

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

and the

INSURANCE COUNCIL OF BRITISH COLUMBIA
 (“Council”)

and

GRANT DONALD STOBBE
(the “Licensee”)

and

OKANAGAN VALLEY INSURANCE SERVICES LTD.
(the “Agency”)

ORDER

As Council made an intended decision on June 23, 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 Licensee and the Agency with written reasons and notice of the intended decision dated July 21, 2020; and

As the Licensee and the Agency have 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:

1. The Licensee is fined \$2,500, to be paid by November 12, 2020;
2. The Licensee is required to complete the Council Rules Course by November 12, 2020;
3. The Licensee is required to complete the Duties and Responsibilities for Level 3 Agents and Nominees in British Columbia course, available through the Insurance Brokers Association of British Columbia, by November 12, 2020;

Order

Grant Donald Stobbe and Okanagan Valley Insurance Services Ltd.

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4. The Agency is assessed investigative costs of \$2,375, to be paid by November 12, 2020;
5. A condition is imposed on the Licensee's general insurance licence that failure to pay the fine or complete the course requirements by November 12, 2020 will result in the automatic suspension of that licence, and the Licensee will not be permitted to complete his 2021 annual filing until such time as the Licensee has paid the fine in full and completed the course requirements; and
6. A condition is imposed on the Agency's general insurance licence that failure to pay the investigative costs by November 12, 2020 will result in the automatic suspension of the Agency's licence, and the Agency will not be permitted to complete its 2021 annual filing until such time as the Agency has paid the investigative costs in full.

This order takes effect on the **13th day of August, 2020**.



Janet Sinclair, Executive Director
Insurance Council of British Columbia

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA

(“Council”)

respecting

GRANT DONALD STOBBE

(the “Licensee”)

and

OKANAGAN VALLEY 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 Licensee and Agency acted in compliance with the requirements of the Act, Council Rules, and Code of Conduct, and in particular to determine whether the Licensee and/or Agency 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, in relation to the processing of a Temporary Operating Permit (“TOP”) in July 2018 that occurred without the approval of the vehicle’s owner.
2. As part of Council’s investigation, on May 5, 2020, a Review Committee (the “Committee”) met with the Licensee and his legal counsel, as well as with the Agency’s current nominee (the “Nominee”) and a representative of InsureBC to discuss the investigation. Prior to the meeting, an investigation report prepared by Council staff was distributed to the Committee for review and to the Licensee and Agency for review and response. A discussion of the investigation report and submissions provided by the Licensee and Agency took place at the meeting. Having reviewed all relevant materials and discussed 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 June 23, 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 Licensee and Agency of the action it intends to take under sections 231, 236 and 241.1 of the Act before taking any such action. The Licensee and 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 Licensee and Agency.

FACTS

5. The Licensee has been licensed with Council since 1995. At the time of the incident that led to Council's investigation, the Licensee was a Level 3 general insurance agent ("Level 3 Agent") and served as the Agency's nominee. The Agency has been licensed since August 2008, and is part of the InsureBC group of agencies.
6. Client A and Client B were common-law spouses who had been clients of the Licensee and Agency for several years prior to the material time. The two owned a number of vehicles that were mostly registered in their company's name, and had dealt with the Licensee for their vehicle insurance needs on past occasions.
7. Client A was the registered owner of a pick-up truck (the "Motor Vehicle"). In June 2018, she cancelled her insurance for the Motor Vehicle and returned its plates.
8. On July 12, 2018, Client A received an email from the Licensee asking if Client B could register the Motor Vehicle in Client A's name. Client A initially thought that the Licensee was asking that she transfer the Motor Vehicle into Client B's name, which she would have been agreeable to. However, Client A refused the request once she realized that the Licensee was asking her to register the vehicle in her own name, stating in a response email that the Motor Vehicle was "a piece of garbage and I am not putting it in my name" and "I thought he [Client B] wanted it signed over to him."
9. On July 13, 2018, Client B came to the Agency office and requested that the Licensee process a TOP for the Motor Vehicle. Client B told the Licensee that Client A was feeling sick and preferred to not come into the Agency office, but that she was outside in the parking lot, sitting in the Motor Vehicle. Client B took the TOP documentation out of the office, ostensibly to get Client A's signature, and returned to the Licensee with the documents signed. The Licensee did not leave the Agency office to witness the signature and did not take action to otherwise confirm that Client A had consented to the transaction and signed the TOP.

