

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

and the

INSURANCE COUNCIL OF BRITISH COLUMBIA
(“Council”)

and

ANNE ASENCÉ SERVITA
also known as
ANNE ASENCÉ VILLAFUERTE
(the “Former Licensee”)

ORDER

As Council made an intended decision on October 16, 2018, pursuant to sections 231, 236, and 241.1 of the Act; and

As Council, in accordance with section 237 of the Act, provided the Former Licensee with written reasons and notice of the intended decision dated January 15, 2019; 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, 236, and 241.1 of the Act, Council orders:

1. Council will not consider an application for any level of licence from the Former Licensee for a period of two years from the date of Council’s order;
2. the Former Licensee must requalify for an insurance licence prior to submitting an application to Council; and
3. the Former Licensee must pay Council’s investigation costs of \$1,625.00.

This order takes effect on the **4th day of February, 2019.**



Ken Kukkonen
Chairperson, Insurance Council of British Columbia

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA

(“Council”)

respecting

ANNE ASENCÉ SERVITA

also known as

ANNE ASENCÉ VILLAFUERTE

(the “Former Licensee”)

Pursuant to section 232 of the *Financial Institutions Act* (the “Act”), Council conducted an investigation to determine whether the Former Licensee acted contrary to her duties to be trustworthy and act in good faith in accordance with the usual practice of the business of insurance, as set out by sections 3.2, 4.2, and 7.2 of Council’s Code of Conduct and Council Rule 7(8) which requires her to comply with Council’s Code of Conduct.

The Former Licensee was provided a copy of the investigation report and offered an opportunity to make further submissions to a review committee comprised of Council members. However, as the Former Licensee declined to attend before a committee, the matter proceeded directly to Council for consideration at its October 16, 2018 meeting where it was determined the matter should be disposed of in the manner set out below.

PROCESS

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 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

The Former Licensee had been licensed as a life and accident and sickness insurance agent (“Life Agent”) with Council since June 2015 until she terminated her licence in June 2018. She also held a life agent licence in Ontario until it was terminated in August 2017.

The Former Licensee was authorized to represent an agency in British Columbia (the “Agency”) from June 17, 2015 until August 1, 2017 when her authorization was terminated. During this time, the Former Licensee was contracted to represent two insurers until both companies ended the arrangement in August 2017.

By way of background, in February 2017, the Agency determined that the Former Licensee had attempted to place insurance for an Ontario-based client without being licensed in that province (the

Former Licensee subsequently attained an Ontario licence). The insurance transaction eventually did not proceed but in the process of completing the application, the Former Licensee used electronic means to communicate with the client instead of conducting the conversation face-to-face as required by the Agency. The Former Licensee also affixed the client's signature, with the client's permission, via an e-signature obtained through a social media messaging service. The situation resulted in the issuance of a warning letter by the Agency to the Former Licensee with a direction to obtain an Ontario licence and a reminder that all meetings with clients, from the initial sales presentation right through to the policy delivery, were to be face-to-face and that all signatures had to be obtained in person.

Then, in July 2017, it came to the Agency's attention that the Former Licensee had forged a signature on a conflict of interest form submitted to Council as part of her mentee's insurance license application. The Agency also discovered that, contrary to its procedures, the Former Licensee had attempted to mail insurance policies to three clients rather than personally deliver the policies. The mailings were discovered when they were returned to the Agency due to non-delivery. The Agency confronted the Former Licensee who admitted the conduct. The Agency then notified Council of the matter and conducted further investigation.

After admitting the conflict of interest form forgery to the Agency, the Former Licensee asked her mentee to falsely declare that she had authorized the Former Licensee to sign on her behalf. However, the mentee refused and, when later questioned by the Agency, advised that the Former Licensee had asked her to lie.

In addition, the Agency determined that the Former Licensee:

- forged a client's signature on a Policy Owner Confirmation of Insurance Policy Delivery form. On questioning, the Former Licensee not only admitted the forgery but also that the client had not received the insurance policy;
- appeared to have electronically cut and pasted another client's signature on several insurance documents including a Policy Owner Confirmation of Insurance Policy Delivery form. The signature appeared to have been taken from the original insurance application which the client did sign in September 2016. However, the client advised the Agency that, although the signatures on the subsequent documents appeared to be hers, she did not sign them herself as she never met with the Former Licensee after September 2016 and was still waiting for a copy of her insurance policy; and
- appeared to have electronically cut and pasted a further client's signature on a Policy Owner Confirmation of Insurance Policy Delivery form.

In December 2017, one of the insurers the Former Licensee was contracted to represent advised Council it determined that 21 of the Former Licensee's 46 client files contained what appeared to be signatures that had been electronically cut and pasted to a variety of forms including life insurance applications, illustrations, beneficiary change forms, health questionnaires, and pre-authorized debit requests. The

insurer further advised that no clients had been harmed by the misconduct and that it had terminated its contract with the Former Licensee.

In March 2018, the Former Licensee admitted to Council's investigator that she had electronically copied and pasted signatures on the insurer's documentation. However, she did not know if 21 out of 46 was correct. She further advised that she thought electronic signatures were valid and acceptable in the insurance industry and that she used them for the convenience of her clients. The Former Licensee also claimed that she was not aware of the Agency's policy that signatures were to be obtained in person and insurance policies delivered face-to-face. The Former Licensee made these statements despite the fact that, in February 2017, the Agency's warning letter specifically advised her as such.

ANALYSIS

Council Rule 7(8) requires a licensee to comply with Council's Code of Conduct, as amended from time to time.

