

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

and the

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

and

**PING HONG (GARY) CHOW**  
(the “Former Licensee”)

**ORDER**

As Council made an intended decision on August 25, 2020, 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 September 28, 2020; 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 two years, commencing on the date of this order and ending at midnight on October 29, 2022;
2. The Former Licensee is required to complete the Council Rules Course, ICBC’s Autoplan Basics for Brokers course, and an ethics course approved by Council prior to being relicensed in the future; and
3. The Former Licensee is assessed investigative costs of \$1,662.50, payable by January 27, 2021, and which must be paid in full prior to the Former Licensee being relicensed in the future.

Order  
Ping Hong (Gary) Chow  
LIC-109555C120505R1, COM-2018-00417  
October 29, 2020  
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This order takes effect on the **29<sup>th</sup> day of October, 2020.**

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Janet Sinclair, Executive Director  
Insurance Council of British Columbia

## **INTENDED DECISION**

of the

### **INSURANCE COUNCIL OF BRITISH COLUMBIA**

("Council")

respecting

### **PING HONG (GARY) CHOW**

(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 had 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. The investigation concerned allegations that, in June 2018, the Former Licensee removed a set of cancelled licence plates from the office of the agency he was authorized to represent (the "Agency"), and affixed them to a motor vehicle he had recently purchased (the "Vehicle").
2. On July 7, 2020, as part of Council's investigation, a Review Committee comprised of Council members (the "Committee") met with the Former Licensee via video conference to discuss the investigation. An investigation report prepared by Council staff was distributed to both the Committee and the Former Licensee in advance of the meeting. A discussion of the investigation report took place at the meeting, and the Former Licensee was given an opportunity to make submissions or provide any further information. Having reviewed the investigation materials and after discussing the matter with the Former 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 August 25, 2020 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 was licensed with Council as a Level 1 general insurance salesperson (“Level 1 Salesperson”) from 1997 until he terminated his licence in February 2019. There were occasional short gaps in his licensing, the longest being a three-month period in 2001. The Former Licensee also held a life and accident and sickness (“Life Agent”) licence between at least October 1993 and June 1997, and again between December 1997 and December 1999.
6. In or around early June 2018, the Former Licensee purchased the Vehicle from an acquaintance in a private cash sale. The Former Licensee did not at the time transfer ownership of the Vehicle into his own name.
7. On June 14, 2018, the Former Licensee processed the cancellation of licence plates (the “Plates”) for a client at the Agency’s offices. The validation tags on the Plates showed an expiry date of June 6, 2019. Instead of surrendering the Plates to the Agency, the Former Licensee affixed them onto the Vehicle to make it appear to be insured. The Vehicle was kept parked on a public street, as mechanical problems prevented it from being driven.
8. On October 1, 2018, after confirming that they were not active, a Royal Canadian Mounted Police (“RCMP”) officer seized the Plates from the Vehicle. The RCMP officer attended the Agency’s office on the same date, to inquire about the Former Licensee and the Vehicle. The Former Licensee was not present at the Agency’s office at the time.
9. Subsequently on October 1, 2018, after the Former Licensee realized that the Plates had been removed from the Vehicle, he transferred ownership and registration of the Vehicle to his own name. These transactions were processed by another licensee.
10. On October 2, 2018, the Former Licensee accessed his own account in order to process a change of the Vehicle’s rate class from business to pleasure, and to remove optional insurance coverages. He signed the Owner’s Certificate of Insurance and Vehicle Registration as both customer and agent, using different signatures in each instance. The Former Licensee also entered another licensee’s surname as his producer code prior to processing this transaction. Insurance Corporation of British Columbia (“ICBC”) records show that the named licensee did not access the Former Licensee’s account or process Autoplan transactions for the Former Licensee.

