In the Matter of the

***FINANCIAL INSTITUTIONS ACT*, RSBC 1996, c.141**
(the "Act")

and the

INSURANCE COUNCIL OF BRITISH COLUMBIA
("Council")

and

AMRIT SINGH SIDHU
(the "Licensee")

and

DALJIT SINGH SIDHU
(the "Nominee")

and

S&S INSURANCE SERVICES 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 Licensee, Nominee and Agency with written reasons and notice of the intended decision dated July 5, 2023; and

As the Licensee, 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 Licensee be fined $5,000, to be paid by October 30, 2023;

2) The Licensee's Level 3 general insurance agent licence be downgraded to a Level 2 general insurance agent licence and the Licensee is not eligible to upgrade to a Level 3 general insurance agent licence for a period of one year, commencing on August 1, 2023;

3) The Licensee be required to complete the following courses, or equivalent courses, as acceptable to Council, by October 30, 2023:

    a. the Council Rules Course for general insurance and adjusters; and

    b. the Ethics for Insurance Brokers Course available through the Insurance Brokers Association of BC

    (collectively, the "Courses");

4) The Agency be fined $1,500, to be paid by October 30, 2023;

5) The Nominee be fined $1,000, to be paid by October 30, 2023;

6) The Agency be assessed Council's investigation costs in the amount of $1,062.50, to be paid by October 30, 2023;

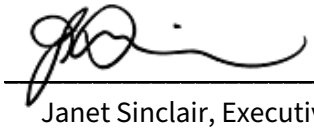
7) The Licensee be assessed Council's investigation costs in the amount of $1,062.50, to be paid by October 30, 2023

8) A condition be imposed on the Nominee's general insurance agent licence that failure to pay the fine in full 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;

9) A condition be imposed on the Licensee's general insurance agent licence and life and accident and sickness agent licence that failure to complete the Courses and pay the fine and investigation costs in full by October 30, 2023 will result in the automatic suspension of the Licensee's general insurance agent licence and life and accident and sickness insurance agent licence and the Licensee will not be permitted to complete the Licensee's 2025 annual licence renewal until such time as the Licensee has complied with the conditions listed herein; and

10) A condition be imposed on the Agency's general insurance licence and life insurance licence that failure to pay the fine and investigation costs in full by October 30, 2023 will result in the automatic suspension of the Agency's general insurance licence and life insurance licence, and the Agency will not be permitted to complete the Agency's 2025 annual licence renewal until such time as the Agency 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

AMRIT SINGH SIDHU

("The Licensee")

and

DALJIT SINGH SIDHU

("the Nominee")

and

S&S INSURANCE SERVICES LTD.

("the Agency")

1. Pursuant to section 232 of the *Financial Institutions Act* (the "Act"), Council conducted an investigation to determine whether the Licensee, Nominee and Agency acted in compliance with the requirements of the Act, Council Rules 7(2), 7(6), 7(8), 7(9), and Code of Conduct, and in particular to determine whether the Licensee, Nominee and Agency breached section 3 ("Trustworthiness"); section 4 ("Good Faith"); section 5 ("Competence"); section 6 ("Financial Reliability"); section 7 ("Usual Practice: Dealing with Clients") and section 8 ("Usual Practice: Dealing with Insurers") of the Code of Conduct by falsely issuing insurance documents to a client, and failing to properly place insurance coverage as instructed.

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 Licensee, Nominee and Agency's legal counsel to discuss the investigation. The Licensee, 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, the Licensee, the Nominee and Agency's legal counsel prior to the meeting. A discussion of the investigation report took place at the meeting and the Licensee, 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 Licensee, 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 Licensee, 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 Licensee, Nominee and Agency.

FACTS

5. The Licensee has been licensed with the Insurance Council since September 18, 2007, starting as a Level 1 general insurance salesperson ("Level 1 Salesperson"), and upgraded to a Level 2 general insurance agent ("Level 2 Agent") on June 7, 2010. On September 25, 2013, the Licensee upgraded his licence to a Level 3 general insurance agent ("Level 3 Agent"). The Licensee also holds a life and accident and sickness insurance agent ("Life Agent") licence and is the Agency's life nominee.

