

In the Matter of the

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

and the

INSURANCE COUNCIL OF BRITISH COLUMBIA
 (“Council”)

and

CLAYTON DANIEL SNOW
(the “Licensee”)

ORDER

As Council made an intended decision on October 19, 2021, 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 with written reasons and notice of the intended decision dated December 6, 2021; and

As the Licensee requested a hearing on December 9, 2021, in accordance with section 237 of the Act; and

As Council suspended the Licensee’s life and accident and sickness (“Life Agent”) licence on April 29, 2022, in accordance with sections 231 and 238 of the Act, until a determination has been reached by Council on all matters at issue in respect of the Licensee’s conduct; and


As the Licensee confirmed on June 4, 2022 that he wished to withdraw his request for a hearing;

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

- 1) The suspension of the Licensee’s Life Agent licence will be continued for a one year period commencing on June 10, 2022 and ending at midnight on June 10, 2023, provided all requirements set out below are met;
- 2) A condition is imposed on the Licensee’s Life Agent licence that requires him to be supervised for a period of 24 months of active licensing by a qualified Life Agent supervisor, as approved by Council, commencing when the licence suspension has been lifted;

- 3) The Licensee is required to complete the following courses, or equivalent courses as acceptable to Council, prior to the licence suspension being lifted:
 - a. The Insurance Institute’s “Ethics and the Insurance Professional” course;
 - b. Advocis’ “Compliance Toolkit: Know your Client and Fact Finding” course;
 - c. Advocis’ “Compliance Toolkit: Know your Client and Suitability” course; and
 - d. The Council Rules Course;
- 4) The Licensee is fined \$7,500, to be paid by September 8, 2022;
- 5) The Licensee is assessed Council’s investigation costs of \$1,737.50, to be paid by September 8, 2022; and
- 6) A condition is imposed on the Licensee’s Life Agent licence that requires him to pay the above-ordered fine and investigation costs in full prior to the licence suspension being lifted, and the Licensee will not be permitted to complete his 2023 annual filing¹ until such time as the fine and investigation costs have been paid in full.

This order takes effect on the **10th day of June, 2022.**



Janet Sinclair, Executive Director
Insurance Council of British Columbia

¹ As of 2022, the “annual filing” process is more commonly referred to by Council as “annual licence renewal.”

INTENDED DECISION
of the
INSURANCE COUNCIL OF BRITISH COLUMBIA
("Council")
respecting

CLAYTON DANIEL SNOW
(the "Licensee")

1. Pursuant to section 232 of the *Financial Institutions Act* (the "Act"), Council investigated the Licensee and his agency (the "Agency") to determine whether they acted in compliance with the requirements of the Act, Council Rules, and the Code of Conduct. In particular, Council investigated to determine whether the Licensee breached sections 3 ("Trustworthiness"), 4 ("Good Faith"), 5 ("Competence"), 7 ("Usual Practice of Dealing with Clients"), and/or 12 ("Dealing with the Insurance Council of British Columbia") of the Code of Conduct by providing to a client inaccurate descriptions of insurance policies and interest rates, prejudicing the client's interests for personal gain, failing to act professionally in his communications with the client and making misleading and inaccurate statements to a Review Committee (the "Committee") comprised of Council members.
2. On June 22, 2021, August 9, 2021, and September 27, 2021, as part of Council's investigation, the Committee met virtually to discuss the investigation. An investigation report with attached exhibits was sent to the Licensee and Agency, as well as to the Committee members, in advance of the Committee meeting. Prior to the commencement of the June 22, 2021 meeting, the Licensee confirmed he had received and reviewed the report and exhibits and raised no concerns about the content of the report or its exhibits. At the end of the meeting, however, the Licensee alleged the Committee had not been provided with all the documentation he had given Council's investigator during the investigation.
3. The Committee adjourned deliberations so Council staff could investigate and confirm that everything the Licensee had submitted had been provided to the Committee. The Licensee was also provided an opportunity to submit any additional material he considered relevant to the investigation.

