

In the Matter of the

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

and the

INSURANCE COUNCIL OF BRITISH COLUMBIA
 (“Council”)

and

CAPSTONE INSURANCE SERVICES LTD.
(the “Agency”)

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 Agency with written reasons and notice of the intended decision dated November 26, 2024; and

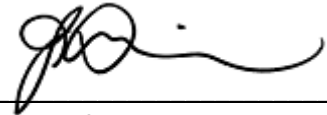
As the Agency has not requested a hearing of Council’s intended decision within the time period provided by the Act;

Under authority of sections 231, 236, and 241.1 of the Act, Council orders that:

- a. The Agency is fined \$20,000, to be paid by March 13, 2025;
- b. A condition is imposed on Agency’s general insurance licence requiring the Agency to have, for two years, starting on December 13, 2024, and ending at midnight on December 11, 2026, a full-time Level 3 general insurance agent in regular attendance at any branch of the Agency that the nominee does not regularly attend;
- c. The Agency is assessed Council’s investigation costs of \$2,500, to be paid by March 13, 2025;
- d. A condition is imposed on the Agency’s general insurance and life and accident & sickness insurance licences that failure to pay the fine and investigation costs in full by their deadlines will result in the automatic suspension of the Agency’s licences, and the Agency will not be permitted to complete the Agency’s 2026 annual licence renewals until such time as the Agency has complied with the conditions listed herein; and

- e. A condition is imposed on the Agency's general insurance licence and life and accident and sickness insurance licence that failure to have, for two years, starting on December 13, 2024 and ending at midnight on December 11, 2026, a full-time Level 3 general insurance agent in regular attendance at any branch of the general insurance Agency that the general insurance Agency nominee does not regularly attend, will result in the automatic suspension of the Agency's general insurance and life and accident & sickness insurance licences, and the Agency will not be permitted to complete the Agency's 2027 annual licence renewals until such time as the Agency has complied with the conditions listed herein.

This order takes effect on the **13th day of December 2024**.



Janet Sinclair, Executive Director
Insurance Council of British Columbia

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA
(“Council”)

respecting

CAPSTONE INSURANCE SERVICES LTD.
(the “Agency”)

1. Pursuant to section 232 of the *Financial Institutions Act* (the “Act”), Council conducted an investigation to determine whether the Agency acted in compliance with the requirements of the Act, Council Rules and Council’s Code of Conduct relating to allegations that the Agency processed at least 27 Insurance Corporation of British Columbia (“ICBC”) Autoplan transactions that involved the purchase and cancellation of the same policy within 48 hours. The Agency was also alleged to have failed to ensure that insurance activities were actively supervised by a licensed level 3 general insurance agent (“Level 3 Agent”).
2. On June 19, 2024, as part of Council’s investigation, a Review Committee (the “Committee”) comprised of Council members met via video conference with the current nominee of the Agency, to discuss the investigation. Prior to the meeting, an investigation report prepared by Council staff was distributed to the Committee and the nominee of the Agency at the time of the Review Committee meeting. A discussion of the investigation report took place at the meeting and the nominee was given an opportunity to make submissions and provide further information. 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 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 Agency of the action it intends to take under sections 231, 236 and 241.1 of the Act before taking any such action. The Agency 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 Agency.

FACTS

5. The Agency has held a corporate general insurance licence with Council since July 21, 2016, and a corporate life and accident and sickness insurance licence with Council since July 26, 2023.

