

In the Matter of the

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

and the

INSURANCE COUNCIL OF BRITISH COLUMBIA
 (“Council”)

and

BRIAN LIAM JACKSON
(the “Former Licensee”)

ORDER

As Council made an intended decision on September 19, 2023, pursuant to sections 231 and 236 of the Act; and

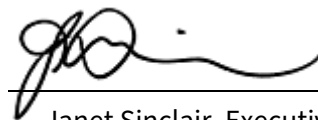
As Council, in accordance with section 237 of the Act, provided the Former Licensee with written reasons and notice of the intended decision dated October 30, 2023; and

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 and 236 of the Act, Council orders that:

- 1) The Former Licensee is fined \$1,500, to be paid by February 20, 2024, and which must be paid in full prior to the Former Licensee being licensed in the future.

This order takes effect on the **22nd day of November, 2023**



Janet Sinclair, Executive Director
Insurance Council of British Columbia

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA

(“Council”)

respecting

BRIAN LIAM JACKSON

(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: Dealing with Clients”) of the Code of Conduct by failing to properly place insurance coverage as instructed, falsely issuing an insurance document to a client, and for offering and binding terms under a policy that was not authorized by the insurer.
2. On August 22, 2023, 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 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 after discussing 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 September 19, 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 effective November 22, 2019. The Former Licensee then held a Level 2 general insurance agent (“Level 2 Agent”) licence effective December 20, 2019. The Former Licensee’s Authority to Represent (ATR) an agency (the “Agency”) ended on August 13, 2021, when the Agency terminated the Former Licensee’s employment.
6. On July 26, 2021, the Insurance Council received a complaint from AF (the “Complainant”) regarding an insurance transaction completed at the Agency by the Former Licensee.
7. On September 15, 2020, the Complainant contacted the Agency to purchase insurance for commercial property. The Complainant purchased the commercial property, and the possession date was September 30, 2020. The Former Licensee was the agent completing the placement of insurance at the Agency. The commercial property being purchased by the Complainant was previously insured through a representative at the Agency.
8. The Former Licensee initially obtained a quote for insurance coverage on September 29, 2020, with an incorrect address. The Former Licensee confirmed with the Complainant that the previous policy, placed through the Agency under the previous owner, had been insured under the wrong address. Additionally, the Complainant decided to purchase the property under a new company name.
9. The Complainant instructed the Former Licensee to proceed with binding coverage as previously quoted but with the new business name and correct address. On September 29, 2020, the Former Licensee sent the Agency’s National Insurance Operations (“NIO”) an email advising of a name and address change to the initial insurance policy submission.
10. On September 30, 2020, the Complainant received an invoice for \$3,997. The Complainant paid the insurance quote invoice, and the Complainant received a cover note of insurance. However, later that same day, an NIO representative advised the Former Licensee that the new address was located on a flood plain resulting in the initial offer to provide insurance coverage on the risk location being rescinded. The Former Licensee did not contact the Complainant and no action was taken.
11. On December 14, 2020, GD, an Agency employee, contacted the Former Licensee requesting policy documents for the Complainant. On January 25, 2021, GD reminded the Former Licensee about the required policy documents.