4. The Committee reconvened on August 9, 2021 to consider the additional material provided by the Licensee. Prior to reconvening, Council staff confirmed that, in fact, everything the Licensee had shared with Council's investigators had been provided to the Committee in advance of the June 22, 2021 meeting, with the only document in Council's records not provided to the Committee being an email exchange between the Licensee and an investigator that carried no evidentiary value. The Committee reconvened again on September 27, 2021 to confirm that the Licensee's right to procedural fairness had been met in the circumstances.
5. Having reviewed the investigation materials and having discussed the matter at the June 22, 2021, August 9, 2021, and September 27, 2021 meetings, the Committee prepared a report for Council which was reviewed by Council at its October 19, 2021 meeting. Council determined that the matter should be disposed of in the manner set out below.

PROCESS

6. Pursuant to section 237 of the Act, Council must provide written notice 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

7. The Licensee has been licensed with Council as a life and accident and sickness insurance agent ("Life Agent") since January 2010. The Licensee conducted his life insurance business through the Agency. He held an authority to represent the Agency from August 2014 to March 2015, and again since November 2015. The Licensee has been the nominee of the Agency since July 4, 2019. He was also the nominee between March 9, 2015 and November 4, 2015, as well as between May 2, 2017 and July 11, 2018.
8. Since January 24, 2014, the Licensee has been contracted through a managing general agency (the "MGA") to offer life insurance issued by an insurer (the "Insurer").
9. On November 29, 2019, Council received information from an investigator for the Insurer, regarding allegations of misconduct by the Licensee.
10. On or around August 27, 2019, the Licensee's client, H.L., notified the Insurer and the MGA about issues with three of the Insurer's Whole Life Policies (the "Policies").

11. The Insurer advised Council that, according to H.L., the Licensee:

- (a) had made misrepresentations to the Insurer concerning H.L.'s occupation and health on the Policies;
- (b) had provided H.L. with an inaccurate description of the Policies and associated interest rates;
- (c) threatened H.L. with violence and contacted H.L.'s mother, Y.D., to have Y.D. convince H.L. to rescind his complaint to the Insurer; and
- (d) offered H.L. money and marijuana to rescind his complaint after the Insurer terminated the Licensee's contract.

12. H.L. told the Insurer he was unemployed when he applied for the Policies but that the Licensee told him to put his employment as a [REDACTED] or he would not get approved for the Policies. At the time, H.L. had multiple health barriers that negatively impacted his ability to find work.

13. H.L.'s income was low when he applied for the Policies but he was receiving child benefit income [REDACTED]

14. When H.L. applied for the Policies, he had a registered education savings plan ("RESP") with the Royal Bank of Canada ("RBC").

15. Both the MGA and the Insurer investigated H.L.'s complaints. As a result of the investigations, the MGA and the Insurer concluded that on July 20, 2018, H.L. asked the Licensee to help him invest in an RESP.

16. Facebook Messenger messages (the "FB Messages") between H.L. and the Licensee from June 2018 to August 2019 show:

- (a) the Licensee trying to explain the Insurer investments to H.L.;
- (b) H.L. had difficulty understanding the products;
- (c) the Licensee advertised 12-18% rates of return in the six months prior to when H.L. applied for the Policies;
- (d) H.L. reached out to the Licensee for information about how he could get those rates;
- (e) the Licensee stated he could make H.L. 16% returns;

- (f) the Licensee also stated he was making 8.8% compound with no risk and that he was not getting into this market because he was on a budget; and
- (g) the Licensee told H.L. if he keeps up with his monthly payments, he can withdraw 80% of his investment the following year.