10. Client B, driving the Motor Vehicle, was involved in a not at fault collision on July 18, 2018. During the subsequent investigation by the Insurance Corporation of British Columbia (“ICBC”), Client A advised that she had not signed the TOP documents on July 13, 2018, and in fact had been in a different city on that date. Client B confessed to ICBC’s investigators that he had forged Client A’s signature on the TOP documents.
11. ICBC’s investigation resulted in them imposing a number of sanctions on the Licensee and Agency in February 2019. The sanctions included a fine of \$2,500 imposed on the Agency, a requirement that the Licensee take certain courses and step down as nominee, and a prohibition of the Licensee from performing Autoplan services or otherwise conducting ICBC business for a minimum period of one year. The Agency was also required to take steps to ensure future compliance with ICBC procedures, including implementing mandatory training for staff, and InsureBC was required to appoint a compliance official to personally oversee the implementation of procedural improvements at the Agency. These sanctions were based on ICBC’s conclusion that the Licensee/Agency had inappropriately processed the Motor Vehicle TOP transaction, and that the Licensee had attempted to mislead their investigators with respect to his communications with Client A.
12. ICBC’s requirements have since been completed, and the Licensee’s access to the ICBC systems was reinstated in March 2020. The Licensee has not been the Agency’s nominee since February 2019.
13. In the course of his discussion with the Committee, the Licensee admitted that he should not have processed the TOP for the Motor Vehicle, and stated that he was very sorry for everything that had happened. The Licensee explained that, because of his book of business including a substantial volume of ICBC work, not being able to process ICBC transactions for a year had impacted him significantly. He stated that he was embarrassed by the impugned conduct, but that he and other Agency staff had learned a great deal since the incident. The Licensee told the Committee that he was interested in serving as nominee again someday.
14. The Licensee told the Committee that it had not been his intention to mislead ICBC’s investigators about his communications with Client A, and that his seeming evasiveness during his interview had stemmed from the fact that he was nervous and confused. In written submissions to ICBC, it was further explained by the Licensee’s legal counsel that the Licensee had been worried that evidence he might give during his ICBC interview might result in Client A or Client B’s coverage being voided.

15. The Nominee told the Committee that the Agency had implemented a number of changes since the incident, and that they looked forward to having this matter behind them.

ANALYSIS

16. Council is of the opinion that the regret expressed by the Licensee throughout his meeting with the Committee was genuine, as was his acknowledgement that he had made a serious error by processing the TOP for the Motor Vehicle without first gaining Client A's instructions, and without taking steps to confirm Client B's claim that Client A had signed the documents.
17. Nevertheless, Council has concluded that the investigated conduct breaches the Code of Conduct. The Licensee's decision to process the TOP without Client A's permission, and without making an effort to confirm her signature, conflicted with his duty to adhere to 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. Council also believes that the emails sent between the Licensee and Client A in the days prior to the TOP being processed raised further concerns as to whether the Licensee had properly understood the duties and procedures that accompany Autoplan transactions.
18. Council took three precedent cases into consideration prior to making its disposition.
19. *Melanie June Lund* (February 2017) concerned a Level 2 general agent who conducted a vehicle transfer and Autoplan transaction without the vehicle's purchaser being present. The transaction occurred at the licensee's agency's office, with the seller and the purchaser's boyfriend present. The purchaser was a friend of the licensee, and the licensee was trying to be helpful by conducting the transaction without the purchaser present. Council determined that providing licence plates and insurance for a vehicle without the purchaser present brought the licensee's competency into question, as well as her ability to act in accordance with the usual practice of the business of insurance. The licensee was reprimanded, fined \$1,000, and assessed investigative costs of \$587; she was also required to complete ICBC's Autoplan Basics for Brokers program, an errors and omissions insurance course, and the Council Rules Course.
20. *Melissa Almeda Skelton* (April 2016) concerned a Level 1 general insurance salesperson ("Level 1 Salesperson") who circumvented ICBC procedures for a friend's convenience. The licensee's friend, who she lived with but without meeting the definition of spouse,

had a debt that needed to be paid before he could renew his Autoplan insurance. The licensee attempted to help the friend by setting up conditions that would allow him to use ICBC's financing plan to make monthly payments. The friend's vehicle was gifted to the licensee, who registered it in her own name. The licensee then conducted an Autoplan transaction for herself, using a monthly financing option. She arranged for the monthly payments to come from the friend's bank account, and listed herself as the primary operator, despite having her own vehicle. These transactions circumvented a number of ICBC procedures, and also involved the licensee claiming a PST exemption that she did not qualify for. Council fined the licensee \$1,000 and assessed investigative costs of \$1,025.