12. On February 4, 2021, GD reached out to the Agency NIO representative about the Complainant's insurance policy as it was flagged in an Agency report as being outstanding. On February 4, 2021, the Agency NIO representative responded indicating that the offer for insurance had been rescinded on September 30, 2020, because the new address was located on a flood plain.
13. On February 21, 2021, an Agency employee sent an email to the Former Licensee, another licensee at the Agency, and the Agency Nominee. The email stated there was an issue with the policy as there was an effective date of September 30, 2020, on the policy, but policy documents were not received.
14. On February 24, 2021, the Former Licensee attempted to obtain insurance coverage for the property of the Complainant. The other insurance companies declined coverage due to the location of the property. There was no documented communication from the Former Licensee to the Complainant from September 30, 2020, to February 24, 2021.
15. In May 2021, the Agency's Nominee became involved in this matter. Due to the extreme weather events in BC and the location of wildfires relative to the property, the property could not be insured. The Former Licensee was directed to advise the Complainant of the situation.
16. During the period of February 21, 2021, to July 5, 2021, the Former Licensee stated that he forgot or put off the situation regarding the Complainant's policy.
17. On July 5, 2021, under the direction of the Agency's Nominee, the Former Licensee contacted the Complainant to advise him that the Agency did not place coverage on September 30, 2020. The Former Licensee indicated the policy could not be issued due to a "last minute change in address and Postal Code."
18. The Complainant had concerns about whether coverage was not being provided because of the weather events in the area as opposed to the change in postal code. The Former Licensee assured the Complainant it was not related to the fires, it was because the new postal code indicated it was located on a flood plain.
19. On July 14, 2021, an evacuation alert was issued for the area in which the property was located.
20. On July 22, 2021, the Agency's Nominee contacted the Complainant to advise of the issue with the new address being declined for coverage in September 2020 and confirmed to the Complainant there was no coverage in place. This was during the period in which there was an evacuation alert, and no insurance was available to be purchased for properties in the area.

21. On August 4, 2021, a refund cheque of \$3,997 was sent to the Complainant for the premium collected on September 30, 2020. As the Complainant indicated he did not receive a cheque on October 26, 2021, the Agency voided that cheque and reissued a second refund cheque on October 27, 2021. The cheque was confirmed to be received by the Complainant on November 8, 2021.
22. On August 13, 2021, the Former Licensee's employment with the agency was terminated.
23. On March 1, 2022, the Insurance Council's Investigator attempted to contact the Former Licensee by telephone, but the number was no longer in service. On March 1, 2022, and March 28, 2022, Insurance Council's Investigator attempted to contact the Former Licensee by email with no response. On March 29, 2022, the Nominee for the Agency confirmed that alternate contact information for the Former Licensee was not available from the Agency.
24. Between March 2022 and January 10, 2023, multiple emails were sent to the Complainant by the Insurance Council's Investigator. The Complainant did not respond to the email requests for additional information. The Complainant did not respond to Council staff correspondence sent through registered mail.
25. The Insurance Council's Investigator spoke to the Complainant who confirmed he was successfully able to obtain insurance elsewhere once he was aware there was no insurance in place. The Complainant further stated that he did not experience any losses or claims during the period of being uninsured.

ANALYSIS

26. Council determined that the Former Licensee failed to properly handle the Complainant's insurance requirements. Council noted that the Former Licensee was immediately made aware that coverage was not placed for the client but failed to take appropriate action to remedy the situation. The Complainant was provided a cover note of insurance by the Former Licensee and the Complainant was left with the mistaken impression that he had insurance coverage. The Former Licensee had an obligation to advise the Complainant that the insurance coverage was not placed but did not advise the Complainant of this for several months. Council believes that the Former Licensee did not act with integrity, good faith, or in the client's interest by allowing the Complainant to believe they had insurance coverage when the Former Licensee was aware no coverage was in place. Additionally, when the Complainant was finally advised that no insurance coverage was in place, it occurred at a time when the location of the property was under an evacuation alert, leaving the Complainant with no opportunity to purchase alternative insurance. However, Council acknowledges that the Agency was made aware of the issue and did not intervene or assist the Complainant in obtaining new insurance coverage or advise the

Complainant that coverage was not in place for several months. Council further notes that the Former Licensee's inexperience at the time of the incident likely contributed to this unfortunate circumstance.

27. Council is concerned that the Former Licensee provided written notice to the Complainant confirming insurance coverage, prior to receiving confirmation that the coverage was offered. It was the Former Licensee's responsibility to ensure that coverage was properly placed as instructed and that all insurance policies were provided to the Complainant in a reasonable time and in accordance with the terms of their agreement with the insurer. In this case, there was no policy issued and only a cover note of insurance purporting to bind the policy was given to the Complainant, which was not valid.
28. Council concluded that the Former Licensee's misconduct amounted to breaches of Code of Conduct section 3 ("Trustworthiness"), section 4 ("Good Faith"), section 5 ("Competence") and section 7 ("Usual Practice: Dealing with Clients").