6. The Nominee has been licensed with the Insurance Council as a general insurance agent since November 30, 1981. The Nominee's licence was upgraded to a Level 3 Agent on November 30, 1985. The Nominee is currently the general nominee at the Agency and is also the nominee at S&S Insurance Services (Surdel) Ltd. At the material time, the Licensee had been delegated responsibility from the Nominee to oversee the Agency.

7. The Agency has held a corporate general insurance licence with the Insurance Council since September 15, 2005, and has also held a corporate life licence since September 27, 2010.

8. On January 24, 2022, the Insurance Council received an email from a chief operating officer on behalf of an insurer's underwriting agency (the "Complainant"). The Complainant alleged that the Agency had falsely issued insurance documents to a client with the insurer's branding and a falsified policy number.

9. On October 26, 2020, the insurer had sent an email to the Licensee to remind him of the upcoming renewal of his client's policy, which was due to renew on December 11, 2020. The Licensee responded and asked for a quote, which the insurer's agent provided to the Licensee on November 9, 2020.

10. On December 11, 2020, an agent of the Agency advised the insurer that their client wished to bind coverage. The client was charged for the premium fees, which were paid to the Agency.

11. Additionally, on December 11, 2020, the Agency provided to the client a binder that had the insurer's logo, a binder number, and noted an effective date of coverage from December 11, 2020, to December 11, 2021. However, the binder was not signed by the insurer and therefore was not valid, as the document states "this Binder shall not be valid unless countersigned by a duly Authorized Representative of the Insurer."

12. On December 14, 2020, the insurer responded to the agent's email from December 11, 2020, stating that as per the subjects on the renewal quote, the insurer required a signed application or signed and dated quote from the insurer. Since the bind offer that came was now after the date of renewal, the insurer would also require written confirmation of no losses. The insurer had not provided confirmation to the Agency that the policy was in force.

13. Subsequently, the agent who advised the insurer that the client wished to bind coverage left the Agency. It is unclear if the Agency was aware of the insurer's initial response from December 14, 2020, where they required written confirmation that there were no losses before the policy could be issued. MM, who responded on behalf of the Agency to Council investigator inquiries, stated that the Agency believed the policy had been renewed because of an entry made by the former agent of the Agency noting that the policy was renewed.

14. On January 25, 2021, the Licensee sent an email to the insurer asking for a copy of the policy. The insurer responded that because the subjects had not been met, the policy had not been renewed, and therefore no policy was available. On January 26, 2021, the Licensee asked what would be required to back-date and get the policy in place. That same day, the insurer responded to the Licensee, advising that since it had been over 30 days since the expiry, the insurer required a new application to consider the request. At that time, the Licensee was made aware that there was no policy in place.

15. There was no further communication between the Licensee and the insurer until November 18, 2021, when the Licensee reported a claim on behalf of the client to the insurer. The insurer responded reminding the Licensee that the policy was not renewed for the 2020 term. MM advised Council's investigator that the Agency in November 2021, informed the client that they did not have coverage as there was no policy in place. It is noted that the Agency could not produce any correspondence which was sent to the client that could confirm this. MM noted that the client did the repairs themselves as the damage was minimal. There was no complaint received from the client regarding this matter.

16. On January 5, 2022, an agent from a different agency requested a quote from the same insurer for the same client, believing that the policy in question expired in December 2021. The insurer informed that agent that the policy in question expired in 2019. It is unclear whether the client knew that there was no policy in place for the 2020 to 2021 year as there was an attempt to renew the policy. Additionally, the agent from the other agency advised the insurer that the policy had just expired in December 2021.

17. In response to further inquiries from the Insurance Council's investigator, MM, again responded on behalf of the Agency, stating the Agency did not have any restrictions on issuing binders on behalf of this particular insurer, and the binder was issued on the basis that the Licensee had authority to do so. Council's investigator subsequently requested a copy of the broker agreement with the insurer which the Agency provided. The Agency's broker agreement with the insurer clearly stated in its terms that the agreement did not provide any authority to the Agency to bind coverage. Subsequently, the Nominee confirmed with Council's investigator that the Agency did not have binding authority and that the binder had been issued in error without fully reviewing the documentation in that file. MM explained that the premium was paid by the client but as the policy was not renewed, that payment was not remitted to the insurer. The Agency noted that there was some confusion with this renewal as the former agent had noted in the system that this policy was renewed.

