

In the Matter of

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

and

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

and

ISLAND INSURANCE AGENCY LTD.
(the “Agency”)

and

BALWINDER SINGH KHAIRA
(the “Nominee”)

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 Agency and the Nominee with written reasons and notice of the intended decision dated August 31, 2015; and

As the Agency and the Nominee 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:

1. A condition is imposed on the Nominee’s general insurance licence that requires him to successfully complete Council’s Level 3 seminar, Duties and Responsibilities of a Level 3 General Insurance Agent (the “Course”), on or before **December 22, 2015**. If the Nominee does not successfully complete the Course by this date, his general insurance licence is suspended as of **December 23, 2015**, without further action from Council and he will not be permitted to complete any annual filing until such time as the ordered Course is successfully completed.
2. The Agency is fined \$7,500.00.

3. The Nominee is fined \$2,500.00.
4. The Agency is assessed Council's investigative costs of \$537.50.
5. A condition is imposed on the Agency's general insurance licence that requires it to pay the above-ordered fine and investigative costs no later than **December 22, 2015**. If the Agency does not pay the ordered fine and investigative costs in full by this date, the Agency's general insurance licence is suspended as of **December 23, 2015**, without further action from Council and the Agency will not be permitted to complete any annual filing until such time as the ordered fine and investigative costs are paid in full.
6. A condition is imposed on the Nominee's general insurance licence that requires him to pay the above-ordered fine no later than **December 22, 2015**. If the Nominee does not pay the ordered fine in full by this date, the Nominee's general insurance licence is suspended as of **December 23, 2015**, without further action from Council and the Nominee will not be permitted to complete any annual filing until such time as the ordered fine is 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

ISLAND INSURANCE AGENCY LTD.
(the “Agency”)

and

BALWINDER SINGH KHAIRA
(the “Nominee”)

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

As part of Council’s investigation, on July 13, 2015, a Review Committee (the “Committee”) met with the Nominee to discuss the conduct of both the Agency and the Nominee in supervising licensees authorized to represent the Agency.

The Committee was comprised of one voting member and three non-voting members of Council. Prior to the Committee’s meeting with the Nominee, an investigation report was distributed to the Committee, the Agency, and the Nominee for review. A discussion of this report took place at the meeting and the Nominee was provided an opportunity to make further submissions. Having reviewed the investigation materials, and after discussing this matter with the Nominee, 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 Agency and the Nominee of the action it intends to take under sections 231, 236, and 241.1 of the Act before taking any such action. The Agency and the Nominee 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 Agency and the Nominee.

FACTS

The Agency has been licensed as a general insurance agent since March 1982. The Nominee became the Agency's nominee on September 27, 2011 when he bought into the Agency and became a joint owner. The Agency currently has eleven Level 1 general insurance salespersons ("Salesperson") and eleven Level 2 general insurance agents ("Level 2 agent").

The Agency appears to treat both its Salespersons and its Level 2 agents the same, referring to both as producers. There was little evidence to suggest the Agency or the Nominee had any procedures in place to ensure that Salespersons acted in accordance with their licence restrictions. In particular, the Agency permitted Salespersons to conduct insurance activities outside of the office, including meeting with clients to have policy documents signed, delivering insurance documents and decals, and collecting insurance premiums. None of these activities may be done by a Salesperson.

The Nominee stated that when a new Salesperson started at the Agency, the Agency required the Salesperson to sign a letter acknowledging his or her licence restrictions. However, Council found that there was no follow-up or ongoing supervision to ensure that Salespersons complied with their licence restrictions.

The Nominee stated he had minimal involvement in the personal lines and Autoplan side of the Agency's business, focusing primarily on commercial lines business. As such, the Nominee failed to ensure that there was adequate oversight over all of the Agency's insurance activities.

The Agency informed Council when it terminated one of its Salespersons after it discovered that a Salesperson had deposited an insurance premium cheque into his personal bank account. The Salesperson, who did primarily personal lines and Autoplan business, inadvertently deposited a premium cheque in his possession into his personal bank account.

The Agency did not discover the missing premium payment until approximately 18 months after it was collected by the Salesperson. The Agency explained its oversight in not detecting the missing premium was due to changes to the Agency's accounting system at the time the deposit was made. Although the client involved was not affected, as the insurance policy remained in effect even though the Agency had not received the client's premium payment, Council was concerned that such an oversight could go unnoticed for 18 months, and that a Salesperson was permitted to pick up, and have possession of a premium payment when outside of the Agency office.

ANALYSIS

Council found that the Agency and the Nominee failed to implement appropriate oversight over their licensees, especially the Salespersons. Council found the oversight of Salespersons appeared limited to requiring that all new Salespersons at the Agency sign a document, which discussed client confidentiality, holding out requirements, and their licence restrictions. Other than that, there was no indication the Agency or the Nominee took any other steps to ensure that Salespersons were carrying on insurance business in accordance with their licence restrictions.

This situation was made worse by the fact that the Agency treated its Salespersons as producers, a role that should be reserved for Level 2 and Level 3 general insurance agents. The fact that Salespersons were treated, or allowed to act, as producers demonstrated that the Agency and the Nominee failed to appreciate the difference between a Salesperson and an insurance agent.

This matter was found to be even more serious in that the Agency had previously been disciplined in 2007 for failing to implement adequate oversight of a Salesperson.

As this was not the first instance of the Agency failing to adequately supervise Salespersons, Council determined that a significant fine was appropriate. With regards to the Nominee, Council noted that he has an unblemished licensing history and was not the Agency's nominee when it was disciplined in 2007. Council noted that the Nominee was well intentioned in his effort to foster compliance and that he was forthright throughout the investigation process. However, Council concluded that the Nominee failed to meet the standard regularly expected of a nominee.

In considering an appropriate penalty, Council took into consideration the penalty imposed in the case of *Hanin Insurance Services Inc.*, which involved an insurance agency that failed to understand the extent of the restrictions on a Salesperson's licence resulting in a breach of the restrictions by one of its Salespersons.

INTENDED DECISION

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

1. Fine the Agency \$7,500.00.
2. Fine the Nominee \$2,500.00.
3. Impose a condition on the Nominee's general insurance licence that requires him to successfully complete Council's Level 3 seminar: Duties and Responsibilities of a Level 3 General Insurance Agent, available through IBABC, within 90 days of the date of Council's order.
4. Assess the Agency Council's investigative costs of \$537.50.

The Agency and the Nominee are advised that should the intended decision become final, the fines and investigative costs will be due and payable within 90 days of the date of the order.

The Nominee is advised that failure to pay the fine or complete Council's Level 3 seminar within the 90 days will result in the automatic suspension of his general insurance licence and the Nominee will not be permitted to complete any annual filing until such time as the fine is paid in full and the Level 3 seminar is completed.

The Agency is advised that failure to pay the fine and investigative costs within the 90 days will result in the automatic suspension of its general insurance licence and the Agency will not be permitted to complete any annual filing until such time as the fine and investigative costs are paid in full.

The intended decision will take effect on **September 22, 2015**, subject to the Agency and the Nominee's right to request a hearing before Council pursuant to section 237 of the Act.

RIGHT TO A HEARING

If the Agency or the Nominee wishes to dispute Council's findings or its intended decision, the Agency or Nominee 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 Agency or the Nominee 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 Agency or the Nominee 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 Agency and the Nominee, 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
Island Insurance Agency Ltd. and Balwinder Singh Khaira
9009743-11560 and 91374-11560
August 31, 2015
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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 **31st day of August, 2015.**

For the Insurance Council of British Columbia



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

GM/bk