

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

and

The INSURANCE COUNCIL OF BRITISH COLUMBIA
(“Council”)

and

CLAYTON DANIEL SNOW
(the “Licensee”)

ORDER

As Council made an intended decision on August 11, 2015, 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 with written reasons and notice of the intended decision dated September 1, 2015; 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, 236, and 241.1 of the Act, Council orders:

1. A condition is imposed on the Licensee’s life and accident and sickness insurance licence that requires him to successfully complete the courses required to obtain the Certified Health Insurance Specialist designation.
2. A condition is imposed on the Licensee’s life and accident and sickness insurance licence that requires him to begin, on or before **March 22, 2016**, one of the courses required to obtain the Certified Health Insurance Specialist designation. If the Licensee does not demonstrate to Council he has begun one of the courses by this date, the Licensee’s life and accident and sickness insurance licence will be suspended as of **March 23, 2016**, without further action from Council, and the Licensee will not be permitted to complete any annual filing until such time as the Licensee begins one of the courses.

3. A condition is imposed on the Licensee's life and accident and sickness insurance licence that prohibits him from supervising new life and accident and sickness insurance agents, as defined by Council's Rules, and from being the nominee of an insurance agency in which any life and accident and sickness insurance agents representing the agency require supervision, until the Licensee has successfully completed all the courses required to obtain the Certified Health Insurance Specialist designation.
4. The Licensee is fined \$2,500.00.
5. The Licensee is assessed Council's investigative costs of \$2,187.50.
6. A condition is imposed on the Licensee's life and accident and sickness insurance licence that requires him to pay the above-ordered fine and investigative costs no later than **December 22, 2015**. If the Licensee does not pay the ordered fine and investigative costs in full by this date, the Licensee's life and accident and sickness insurance licence is suspended as of **December 23, 2015**, without further action from Council, and the Licensee will not be permitted to complete any annual filing until such time as the ordered fine and investigative costs are paid in full.

This order takes effect on the **22nd day of September, 2015**.



Brett Thibault
Chairperson, Insurance Council of British Columbia

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA (“Council”)

respecting

CLAYTON DANIEL SNOW (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 June 22, 2015, a Review Committee (the “Committee”) met with the Licensee to discuss allegations that the Licensee signed a declaration on policy documents stating that he had met with a client when he had not, and failed to adequately advise another client regarding the replacement and value of a critical illness policy.

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 for Council.

The Committee’s report, along with the aforementioned investigation report, were reviewed by Council at its August 11, 2015 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, 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 Licensee.

FACTS

The Licensee was first licensed as a life and accident and sickness insurance agent (“life agent”) in British Columbia on January 25, 2010. From the period between November 2012 and November 2013, the Licensee was authorized to represent one insurer (the “Insurer”). The Licensee currently conducts his life insurance business through his own agency, Snow Fine Financial Inc. (the “Agency”). The Agency has four authorized representatives.

After the Licensee ceased to represent the Insurer, concerns arose about his insurance practices. Specifically, it was alleged that he signed a declaration on policy documents stating that he had met with a client when he had not, and that he failed to adequately advise another client regarding the replacement and value of a critical illness policy.

With respect to the allegations relating to the policy declaration, the application in question was a joint, non-smoker, Term-20 life insurance policy. The Licensee met with one of the applicants, with whom he was friends (the “Applicant”), but did not meet with the other applicant (the “Second Applicant”).

The Licensee stated that he relied on the information from the Applicant to complete information about the Second Applicant on the insurance application, and viewed a copy of the Second Applicant’s driver’s licence. Despite the fact that the Licensee did not meet with the Second Applicant, either in person or by phone, the Licensee signed a declaration, as part of the insurance application, stating that he had.

The insurance application also contained the Second Applicant’s signature, but no explanation was provided as to how that signature was obtained if the Second Applicant was never seen by the Licensee.