18. On March 8, 2022, the Agency refunded the client the premium amount of $4,375 for the policy that was not renewed on December 11, 2020.

19. Legal Counsel for the Licensee, Nominee and Agency submitted that they do not refute fault in the matter and take responsibility for the incident. The Licensee noted that the policy showed up in their system as renewed, but the Licensee admitted he should have taken the necessary steps to ensure that the policy was renewed. They further submitted that the Agency was having staffing problems which contributed to this situation. The Agency notes that it is now properly staffed, and that they are ensuring that all staff are following new policies and procedures.

ANALYSIS

20. Council has concluded that the Licensee and Agency failed to properly place insurance coverage as instructed. It is the Agency and Licensee's responsibility to ensure that coverage is properly placed as instructed and that all insurance policies are provided to the client in a reasonable time and in accordance with the terms of their agreement with the insurer. In this case, there was no policy issued and the proper insurance policy documents were never sent to the client.

21. Council noted that the client paid the premiums to the Agency, however, the Agency did not remit the premiums collected to the insurer as no policy was issued. The Nominee and the Agency

failed to properly handle money in a manner consistent with client instructions. The Nominee and the Agency failed to properly manage the business and financial aspects of an agency by not properly handling and remitting premium money to an insurer. Council further concluded that the Agency failed to provide the client a timely return of the premiums when it was brought to the Licensee's attention that the policy was not effective both in January 2021 and November 2021. It was only during Council's investigation that the premium was finally returned to the client, on March 8, 2022. Council concluded that these actions and the failure to return the client's money in a timely manner amount to a breach of trustworthiness, ability to act in good faith, financial reliability, competence, and the usual practice of dealing with clients and insurers.

22. The Agency also provided written notice to the client by providing an invalid binder, that noted the insurance coverage was renewed, prior to receiving confirmation from the insurance company that the renewal terms were confirmed. The binder that was provided was invalid as it did not have the appropriate insurer signature to make it a valid document. The language in the binder suggested to the client that this was a binding policy when it was not. Council concluded that this document was misleading to the client and a misrepresentation of the client's insurance. The Agency claimed to bind terms under a policy when it was not authorized by the insurer to have binding authority. Council determined this was a breach of competence, in terms of the usual practice of dealing with clients and an insurer.

23. Council is concerned with the Licensee's inability to remedy the situation when he was notified on at least two occasions that the client did not have coverage. The Licensee was advised in January 2021 that there was no insurance coverage in place and had asked the insurer what steps would need to be taken to obtain coverage. At this point, the Licensee should have taken all necessary steps to ensure the client was able to obtain coverage. Instead, there was no response to the insurer, and the client went without any insurance coverage for a whole year. Ultimately, the client did suffer a loss and was unable to make a claim because there was no policy in place. At least by November 2021, when the Licensee was advised for a second time there was no coverage in place, the Licensee should have taken steps to ensure the client would be able to obtain appropriate insurance coverage. Council considers that the Licensee's actions demonstrated a serious breach of the Licensee's duty of care to the client.

24. The Agency, as a licensed person or entity, is responsible for the actions of its staff. Additionally, the proper management of the Agency is ultimately the Nominee's responsibility, even if some of the duties have been delegated to other licensees. The Nominee has a duty to ensure that any delegate is appropriately supervised by the Agency and to implement proper policies and procedures. Council found that there was a lack of administrative and financial procedures at the Agency that contributed to this error in the client's insurance policy not being renewed.

25. Council considered the actions of the Nominee and the Agency against the impact of Council Rules and Council's Code of Conduct guidelines. Council concluded that the Licensee, 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.

26. 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.

