

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

and the

**INSURANCE COUNCIL OF BRITISH COLUMBIA**  
 (“Council”)

and

**VIRLIE AIMENDRAL CANLAS**  
(the “Former Licensee”)

**ORDER**

As Council made an intended decision on September 22, 2020, pursuant to sections 231 and 241.1 of the Act; and

As Council, in accordance with section 237 of the Act, provided the Former Licensee with written reasons and notice of the intended decision dated November 9, 2020; and

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

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

1. Council will not consider an application for any insurance licence from the Former Licensee for a period of five years, commencing on the date of this order and ending at midnight on November 30, 2025; and
2. The Former Licensee is assessed investigative costs of \$1,500, due and payable by March 1, 2021.

This order takes effect on the **30<sup>th</sup> day of November, 2020**.



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Janet Sinclair, Executive Director  
Insurance Council of British Columbia

## **INTENDED DECISION**

of the

### **INSURANCE COUNCIL OF BRITISH COLUMBIA**

(“Council”)

respecting

### **VIRLIE AIMENDRAL CANLAS**

(the “Former Licensee”)

1. Pursuant to section 232 of the *Financial Institutions Act* (the “Act”), Council conducted an investigation to determine whether the Former Licensee acted contrary to the prohibition against excessive rebating of premiums set out in section 79(1) of the Act and section 2 of the accompanying *Marketing of Financial Products Regulation* (the “Regulation”). The investigation also explored whether the Former Licensee had breached Council Rule 7(8), which requires that licensees must comply with Council’s Code of Conduct, Council Rule 7(9), which requires licensees to keep books, records and other documents necessary for the proper recording of insurance transactions and related financial affairs, and sections 3 (“Trustworthiness”), 4 (“Good Faith”), 5 (“Competence”), 6 (“Financial Reliability”) and/or 7 (“Usual Practice: Dealing with Clients”) of the Code of Conduct.
2. The allegations against the Former Licensee concerned his conduct throughout 2017 and 2018. The allegations included that the Former Licensee incentivized clients to apply for life insurance by offering them rebates for the entire first year’s premiums; that he failed to conduct sufficient needs-based assessments for his clients, and was in fact knowingly selling insurance products to clients that went beyond their needs; and that he was conducting unlicensed securities activities.
3. On August 11, 2020, as part of Council’s investigation, a Review Committee (the “Committee”) comprised of Council members met with the Former Licensee via video conference to discuss the investigation. An investigation report prepared by Council staff was distributed to both the Committee and the Former Licensee in advance of the meeting. A discussion of the investigation report took place at the meeting, and the Former Licensee was given an opportunity to make submissions or provide any further information. Having reviewed the investigation materials and after discussing the matter with the Former Licensee, the Committee prepared a report for Council.

4. The Committee's report, along with the aforementioned investigation report, were reviewed by Council at its September 22, 2020 meeting, where it was determined 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 Licensee of the action it intends to take under sections 231, 236 and 241.1 of the Act before taking any such action. The Former Licensee 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 Licensee.

## **FACTS**

6. The Former Licensee first became licensed with Council as a life and accident and sickness insurance agent ("Life Agent") in July 1999. During the material time period, he had contracts with two managing general agencies, but mainly submitted applications only through one of them ("the Agency"). The Former Licensee's contract with the Agency was terminated effective December 21, 2018. His Life Agent licence was subsequently terminated by Council on August 1, 2019 for non-filing.
7. The Former Licensee had also been registered to sell mutual funds from September 2009 until August 2012 with a mutual funds dealer, and from August 2012 until September 2016 through a different mutual funds dealer. The Former Licensee was registered to sell mutual funds in both British Columbia and Ontario, and held a Certified Financial Planning designation through FP Canada between 2002 and 2017.
8. In December 2018 and January 2019, the Agency's nominee (the "Nominee") notified Council that the Former Licensee's contract with the Agency had been terminated due to allegations concerning his business practices, including that he had engaged in a rebating scheme that involved rebating of entire first year premiums to insurance policy holders, and that he had been conducting unlicensed securities activities since 2014 with funds he received from consumers. The Nominee stated that the Former Licensee had become indebted to the Agency as the result of chargebacks caused by the lapse or termination of life insurance policies that the Former Licensee had applied for and issued in 2017.
9. Documents subsequently received by Council indicated that the Former Licensee had 79 clients who terminated or lapsed their insurance policies between February 2017 and January 2019, which led to a total of \$258,940.93 in chargebacks.

