

In the Matter of the

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

and the

INSURANCE COUNCIL OF BRITISH COLUMBIA
(“Council”)

and

LISA ANNE ALLAN
(the “Former Licensee”)

ORDER

As Council made an intended decision on November 5, 2019, 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 December 5, 2019; and

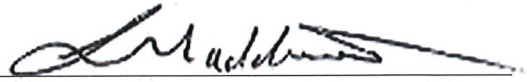
As the Former Licensee has not requested a hearing of Council’s intended decision within the time period provided by the Act;

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 from the date of this order;
2. The Former Licensee is assessed Council’s investigative costs of \$1,562.50;
3. The Former Licensee must complete an ethics course, as approved by Council, prior to submitting an insurance licence application to Council; and
4. Council will not consider an application for any insurance licence from the Former Licensee until the investigative costs are fully paid and the ethics course has been successfully completed.

Order
Lisa Anne Allan
LIC-98181C120389R1/COM-2018-00418
January 7, 2020
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This order takes effect on the 7th day of January, 2020.

A handwritten signature in black ink, appearing to read "Lesley Maddison", written over a horizontal line.

Lesley Maddison
Chairperson, Insurance Council of British Columbia

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA
(“Council”)

respecting

LISA ANNE ALLAN
(the “Former Licensee”)

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 whether the Former Licensee breached her duties set out in Council Rule 7(2) regarding appropriate usage of funds collected or received on behalf of an insurer, as well as the requirements established in sections 3 (“Trustworthiness”), 4 (“Good Faith”), 6 (“Financial Reliability”) and 8 (“Usual Practice: Dealing with Insurers”) of the Code of Conduct.

As part of Council’s investigation, the Former Licensee was provided the opportunity to respond to the allegation that she had misappropriated \$16,409.90 of Insurance Corporation of British Columbia (“ICBC”) funds between approximately June and September 2018, from the agency she was employed by at the time (the “Agency”). An investigation report, prepared by Council staff, was sent to the Former Licensee for her review.

The aforementioned investigation report, which included submissions provided by the Former Licensee, was considered by Council at its November 5, 2019 meeting, where it was determined that the matter should be disposed of in the manner set out below.

PROCESS

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

The Former Licensee was first licensed with Council as a Level 1 general insurance salesperson (“Level 1 Salesperson”) in April 1992. The Former Licensee was authorized to represent the Agency from February 17, 2016 until her employment was terminated on October 5, 2018, when the Agency alleged that she had misappropriated ICBC funds.

On or around September 28, 2018, the Agency became aware of batching anomalies with ICBC Autoplan documents that had occurred at the branch at which the Former Licensee worked (the “Branch”) as a manager. After further review, the Agency concluded that the Former Licensee had misappropriated \$16,409.90 of ICBC funds for her own personal use.

On September 30, 2018, the Former Licensee wrote an email to the Agency’s vice president of marketing in which she admitted to taking the funds. The Former Licensee expressed “huge regrets and self loathing” and explained that her actions had been influenced by serious personal issues she had been grappling with in recent years.

On October 9, 2018, ICBC conducted an Autoplan audit of the Branch, which confirmed that two ICBC deposits totaling \$16,409.90 were missing, which the ICBC audit attributed to the admitted theft by the Former Licensee. The Autoplan audit identified that, until her termination, it seemed as though the Former Licensee would use funds collected for current transactions to account for previously batched transactions, and that this lapping of funds commenced in June 2018.

The Former Licensee was subsequently charged criminally with theft over \$5,000 and was found guilty on May 22, 2019. She went through the provincial court’s restorative justice program and received a conditional discharge on October 16, 2019 that included three years of probation, 50 hours of community service, and a requirement that she pay restitution in the amount of \$6,000 for the benefit of the Agency within the first 33 months of her probation.

The Agency undertook its own internal audit of funds mismanagement at the Branch, producing a report on January 15, 2019 in which they estimated that an additional \$29,000 of funds had been misappropriated from the Branch. There is, however, no evidence linking the Former Licensee to misappropriated funds beyond the \$16,409.90 she has admitted to. Furthermore, the criminal charges brought against the Former Licensee related only to the \$16,409.90 of misappropriated ICBC funds, and not the additional \$29,000 alleged to be missing by the Agency. As such, only the \$16,409.90 figure was taken into consideration by Council as this matter was reviewed.

The Former Licensee provided a letter to Council dated April 25, 2019, in which she again admits to misappropriating \$16,409.90 but is adamant that she took no more than that. The Former Licensee expressed deep remorse in the letter. She also described the personal hardships that have troubled her in recent years, and which contributed to the financial straits and emotional struggles she had been dealing with at the time of the misconduct.

