

In the Matter of the

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

and the

INSURANCE COUNCIL OF BRITISH COLUMBIA
 (“Council”)

and

DALJIT SINGH SIDHU
(the “Nominee”)

and

S&S INSURANCE SERVICES (SURDEL) LTD.
(the “Agency”)

ORDER

As Council made an intended decision on June 13, 2023, pursuant to sections 231, 236, and 241.1 of the Act; and

As Council, in accordance with section 237 of the Act, provided the Nominee and Agency with written reasons and notice of the intended decision dated July 5, 2023; and

As the Nominee or 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 that:

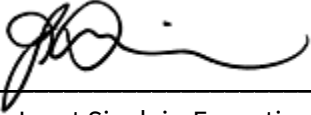
- 1) The Nominee be reprimanded;
- 2) The Nominee be required to complete the following courses, or equivalent courses as acceptable to Council, by October 30, 2023:
 - i. the Council Rules Course for general insurance and adjusters;

- ii. the Ethics for Insurance Brokers Course available through the Insurance Brokers Association of BC; and
- iii. Nominee Responsibilities and Best Practice Course for General Insurance and Adjuster Nominees and Applicants

(collectively, the “Courses”);

- 3) The Agency be fined \$7,500, to be paid by October 30, 2023;
- 4) The Agency be assessed Council’s investigation costs in the amount of \$2,468.75, to be paid by October 30, 2023.
- 5) A condition be imposed on the Nominee’s general insurance agent licence that failure to complete the Courses by October 30, 2023 will result in the automatic suspension of the Nominee’s general insurance agent licence, and the Nominee will not be permitted to complete the Nominee’s 2025 annual licence renewal until such time as the Nominee has complied with the conditions listed herein; and
- 6) A condition be imposed on the Agency’s general insurance licence that failure to pay the fine and investigation costs in full by October 30, 2023 will result in the automatic suspension for the Agency’s general insurance licence, and the Agency will not be permitted to complete the Agency’s 2025 annual licence renewal until such time as the Licensee has complied with the conditions listed herein.

This order takes effect on the **1st day of August 2023**



Janet Sinclair, Executive Director
Insurance Council of British Columbia

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA

(“Council”)

respecting

DALJIT SINGH SIDHU

(“the Nominee”)

and

S&S INSURANCE SERVICES (SURDEL) LTD.

(“the Agency”)

1. Pursuant to section 232 of the *Financial Institutions Act* (the “Act”), Council conducted an investigation to determine whether the Nominee and Agency acted in compliance with the requirements of the Act, Council Rules 7(3), 7(6), 7(8), 7(9), and Code of Conduct, and in particular to determine whether the Nominee and Agency breached section 3 (“Trustworthiness”); section 4 (“Good Faith”); section 5 (“Competence”); and section 13 (“Compliance with Governing Legislation and Council Rules”) of the Code of Conduct regarding whether an Agency and Nominee allowed an agent to continue to conduct insurance business while unlicensed and for failing to notify Council as to the reason the Agency withdrew the agent’s authorization from the Agency as it related to the agent’s suitability and conduct of fraud.
2. On April 13, 2023, as part of Council’s investigation, a Review Committee (the “Committee”) comprised of Council members met via video conference with the Nominee and Agency’s legal counsel to discuss the investigation. The Nominee and Agency did not attend but made submissions through their legal counsel. An investigation report prepared by Council staff was distributed to the Committee and the Nominee and Agency’s legal counsel prior to the meeting. A discussion of the investigation report took place at the meeting and the Nominee and Agency’s legal counsel was given an opportunity to make submissions and provide further information. Having reviewed the investigation 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 13, 2023, meeting, where it was determined the matter should be disposed of in the manner set out below.

PROCESS

4. Pursuant to section 237 of the Act, Council must provide written notice to the Nominee 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 Nominee 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 Nominee and Agency.