10. In the course of Council's investigation, the Former Licensee disclosed that he had used the commissions he received to pay client premiums, and although this had initially worked, the plan started to unravel when clients began cancelling their policies. By May 2018 the Former Licensee was no longer financially able to continue paying his clients' premiums or the chargebacks that were being incurred.
11. The Former Licensee admitted during the investigation that he had knowingly sold his clients life insurance products that went beyond their needs. He also revealed that his files did not contain supporting documents relating to his insurance recommendations, and that he did not undertake fact-finding measures or perform needs analyses for his clients. The Former Licensee explained that he had not been conducting needs-based assessments because his recommendations were not based on what his clients needed.
12. The Agency is currently pursuing a civil suit against the Former Licensee as a result of the chargebacks, seeking relief of over \$200,000. The Former Licensee is also indebted to a former client for an amount in excess of \$85,000 as the result of a March 2020 court judgement relating to allegations similar to those investigated by Council.
13. The Nominee advised that the Agency was not aware of the Former Licensee's unauthorized activities or business practices prior to December 2018, and had not received any complaints from customers or policy owners related to either the insurance policies still in place, or for the policies that have since lapsed due to non-payment of premiums.

#### **REVIEW COMMITTEE MEETING**

14. The Former Licensee admitted to the Committee that he had engaged in rebating the entirety of first-year premiums to insurance policy holders, and that he used the commission payments he received to pay his clients' premiums. He stated that he had carried out this rebating scheme only through the Agency.
15. The Former Licensee explained that in 2017 he was having major financial problems, which made him come up with a plan designed to increase his insurance production volume in an unethical way, with the hope that in subsequent years he would be able to increase production and earn commissions by doing "real business." To this end, he convinced his clients to obtain life insurance, even if they did not require coverage, with the agreement that he would pay their first-year premiums in full. The Former Licensee indicated that he also paid a bonus to some clients, in addition to agreeing to pay for their premiums.
16. In response to a Committee question, the Former Licensee confirmed that he had not done needs analyses for the clients to whom he had sold life insurance under this rebating

scheme. The Former Licensee stated that he only started to conduct needs analyses and fill out disclosure forms after being requested to do so by the Agency, when it began to be concerned about his high production volume.

17. The Former Licensee also acknowledged that the forms he was filling out in relation to these transactions were incomplete, and that what he was sending to the Agency were application forms and illustrations that were completed after he had met with clients. The Former Licensee admitted that by doing so he had not been following the Agency's guidelines regarding the use of forms during sales.
18. In response to a Committee question regarding whether the Former Licensee received supervision and/or training from the Agency, the Former Licensee indicated that he had not received any supervision from the Agency during the relevant time period because he was an experienced broker who "knew what [he] was doing in terms of selling insurance." The Former Licensee also stated that prior to 2017 there had not been any issues with the policies he submitted through the Agency, and so the Agency did not think there was a need to supervise him. He further explained that training had been available through the Agency, but that he chose not to access those training resources as he did not think he needed them. The Former Licensee stated that he had attended other seminars instead to fulfill his continuing education requirements.
19. The Former Licensee also admitted to the Committee that, although he was not licensed to conduct securities transactions, he took money from clients who were friends and family members to invest and promised them returns on their investments. He also stated that he had not issued any tax slips for income provided to these clients. Many of them lost money as a result of these investments.
20. The Former Licensee told the Committee that he is in the process of attempting to repay some of his clients. He stated that he is prioritizing repaying clients to whom he owes smaller amounts (in the range of \$3,000 – \$4,000) and those who are seniors.
21. Throughout the meeting, the Former Licensee expressed extreme remorse and embarrassment, and recognized that his actions were a huge mistake that had adversely affected many people. He also stated that his intention had not been to harm anyone financially, but only to make use of a temporary scheme intended to help him get out of debt. He further explained that he is now working two jobs as he attempts to pay back those to whom he owes money.

22. The Former Licensee indicated that, if given the opportunity, he would like to have the chance to correct the situation that his misconduct has created, and that he would like to be retrained in the insurance industry.

## **ANALYSIS**

23. After due consideration of the investigation report, as well as of the Former Licensee's verbal submissions and admissions, Council finds that the Former Licensee engaged in egregious professional misconduct, for his own personal benefit, that included promising to rebate entire first-year premiums to clients, knowingly selling clients unsuitable insurance products, failing to perform needs analyses or keep sufficient records, and conducting unlicensed securities activities. In doing so, the Former Licensee breached section 79(1) of the Act, section 2 of the Regulations, Council Rules 7(8) and 7(9), and sections 3, 4, 5, 6 and 7 of the Code of Conduct.

24. Prior to making its disposition, Council took three previous cases into consideration, all of which had involved licensees who made unsuitable recommendations and sold unsuitable life insurance products. Although Council is not bound to follow the outcomes from prior decisions, it acknowledges that similar conduct should result in similar outcomes within a reasonable range depending on the particular facts of the case.

25. *Sherry Lynn Matthews* (August 22, 2008) concerned a former licensee who, as a Life Agent, had made recommendations to three clients that were unsuitable given the clients' stated needs and financial circumstances. Despite the clients having widely varying needs, the licensee had them all invest in similar insurance policies. Council also determined that the licensee did not complete adequate needs analyses, failed to keep adequate documentation and notes on client files, and did not explain certain important concepts to her clients. Council cancelled the former licensee's licence for three years, fined her \$10,000, assessed her investigative costs of \$6,150.80, and ordered her to complete courses in the Certified Financial Planner curriculum.