With regard to the second complaint, the Licensee reviewed a \$300,000.00 Term-20 life insurance policy, with a \$100,000.00 Term-65 critical illness insurance rider, on behalf of a policy holder. The critical illness policy (the “Existing Policy”) was personally owned and had a Return of Premium on Death after 20 years option.

The Licensee made a recommendation to the policy holder to obtain a new, business-owned critical illness policy. The policy holder ultimately accepted the Licensee’s recommendations based, in part, on the Licensee’s assurances that the premiums paid by the policy holder on the Existing Policy would be refunded. In fact, the Existing Policy had no cash surrender value, and the policy owner was not advised of this until after the Existing Policy was cancelled and the new business-owned policy was in place.

The Licensee advised the policy holder that the Existing Policy could not be converted to a business-owned policy, although he did not seek clarification as to whether it could be, despite the fact that the Existing Policy and the new policy were both issued by the Insurer. In fact, the Existing Policy could have been converted to a permanent plan or remained the same, and the ownership could have been changed to a business-owned critical illness policy, an option that would have been in the policy holder's best interests.

ANALYSIS

Council found that the Licensee's action in signing the policy declaration, confirming he had met with both the Applicant and the Second Applicant, when he had not done so, fell outside of the usual practice of the business of insurance. His failure to witness the original identification of the Second Applicant was also of concern, especially when he confirmed to the Insurer, in writing, that he had. Council determined that the Licensee should have been aware that he was not following proper practice, and was misleading the Insurer.

Council was concerned regarding the Second Applicant's signature on the application, given that the Licensee acknowledged that he did not meet with her. However, Council was unable to determine how the Second Applicant's signature came to be on the application.

With respect to the critical illness policy, Council determined that the Licensee lacked adequate familiarity and general knowledge of critical illness insurance, and noted specifically that the Licensee appeared to be unfamiliar with basic transfer-of-ownership procedures. Council took into consideration that the transfer of ownership of a policy from a personal policy to a business policy was not an uncommon transaction. Council also noted that the Licensee claimed to be a critical illness specialist, but found his actions in this matter demonstrated that not to be the case.

Council took note that the Licensee is the nominee of the Agency and, based on its findings, it was concerned that the Licensee is acting in a supervisory capacity at the Agency.

Accordingly, Council determined that a fine would be appropriate, along with a requirement for additional education, and a restriction preventing the Licensee from acting as a supervisor until he has completed the educational requirements.

INTENDED DECISION

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

1. Impose a condition on the Licensee's life and accident and sickness insurance licence that requires him to successfully complete the courses required to obtain the Certified Health Insurance Specialist designation.
2. Impose a condition on the Licensee's life and accident and sickness insurance licence that requires the Licensee to begin the Certified Health Insurance Specialist course within six months of the date of Council's order.
3. Impose a condition on the Licensee's life and accident and sickness insurance licence that prohibits him from supervising new life and accident and sickness insurance agents until he has obtained his Certified Health Insurance Specialist designation.
4. Impose a condition on the Licensee's life and accident and sickness insurance licence that prohibits him from being the nominee of an insurance agency in which any life agents representing it require supervision, until the Licensee has successfully completed the Certified Health Insurance Specialist course.
5. Fine the Licensee \$2,500.00.
6. Assess the Licensee Council's investigative costs of \$2,187.50.

The Licensee is advised that should the intended decision become final, the fine and investigative costs will be due and payable within 90 days of the date of the order. In addition, failure to pay the fine and investigative costs within the 90 days, or failure to begin the Certified Health Insurance Specialist program within six months of the date of Council's order, will result in the automatic suspension of the Licensee's life and accident and sickness insurance licence, and the Licensee will not be permitted to complete any annual filing until such time as the fine and investigative costs are paid in full and he has begun the Certified Health Insurance Specialist program.

The intended decision will take effect on **September 22, 2015**, 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 **September 21, 2015**. 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 **September 21, 2015**, 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:

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 **1st day of September, 2015**.

For the Insurance Council of British Columbia



Gerald Matier
Executive Director
604-695-2001
gmatier@insurancecouncilofbc.com

GM/gh