FACTS

5. The Agency has held a corporate general insurance licence with the Insurance Council since January 16, 2015. The Nominee has maintained an active general insurance licence since November 30, 1981, and has been the nominee of the Agency since January 16, 2015.
6. On September 8, 2021, the Insurance Council received a telephone call from a former general insurance licensee, YS, indicating that they were surprised to learn that their licence had been terminated on August 1, 2020, for non-renewal. YS disclosed during the call that they had been continuously practicing, as YS had believed they were licensed. Council staff confirmed that a termination letter had been sent around September 2020 to YS by email and no delivery error messages had been received.
7. YS maintained a general insurance licence with the Insurance Council from July 5, 2012, until the termination for non-renewal on August 1, 2020. YS held an authority to represent ("ATR") the Agency from April 28, 2016, to August 1, 2020, when it was ended for non-renewal.
8. Council's investigator contacted the Nominee of the Agency to request an explanation as to why YS was unlicensed, as well as a copy of the Agency's licensing procedures. MJ, a representative of the Agency, responded on September 21, 2021, that they had been unaware that YS had been unlicensed. The Agency had assumed that their previous Licensing and Compliance Officer, who had resigned from the Agency in January 2021,

had completed all the annual filings as required. The previous Licensing and Compliance Officer who had resigned, advised Council's investigator that they were only responsible for renewals of individuals working in the office, and since YS was a producer, they were not responsible for completing YS's annual filing.

9. On October 27, 2021, Council's investigator emailed the Nominee and requested documentation that the Agency had submitted YS's licence renewal for 2021, as well as a complete list of the Agency's licensees from August 2020 to October 27, 2021. The response received from MJ on November 4, 2021, included the requested list, and also noted that there were no filing documents submitted for YS in 2021 because YS was terminated from the Agency on May 28, 2021.
10. MJ stated that the Agency had neglected to revoke YS's ATR with Council when YS was terminated but said the Agency has since reiterated the correct procedures with the licensing team. However, there was no ATR to revoke as YS was terminated and unlicensed at the time of their termination.
11. Council's investigator requested the circumstances of YS's termination from MJ, as well as supporting documentation. On November 19, 2021, MJ replied that YS had been terminated from the Agency for a lack of compliance with policies and procedures. YS was found to be collecting premiums from clients by Interac e-Transfer and cash and not forwarding the funds to the Agency. YS was also not taking care with clients' credit card information. MJ stated that as a result, the Agency had subsequently sent a company-wide email regarding cash-handling and credit card procedures.
12. On November 15, 2021, Council's investigator was provided a copy of an email from MJ that was sent to YS on May 28, 2021, noting that YS's termination from the Agency was effective immediately, and that YS was to return the funds (\$3,500) YS had admitted to collecting from clients in February 2021. A second email from MJ to YS on May 31, 2021, noted that the funds had not yet been returned as promised. MJ also indicated that the Agency would report YS to Council if the funds were not returned by the end of the day, as YS had not acted in good faith in accordance with their insurance licence.
13. Council noted that YS's conduct was brought to the Agency's attention in May 2021, and appeared to have occurred between January 2020 and May 2021. It is important to note

that during the period from August 2, 2020, to May 2021, YS continued to work at the Agency while unlicensed.

14. The Agency was asked for clarification as to why the Agency did not revoke YS's ATR or notify Council of the reasons for their withdrawal of the ATR as it related to YS's suitability. MJ stated that the commercial senior management team intended to revoke YS's ATR and report the breach to Council, but it was missed with "all that was going on with this situation." The senior management team had hoped to resolve the situation internally for the sake of a past business and family relationship, but with hindsight they were aware that the conduct of YS should have immediately been reported to Council.
15. Legal Counsel for the Nominee and Agency submitted that the Nominee does not refute fault in the matter and takes responsibility for the incident. The Nominee noted that the Agency was dealing with high employee turnover in 2020, and there was a miscommunication of roles and responsibilities. Counsel for the Nominee and Agency submitted that the Nominee acknowledged that the Agency should have reported the withdrawal of the ATR immediately to Council. However, the Agency focused on their own internal investigation of the matter and ensuring that all misappropriated funds were returned. The Agency now has one person who is solely responsible for all licence renewals to avoid any confusion as to which individual is responsible for different licence renewals.