17. Following the Insurer's investigation into H.L.'s complaint, H.L.'s Policies were rescinded due to non-disclosure. The Insurer provided H.L. with a refund for a portion of the Policies.
18. On May 14, 2020, the MGA advised Council that the Licensee had resigned and as a result, his authority to represent the MGA was terminated.
19. On December 16, 2020, the MGA advised that since the Licensee's resignation, he had a significant outstanding chargeback they were attempting to resolve. The matter remains outstanding and was referred to the MGA's legal team.
20. On April 27, 2021, the MGA advised the outstanding chargeback was referred to collections. The collection was filed April 21, 2021. The total debt as of the date of filing was \$55,359.49.
21. On January 30, 2020, Council's investigator conducted an audio-recorded telephone interview of H.L.
22. H.L. advised the investigator he has known the Licensee since grade eight but had not spoken to him since 2018. He reached out to the Licensee on Facebook because the Licensee advertised high rates of returns. He met with the Licensee and the Licensee stated he should sign into an investment that would be the same as an RESP.
23. H.L. told the Licensee that he had a Guaranteed Investment Certificate ("GIC") with RBC. He met with the Licensee at RBC and the Licensee told him to close his account and incorrectly advised him on how investments work.
24. [REDACTED] When H.L. got the money out of the RESPs, he had over [REDACTED] in his account and he believed he had to get that money out because the "Ministry of Development" had limits. He asked the Licensee to have the money paid into other accounts, but he believes the Licensee thought he was trying to hide income.
25. H.L. first purchased [REDACTED] life insurance policies for his [REDACTED] children. The Licensee first told him the policies came with health benefits but later told him there were no health benefits as it would cost more money. [REDACTED] His payments were approximately [REDACTED] per year.

26. When H.L. applied for the Policies, he was unemployed. [REDACTED]
[REDACTED]
27. The Licensee told him to put down that he was self-employed as a [REDACTED] or [REDACTED]
28. The Licensee told him he sold marijuana and H.L. purchased marijuana from the Licensee. The Licensee offered H.L. large amounts of marijuana to make an income, but H.L. did not accept the offer.
29. H.L. thought it was strange to have life insurance on his children and not himself, so he also applied for a policy.
30. H.L.'s investment knowledge was poor. He listened to and trusted the Licensee because the Licensee was a school friend. He believed that if he followed the Licensee's advice, he would essentially have free life insurance. However, when H.L. contacted the Insurer, they informed him that it did not work like that.
31. H.L.'s total investment in the Policies was approximately [REDACTED]. He lost approximately [REDACTED] on the children's policies and approximately [REDACTED] on his own policy.
32. H.L. advised the Licensee he was going to go to court to recover the money he had lost on the Policies. The Licensee became very angry and stated that if H.L. made it personal for the Licensee, the Licensee would "break someone's knees."
33. H.L. emailed Council's investigator screenshots of conversations between H.L. and the Licensee wherein the Licensee advised he would go to "Family Maintenance" (a government program that allows parents to enforce and collect outstanding child support payments in Provincial Court) and to H.L.'s ex-partner if H.L. did not drop the complaint against him.
34. H.L. told the Licensee he would withdraw his complaint if the Licensee agreed to repay him what he lost as a result of the Policies. H.L. maintained he could not guarantee the Insurer and Council would not pursue their investigations.
35. H.L. drafted a letter for them to each sign. The letter stated the Licensee was going to reimburse H.L. for issues with the Policies and that the actions of the Licensee were a miscommunication.
36. H.L. told Council's investigator that the Licensee changed the letter and it was not the letter he and the Licensee had agreed upon. There was a disagreement on the amount the Licensee was going to pay H.L. so the negotiations broke down.