26. *Alan John Farey* (March 23, 2011) concerned a Life Agent licensee who recommended that a retired client of modest resources and limited income should redeem a portion of her variable annuity contract in order to invest in an unregulated, risky, and inappropriate investment. The investment was a scam, and the client lost money. Council determined that, even if the investment had not been a scam, it still would have been irresponsible conduct for a licensee to recommend it. Nothing about the investment aligned with the client's profile and circumstances, which were well known to the licensee. Council also noted that the licensee's actions were somewhat self-serving as he stood to benefit financially from his

actions. The licensee's licence was cancelled for two years, he was fined \$10,000, and he was assessed investigation costs of \$1,750 as well as hearing costs of \$2,979.35.

27. *Roberta Merlin McIntosh* (November 21, 2012) concerned a former licensee who, as a Life Agent, had solicited funds from her existing and former insurance and mutual fund clients for investment in an unregulated private equity investment company she worked for, and which subsequently went bankrupt. Due to the age and financial status of the clients involved, the significant investments were clearly unsuitable, and resulted in serious financial harm to the clients. Council cancelled the former licensee's licence for a period of five years and assessed her investigation costs of \$2,700.
28. Council also took relevant mitigating and aggravating factors into account. A mitigating factor acknowledged by Council was that the Former Licensee had been forthright throughout the investigation and appeared to be sincerely remorseful for and embarrassed by his misconduct. Council also accepted the Former Licensee's statement that he intends to repay those to whom he owes money, and acknowledges that the Former Licensee is currently making efforts to repay some of the affected clients.
29. There were also several aggravating factors identified by Council, which included: that the Former Licensee's misconduct was not an isolated act, but rather was a pattern of unethical behavior taking place over a lengthy period of time; that the Former Licensee's actions were intentional; that he was motivated purely by personal financial gain; that his actions caused financial harm to both the Agency and his clients; and that he was an experienced licensee at the material time.
30. In consideration of the seriousness of the Former Licensee's misconduct, the precedents, the principles of specific and general deterrence, and the need to maintain public confidence in the insurance industry, Council concluded that it is necessary to prohibit the Former Licensee from holding an insurance licence for at least five years.
31. Council notes that the Former Licensee's misconduct was egregious enough to justify the imposition of a fine, in addition to a five-year licence prohibition. The *Farey* and *Matthews* precedent cases also support the imposition of a fine. However, in consideration of the significant debts that the Former Licensee owes to both the Agency and his former clients, Council has elected not to fine the Former Licensee, as doing so might adversely impact his stated efforts to repay his debts.
32. Council is, however, assessing its investigative costs to the Former Licensee. As a self-funded regulatory body, Council looks to licensees who have engaged in misconduct to bear the

costs of their disciplinary proceedings, so that those costs are not otherwise borne by British Columbia's licensees in general.

#### **INTENDED DECISION**

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

- I. Not consider an application for any insurance licence from the Former Licensee for a period of five years from the date of Council's order; and
- II. Assess the Former Licensee Council's investigative costs of \$1,500, due and payable within 90 days of Council's order.

34. Subject to the Former 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**

35. If the Former Licensee wishes to dispute Council's findings or its intended decision, the Former Licensee 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 Former Licensee must give notice to Council by delivering to its office written notice of this intention within 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 Licensee does not request a hearing within 14 days of receiving this intended decision, the intended decision of Council will take effect.

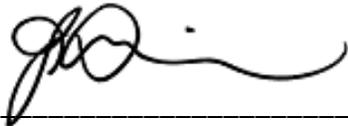
36. Even if this decision is accepted by the Former Licensee, pursuant to section 242(3) of the Act, the British Columbia Financial Services Authority ("BCFSA") still has a right of appeal to the Financial Services Tribunal ("FST"). The BCFSA has 30 days to file a Notice of Appeal, once Council's decision takes effect. For more information respecting appeals to the FST,

Intended Decision  
Virlie Aimendral Canlas  
LIC-141355C84152R1, COM-2019-00008  
November 9, 2020  
Page 8 of 8

please visit their website at [fst.gov.bc.ca](http://fst.gov.bc.ca) or visit the guide to appeals published on their website at [www.fst.gov.bc.ca/pdf/guides/ICGuide.pdf](http://www.fst.gov.bc.ca/pdf/guides/ICGuide.pdf).

Dated in Vancouver, British Columbia, on the **9<sup>th</sup> day of November, 2020.**

For the Insurance Council of British Columbia

A handwritten signature in black ink, appearing to read 'Janet Sinclair', written over a horizontal line.

Janet Sinclair  
Executive Director  
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