21. *Peter Hing-Fu Hung* (January 2015) concerned a Level 1 Salesperson who worked mostly as a mobile road services agent. Over the course of two days, the licensee completed insurance transactions for two different luxury vehicles, for an individual who was later found to have been an imposter. There were suspicious circumstances involved with the transactions, but the licensee did not put notation on the transaction documents or take any other action to flag suspicions to ICBC or his supervisor. Council believed that the licensee had "turned a blind eye" to the suspicious circumstances, and that he had not appreciated his responsibilities when conducting suspicious transactions. The licensee was fined \$1,000, assessed costs of \$2,625, and required to complete three ICBC courses. The licensee was also required to complete the Insurance Brokers Association of British Columbia's Ethics for Insurance Brokers course and was only allowed to conduct insurance business from his agency's office until his courses were completed.
22. Council has also given consideration to a number of relevant mitigating and aggravating factors. Mitigating factors included: that neither the Licensee nor the Agency had a prior disciplinary history; that both the Licensee and the Agency have acknowledged that the TOP at issue was wrongfully processed, have apologized for the Licensee's evasiveness when dealing with ICBC, and have committed to improving their procedures to avoid similar incidents going forward; that the Licensee's primary motivation in processing the TOP was to help a long-term customer, and not personal profit; and that the Licensee and Agency had already received and complied with significant sanctions from ICBC.
23. The principal aggravating factors considered by Council were: that the Licensee was an experienced Level 3 general agent who had also been the Agency's nominee at the time

of the impugned conduct; and that he had been evasive when interviewed by ICBC's investigators.

24. Council's conclusion is that it is appropriate for the Licensee to be fined, as well as required to complete relevant courses, in keeping with the three precedents. However, Council is of the opinion that the Licensee's fine should be significantly higher than the \$1,000 fine in each of the precedents, in order to reflect the fact that he was a nominee and experienced Level 3 Agent at the time of the misconduct. Even with due consideration given to the mitigating factors, Council believes that the misconduct, which would have been unacceptable from any licensee, was made more egregious coming as it did from an individual in the Licensee's position. As such, Council's disposition includes a fine of \$2,500 in order to communicate to the insurance industry and public that nominees, who have accepted heightened responsibilities and authority by the nature of their position, are expected by Council to perform their roles ethically and competently.

INTENDED DECISION

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

- i. Fine the Licensee \$2,500, to be paid within 90 days of Council's order;
- ii. Require the Licensee to complete the Council Rules Course within 90 days of Council's order;
- iii. Require the Licensee to complete the Duties and Responsibilities for Level 3 Agents and Nominees in British Columbia course, available through the Insurance Brokers Association of British Columbia, within 90 days of Council's order;
- iv. Assess the Agency investigative costs of \$2,375, to be paid within 90 days of Council's order;
- v. Impose a condition on the Licensee's general insurance licence that failure to pay the fine or complete the course requirements within 90 days of Council's order will result in the automatic suspension of that licence, and the Licensee will not be permitted to complete his 2021 annual filing until such time as the Licensee has paid the fine in full and completed the course requirements;

- vi. Impose a condition on the Agency's general insurance licence that failure to pay the investigative costs within 90 days of Council's order will result in the automatic suspension of the Agency's licence, and the Agency will not be permitted to complete its 2021 annual filing until such time as the Agency has paid the investigative costs in full.

26. Subject to the right of the Licensee and Agency 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.

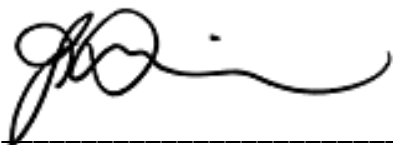
RIGHT TO A HEARING

27. If the Licensee or Agency wishes to dispute Council's findings or its intended decision, the Licensee or Agency 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 Licensee or 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 Licensee or Agency do not request a hearing **within fourteen (14) days of receiving this intended decision**, the intended decision of Council will take effect.

28. Even if this decision is accepted by the Licensee and Agency, 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 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 **21st day of July, 2020**.

For the Insurance Council of British Columbia



Janet Sinclair
Executive Director