11. ICBC proceeded to investigate the Former Licensee, interviewing him on October 5, 2018. On November 27, 2018, the Former Licensee was prohibited by ICBC from conducting Autoplan business for at least one year, with a requirement that he receive express permission from them before he can ever be authorized to conduct Autoplan business in the future.
12. The Former Licensee was forthright during his meeting with the Committee and admitted that it had been a mistake to misuse the Plates in the manner he had.
13. The Former Licensee told the Committee that he accepted the facts as set out in the investigation. In the course of the meeting, however, the Former Licensee denied that he had signed a Transfer/Tax Form dated October 2, 2018 on behalf of the seller. This statement contradicted an allegation in the investigation report that the Former Licensee had signed the Transfer/Tax Form as both purchaser and seller.

#### **ANALYSIS**

14. Council acknowledges that the Former Licensee described the misconduct subject to this investigation as being a “mistake.” Council also accepts the Former Licensee’s statement that he had not signed the Transfer/Tax Form relating to the Vehicle on behalf of the seller.
15. Council is, however, of the opinion that the Former Licensee’s actions amounted to a serious breach of his Code of Conduct obligations. The Former Licensee’s misuse of the Plates to deceive observers into believing the Vehicle was insured was an act of egregious dishonesty, which breached sections 3 (“Trustworthiness”), 4 (“Good Faith”), 5 (“Competence”), 7 (“Usual Practice: Dealing with Clients”), and 8 (“Usual Practice: Dealing with Insurers”) of the Code of Conduct. Furthermore, Council Rule 7(8) was also breached, which requires licensees to comply with the Code of Conduct. The Former Licensee made things worse by behaving dishonestly even after the Plates were confiscated by the RCMP. In particular, the Autoplan transaction that he processed for himself on October 2, 2018, contrary to ICBC’s policies, contained elements seemingly intended to deceive, including his use of different looking signatures when he signed as both customer and agent, and his use of an uninvolved licensee’s producer code.
16. Council is not bound by precedent to follow the outcomes of prior decisions. However, Council recognizes that similar conduct should result in similar outcomes within a reasonable range, depending on the particular facts of a case. As such, Council took three precedent cases into consideration prior to making its disposition.

17. *Tracy Michele Montgomery* (February 2020) concerned a Level 3 general insurance agent who was the manager of an office. An ICBC decal went missing from the office. The licensee instructed office staff to search for the missing decal, but it was never found. The licensee never reported the decal as missing to ICBC. Ultimately, about five days after the decal went missing, the licensee instructed one of the office employees to do an Autoplan transaction to assign the decal to one of the licensee's own vehicles. The licensee then told office staff to stop searching for the missing decal as it had been found. Council downgraded the licensee's licence from Level 3 to Level 2 for a period of two years of active licensing. She was also fined \$1,500, assessed investigative costs of \$1,862.50, and required to complete the Council Rules Course as well as an ethics course approved by Council.
18. *April Dawn Fraser* (October 2011) concerned a former Level 1 Salesperson who had a significant outstanding debt that she was required to pay ICBC before renewing her Autoplan insurance, but which she lacked the funds to pay. The former licensee drove her vehicle on several occasions after her insurance expired in early June 2009. In August 2009, she took an insurance decal from her agency's office and affixed it to her vehicle, without registering the decal or renewing her insurance. She was pulled over by the police five days later and ticketed for driving without insurance. Council determined that the former licensee had abused her position as a licensee by misusing an ICBC decal for personal benefit, describing her conduct as "fundamentally contrary to the principles of trustworthiness and good faith." Council also noted that the former licensee's use of the decal was "akin to theft," and that her actions had put the public at risk. The former licensee was prohibited from being relicensed for a minimum period of two years and assessed investigative costs of \$1,237.50.
19. *Jian Bo Yang* (October 2010) concerned a licensee with both a Level 2 general insurance agent ("Level 2 Agent") licence and a Life Agent licence who, after completing a licence plate substitution transaction for a customer, misused the customer's surrendered insurance decal by affixing it to the licence plate of one of his own vehicles. The licensee proceeded to drive the vehicle for approximately seven months without valid insurance before being pulled over by the police and fined. Council found that the licensee had failed to act in a trustworthy manner and in good faith by misusing an ICBC decal that was obtained in the course of his insurance business to conceal that he was driving a personal vehicle without valid insurance. Council stated that the licensee had demonstrated a lack of appreciation for the severity of the potential consequences, and had placed the public at risk. The licensee had both his Level 2 Agent and Life Agent licenses suspended for six months, with a stipulation that he must be a Level 1 Salesperson for a twelve-month period after having his general licence restored. He was

also fined \$1,000, assessed investigative costs of \$1,237.50, and required to complete the Autoplan Basics for Brokers Course.

