

In the Matter of

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

and

The INSURANCE COUNCIL OF BRITISH COLUMBIA
("Council")

and

DARWIN JAMES HAJIME OKANO
(the "Licensee")

ORDER

As Council made an intended decision on December 13, 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 January 17, 2017; 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 be imposed on the Licensee's life and accident and sickness insurance licence that requires the Licensee be under the direct supervision of a life and accident and sickness insurance agent who holds and has held an active life and accident and sickness insurance licence for at least five of the previous seven years.

This order takes effect on the **7th day of February, 2017**.



Dr. Eric Yung
Chairperson, Insurance Council of British Columbia

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA (“Council”)

respecting

DARWIN JAMES HAJIME OKANO
(the “Licensee”)

INTRODUCTION

Pursuant to section 232 of the *Financial Institutions Act* (the “Act”), Council conducted an investigation into the Licensee’s suitability to hold a life and accident and sickness insurance agent (“life agent”) licence in light of a condition of registration imposed on the Licensee’s securities registration by the British Columbia Securities Commission (the “BCSC”).

A report was prepared for Council’s review at its December 13, 2016 meeting. At the conclusion of its meeting, Council determined that 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 has held a life agent licence since August 2012. The Licensee is not affiliated with a specific insurance agency or a direct writer.

The Licensee is registered with the BCSC as a dealing representative of an exempt market dealer. He has been registered in this capacity with the BCSC since September 2011.

In November 2016, the Licensee notified Council that he had agreed to a condition of registration with the BCSC. The condition requires strict supervision of the Licensee's securities activities for one year. The condition stemmed from a consumer complaint that was related to the suitability of exempt market securities sold by the Licensee.

In July 2016, Council had considered a request from the Licensee to remove two existing licence conditions from his life agent licence. The licence conditions, which came about as a result of a 2013 BCSC decision, required that the Licensee be subject to 24 months of active supervision, and during that 24-month period, be required to disclose the details of the 2013 BCSC decision to any insurance company and any managing general agent that he does business with or on behalf of.

In making the application to Council in July 2016 to have his licence conditions removed, the Licensee did not disclose that he was the subject of a BCSC investigation, which resulted in the Settlement Agreement that he subsequently entered into in November 2016.

ANALYSIS

Council considered the Licensee's suitability to continue to hold a life agent licence in light of the Settlement Agreement with the BCSC. Council took into consideration its policy, as set out in its Notice ICN 16-005 *Suitability of Insurance Licensees Who are the Subject of Enforcement Action by Another Financial Services Regulator*, which calls for Council to impose similar penalties or restrictions on insurance licensees when an insurance licensee is disciplined by another financial services regulator.

In considering the Licensee's suitability, Council noted that, in making his application to Council in July 2016 to have his existing licence conditions removed, the Licensee failed to disclose that he was the subject of a consumer complaint under investigation by the BCSC. Council believes that the Licensee was aware of the consumer complaint at the time and elected not to disclose this information to Council.

Council concluded that the Licensee was still suitable to hold a life agent licence, but should be subject to active supervision. In considering the length of time of the supervision, Council considered the Licensee's non-disclosure of the consumer complaint and concluded that the Licensee be subject to active supervision by a qualified life agent for an indefinite period of time.

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 he be under the direct supervision of a qualified life and accident and sickness insurance agent, as defined by Council Rules.

The intended decision will take effect on **February 7, 2017**, 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 6, 2017**. 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 6, 2017**, 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

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Dated in Vancouver, British Columbia, on the **17th day of January, 2017.**

For the Insurance Council of British Columbia



per _____
Gerald D. Matier
Executive Director

GM/yw