PRECEDENTS

29. Council took into consideration the following precedent cases regarding insurance policies not being bound or properly effected. While Council recognizes that Council 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.
30. [*Amrit Singh Sidhu, Daljit Singh Sidhu and S&S Insurance Services Ltd*](#) (August 2023): concerned a client who was provided with a binder with an insurer's logo, binder number and effective policy date by the Agency. However, the binder was not signed by the insurer and was not a valid document. A former employee of the agency had requested that the client's policy be renewed on December 11, 2020, however on December 14, 2020, the insurer replied advising additional information was required to renew the policy. In January 2021, the licensee became aware that the policy had not been renewed, however, the licensee did not take any further steps to ensure the policy was renewed or that the client was made aware there was no policy in place. In November 2021, the client suffered a loss and did not have insurance coverage in place. It was not until March 2022, after Council's investigation of the matter, that the client was refunded the premiums paid for the policy that had not been renewed in December 2020. Council concluded that the licensee and agency failed to properly place insurance coverage as instructed. Further, the nominee and agency failed to properly manage the business aspects of the agency by not properly handling and remitting the premium money to the insurer. Council further determined that the agency claimed to bind terms under a policy when it was not authorized by the insurer to do so. The agency as a licensed person or entity is responsible for the actions of the staff and the agency, and ultimately,

the proper management of the agency is the nominee's responsibility. Council ordered the licensee to be fined \$5,000, be required to complete courses, and downgraded the licensee's level 3 general insurance licence to a level 2 general insurance licence for a period of a year. The agency and nominee were both fined \$1,500, and the investigation costs were assessed against both the agency and the licensee.

31. [*Troy Wotherspoon Insurance Services Ltd., Lung Hwa \(Andy\) Tan, and Troy John Wotherspoon*](#) (May 2020): A client came to the agency and advised they were in the process of moving and submitted an application for a storage insurance policy. The clients instructed the licensee to proceed with the policy and provided their credit card information for payment. The licensee placed a sticky note on a colleague's desk with the information for payment and a note to bind the insurance for the client, but the licensee did not speak to anyone about this. A month later the client wanted to file a claim in regards to a theft at the storage facility. At this time the licensee discovered that the payment and insurance were never bound. The clients were not informed at this point that the insurance had not been bound. The nominee began discussions with the insurer to see if there was a way to bind the policy, which ultimately, he was successful in doing. The agency paid the premiums required to reinstate the policy and the policy was backdated. It did not appear that the clients were fully aware of or understood the situation that occurred. Council found the agency, nominee, and licensee in this matter responsible for the failure to complete the insurance renewal and that there was a lack of procedures in place by the agency and insufficient oversight by the nominee. Council ordered a fine of \$1,500 against the licensee, \$1,500 against the nominee, and \$2,000 against the agency as well as investigation costs. The nominee and licensee were also ordered to complete courses.
32. [*The Whistler Shoppe LTD. dba The Whistler Insurance Shoppe and Peggy Kathleen Johansson*](#) (April 2016): concerned an error occurring at an agency that resulted in a client's insurance policy not being renewed upon expiration. Council was concerned by a lack of proper administrative and financial procedures being in place at the agency, and with the nominee's failure to provide appropriate oversight. Council found the nominee failed to perform her duties as a nominee, raising concerns over the manner in which the Agency is managed. Council fined the nominee \$2,500, required her to complete the Level 3 seminar, and put a condition on her licence limiting her to being the nominee for a maximum of two agencies, unless there is a full-time Level 3 Agent in regular attendance at every agency for which she is a nominee. Finally, Council fined the agency \$5,000, assessed its investigative costs of \$1,112.50, and required the agency to have a full-time Level 3 Agent in regular attendance.
33. [*Kanwar Yuvraj Walia*](#) (December 2015): and [*Global Insurance Agency \(2007\) Ltd, Harvinder Kaur Walia and Kanwar Yuvraj Walia*](#) (December 2015): concerned an error whereby a licensee failed to submit the documentation necessary to bind an insurance policy. The agency accepted payment from a client and then issued a Certificate of Insurance before coverage was bound and without the