ANALYSIS

Council accepted the facts as set out in the investigation report, and also accepted the Former Licensee's submission that she was sincerely remorseful for her actions and that she had misappropriated the funds in response to financial distress and personal problems. Staff also read to Council a statement that the Former Licensee had provided a few days prior to the meeting, in which she wrote that she had told the judge during her sentencing that "there is no punishment that is worse" for herself than having lost "respect, trust and my integrity" in the eyes of her peers.

Council considers the Former Licensee's misappropriation of funds to be a serious misconduct which, in addition to its criminal nature, was an obvious breach of a licensee's duty to appropriately handle funds collected or received on behalf of an insurer, as set out in Council Rule 7(2), as well as a breach of the responsibilities established by sections 3 ("Trustworthiness"), 4 ("Good Faith"), 6 ("Financial Reliability") and 8 ("Usual Practice: Dealing with Insurers") of the Code of Conduct. Council found the circumstances of the Former Licensee's misconduct to be particularly disconcerting because she had been in a position of trust as a manager at the Branch at the time.

In determining a disposition in this matter, four previous cases involving misappropriation of funds were taken into consideration.

Kristy Lea Wagenaar (January 2010) concerned a Level 1 Salesperson who had misappropriated over \$28,000 from the agency she worked for, and intentionally manipulated the agency's receivables in order to conceal the theft. Council determined that the licensee should have her licence suspended for a minimum of two years and assessed her investigative costs. Council noted that it took into consideration the fact that the former licensee had entered into a restorative justice agreement with the agency, the terms of which required her to pay back the full amount of misappropriated funds, complete 100 hours of community service, and issue an apology letter to the agency's staff.

Sun Kyung Oh (August 2018) concerned a newly licensed Level 1 Salesperson who had misappropriated \$8,000 in premiums and \$500 in cash from an agency. When discovered, the licensee claimed that she needed the money for a relative's medical expenses and that she had always intended to repay, which she did in full. Council found that a lengthy disqualification period was appropriate in order to communicate to the industry and public that such misconduct would not be tolerated under any circumstances. Council cancelled the licensee's licence for three years and assessed her investigative costs.

Mark Daniel Norris (March 2019) concerned a level 2 general insurance agent who had misappropriated nearly \$7,000 in funds by retaining cash paid to him by some clients for their insurance premiums, and by cashing cheques made payable to him by other clients and keeping the money for his own use. Council suspended the licensee's licence for one year, downgraded him to a Level 1 Agent for the two years following his suspension, and assessed him investigative costs.

Vladimir Prokopchik (September 2019) concerned a former Level 1 Salesperson who misappropriated an estimated \$2,484 in funds relating to mutual customers of an agency he was authorized to represent and a motor vehicle dealership where he conducted automobile insurance business. The former licensee abused a billing arrangement set up between the agency and dealership in order to keep customer payments that were intended for ICBC Autoplan. Council ordered that any licensing applications from the former licensee would not be considered for a three year period and assessed him investigative costs.

In the present matter, Council gave consideration to the fact that the Former Licensee has already received a conditional discharge for the impugned behavior after having gone through a restorative justice program within the criminal justice system.

Nevertheless, 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 in order to communicate to the industry and public that such misconduct cannot be tolerated.

INTENDED DECISION

Pursuant to sections 231, 236, and 241.1 of the Act, Council made an intended decision to:

1. Council will not consider an application for any insurance licence from the Former Licensee for a period of three years from the date of Council's order;

2. Assess Council's investigative costs of \$1,562.50 against the Former Licensee;
3. Require the Former Licensee to complete an ethics course, as approved by Council, prior to submitting an insurance licence application to Council; and
4. Council will not consider an application for any insurance licence from the Former Licensee until the investigative costs are fully paid and the ethics course has been successfully completed.

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

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 at 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 fourteen (14) days of receiving this intended decision**, the intended decision of Council will take effect.

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 to appeal this decision of Council to the Financial Services Tribunal ("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 or contact them directly at:


Financial Services Tribunal
PO Box 9425 Stn Prov Govt
Victoria, British Columbia
V8W 9V1

Reception: 250-387-3464
Fax: 250-356-9923
Email: FinancialServicesTribunal@gov.bc.ca

Intended Decision
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December 5, 2019
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Dated in Vancouver, British Columbia, on the **5th day of December, 2019.**

For the Insurance Council of British Columbia



Janet Sinclair
Executive Director