6. On May 14, 2021, Council issued a Production Order to ICBC requesting, among other things, records from July 4, 2018, to May 14, 2021, where an agency or a licensee in the same agency office placed more than 40 one-year policies on newer vehicles that were subsequently cancelled and transferred within 30 days.
7. On April 5, 2022, Council issued an additional Production Order to ICBC requesting investigative records involving the Agency.
8. On July 4, 2018, and February 16, 2020, ICBC issued Broker News Bulletins on Licensing Vehicles Appropriately and Some Important Reminders for Temporary Operation Permits (“TOP”). ICBC reminded licensees that when a vehicle is licensed, it must be for the purpose of operating 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 customer intends to cancel the policy within days of issuance, the customer should only be sold a TOP.
9. Between January 3, 2019, and September 12, 2019 (the “Transaction Period”), the Agency processed at least 27 transactions involving purchases and cancellations on the same policy within 48 hours.
10. On November 4, 2019, ICBC determined that the Agency was issuing full-coverage annual policies, which were then cancelled on the same day or the next day. As a result of these transactions, ICBC paid a large amount of commissions to the Agency’s agents and merchant fees for the credit card transactions.
11. Further, ICBC concluded that these transactions were not “*in the best interest of ICBC*” and “*elements of tax evasion and potential money laundering were also discovered during the investigation.*” The transactions had not been reported to ICBC, contravening the Autoplan Procedures Manual.
12. In the transactions that the Agency had conducted, four main common policy owners were noted: Company EA, IH, Company WL and JW. The above owners accounted for 22 of the 27 transactions.
13. ICBC’s investigation suggested that ties existed between Company EA and IH. IH was the director of Company WL and was also the salesperson of Company EA. JW was identified by ICBC as being associated with IH.
14. The 27 ICBC Autoplan policies issued and cancelled by the Agency had combined total premiums of \$328,002. The average premium per policy was \$12,148, which was seven times higher than the 2019 average auto premium in BC (\$1,832), according to the Insurance Bureau of Canada.
15. ICBC’s data showed an additional 59 policies purchased by either Company EA, IH, Company WL and JW. The combined total premiums of the 86 policies issued by the Agency amounted to \$1,143,437. 85 and the policies had premiums greater than BC’s 2019 average auto premium.
16. In addition, ICBC’s investigation concluded that IH (including Company EA and Company WL) obtained new vehicles both locally and from out of province and subsequently purchased full-

coverage annual policies by credit card at the Agency. IH would then routinely cancel the policies the same day and request a refund by cheque. ICBC noted that “The refund by cheque also provided the prospect to launder money” and “the vehicles are then believed to be exported out of the country.” IH would purchase the full policy instead of the standard non-licence or TOP to “conceal from the manufacturer that the vehicles were purchased for exportation.”

17. ICBC also noted “*the manufacturer[s] of these high-end vehicles are also financially impacted as these vehicles, as admitted by IH to a broker, are being exported out of the country.*”
18. During its investigation, ICBC interviewed the Agency’s current nominee who was the nominee as of the date of this decision, but who was not the nominee at the time of the incident (the “current nominee”). He stated that he and FL owned the Agency, which they purchased in August 2016. JL was the Agency’s nominee at the time of purchase.
19. During the ICBC investigation, the current nominee also stated that before speaking to an ICBC representative in September 2018, he was unaware that same-day cancellations were being conducted. From September 2018 onwards, he specifically instructed his staff to conduct business according to ICBC instructions and advised them that they were not allowed to conduct same-day cancellations.
20. After speaking with ICBC, the current nominee knew the Agency should not continue to conduct these transactions. He believed that FL had a meeting with the Agency’s staff. The current nominee discussed with FL the possibility of discontinuing business with IH and two or three other businesses that were also doing business in a similar manner.
21. The current nominee had brought his concerns to ICBC and he concluded that the customer had the right to purchase a policy but not to cancel it right away in his office. He further stated that he would not know if the policy was cancelled at another business.
22. The current nominee stated to ICBC that he told the Agency’s brokers that as long as they were only issuing the policy and not doing a same-day cancellation, it was not really a concern.
23. The current nominee stated to ICBC that he received a letter from ICBC on how to handle these types of transactions. The communication between the current nominee, FL and ICBC continued for several months and at the end of which it was decided by the Agency that agents could issue the policies. Agency staff shared their concerns with the current nominee about the high premiums of the policies and questioned whether IH was operating a legal business. However, the current nominee stated that the customer had the right to declare any coverage or driver.
24. The current nominee told IH that the Agency would not be conducting any business with IH until the ICBC investigation had been completed.

