

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

and the
INSURANCE COUNCIL OF BRITISH COLUMBIA
(“Council”)

and
RABJIT SINGH JOHAL
(the “Licensee”)

ORDER

Pursuant to section 237 of the Act, Council convened a hearing at the request of the Licensee to dispute an intended decision of Council dated January 24, 2019.

The subject of the hearing was set out in a Notice of Hearing dated March 11, 2019.

A Hearing Committee heard the matter on April 15, 2019 and presented a Report of the Hearing Committee to Council at its June 18, 2019 meeting.

Council considered the Report of the Hearing Committee and made the following order pursuant to sections 231 and 236 of the Act:

1. The Licensee’s general insurance licence is suspended for a period of eight months commencing on July 9, 2019 and ending at midnight on March 8, 2020;
2. A condition is imposed on the Licensee’s general insurance licence that requires him to successfully complete the “Ethics for Insurance Brokers” course through the Insurance Brokers Association of British Columbia, or an equivalent course as approved by Council; and
3. A condition is imposed on the Licensee’s general insurance licence that requires him to successfully complete the required course on or before October 7, 2019. If the course remains incomplete by the end of his suspension, the Licensee’s licence will automatically remain suspended and he will not be permitted to complete his annual filing until the course is successfully completed.

This order takes effect on the **9th day of July, 2019**.



Lesley Maddison
Chairperson, Insurance Council of British Columbia

INSURANCE COUNCIL OF BRITISH COLUMBIA
("Council")

REPORT OF THE HEARING COMMITTEE

IN THE MATTER OF THE *FINANCIAL INSTITUTIONS ACT*
(R.S.B.C. 1996, c. 141)
(the "Act")

and

RABJIT SINGH JOHAL
(the "Licensee")

Date: April 15, 2019, 10:00 a.m.

Before: Lesley Maddison Chair
Linda Lee Member
Frank Macklestone Member

Location: Suite 300, 1040 West Georgia Street
Vancouver, British Columbia V6E 4H1

Present: David McKnight Counsel for Council

Alexandre Maltas and Counsel for the Licensee
David Fung (Articling Student)

Rabjit Singh Johal Licensee

Michael D. Shirreff and Independent Counsel for the Hearing Committee
Elizabeth Allan

BACKGROUND AND ISSUES

As set out in the Notice of Hearing, the purpose of the Hearing was to determine the issue of penalty facing the Licensee, specifically whether the Licensee should be subject to any disciplinary or other action in these circumstances and if so, whether Council should take one or more of the steps outlined in sections 231, 236 and/or 241.1 of the Act.

The background to this matter is important and dates back a number of years. Several other penalties against other licensees have arisen out of the same set of background facts.

The Licensee has been licensed in British Columbia since 2006. He obtained his level 2 general insurance agent licence in August 2016. During the period of time material to this matter, he held a level 1 general insurance salesperson licence.

Pursuant to section 232 of the Act, Council conducted an investigation to determine whether the Licensee had acted in compliance with the requirements of the Act by entering false information relating to Insurance Corporation of British Columbia (“ICBC”) Autoplan transactions in an effort to override outstanding toll bridge debts owed by his customers between January 1, 2014 and June 15, 2015 while employed at his agency (the “Agency”).

On April 11, 2017, Council considered the investigation report on these issues. On June 26, 2017, Council issued written reasons and provided notice of an intended decision to the Licensee, pursuant to section 237 of the Act.

The Licensee had the option to accept Council’s decision or request a formal hearing of the issues. The Licensee accepted Council’s decision and, in the result, on July 18, 2017, Council issued an order fining the Licensee \$5,000 and imposing conditions on the Licensee’s general insurance licence pursuant to sections 231 and 236 of the Act (the “Order”).

On August 11, 2017, the Financial Institutions Commission (“FICOM”) filed an appeal of the Order to the Financial Services Tribunal (“FST”) pursuant to section 242(3) of the Act. On July 31, 2018, the FST issued a decision, which directed the matter to be remitted back to Council for further determination, but limited the issues to be addressed to only the appropriate disciplinary penalty for the licensees.

On January 24, 2019, in accordance with the FST decision, Council provided the Licensee with notice of a new intended decision suspending the Licensee’s general insurance licence for a period of nine months and imposing a condition on the Licensee’s general insurance licence that required him to complete an ethics course prior to the completion of the suspension. As was his right, the Licensee requested a hearing and this Hearing Committee was subsequently constituted pursuant to section 223 of the Act. At the hearing, the Licensee argued that an appropriate period of licence suspension in this instance is a period of only three to five months.