ANALYSIS

16. Council was concerned about the lack of procedures and policies in place to ensure that all licensees were properly licensed within the Agency, which permitted YS without an ATR to conduct insurance activities on behalf of the Agency. Council found the Nominee should have been aware YS did not have an ATR with the Agency. This demonstrated a lack of supervision and oversight of the Agency by the Nominee. Council concluded there were not sufficient procedures in place to ensure that the Agency was not employing unlicensed persons to conduct insurance business. A nominee of an agency is responsible to Council for activities of the insurance agency, and in this instance, the Nominee is responsible for the failure of the Agency in implementing proper procedures regarding unlicensed activities within the Agency.

17. Council concluded the Agency and Nominee breached Council Rules 7(3)(b) and (c) as they failed to notify Council within five business days when a licensee no longer held an ATR with the Agency and failed to provide the reason for withdrawing the authorization as it related to suitability or conduct of a licensee. Council notes the Agency and Nominee should have been aware of their responsibility to notify Council of YS's withdrawal of the ATR but chose to deal with YS's conduct within the Agency.
18. The Agency, as a licensed person or entity, is responsible for the actions of its staff and the proper management of the Agency is ultimately the Nominee's responsibility.
19. Council considered the actions of the Nominee and Agency against the impact of Council Rules 7(3), 7(6), 7(8) and Council's Code of Conduct guidelines on the Nominee and Agency's conduct, including section 3 ("Trustworthiness"), section 4 ("Good Faith"), section 5 ("Competence") and section 13 ("compliance with Governing Legislation and Council Rules"). Council concluded that the Nominee and Agency's conduct amounted to breaches of the above Rules and Code of Conduct sections and the professional standards set by the Code.
20. Prior to making its recommendation, Council took into consideration the following precedent cases. While Council recognizes that Council is not bound by precedent and that each matter is decided on its own facts and merits, Council found that these decisions were instructive in terms of providing a range of sanctions for similar types of misconduct.
21. [*All Write Insurance Agencies Ltd. dba All Write Insurance Service*](#) (August 2016): Council concluded there were concerns regarding a lack of policies and procedures at the agency. There was a licensee who was permitted to conduct insurance business on behalf of the agency without having an authority to represent. Council noted concern that the agency and nominee had a lack of policies and procedures to ensure compliance with Council Rules. The nominee was unable to contact two salespersons who had an active authority to represent and was unable to say whether they had an authority to represent at another agency. However, Council noted that it was the agency's decision whether the licensees were permitted to continue to represent the agency. As the two licensees still had ATRs with the agency, Council determined the agency had not breached Council Rules by failing to notify Council within five business days when a licensee no longer had an ATR

with the agency. Council found the licensees in question still had the ATR with the agency. Council ordered a fine of \$2,500 and investigation costs against the agency.

22. [All Write Insurance Services \(2013\) Ltd](#) (August 2016): The agency's insurance licence was terminated on July 31, 2015, for failing to submit its annual filing with Council. The nominee advised that the accountant was left to ensure the licence was reinstated. However, during this time frame the agency did not cease conducting insurance activity at the agency. It was not until October 2015 that the agency licence was reinstated. Additionally, in August 2015, while the agency licence was terminated, a licensee who did not have authority to represent the agency conducted insurance activities on behalf of the agency. Council ordered a fine of \$5,000 and investigation costs against the agency.
23. [Mapleleaf Insurance Services Ltd.](#) (April 2016): A licensee of the agency failed to submit his annual filing resulting in a termination of his general insurance licence on July 31, 2014. The licensee did not become aware of the termination until September 5, 2014, and was not reinstated until November 24, 2014. The nominee became aware of the licensee's unlicensed status on October 28, 2014, and instructed the licensee to stop engaging in insurance activities, however the licensee did not comply with the nominee's direction. The licensee completed many insurance transactions during the time he was unlicensed. Council determined there was a lack of procedures in place to ensure all licensees were properly licensed. Council ordered a fine of \$10,000 against the agency as well as investigation costs.
24. Council gave consideration to relevant mitigating and aggravating factors in this matter. The primary mitigating factor was that the Nominee acknowledged the misconduct, and that there were some staffing issues within the Agency due to COVID-19. Additionally, Council considered as mitigating factors that the Agency made new procedures for the Agency and made staffing changes. Council noted that in email correspondence between MJ and YS, MJ had noted that the Agency would report YS to Council for their misappropriation of client funds, however, the Agency never did. In Council's view this was an aggravating factor as it demonstrated that the Agency was aware that this kind of behaviour was unacceptable and failed to notify Council as to the circumstances regarding YS's termination with the Agency. Council concluded that not having proper procedures in place and allowing an unlicensed individual to conduct insurance business for a substantial period of time presented a risk to the public. Both the duration of the unlicensed individual and the risk to the public in allowing an unlicensed individual to