27. *Troy Wotherspoon Insurance Services Ltd., Lung Hwa (Andy) Tan, and Troy John Wotherspoon* (May 2020): A client came to the agency and advised they were in the process of moving and submitted an application for a storage insurance policy. The clients instructed the licensee to proceed with the policy and provided their credit card information for payment. The licensee placed a sticky note on a colleague's desk with the information for payment and a note to bind the insurance for the client, but the licensee did not speak to anyone about this. A month later the client wanted to file a claim in regard to a theft at the storage facility. At this time, the licensee discovered that the payment and insurance was never bound. The clients were not informed at this point that the insurance had not been bound. The nominee began discussions with the insurer to see if there was a way to bind the policy, which ultimately, he was successful in doing. The agency paid the premiums required to reinstate the policy and the policy was backdated. It did not appear that the clients were fully aware or understood the situation that occurred. Council found the agency, nominee, and licensee in this matter responsible for the failure to complete the insurance renewal. Council also found that there was a lack of procedures in place by the agency and insufficient oversight by the nominee. Council ordered a fine of $1,500 against the licensee, $1,500 against the nominee, $2,000 against the agency, as well as investigation costs. The nominee and licensee were also ordered to complete courses.

28. *The Whistler Shoppe LTD. dba The Whistler Insurance Shoppe and Peggy Kathleen Johannson* (April 2016): concerned an error occurring at an agency that resulted in a client's insurance policy not being renewed upon expiration. Council was concerned by a lack of proper administrative and financial procedures being in place at the agency, and with the nominee's failure to provide appropriate oversight. Council found the nominee failed to perform her duties as a nominee, raising concerns over the manner in which the agency was managed. Council fined the nominee $2,500, required her to complete the Level 3 seminar, and put a condition on her licence limiting her to being the nominee for a maximum of two agencies, unless there is a full-time Level 3 agent in regular attendance at every agency for which she is a nominee. Finally, Council fined the agency $5,000, assessed it investigative costs of $1,112.50, and required the agency to have a full-time Level 3 agent in regular attendance.

29. *Kanwar Yuvraj Walia* (December 2015): and *Global Insurance Agency (2007) Ltd, Harvinder Kaur Walia and Kanwar Yuvraj Walia* (December 2015): concerned an error whereby a licensee failed to submit the documentation necessary to bind an insurance policy. The agency accepted payment from a client, and then issued a Certificate of Insurance before coverage was bound, and without the insurer's authorization. About one month later, the licensee realized that documentation had not been submitted and emailed the insurer to request that the policy be issued, with documents to follow. However, the insurer had no records of having received the required documents, and as such coverage was never bound and the client went uninsured. Council concluded that the licensee's failure to bind the policy was an administrative error but noted that the licensee had had multiple opportunities to ensure that coverage was placed for the client. Council's opinion was that a lack of appropriate administrative and financial policies at the agency contributed to the error, and that the agency and nominee were both responsible for these shortcomings. A mitigating factor, however, was that the agency took action when the error was identified and has since taken steps to modernize its processes. Council fined the licensee $2,000, reprimanded the nominee, fined the agency $2,000, and assessed investigative costs of $1,625 to the agency.

30. *Hanin Insurance Services Inc.* (January 2014): The agency held a corporate general insurance licence since 2006. During the material time, the nominee had been licensed as a Level 3 general insurance agent since 1995. At the time of the incident, the licensee involved in the matter was a Level 1 general salesperson and had been licensed for approximately two years in that capacity. In March 2010, with the assistance of a Level 2 supervisor, the licensee procured commercial insurance for a sushi restaurant. In December 2010, the restaurant suffered a loss and made a claim for coverage under the commercial insurance policy. Part of the loss was not covered by the claim and concerns arose that the licensee failed to place adequate coverage for the restaurant or mislead the extent of coverage to the restaurant owner. It was determined that the licensee conducted insurance business contrary to the condition that prohibited the licensee from engaging in insurance activities outside the agency office. The current and former nominee stated that the agency did not have a formal training manual on proper practices and procedures. Council concluded that the licensee was not being properly trained or monitored and that proper supervision could have prevented the licensee from engaging in insurance activity outside its office in the manner that occurred. Council concluded that the transgression was due to inadequate supervisory oversight at the agency. The agency bears responsibility in situations where employee misconduct can be attributed to insufficient oversight within the agency. Council ordered a fine of $5,000 against the agency as well as investigative costs.