25. During the ICBC investigation, the current nominee stated that he did not believe IH was offering inducements of any kind to conduct business with the Agency.
26. On April 1, 2020, the Agency agreed to provide a payment of \$42,812 to ICBC to conclude the matter.
27. On August 6, 2021, JL, the Agency's former nominee and nominee at the time frame in question, informed Council that, as a result of the incident, the Agency implemented a new procedure that requires staff to inform their supervisor of any policy cancellation requests within one month of policy issuance. Further, staff were to refuse to cancel any policy issued within two weeks of purchase.
28. In the current nominee's submissions to Council, he stated that he did not facilitate the export of new luxury vehicles out of British Columbia through insurance business, and did not engage in the practice of issuing annual insurance policies and cancelling the policies shortly after. The current nominee was aware of the ICBC communications dated July 4, 2018, and February 16, 2020, regarding TOP.
29. The current nominee admitted that he was the supervisor of three Level 1 Salespersons (collectively, the "Level 1 Salespersons") during the Transaction Period. The Level 1 Salespersons conducted the majority of alleged transactions in question.
30. The current nominee reviewed the transactions of the Level 1 Salespersons but did not note any major issues. The current nominee said that the Level 1 Salespersons brought the concerning transactions to his attention, and that he advised the Level 1 Salespersons to proceed with the transactions. The current nominee also stated, "*If you are looking for someone responsible. That would be me. As [the] owner of the company and current nominee of the agency[,] I bear the responsibility to oversee the whole agency operation.*"
31. On January 8, 2024, the current nominee confirmed that he supervised and oversaw the Agency's insurance activities including automobile, personal lines and travel insurance, between July 2017 and January 2022. The current nominee also confirmed that he made decisions for the Agency. The current nominee accepted responsibility for the short-term policy cancellations during the Transaction Period.
32. During the Transaction Period, the current nominee was a Level 2 general insurance agent ("Level 2 Agent") until May 9, 2019. Accordingly, he supervised the Agency's insurance activities from January 3, 2019, to May 9, 2019, while he was a Level 2 Agent.
33. Between June 19, 2023, and August 8, 2023, the former nominee JL provided additional submissions to Council. JL had stated she had not provided any training, coaching, review or supervision of the Agency's Level 1 Salespersons. JL had not been aware of the concerning transactions by the Level 1 Salespersons during the Transaction Period. JL had not performed any review of the supervision activities of the Level 1 Salespersons.
34. Between January 4, 2024, and January 8, 2024, JL provided to Council submissions regarding the supervision and oversight responsibility of the Agency, and how that responsibility was shared with

the current nominee. JL confirmed that she did not oversee or supervise the insurance activities of the Agency, besides commercial business, from July 2017 to December 2021. JL stated she was responsible for marketing the Agency. The current nominee oversaw and supervised all matters related to auto and personal insurance. The current nominee assigned another agent, KL, as the team leader and supervisor for the Autoplan division. JL found it challenging to fulfil her responsibility as the nominee of the Agency since she was not aware of most of the Agency's insurance activities.

35. JL further stated that the current nominee bought the Agency on July 1, 2016, and worked at the office for one year before taking over the Agency's operations and becoming responsible for all insurance activities from July 1, 2017.
36. There was no evidence suggesting that anyone working at the Agency knew these transactions may have been linked to the vehicle export grey market.
37. At the Review Committee meeting, the current nominee stated that the Agency continued to process the transactions while it waited for ICBC to conclude its investigation, even though he was aware that the transactions were not in ICBC's interests. The Agency stopped processing the transactions after ICBC concluded its investigation.
38. The current nominee stated that IH was a business associate of the Agency's previous owner. The current nominee stated that IH was asked if they wanted an annual policy or a TOP. IH was never asked if the vehicles would be exported out of British Columbia.
39. The current nominee deferred the day-to-day supervision of the Agency's ICBC business to KL, who worked at the front desk with the Level 1 Salespersons. However, the current nominee was still formally the supervisor of the Agency.
40. Although the current nominee admitted that the Agency conducted the alleged transactions, he claimed that ICBC should have had a more robust system in place to detect suspicious transactions. However, the current nominee did admit that he was negligent at the time and that the Agency could have done more to question the transactions. The current nominee confirmed that the Agency did not receive any fees or inducements from IH regarding the transactions.

ANALYSIS

41. Council considered the impact of Council's Code of Conduct on the Agency's conduct, including section 3 ("Trustworthiness"), section 4 ("Good Faith"), section 5 ("Competence") and section 8 ("Usual Practice: Dealing with Insurers"). Council concluded that the Agency's conduct amounted to breaches of these sections of the Code of Conduct and the professional standards set by the Code of Conduct. Council also found that the Agency breached Council Rule 7(14). Licensees are required by Council Rule 7(8) to comply with the Code of Conduct.
42. Council found that the Agency failed to conduct insurance activities with integrity. Council was troubled by the Agency's decision to proceed with the transactions despite being told by its staff and

ICBC about the suspicious nature of the transactions. Council has determined the Agency, through its nominee, ought to have known that the transactions were not in ICBC's interest, given that it had been in contact with ICBC about this matter. By proceeding with the transactions, the Agency demonstrated a lack of due diligence and an incredible amount of willful blindness. Although there was no evidence to suggest that the Agency intended to conduct the exploitative transactions at the expense of ICBC and the public, Council concluded that the Agency failed to conduct insurance activities with integrity, and therefore breached the principle of trustworthiness.