37. H.L. filed a Civil Resolution Tribunal (“CRT”) claim against the Licensee in which he alleged the Licensee misrepresented the nature and expected rates of returns on the Policies.
38. In the claim, H.L. sought damages in the amount of \$2,156.79 for the unrefunded portion of the contributions he made to the Policies.
39. On August 17, 2020, the CRT found the Licensee had breached his fiduciary duty to H.L. by advising him to purchase the Policies and by discouraging him from cancelling the Policies at a time when he could have minimized his losses. The Licensee was ordered to pay H.L. \$2018.19, which included post-judgment interest as applicable.
40. On March 16, 2020, Y.D., H.L.’s mother, spoke with Council’s investigator on the telephone. Y.D. made the following statements:
 - (a) She is H.L.’s mother and she received a phone call from the Licensee who is a client of her [REDACTED] business. Y.D. was unable to recall the time frame of this conversation.
 - (b) The Licensee informed her that H.L. complained to the Licensee’s office about insurance and investments. The Licensee wanted Y.D. to ask H.L. to withdraw the complaint.
 - (c) Y.D. advised the Licensee she did not know what was going on between the two.
 - (d) The Licensee stated that H.L. was hiding lots of money from the government, and that he would advise H.L.’s ex-partner of this, unless he dropped the complaint. The Licensee stated he would tell H.L.’s ex-partner to take away the kids from H.L.
41. On April 30, 2020, Council’s investigator conducted an audio-recorded telephone interview of the Licensee.
42. The Licensee told Council’s investigator he has known H.L. since approximately kindergarten or grade three and they are good friends. He confirmed that this was true at the Committee meeting.
43. H.L. had an RESP at a bank that was doing nothing for him. The Licensee accompanied H.L. to the bank and explained to H.L.’s representative at the bank that he was helping H.L. get into a product that would better suit H.L.’s needs.
44. The Licensee denied:
 - (a) making misrepresentations about H.L.’s health and employment status on the applications for the Policies;

- (b) reaching out to Y.D. in an attempt to have Y.D. dissuade or convince H.L. to rescind his complaint to the Insurer;
 - (c) misleading H.L. on the rates of returns on the Policies; and
 - (d) threatening H.L. with physical harm or offering H.L. marijuana to sell.
45. The Licensee said as far as he knew, H.L. was in [REDACTED]. He said that is what H.L. led him to believe and he doesn't really question people on their stated occupation.
46. The Licensee could not recall H.L.'s monthly income and was unaware if H.L. had any physical or mental barriers to employment. He stated that H.L.'s investment knowledge was inexperienced.
47. With respect to the FB Message advertising rates of returns, the Licensee explained the messages were historical averages, not guarantees. He described the FB Messenger conversations as talk between two friends. He denied telling H.L. he could make him 16% returns and said he did not know why H.L. was fabricating that information.
48. The Licensee told the Committee members he put H.L. in a whole life policy because there is way more flexibility in a whole life policy than an RRSP. He said there were "tax advantages," amongst other advantages, but he could not identify specific advantages for H.L. or explain the features of a whole life policy without reading directly from an the Insurer pamphlet.
49. With respect to the negotiations, the Licensee said H.L. wanted money from him to rescind his complaint. H.L. wrote the letter and the Licensee edited it but H.L. refused to sign. He denied using marijuana with H.L. and said H.L. was a manipulative liar.
50. When asked about the outstanding chargebacks, the Licensee told the Committee everything had been dealt with already, implying that he had paid everything back.
51. When asked about the CRT claim, the Licensee explained he had no intention of paying the judgment because in his view the CRT has no jurisdiction to enforce an order against him. In his view, H.L. lost his case at the CRT because it was not an enforceable order.

ANALYSIS

52. Council concluded that the Licensee acted contrary to Rule 7(6) and 7(8), and also breached sections 3 ("Trustworthiness"), 4 ("Good Faith"), 5 ("Competence"), and 7 ("Usual practice: Dealing with Clients") of Council's Code of Conduct in that he:

- (a) provided H.L. with an inaccurate description of the Policies and associated interest rates;
- (b) knowingly prejudiced H.L.'s interests for personal gain; and,
- (c) failed to act professionally in his communications with H.L.

53. More specifically, Council determined that the Licensee exaggerated the ease of accessing the funds and referred to returns or accessibility of funds as though the funds were easy to withdraw without explaining what that meant for H.L. in terms of leverage, interest expense and payments.

54. Council determined that the Licensee had known H.L. since approximately grade three and considered him a friend. The Licensee told the Committee he knew H.L.'s ex-partner and mother and had written a letter for "Family Services" on H.L.'s behalf. Against that backdrop, the Council concluded the Licensee was aware of H.L.'s financial situation and he knew, or should have known, that the products he sold H.L. were completely inappropriate.