20. Council has also given consideration to a number of relevant mitigating and aggravating factors. The primary mitigating factors considered by Council were that the Former Licensee was forthright about having committed misconduct, and that the Former Licensee has already experienced sanctions from ICBC, having been prohibited by them from conducting Autoplan business since November 2018. An additional mitigating factor was that the Former Licensee did not drive the Vehicle, but instead left it parked on a public street for the duration of the material time period. As such, the element of public risk that the *April Dawn Fraser* and *Jian Bo Yang* precedents involved was not engaged.
21. The principal aggravating factors considered by Council were: that the Former Licensee had previously been sanctioned by Council in 2015 for acting outside the restrictions on his licence and for depositing a client's insurance premium payment into his personal bank account; that the Former Licensee was very experienced at the time of the misconduct, having been licensed for over twenty years, and therefore knew or ought to have known that his conduct was unacceptable; that aspects of the Former Licensee's misconduct – such as the fact that he processed his own transaction – showed an overall lack of familiarity with or disregard for ICBC's requirements; and that the Former Licensee's actions demonstrated a consistent effort to deceive.
22. Council is of the opinion that the aggravating factors outweigh the mitigating factors, and demonstrate an overall disregard by the Former Licensee towards his Code of Conduct and Council Rules obligations. Moreover, given that this is the second instance of the Former Licensee being sanctioned for unethical misconduct in a relatively short period of time, the principal of progressive discipline supports a conclusion that sanctions against the Former Licensee should be stricter than if this was the first time he was investigated by Council.
23. After weighing all of the relevant considerations, Council determined that it is appropriate for the Former Licensee to be prohibited from being relicensed for a period of two years, and that investigation costs of \$1,662.50 should be imposed on the Former Licensee.
24. Additionally, Council determined that the Former Licensee should be required to complete the Council Rules Course, ICBC's Autoplan Basics for Brokers course, and an ethics course approved by Council prior to any future relicensing.

25. With regard to investigations costs, Council notes that, as a self-funded body, Council considers it appropriate that licensees who have engaged in misconduct should be expected to bear the costs of their disciplinary proceedings, so that such costs are not instead passed along to British Columbia's licensees in general.

#### **INTENDED DECISION**

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

- i. Not consider an application for any insurance licence from the Former Licensee for a period of two years, commencing on the date of Council's order;
- ii. Require the Former Licensee to complete the Council Rules Course, ICBC's Autoplan Basics for Brokers course, and an ethics course approved by Council prior to being relicensed in the future; and
- iii. Assess the Former Licensee investigative costs of \$1,662.50, to be paid within 90 days of Council's order, and which must be paid in full prior to the Former Licensee being relicensed in the future.

27. Subject to the right of the Former Licensee 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**

28. 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.

29. 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

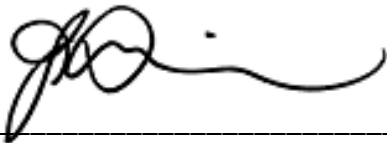


Intended Decision  
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has 30 days to file a Notice of Appeal, once Council's decision takes effect. For more information respecting appeals to the FST, please visit their website at [fst.gov.bc.ca](http://fst.gov.bc.ca) or visit the guide to appeals published on their website at <http://www.fst.gov.bc.ca/pdf/guides/ICGuide.pdf>.

Dated in Vancouver, British Columbia, on the **28<sup>th</sup> day of September, 2020**.

For the Insurance Council of British Columbia

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Janet Sinclair  
Executive Director