43. Following the above, Council concluded that the Agency breached its duty of good faith to both ICBC and the public. Council noted that while the Agency compensated ICBC for the transactions, the Agency initially profited from the transactions by earning commissions on the policies. Council was particularly troubled by the Agency's decision to continue processing the transactions simply because it had not been told by ICBC to stop the transactions. By turning a blind eye to the transactions, the Agency did not carry on the business of insurance in good faith and was not faithful to its duties and obligations as an insurance licensee. Further, Council concluded that the Agency ought to have known that the nominee was responsible to Council for all activities of the Agency. By shielding the nominee from the Agency's ICBC business, the Agency put the nominee in a difficult position.
44. Similarly, Council found that the Agency's actions demonstrated a lack of due diligence in that it failed to properly oversee and address the suspicious transactions. Council has determined that a reasonable and prudent licensee would have stopped the transactions earlier and would have taken adequate steps to question the transactions. Council notes that licensees should self-correct and seek guidance and clarification in situations in which they suspect there may be ethical problems. Based on the above, Council found that the Agency failed to conduct insurance activities in a competent manner and in the usual practice of the business of insurance.
45. Council also concluded that the Agency breached the usual practice of dealing with insurers. The Agency did not make reasonable inquiries into the risk of the ICBC transactions and did not question the appropriateness of the transactions. Council found this particularly concerning given the high premiums involved in the transactions. In proceeding with the transactions, the Agency did not adhere to the authority granted by ICBC. Given that a TOP was the appropriate product in the circumstances, the Agency misrepresented ICBC's products by processing the full-year policies.
46. Council concluded that the Agency breached Council Rule 7(14), as it allowed the current nominee to act as the supervisor for the Agency's insurance activities while he was licensed as a Level 2 Agent.

PRECEDENTS

47. Before making its determination, 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.

48. [*Maxxam Insurance Services \(Burnaby\) Ltd. and John Alexander Dewar*](#) (June 2021) concerned an insurance agency and nominee who permitted improper insurance transactions regarding vehicle replacement insurance at motor vehicle dealerships, failed to provide adequate disclosure to clients, and failed to adequately supervise general insurance salespersons and agents with respect to the sale of the vehicle replacement insurance. The agency and nominee allowed general insurance salespersons to sell vehicle replacement insurance contrary to the Council Rules and applicable licence restrictions. Council did not find relevant mitigating factors for the agency; however, Council found that the nominee's lack of prior disciplinary history was a mitigating factor. The agency was fined \$20,000 and the nominee was fined \$5,000. Further, the agency was prohibited from appointing any nominee who concurrently acts for any other insurance agency, and the agency was required to only appoint nominees who have successfully completed the "Duties and Responsibilities for Level 3 Agents and Nominees in BC" course. The nominee had their general insurance licence downgraded from Level 3 to Level 2 for a two-year period, and was required to complete the Council Rules Course and the "Duties and Responsibilities for Level 3 Agents and Nominees in BC" course. The agency was assessed investigation costs and the agency and nominee were assessed hearing costs on a joint and several basis.
49. [*InsureBC Underwriting Services Incorporated and Allison Rae Bergen*](#) (February 2018) concerned an insurance agency and nominee who failed to adequately supervise a licensee during the period they had authority to represent the agency. The licensee failed to remit insurance premiums to their managing general agency and subsequently had their licence suspended by Council. After the licensee's licence was suspended, the agency permitted the licensee to continue to work in an unlicensed capacity. The nominee acknowledged that they did not track the licensee's insurance activities while they had authority to represent the agency, and was unable to demonstrate there were any procedures in place with regard to supervision. Council determined that both the agency and nominee failed to take adequate steps to ensure the licensee was properly supervised. Council further noted that the agency and nominee did not take specific steps to monitor the licensee's insurance activities, and failed to notify its insurers after Council suspended the licensee's licence. In addition, the licensee was permitted by the agency and nominee to work a significant distance from the agency's office with no oversight, which brought into question their competency and ability to carry on insurance in accordance with the usual practice of the business of insurance. The agency was fined \$10,000 and the nominee was fined \$5,000. Council also ordered the nominee to complete Council's Level 3 seminar, prohibited the nominee from being designated as the nominee of more than two agencies, and required that if either agency has more than one branch office, each branch office must have a full-time Level 3 general insurance agent in regular attendance. The agency was assessed investigation costs.
50. [*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. Due to a change in a program, the agency had a list of policies that had to be re-marketed with a new insurer and manually renewed. The licensee responsible for processing the renewals failed to complete the renewal for a client who subsequently suffered a loss. Council concluded that the licensee's failure was an administrative error that did not reflect on their overall ability to act competently and in accordance with the usual practice of the business of insurance.

Council was more 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 fined the nominee \$2,500, required them to complete the Level 3 seminar, and put a condition on their licence limiting them 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 they are a nominee. Finally, Council fined the agency \$5,000, assessed investigation costs, and required the agency to have a full-time Level 3 Agent in regular attendance.