31. Council considered the relevant mitigating and aggravating factors in this matter. The primary mitigating factor was that the Nominee and Licensee acknowledged the misconduct, and that there were some staffing issues within the Agency due to COVID-19. Additionally, Council considered that the Agency developed new procedures for the Agency and made staffing changes as mitigating factors. Council noted that the Licensee did not rectify the situation on two separate

occasions and found this to be an aggravating factor. Additionally, it does not appear that the client was notified that there was any lapse in coverage which Council found to be an aggravating factor. Council has concerns about the risk to the public and the client harm in this situation, as failing to provide insurance coverage as instructed can cause significant harm to a client. Council found this to be a significant aggravating factor. Overall, Council found the aggravating factors to outweigh the mitigating factors.

32. Council is responsible for protecting the public by ensuring that insurance licensees are trustworthy, competent, and carry on the business of insurance in accordance with the usual practice in the industry. After weighing all of the relevant considerations, Council views the Licensee, Nominee and Agency to be in breach of Council's Rules and the Code of Conduct and concludes that it is appropriate for the Licensee to be fined $5,000 and required to complete various courses to ensure the Licensee's knowledge and skill is consistent with the usual practice of the business of insurance. Due to the seriousness of the Licensee's actions in this matter and inability to correct the matter, Council concludes that it is appropriate the Licensee's Level 3 general insurance agent licence be downgraded to a Level 2 general insurance agent licence for a period of one year. Council concludes that it is appropriate that the Agency is assessed a fine of $1,500. Council further concludes that it is appropriate that the Nominee is assessed a fine of $1,000. Council concludes that fines are appropriate in the circumstances to communicate to the Licensee, Nominee, Agency, the insurance industry and to the public that insurance agents are expected by Council to perform their roles and conduct insurance business competently and ethically.

33. With respect to investigation costs, Council believes that these costs should be assessed to the Licensee and Agency equally. 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

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

    a. The Licensee be fined $5,000, to be paid within 90 days of Council's order;

    b. The Licensee's Level 3 general insurance agent licence be downgraded to a Level 2 general insurance agent licence and that the Licensee not be eligible to upgrade to a Level 3 general insurance agent licence for a period of one year, commencing on the date of Council's order;

c. The Licensee 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; and

   ii. the Ethics for Insurance Brokers Course available through the Insurance Brokers Association of BC

   (collectively, the "Courses");

d. The Agency be fined $1,500, to be paid within 90 days of Council's order;

e. The Nominee be fined $1,000, to be paid within 90 days of Council's order;

f. The Agency be assessed Council's investigation costs in the amount of $1,062.50 to be paid within 90 days of Council's order;

g. The Licensee be assessed Council's investigation costs in the amount of $1,062.50, to be paid within 90 days of Council's order;

h. A condition be imposed on the Nominee's general insurance agent licence that failure to pay the fine in full 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.

i. A condition be imposed on the Licensee's general insurance agent licence and life and accident and sickness agent licence that failure to complete the Courses and pay the fine and investigation costs in full within 90 days will result in the automatic suspension of the Licensee's general insurance agent licence and life and accident and sickness insurance agent licence and the Licensee will not be permitted to complete the Licensee's 2025 annual licence renewal until such time as the Licensee has complied with the conditions listed herein; and

j. A condition be imposed on the Agency's general insurance licence and life 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 life insurance licence, and the Agency will not be permitted to complete the Agency's 2025 annual licence renewal until such time as the Agency has complied with the conditions listed herein.

35. Subject to the Licensee, 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.

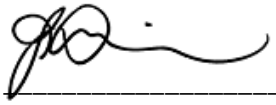
RIGHT TO A HEARING

36. If the Licensee, Nominee and/or Agency wishes to dispute Council's findings or its intended decision, the Licensee, 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 Licensee, 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 Licensee, 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.

37. Even if this decision is accepted by the Licensee, 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