Section 3.2 of Council's Code of Conduct states:

You must be trustworthy, conducting all professional activities with integrity, reliability and honesty. The principle of trustworthiness extends beyond insurance business activities. Your conduct in other areas may reflect on your trustworthiness and call into question your suitability to hold an insurance licence.

Section 4.2 of the Code of Conduct states:

You must carry on the business of insurance in good faith. Good faith is honesty and decency of purpose and a sincere intention on your part to act in a manner which is consistent with your client's or principal's best interests, remaining faithful to your duties and obligations as an insurance licensee.

You also owe a duty of good faith to insurers, insureds, fellow licensees, regulatory bodies and the public.

Section 7.2 of the Code of Conduct states:

When dealing with clients you must:

- *protect clients' interests and privacy;*
- *evaluate clients' needs;*
- *disclose all material information; and*
- *act with integrity, competence and the utmost good faith.*

The Former Licensee knowingly submitted a forged signature to Council and then asked the individual whose signature she copied to lie about it. The Former Licensee also submitted transactional documents to insurance companies which bore a forged signature in one instance and electronically cut and pasted signatures in multiple others. In addition, the Former Licensee misrepresented to the Agency at least twice that clients had received a copy of their insurance policies when in fact they had not.

After considering this conduct, Council concluded that the Former Licensee failed in her duties to be trustworthy and act in good faith in accordance with the usual practice of the business of insurance. As such, the Former Licensee breached Council Rule 7(8) and sections 3.2, 4.2, and 7.2 of Council's Code of Conduct and a penalty is warranted.

Where Council concludes there has been a breach of conduct by a licensee, it must determine the appropriate sanction keeping in mind that the fundamental purpose of sanctioning misconduct is to ensure the public is protected from further acts of misconduct by the licensee and to deter and prevent other licensees from committing similar acts. Council is not bound by precedent to follow the outcomes from prior decisions, but similar conduct should result in similar outcomes within a reasonable range.

In this case, Council considered the following previous decisions in determining an appropriate sanction for the Former Licensee.

In an **August 2015** case, the licensee, a level 2 general insurance agent, forged a client's signature on an insurance application form. Council determined that the forgery was done for client convenience and not for personal benefit. Nevertheless, Council concluded that the licensee's action warranted discipline and fined the licensee \$1,000.00 and assessed investigative costs.

In an **April 2016** case, the licensee improperly conducted a transaction contrary to Insurance Corporation of British Columbia ("ICBC") procedures and then repeatedly attempted to mislead her employer and Council. Council held that the Licensee's attempt in covering up her actions reflected more seriously on her suitability to be an insurance licensee than the actual transaction. Council suspended the licensee for one year, ordered that she be supervised for a subsequent two-year period, required her to complete a number of courses, fined her \$500.00 and assessed Council's investigative and hearing costs.

In a **March 2017** case, the licensee improperly executed an ICBC insurance cancellation document by signing the document on behalf of the client. Council fined the licensee \$1,000.00, required her to successfully complete the Council Rules Course and imposed a condition that she disclose Council's decision to any agency for which she has an authority to represent for two years from the date of Council's order.

In a **September 2018** case, the licensee submitted a loan application to an insurer for a client's investment purchase. The insurer subsequently requested the licensee to submit a security guarantee agreement form and to amend the application form. The security guarantee agreement required the

client's signature and the amendment required the client's initials. The licensee forged the client's initials and signature on the form and amended application. The agency staff noticed the signature discrepancy so the false documents were never submitted to the insurer. When questioned, the licensee initially denied misconduct, however, when shown the client's signature, he admitted the forgeries. The licensee ultimately obtained the client's signatures for the insurance documents. The licensee received a one year suspension and is subject to supervision for a period of 24 months after the licence suspension is complete. He is required to complete an ethics course approved by Council and to pay Council's investigative costs.

In the present matter, Council determined a more severe penalty than those imposed in the above noted cases is warranted because of the repeated nature of Former Licensee's misconduct and that she attempted to enlist an individual she was supposed to be mentoring to make a false statement for her.

INTENDED DECISION

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

1. Council will not consider an application for any level of licence from the Former Licensee for a period of two years from the date of Council's order;
2. the Former Licensee must requalify for an insurance licence prior to submitting an application to Council; and
3. the Former Licensee must pay Council's investigation costs of \$1,625.00.

RIGHT TO A HEARING

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 fourteen (14) days of receiving this intended decision. A hearing will then be scheduled for a date within a reasonable period of time from receipt of the notice. Please direct written notice to the attention of the Executive Director.

If the Former Licensee does not request a hearing within fourteen (14) days of receiving this intended decision, the intended decision of Council will take effect.

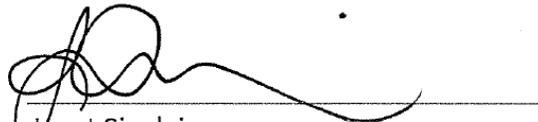
Even if this decision is accepted by the Former Licensee, pursuant to section 242(3) of the Act, the Financial Institutions Commission still has a right to appeal this decision of Council to the Financial Services Tribunal ("FST"). The Financial Institutions Commission has 30 days to file a Notice of 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 contact them directly at:

Intended Decision
Anne Asence Servita aka Anne Asence Villafuerte
LIC-200054C147233R2 / COM-2017-00367
January 15, 2019
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Financial Services Tribunal
PO Box 9425 Stn Prov Govt
Victoria, British Columbia
V8W9V1
Reception: 250-387-3464
Fax: 250-356-9923
Email: financialservicestribunal@gov.bc.ca

Dated in Vancouver, British Columbia, on the 15th day of January, 2019.

For the Insurance Council of British Columbia



Janet Sinclair
Executive Director
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