insurer's authorization. About one month later, the licensee realized that documentation had not been submitted and emailed the insurer to request that the policy be issued, with documents to follow. However, the insurer had no records of having received the required documents, and as such coverage was never bound and the client went uninsured. Council concluded that the licensee's failure to bind the policy was an administrative error, but noted that the licensee had had multiple opportunities to ensure coverage was placed for the client. Council's opinion was that a lack of appropriate administrative and financial policies at the agency contributed to the error and that the agency and nominee were both responsible for these shortcomings. A mitigating factor, however, was that the agency took action when the error was identified and has since taken steps to modernize its processes. Council fined the licensee \$2,000, reprimanded the nominee, fined the agency \$2,000, and assessed investigative costs of \$1,625 to the agency.

34. [Tina Suzanne Jang](#) (April 2016): concerned a licensee who failed to renew a client's insurance policy when it expired. The client only discovered they were without insurance when they suffered a fire loss. The licensee had a list of all policies set to expire and after processing the renewals on her list, she left for vacation. While on vacation the client's spouse contacted the licensee about their insurance policy, and the licensee advised she would forward the policy but realized she did not have access to her files while on vacation. Upon her return from vacation, the licensee did not follow up with the client and did not realize the insurance application had been missed. The nominee only learned of this incident after the licensee reported the matter to the agency's errors and omissions provider. Council determined that the licensee failed to properly handle the client's insurance. The licensee did not use procedural systems such as bring forward systems which would have been of assistance, and Council accepted that the licensee had subsequently taken steps to better educate herself. The licensee was ordered to complete an errors and omissions course.

MITIGATING AND AGGRAVATING FACTORS

35. Council considered the relevant mitigating and aggravating factors in this matter. Council notes that the Former Licensee's misconduct took place over an extended period and was not an isolated event and considered this an aggravating factor.
36. In terms of mitigating factors, Council considered that the Former Licensee was relatively inexperienced at the time this transaction took place. Council noted that it did not appear the Former Licensee intentionally failed to place insurance coverage, but that the Former Licensee may have lacked the experience needed to properly assess and implement a commercial insurance policy. Additionally, the incident occurred during the COVID-19 pandemic, and the Former Licensee may not have had the proper support required to complete this transaction.

CONCLUSIONS

37. Having considered the precedent cases, as well as mitigating and aggravating factors, Council has determined that it is appropriate for the Former Licensee to be assessed a fine in order to communicate to the Former Licensee, the insurance industry, and the public that insurance agents are expected by Council to perform their roles and conduct insurance business competently. Council considered the precedents and determined a fine on the lower end of these cases is appropriate in the circumstances, noting that [Wotherspoon](#) had a fine of \$1,500 against the licensee and [Walia](#) had a fine of \$2,000 against the licensee. Council concluded that a \$1,500 fine should be assessed against the Former Licensee. As the Former Licensee is no longer in the industry, Council did not require the Former Licensee to complete courses as the Former Licensee would need to requalify and complete the education requirements before being licensed again in the future.
38. 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 notes that in many of the precedents considered, the licensees were not assessed costs in similar situations where an agency was found to have contributed to the misconduct. In these circumstances, Council has determined that no costs be assessed against the Former Licensee.

INTENDED DECISION

39. Pursuant to sections 231 and 236 of the Act, Council made an intended decision that:
- a. The Former Licensee be fined \$1,500 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.
40. 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.

ADDITIONAL INFORMATION REGARDING FINES/COSTS

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

RIGHT TO A HEARING

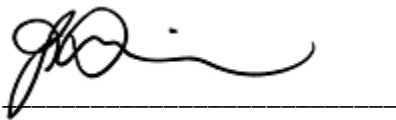
42. If the Former Licensee wishes to dispute Council's findings or its intended decision, the Former Licensee may have legal representation and present a case in a hearing before Council. **Pursuant**

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.

43. 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 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>.

Dated in Vancouver, British Columbia, on the **30th day of October, 2023**

For the Insurance Council of British Columbia



Janet Sinclair
Executive Director