conduct insurance business were considered as aggravating factors. Overall, Council found the aggravating factors to outweigh the mitigating factors.

25. After weighing all of the relevant considerations, Council views the Nominee and Agency to be in breach of Council's Rules and the Code of Conduct and concluded that it is appropriate for the Nominee to be reprimanded and required to complete the Council Rules Course, the Nominee Responsibilities and Best Practice Course for General Insurance and Adjuster Nominees and Applicants course, and the Ethics for Insurance Brokers Course available through The Insurance Brokers Association of BC. Council concludes that it is appropriate that the Agency be assessed a fine of \$7,500, as the misconduct aligned with the higher end of the precedents but did not warrant the same fine as in the [Mapleleaf Insurance Services Ltd.](#) case. The Nominee in this instance did not know YS was unlicensed, whereas in the [Mapleleaf Insurance Services Ltd.](#) case, the Nominee and Agency knew an employee was unlicensed and did not take proper steps to ensure the licensee ceased all insurance activities.
26. With respect to investigation costs, Council believes 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

27. Pursuant to sections 231, 236 and 241.1 of the Act, Council made an intended decision that:
 - a. The Nominee be reprimanded;
 - b. The Nominee be required to complete the following courses, or equivalent courses as acceptable to Council, within 90 days of Council's order:
 - i. the Council Rules Course for general insurance and adjusters;
 - ii. the Ethics for Insurance Brokers Course available through the Insurance Brokers Association of BC; and

- iii. Nominee Responsibilities and Best Practice Course for General Insurance and Adjuster Nominees and Applicants (collectively, the “Courses”);
 - c. The Agency is fined \$7,500, to be paid within 90 days of Council’s order;
 - d. The Agency be assessed Council’s investigation costs in the amount of \$2,468.75, to be paid within 90 days of Council’s order;
 - e. A condition be imposed on the Nominee’s general insurance agent licence that failure to complete the Courses within 90 days will result in the automatic suspension of the Nominee’s general insurance agent licence, and the Nominee will not be permitted to complete the Nominee’s 2025 annual licence renewal until such time as the Nominee has complied with the conditions listed herein; and
 - f. A condition be imposed on the Agency’s general insurance licence that failure to pay the fine and investigation costs in full within 90 days will result in the automatic suspension of the Agency’s general insurance licence, and the Agency will not be permitted to complete the Agency’s 2025 annual licence renewal until such time as the Licensee has complied with the conditions listed herein.
28. Subject to the Nominee and 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.

RIGHT TO A HEARING

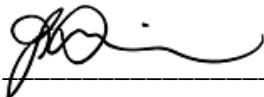
29. If the Nominee and/or Agency wishes to dispute Council’s findings or its intended decision, the Nominee and/or Agency may have legal representation and present a case in a hearing before Council. Pursuant to section 237(3) of the Act, to require Council to hold a hearing, the Nominee and/or Agency 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 Nominee and/or Agency does not request a hearing within 14 days of receiving this intended decision, the intended decision of Council will take effect.

30. Even if this decision is accepted by the Nominee and/or 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.fst.gov.bc.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 **5th day of July, 2023**

For the Insurance Council of British Columbia



Janet Sinclair
Executive Director