55. As well, Council has serious concerns about the Licensee's aggressive sales tactics as demonstrated in the FB Messages, as well as his tendency to "bully" and bluster his way through questions put to him. He was unable to answer detailed questions about whole life policies, which, he advised the Committee, was the product he preferred to sell because of the advantages it provided his clients.

56. Council also concluded the Licensee acted contrary to section 12 ("Dealing with the Insurance Council of British Columbia") of the Code of Conduct and s. 231(1)(c) of the Act in that he repeatedly and intentionally made misleading and inaccurate statements when responding to questions asked of him by the Committee members.

57. For example:

- (a) When the Committee pointed out to the Licensee that his version of events was contradicted by the documentary evidence, the Licensee accused Council staff of not having provided documents to the Committee that would support his assertions. The Licensee stated, for instance, that he had sent "a huge folder" of evidence to Council previously, including important correspondence and affidavits, which had not been brought to the Committee's attention. Council staff later determined that the Licensee had not provided the investigator or other staff with any evidence that had not been provided to the Committee. As well, even when the Licensee was given an opportunity to provide additional

documentation to the Committee following his meeting with the Committee, he failed to provide anything that meaningfully supported his version of events.

- (b) In a number of instances, the Licensee disputed the intended meaning of the plain language in the FB Messages (i.e. “I will get you 16%”) and suggested H.L. and the Committee were misinterpreting the words on the page when, in Council’s view, the words were clearly written and unambiguous.
- (c) The Licensee told the Committee he had won the CRT case when that was not true. The Licensee stated that he “had no documentation ordering him to pay a penny,” despite the CRT decision unambiguously ordering the Licensee to pay H.L. When the CRT’s order was read to the Licensee, he said the CRT’s decision meant nothing to him because it could not be enforced against him.
- (d) When the Committee asked the Licensee if the chargebacks had been repaid to the MGA, the Licensee intentionally misled the Committee by stating that the chargebacks had been “dealt with” when in truth, they remain outstanding with no agreement in place to pay it back.

58. Prior to making its determination, Council considered several aggravating factors, including the following.

- (a) The Licensee did not demonstrate any remorse. The Licensee was defensive and argumentative and deflected any responsibility by blaming others for various things, including Council’s investigators and H.L. The clearest example of his unwillingness to take responsibility is his refusal to admit that he typed “I will get you 16%” and that it was reasonable for H.L. to understand that sentence to mean future returns. He did not demonstrate any introspection or awareness of what he had done wrong and has made no efforts to earnestly remedy the damage he caused H.L.
- (b) The Licensee acted intentionally to take advantage of a trust relationship with H.L. who was unsophisticated [REDACTED]. The Licensee’s sales tactics appear well-engrained and seem to form part of a pattern that he is likely to repeat with other clients.
- (c) The Licensee’s argumentative tone and overall lack of honesty. The totality of the Licensee’s conduct, and in particular, his lack of trustworthiness poses a risk of harm to the public.
- (d) The Licensee was the nominee of the Agency for certain periods during which the misconduct occurred. The misconduct, which is unacceptable for any

individual in the Licensee's position, is made more egregious because of the Licensee's experience and position as nominee of the Agency. As a nominee, the Licensee is required to provide an additional level of responsibility and oversight. Council concluded that the Licensee's fine should be adjusted upwards to reflect that he is an experienced agent and the nominee of the Agency and ought to have known his conduct was improper. The increased fine is also meant to communicate to the Licensee, the insurance industry, and the 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.