This is the written report of the Hearing Committee. The report has been prepared in accordance with section 223(4) of the Act.

EVIDENCE

(a) Witnesses

Council did not call any witnesses.

The Licensee gave evidence on his own behalf, both through an affidavit that was filed at the hearing, as well as by testifying in person. He was subject to cross-examination by Council and questions from the Hearing Committee.

(b) Exhibits

Two exhibits were tendered and admitted as follows:

Exhibit 1 Council's Book of Documents; and

Exhibit 2 Affidavit of R. Johal, made April 15, 2019.

During the course of the hearing, each party provided a written argument and referred to a number of previous decisions where licensees had been sanctioned in relation to bridge toll overrides. The submissions were not entered as exhibits but the cases referred to by the parties are discussed further below.

(c) Facts

The facts of this matter are derived from the materials in Exhibit 1 and the evidence given by the Licensee. On many important issues, the Hearing Committee is limited to the facts as set out in the initial intended decision given the directions of the FST.

Under volume 1, section 12.5 of the ICBC Autoplan Manual, customers who had unpaid toll bridge fees are subject to a "refuse to issue" by ICBC on their driver licences and insurance policies. If an individual owed more than \$25, and the toll was significantly past due (different time periods applied for the Port Mann toll and the Golden Ears toll), licensees would be advised of a "refuse to issue" by ICBC. This meant that a licensee would be unable to process the person's automobile insurance.

Licensees were unable to accept payment or make payment arrangements on behalf of customers to pay for toll bridge debts. The licensees were to advise customers to contact the applicable bridge administrator to pay their outstanding toll bridge debt. It was the licensee's obligation to confirm that the customer had paid the toll bridge debt in full before the insurance transaction could be processed.

Once the toll bridge debt had been paid, the Autoplan manual provided specific procedures for bypassing the "refuse to issue" restrictions. In essence, the procedure involved using a by-pass code after the licensee had confirmed payment of the toll bridge debt by the customer.

In June 2015, ICBC commenced an investigation pertaining to insurance agency staff over-riding toll bridge debts by entering false toll payment receipt numbers. There was an apparent glitch in the ICBC system that would allow a toll bridge debt, reflected as a "refuse to issue" restriction in ICBC's system, to be bypassed by entering a combination of any two letters followed by any series of five numbers. ICBC undertook a review of entries made by every agency in the province during the course of an 18 month period from January 1, 2014 to June 15, 2015. ICBC identified false transactions at nearly all the agencies in relation to both Golden Ears and Port

Mann bridge debts. These false transactions allowed customers and licensees to proceed with pricing insurance on their motor vehicles without first paying toll bridge debts.

On August 11, 2015, ICBC interviewed the Licensee and prepared a will-say document summarizing the interview. The Licensee stated that he was the general manager of the Agency and oversaw its operations. He admitted that he had processed transactions where he put in a receipt number which he knew to be false. He admitted that “they” would enter whatever number the client gave to “them”. He said he would input any number if the customer told him that he or she paid the debt but did not have a receipt even though he knew that he was supposed to sight a receipt. He admitted acting in this manner over the course of a couple of years. He denied training other Agency staff to take these steps. He admitted that he would sign transactions for other agents at the end of the day.

In a Memo to Council dated April 11, 2017, it was noted that a previous licensed representative of the Agency said that he found out about the bypass at the Agency by word of mouth. He could not remember who told him about the bypass, although it was not the Licensee. This individual did confirm that the Licensee was aware that he was overriding the toll bridge debts.

On June 26, 2017, Council issued its intended decision recommending a fine in the amount of \$5,000 to the Licensee. Salient findings in the intended decision were as follows:

The Licensee is the general manager of an Agency branch. This branch was identified by ICBC as having the highest percentage of false receipt rates for both the GETB [Golden Ears Toll Bridge] and the PMTB [Port Mann Toll Bridge] at 97%.

ICBC records show that the false receipt numbers were entered at all times of the day...

...the Licensee admitted to entering false receipts to bypass GETB debt for customers...the Licensee also stated that he was aware other Agency representatives would enter whatever number a customer brought in, even though they were supposed to sight a valid receipt.

