

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

and the

INSURANCE COUNCIL OF BRITISH COLUMBIA
 (“Council”)

and

HAROLD ZLOTNIK LIMITED
(the “Former Agency”)

ORDER

As Council made an intended decision on January 28, 2025, 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 Agency with written reasons and notice of the intended decision dated March 26, 2025; and

As the Former 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:

- 1) The Former Agency is fined \$5,000, to be paid by July 28, 2025;
- 2) The Former Agency is assessed Council’s investigation costs of \$750, to be paid by July 28, 2025; and
- 3) Council will not consider any licence applications from the Former Agency until such time as the fine and costs have been paid in full.

This order takes effect on the **28th day of April, 2025**



Per Janet Sinclair, Executive Director
Insurance Council of British Columbia

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA

(“Council”)

respecting

HAROLD ZLOTNIK LIMITED

(the “Former Agency”)

1. Pursuant to section 232 of the *Financial Institutions Act* (the “Act”), Council conducted an investigation to determine whether the Former Agency acted in compliance with the requirements of the Act, Council Rules and Code of Conduct.
2. An investigation report prepared by Council staff indicated that the Former Agency failed to maintain required errors and omissions insurance (“E&O”) coverage between July 2, 2008, and February 8, 2023, a period of 5,334 days (the “Lapse Period”).
3. On November 26, 2024, as part of Council’s investigation, a Review Committee (the “Committee”) comprised of Council members met to discuss the investigation report. The Former Agency was represented at the Committee meeting by legal counsel and its former nominee (the “Former Nominee”). All those attending were provided a copy of the investigation report.
4. Having reviewed the investigation materials, the Committee prepared a report for Council. The Committee’s report, along with the investigation report, were reviewed by Council at its January 28, 2025, meeting, where it was determined that the matter should be disposed of in the manner set out below.

PROCESS

5. Pursuant to section 237 of the Act, Council must provide written notice to the Former Agency of the action it intends to take under sections 231, 236 and 241.1 of the Act before taking any such action. The Former 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 Former Agency.

FACTS

6. The Former Agency held a corporate life and accident and sickness insurance (“Life Agent”) licence between November 30, 1981 and May 30, 2024, when the licence was cancelled at the Former Agency’s own request.

7. On February 8, 2023, Council initiated a random audit of the Former Agency's E&O coverage.
8. After becoming aware of the lapse in E&O coverage, the Former Agency obtained E&O insurance effective February 9, 2023.
9. The Former Nominee advised that the Former Agency had formerly been in a partnership with a related corporation and provided Council with the Former Agency's financial statements from 2008 to 2022. The financial statements indicated that the Former Agency received a portion of referral fees in relation to policies sold during the Lapse Period; however, it did not participate in the sales process directly. The Former Nominee advised that the Former Agency "*received an allocation of the referral fees and renewal commissions from [the related company]. I believe that this allocation was done for estate planning purposes.*" The partnership dissolved in 2016, but the Former Agency failed to confirm that it had E&O coverage in place.
10. The Former Agency's financial statements also indicated that it received commission income between 2007 and 2009. However, the Former Nominee was unable to obtain specific details of the business services or products that contributed to that commission income.
11. At the Committee meeting, the Former Agency's legal counsel described the Former Agency as a family business, which had initially been started by the Former Nominee's grandfather, and then operated by the Former Nominee's uncle, who had been the Former Agency's nominee for the significant majority of the Lapse Period.
12. The Former Nominee assumed his role as nominee of the Former Agency on May 12, 2021, after its prior nominee passed away.

ANALYSIS

13. Council found that the Former Agency had failed to maintain E&O coverage between July 2, 2008, and February 8, 2023, a period of 5,334 days, in breach of Council Rule 7(11), which requires that licensees must maintain E&O coverage, as well as of Council Rule 7(8), which requires licensees to comply with Council's Code of Conduct. Council's opinion was that the Former Agency also breached section 13 of the Code of Conduct ("Compliance with Governing Legislation and Council Rules"), which requires that licensees "be aware of and comply with [their] duties under the Act, the Insurance Act, the Rules and the Code."
14. Prior to making its decision, Council took several of its past decisions regarding E&O coverage lapses into consideration as precedents. The following precedent summaries represent some of the most instructive of those past decisions.