59. The Licensee's discipline and reminder history is an additional aggravating factor in this case.

- (a) On August 11, 2015, Council made an intended decision concerning allegations the Licensee had signed a declaration on a policy indicating he had met with a client when he had not, and he had failed to adequately advise another client regarding the replacement and value of a critical illness policy. The intended decision took effect on September 22, 2015 at which time a condition was imposed on the Licensee's Life Agent licence requiring him to complete certain courses and prohibiting him from supervising new Life Agent licensees and from being a nominee until the courses were complete. The Licensee was also fined \$2,500 and assessed investigative costs of \$2,187.50.
- (b) On March 24, 2011, Council sent a letter to the Licensee advising that his communication was unprofessional and that he attempted to discredit an individual and an insurer while not addressing the merits of a policy over another; and
- (c) On October 24, 2018, Council sent a letter to the Licensee reminding him that he may be or was engaged in advertising practices that were not in compliance with Council's Code of Conduct.

60. No mitigating factors were identified by Council.

61. Prior to making its determination, Council also considered several precedent decisions.

62. While Council recognizes that it is not bound by precedent and that each matter is decided on its own merits, Council found that these decisions were instructive in terms of providing a range of sanctions for similar misconduct.

63. *Jack Leonard Parkin* (January 2015) concerned a licensee who had held a Life Agent licence since 1982. Council considered allegations that he had sold his clients a product that did not suit their needs. Council concluded the licensee had failed to fully understand the product prior to recommending it to the clients and, as a result, did not adequately advise them about certain investment features. Council accepted that the licensee did not intend to harm the clients, and genuinely believed he had made appropriate recommendations. However, Council concluded that the licensee had failed to act in a competent manner, in accordance with the usual practice of the business of insurance in recommending the product and in addressing the clients' concerns about the product. Council placed a condition on his Life Agent licence that he be supervised by a qualified Life Agent for a period of 24 months; that he complete certain courses designated by Council; and that he be assessed Council's investigative costs.
64. *Khamsouei Phovixayboulom* (February 2018) concerned a licensee who had held a Life Agent licence in British Columbia since 1990. Council considered allegations the licensee intentionally misled clients for personal benefit; improperly placed insurance on behalf of a client by failing to first provide the client with necessary information to make an informed decision; improperly completed an application for life insurance by failing to include current information on the client's address; and, made a false declaration to an insurer by materially misrepresenting a client's address when applying for insurance, among other things. The Hearing Committee found the licensee's conduct to be a serious breach. Council suspended the licensee for one year (6 months for his breach of the third party's confidential information and 6 months for failing to properly inform the client of her options before taking an application for life insurance); fined him \$5,000; required the licensee to be supervised for two years after his suspension; and assessed investigative costs against him.
65. *Pamela Peen Hong Yee* (June 2019) concerned a licensee who had been licensed as a Life Agent since September 2000. Council considered allegations that included that the licensee had made material misrepresentations on a life insurance application submitted for a client, processed a life insurance application without receiving the client's consent, and improperly attempted to persuade the client to keep the policy after the client declined to proceed with the insurance. Council cancelled the licensee's Life Agent licence with no opportunity to reapply for two years; fined her \$5,000; and assessed her investigative and hearing costs.
66. *Ismat Simo* (September 2017) concerned a licensee alleged to have made recommendations to a client that were inappropriate and not in her best interest given her financial circumstances and risk tolerance. Council found the licensee's recommendations were detrimental to the client and were made without any due diligence, including the

most basic of needs analysis, by the licensee. Council found that the licensee was ill-prepared to provide proper advice to the client and that his recommendations, including his failure to document or conduct a needs analysis, brought into question his competency. Council suspended the licensee's licence pending the completion of certain courses; required him to be supervised by a qualified Life Agent for two years; and, assessed investigation costs against him.

