

In the Matter of

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

and

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

and

ROBERT MICHAEL NEWBROOK
(the “Licensee”)

ORDER

As Council made an intended decision on January 12, 2016, pursuant to sections 231 and 236 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 February 5, 2016; and

As the 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 236 of the Act, Council orders a condition is imposed on the Licensee’s life and accident and sickness insurance licence that the Licensee must be supervised by a qualified life and accident and sickness insurance agent for a minimum of two years or until one year has passed since the discharge of his current bankruptcy, whichever is longer.

This order takes effect on the **24th day of February, 2016.**



Brett Thibault
Chairperson, Insurance Council of British Columbia

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA (“Council”)

respecting

ROBERT MICHAEL NEWBROOK (the “Licensee”)

Pursuant to section 232 of the *Financial Institutions Act* (the “Act”), Council conducted an investigation to determine whether the Licensee acted in compliance with the requirements of the Act.

As part of Council’s investigation, on November 16, 2015, a Review Committee (the “Committee”) met with the Licensee to discuss allegations that the Licensee failed to meet Council’s errors and omissions (“E&O”) insurance requirements; has filed for bankruptcy on multiple occasions, reflecting on his financial reliability; and acted inappropriately when facilitating a non-insurance financial transaction.

The Committee was comprised of one voting member and three non-voting members of Council. Prior to the Committee’s meeting with the Licensee, an investigation report was distributed to the Committee and the Licensee for review. A discussion of this report took place at the meeting, and the Licensee was provided an opportunity to make further submissions. Having reviewed the investigation materials and after discussing this matter with the Licensee, the Committee prepared a report of its meeting for Council.

The Committee’s report, along with the aforementioned investigation report, were reviewed by Council at its January 12, 2016 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 Licensee of the action it intends to take under sections 231 and 236 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 Licensee.

FACTS

The Licensee was first licensed in British Columbia in 1982 as an accident and sickness insurance agent. A few years later, the Licensee obtained a life and accident and sickness insurance agent (“life agent”) licence, and he has continued to hold a life agent licence since then.

E&O Insurance

Council was advised by the Licensee’s E&O insurance provider that the Licensee’s coverage was cancelled in December 2014 due to his default on the premium financing agreement. The Licensee explained that owing to financial hardship, he was unable to make his monthly premium payments.

After being contacted by Council, the Licensee subsequently reinstated his E&O coverage in January 2015. The Licensee stated that he had ceased insurance activities in September 2014, and had not conducted any insurance activity while he was without E&O insurance.

In accordance with Council Rules, the Licensee’s licence was suspended effective January 15, 2015. The licence suspension was lifted on January 27, 2015, after he provided Council with proof that his E&O insurance had been reinstated.

While the Licensee did not engage in any insurance activity during the period he was without E&O insurance, he failed to inform Council of the lapse of his E&O insurance within five business days, in accordance with Council Rules. The Licensee explained that he was not aware of Council Rules requiring him to do so, but was aware that he could not conduct insurance activities while without E&O insurance.

Bankruptcies

On August 8, 2014, the Licensee reported to Council that he had filed for bankruptcy. The Licensee had previously filed for bankruptcy on two other occasions, in 1982 and in 2000. The Licensee had also filed a bankruptcy proposal in 2008, but it was not accepted. The Licensee expects to be discharged from his current bankruptcy in July 2017.

None of the bankruptcies involved his insurance clients or insurance companies.

Complaint

Council received a complaint from a client of the Licensee (the “Complainant”). Around 1995, the Complainant approached the Licensee about investing funds. In order to facilitate the transaction, the Licensee incorporated a numbered holding company, of which he was the sole shareholder, officer, and director. The Licensee then facilitated the transfer of funds from an insurance asset to the holding company, and purchased bonds in Imperial Ginseng Products Ltd. (“Imperial”). The Complainant also alleged that in the early 1990s, he loaned the Licensee a significant sum of money to invest in the Imperial product; however, neither the Complainant nor the Licensee were able to provide documentation to support these transactions.

The Licensee stated that he did not actively manage the Imperial investment, and did not file any tax returns for the holding company, which was eventually dissolved for failure to complete its annual corporate filings.

In or around January 2015, the Complainant contacted the Licensee about the investment, and the Licensee took steps to have the investment transferred to the Complainant’s name. The value of the Imperial investment was negligible.

ANALYSIS

Council considered the Licensee’s failure to notify Council of the lapse of his E&O insurance coverage within five business days, and determined that this was an unintentional breach. Council took into consideration that the Licensee was aware that he could not conduct insurance business. Council concluded that the Licensee’s failure to notify Council was unintentional, and determined that disciplinary action was not warranted. However, Council takes this opportunity to remind the Licensee that it is his responsibility to be familiar with his obligations under Council Rules. Should the Licensee breach any Council Rules in the future, he will be subject to disciplinary action.

With respect to the Licensee’s four bankruptcy proposals, Council has serious concerns regarding his financial reliability. While there was no evidence that any insurance clients had been affected by these bankruptcies, the fact that the Licensee had multiple bankruptcies during his career as a life agent was a serious issue.

As for the complaint about the Imperial investment, Council determined that the Licensee had a history of activity that raises questions about his competency and financial reliability. Council found the Licensee failed to appreciate that his actions, with respect to the Imperial investment, appeared to be inappropriate and potentially contrary to securities, tax, and/or other laws. The challenge for Council was that the Complainant was unable to provide specific documentation to support his allegations. In addition, the complaint was mitigated by the amount of time that had elapsed since the investment occurred.

Council acknowledged that it has not received a complaint about the Licensee's insurance activities over his lengthy career. However, in light of the third bankruptcy, which has not been discharged, and the Licensee's responses to the complaint, Council believed the Licensee could represent a risk to the public. Council concluded that this risk could be mitigated by placing the Licensee under the supervision of a qualified life agent.

INTENDED DECISION

Pursuant to sections 231 and 236 of the Act, Council made an intended decision to impose a condition on the Licensee's life and accident and sickness insurance licence that requires him to be supervised by a qualified life and accident and sickness insurance agent for a minimum of two years or until he has been discharged from bankruptcy for one year, whichever is longer.

The intended decision will take effect on **February 24, 2016**, subject to the Licensee's right to request a hearing before Council pursuant to section 237 of the Act.

RIGHT TO A HEARING

If the Licensee wishes to dispute Council's findings or its intended decision, the 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 Licensee must give notice to Council by delivering to its office written notice of this intention by **February 23, 2016**. 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 by **February 23, 2016**, the intended decision of Council will take effect.

Even if this decision is accepted by the 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:

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Robert Michael Newbrook
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Financial Services Tribunal
PO Box 9425 Stn Prov Govt
Victoria, British Columbia
V8W 9V1

Reception: 250-387-3464
Fax: 250-356-9923
Email: FinancialServicesTribunal@gov.bc.ca

Dated in Vancouver, British Columbia, on the **5th day of February, 2016.**

For the Insurance Council of British Columbia



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Executive Director
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GM/gh