PRECEDENTS

15. [*The Ascension Group Benefit Consultants Inc. and Vincent Grant Olfert*](#) (July 2024): a nominee and agency breached Council Rule 7(11) by failing to ensure the agency had E&O coverage between May 2016 and February 2023 – a lapse of approximately six years and nine months. The nominee submitted that the agency did not conduct insurance business. It was considered a mitigating factor that the lapse was unintentional, occurring as an oversight of the nominee. Aggravating factors included the length of the lapse (over six years) and the nominee’s long experience in the industry. Council fined the agency \$10,000 and the nominee \$2,000; they were also assessed costs.
16. [*Everything Financial Consultants / Peter Joseph Cishecki*](#) (February 2019): a licensee and agency breached Council Rule 7(11) by failing to ensure the agency had E&O coverage, and, as a result, the agency had operated in an unlicensed capacity for a period of approximately two years. After issuing an intended decision, the agency and licensee requested a hearing. Following the hearing, Council made the following orders: a condition was placed on the agency and licensee’s Life Agent licences requiring the licensee to complete the Council Rules Course. Additionally, Council fined the licensee \$5,000 and the agency \$10,000; they were also jointly and severally liable to pay Council’s hearing costs.
17. [*Global Warranty \(West Coast\) Corporation / Andrew Mark Hall*](#) (June 2017): an agency failed to disclose discipline by the Insurance Council of Saskatchewan, failed to maintain E&O coverage for a period of 138 days, and failed to notify Council when it ceased to have E&O coverage. Council made an order to fine the agency \$6,000, fine the nominee \$1,000, and to impose a condition on the nominee’s general insurance licence requiring him to complete the Council Rules Course.
18. Council recognizes, having reviewed the precedents, that the approach it has adopted for disciplining licensees who have breached Council Rules pertaining to E&O coverage requirements is to assess a “baseline” fine of \$1,000 for roughly each year in which a licensee fails to maintain E&O coverage. In some cases, mitigating factors are identified that support a lowering of the fine.
19. Council identified several mitigating factors. Council considered the most significant mitigating factor to be that the Former Agency did not conduct any insurance business during the Lapse Period. As a result, no harm, or risk of harm, resulted to the public from the Former Agency’s breach. Council also considered the fact that the Former Agency was winding down business to be slightly mitigating, because it further suggested that the Former Agency did not breach its obligations intentionally nor would it be likely to repeat the breach.
20. Council considered the significant length of the Lapse Period to be aggravating.

CONCLUSIONS

21. Having weighed the aggravating and mitigating factors, Council found the mitigating factors to outweigh the aggravating factors, warranting a downward departure from the precedents. Council made an intended decision to fine the Former Agency \$5,000.
22. With respect to investigation costs, Council believes that these costs should be assessed to the Former Agency. As a self-funded regulatory body, Council looks to licensees and former 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

23. Pursuant to sections 231, 236 and 241.1 of the Act, Council made the following intended decision:
 - a) That the Former Agency be fined \$5,000, to be paid within 90 days of Council's order;
 - b) That the Former Agency be assessed Council's investigation costs of \$750, to be paid within 90 days of Council's order; and
 - c) That Council will not consider any licence applications from the Former Agency until such time as the fine and costs have been paid in full.
24. Subject to the Former Agency'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

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

RIGHT TO A HEARING

26. If the Former Agency wishes to dispute Council's findings or its intended decision, the Former 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 Former 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**

Former Agency does not request a hearing within 14 days of receiving this intended decision, the intended decision of Council will take effect.

27. Even if this decision is accepted by the Former 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 <https://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 March, 2025.**

For the Insurance Council of British Columbia



Janet Sinclair
Executive Director