67. Council also took into consideration Decision No. 2017-FIA-002(a), 003(a), 004(a) 005(a), 006(a), 007(a) and 008(a), published by the Financial Services Tribunal (the "FST") in July 2018 (the "Toll Bridge Decision"). This decision concerned seven licensees who had each, on multiple occasions, exploited a "glitch" in the Insurance Corporation of British Columbia's ("ICBC") software that allowed agents to bypass the normal system restrictions that, at the time, prevented Autoplan insurance from being renewed for a customer with outstanding toll bridge debts. Each of the licensees had used the glitch to allow customers to renew their insurance without first settling their toll bridge debts; the number of incidents ranged from 32 to 116. In each case, Council imposed a \$5,000 fine for misconduct. Council's decision, however, was challenged by the Financial Institutions Commission, which argued that \$5,000 fines were not significant enough sanctions given the untrustworthiness displayed by the licensees, and the matter was brought to the FST for review. The FST concluded that \$5,000 fines did not reasonably protect the public interest, and emphasized that, in these scenarios involving licensees habitually behaving in an untrustworthy manner, it was wrong to assume that they would not pose an ongoing risk to the public or ICBC. The FST stated that a suspension of six months and the requirement to take an ethics course should serve as the baseline reasonable penalty, which could be adjusted depending on the particular mitigating and aggravating factors applicable in each case. The FST directed Council to issue new penalties, and Council proceeded to do so, suspending the licensees' licences for varying lengths of time depending on the specifics of each case (between five to eight months), and requiring the licensees to complete an ethics course (although this requirement was waived for licensees who had taken an ethics course already, following commencement of the investigation into their conduct).
68. Council also considered the matter of *Grant Donald Stobbe and Okanagan Valley Insurance Services Ltd.*, (July 2020) where Council increased the fine imposed by \$2,500 to reflect the aggravating factor that the licensee was a nominee at the time of the impugned conduct to communicate to the insurance industry and the public that nominees are expected to meet the heightened expectations of their roles ethically and responsibly.
69. Of these previous decisions, the Committee determined that the cases of *Phovixayboulom, Yee, Simo* and the *Toll Bridge Decision* provided the most guidance.

70. As an experienced agent and the nominee of the Agency, the Licensee is required to provide an additional level of responsibility and oversight. Council's sanctions communicate to the Licensee, the insurance industry, and the 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.
71. With respect to the investigation costs, Council finds that these costs should be assessed to the Licensee. As a self-funded regulatory body, Council looks to licensees who have engaged in misconduct to bear the investigative costs of their discipline proceedings, so that the costs are not otherwise borne by British Columbia's licensees in general.

INTENDED DECISION

72. Pursuant to sections 231, 236 and 241.1 of the Act, Council made an intended decision to:
- (a) Suspend the Licensee's Life Agent licence for a period of one year, commencing on the date of Council's order;
 - (b) Impose a condition on the Licensee's Life Agent licence that he be supervised for 24 months of active licensing by a supervisor approved by Council, commencing when the licence suspension has been lifted;
 - (c) Require the Licensee to complete the following courses, or equivalent courses as acceptable to Council, prior to the licence suspension being lifted:
 - (i) the Insurance Institute's "Ethics and the Insurance Professional" course;
 - (ii) Advocis' "Compliance Toolkit: Know your Client and Fact Finding" course;
 - (iii) Advocis' "Compliance Toolkit: Know your Client and Suitability" course; and
 - (iv) the Council Rules Course, currently available through Advocis;
 - (d) Fine the Licensee \$7,500, due within 90 days of the date of Council's order;
 - (e) Assess the Licensee Council's investigation costs in the amount of \$1,737.50, due within 90 days of Council's order;
 - (f) Impose a condition on the Licensee's Life Agent licence that requires him to pay the above-ordered fine and investigation costs in full prior to the licence suspension being lifted, and the Licensee will not be permitted to complete his

2023 annual filing until such time as the fine and investigation costs have been paid in full.

73. Subject to the 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.

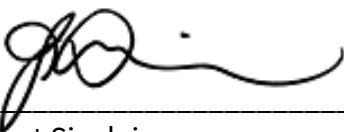
RIGHT TO A HEARING

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

75. Even if this decision is accepted by the Licensee, pursuant to section 242(3) of the Act, the British Columbia Financial Services Authority ("BCFSA") still has a right of appeal to the 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.fst.gov.bc.ca or visit the guide to appeals published on their website at www.fst.gov.bc.ca/pdf/guides/ICGuide.pdf.

Dated in Vancouver, British Columbia, on the 6th day of December, 2021.

For the Insurance Council of British Columbia



Janet Sinclair
Executive Director