence suspension being lifted.
39. 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.

ADDITIONAL INFORMATION REGARDING FINES/COSTS

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

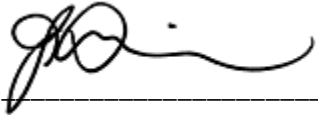
RIGHT TO A HEARING

41. 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.
42. 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.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>.

Intended Decision
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Dated in Vancouver, British Columbia, on the **26th day of November, 2024.**

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