MITIGATING AND AGGRAVATING FACTORS

51. In terms of aggravating factors, Council found that the Agency's actions showed a willful disregard for the laws governing the Agency's conduct, in particular the Council Rules. Council considered that the Transaction Period spanned more than eight months and involved multiple Agency staff. Further, Council took into consideration that whether directly or indirectly, the Agency's actions caused harm to the public as a whole, including the reputation of the insurance industry.
52. Council believes that the Agency put its staff in jeopardy by instructing them to proceed with the transactions, despite the repeated concerns from staff about the transactions. Council concluded that an agency has a duty to train its staff and protect them from harm. To that end, Council determined that the Agency could have been more diligent in questioning the appropriateness of the transactions, before deciding to proceed with the transactions. Further, although there was no evidence to suggest the Agency was facilitating money laundering, the transactions had the potential to facilitate money laundering.
53. As for mitigating factors, Council accepted that the Agency, through its current nominee, acknowledged and took responsibility for its misconduct. Council believed that the Agency recognized the severity of the transactions, as demonstrated by the Agency's decision to stop conducting business with IH. That being said, Council noted that it took the Agency several months to do so. Council also found that the Agency cooperated with Council's investigation. Lastly, Council considered that the Agency repaid ICBC the commissions and merchant fees for the transactions.

CONCLUSIONS

54. After weighing all of the relevant considerations, Council found the Agency to be in breach of the Council's Rules and the Code of Conduct.
55. Council concluded the Agency should be fined \$20,000 and assessed investigation costs. Council further determined that for a period of two years, the Agency is required to have a Level 3 Agent in regular attendance at any branch of the Agency that the nominee does not regularly attend. Council's rationale is to ensure a Level 3 Agent is present at each branch of the Agency to help provide appropriate oversight.
56. Although Council considered a suspension of the Agency, it concluded that this was not warranted in this case. Council determined that the Agency's misconduct stemmed from willful blindness, and not

as a result of intent to act contrary to ICBC policies. Also, there was no evidence to suggest that the Agency received fees or other inducements for the transactions, in addition to the commissions that were later paid back to ICBC.

57. However, Council notes that a strong message needs to be sent to the industry to stress that these transactions are not acceptable. As such, Council concluded the maximum fine allowed under the *Financial Institutions Act* at the time of misconduct, believing the fine amount necessary to deter others from committing similar misconduct.

58. Council has determined that it is necessary to impose conditions to both classes of licences held by the Agency. As per Council Rule 7(8), the Agency is required to comply with the Code for all classes of licences held. Therefore, the misconduct and breaches of the Code impacts both classes of licences held by the Agency and is subject to conditions on each licence.

59. With respect to investigation costs, Council has concluded that these costs should be assessed to the Agency. 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

60. Pursuant to sections 231, 236 and 241.1(1) of the Act, Council made an intended decision that:

- a. The Agency be fined \$20,000, to be paid within 90 days of Council's Order;
- b. A condition be imposed on Agency's general insurance licence requiring the Agency to have, for two years from the date of the Council Order, a full-time Level 3 general insurance agent in regular attendance at any branch of the Agency that the nominee does not regularly attend;
- c. The Agency be assessed Council's investigation costs of \$2,500, to be paid within 90 days of Council's Order;
- d. A condition be imposed on the Agency's general insurance and life and accident & sickness insurance licences that failure to pay the fine and investigation costs in full by their deadlines will result in the automatic suspension of the Agency's licences, and the Agency will not be permitted to complete the Agency's 2026 annual licence renewals until such time as the Agency has complied with the conditions listed herein; and
- e. A condition be imposed on the Agency's general insurance licence and life and accident and sickness insurance licence that failure to have, for two years from the date of Council's Order, a full-time Level 3 general insurance agent in regular attendance at any branch of the general insurance Agency that the general insurance Agency nominee does

not regularly attend, will result in the automatic suspension of the Agency's general insurance and life and accident & sickness insurance licences, and the Agency will not be permitted to complete the Agency's 2027 annual licence renewals until such time as the Agency has complied with the conditions listed herein.

ADDITIONAL INFORMATION REGARDING FINES/COSTS

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

RIGHT TO A HEARING

62. If the Agency wishes to dispute Council's findings or its intended decision, the Agency 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 Agency 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 Agency does not request a hearing within 14 days of receiving this intended decision, the intended decision of Council will take effect.

63. Even if this decision is accepted by the Agency, 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 **26th day of November 2024.**

For the Insurance Council of British Columbia



Janet Sinclair
Executive Director