ANALYSIS

Council determined that the Licensee intentionally entered false receipts, and permitted or turned a blind eye to the entry of false receipts by other Agency representatives who reported to him as the Agency’s branch manager. Council determined that for an experienced insurance licensee in a management position, the Licensee’s actions were a serious breach of his responsibilities.

As noted above, FICOM appealed the decision to the FST. The FST decision was released on July 31, 2018. On the appeal, the Licensee took the position that the initial decision of Council was reasonable and consistent with the framework developed by Council. He noted that he had taken responsibility for his conduct and that the Agency had taken significant steps to address the issue of managerial oversight. He submitted that he did not supervise any licensees, but that he

may have set a bad example for other agents and he also stressed that there was no evidence that he personally entered a high number of false transactions. With respect to FICOM emphasizing his management function within the Agency, the Licensee took the position that his role was being confused with that of the Agency nominee.

The Licensee also sought before the FST to admit new evidence given that FICOM made new arguments (e.g. that there are no mitigating factors and he is the general manager of the Agency). The Licensee submitted that there were numerous mitigating factors; he was not the Agency's general manager; and he did not engage in "enabling behaviour" as alleged.

The relevant conclusions of the FST for the purposes of penalty in this intended decision are found at paragraphs 123 to 125 of the decision, which state:

[123] My core finding in this decision is that subject only to clear mitigating factors in a particular case, it is only licensing action in the form of a suspension, cancellation or conditions (in addition to whatever other remedial option the regulator may consider appropriate in a case) that can adequately protect the public, secure its confidence and express the denunciation that such conduct warrants. It is my further view that, subject only to mitigating factors, a suspension of six months and the requirement to take an ethics course acceptable to the Insurance Council represents the minimum or baseline reasonable penalty that the licensee's conduct **must** attract. Whether the ultimate penalty is higher or lower depends on a consideration of mitigating or aggravating factors in a given case.

[124] While FICOM argues "that there appear to be no mitigating factors which would favour a short period of suspension or a fine alone", it is apparent to me that the Insurance Council did not meaningfully consider this issue given that it issued a common penalty in each case. It is also apparent to me, based on the arguments and the fresh evidence applications, that the problem of multiple infractions does not excuse the Insurance Council from its responsibility to make specific intended remedial judgments on a case-by-case basis based on its factual findings which are now not open to challenge or re-litigation. In my view, it is appropriate for the Insurance Council to make these judgments in the first instance.

[125] To this end, I issue these directions:

- (a) The Insurance Council is to issue a new intended decision limited to the issue of intended penalty in each of these cases in accordance with these reasons. **To be clear, the new intended decisions may not alter the factual findings and characterizations of the conduct set out in each decision.**
- (b) Each licensee will have up to 14 days to request a hearing on the issue of penalty only. If no hearing is requested, the Council's decision will be final, subject only to an appeal by FICOM. If a hearing is requested, the outcome will be subject to appeal in the usual fashion by the licensee or FICOM.

- (c) **Any hearing requested by the licensee as described in paragraph (b) in response to the new intended decision, is not to be an opportunity for the licensee or the Council to arrive at new or conflicting findings of fact regarding conduct, as those findings were not challenged before the Council or the Tribunal and are now final and binding.**

(underlining in original; emphasis added)

Decision No. 2017-FIA-002(a), 003(a), 004(a), 005(a), 006(a), 007(a) and 008(a)
at paras. 123 to 125

The FST did not find it necessary to consider the Licensee's fresh evidence application given its remedy.

SUBMISSIONS OF COUNCIL

Council took the Hearing Committee briefly through the background of this matter and made a number of submissions as to the mitigating and aggravating factors with respect to penalty. Council submitted that the Licensee's admission of guilt and his level 1 status were mitigating factors, while his years of experience, the length of time over which he admitted entering false receipts and his position of authority in the Agency were the aggravating factors in terms of fashioning an appropriate penalty.

Council submitted that the Hearing Committee was not bound by precedent but that it should be guided by the principle of proportionality. It relied upon the precedent decisions of *Ernie Nguyen* (2019); *Heidi Martina Tonja Johnson* (2019); *Cheryl Lee Das* (2019); *Edmond George* (2019); and *Mi Keun Lee* (2019). Council reviewed each of these previous matters in detail and offered submissions with respect to how these matters compared to the facts of the Licensee's case.

All of these prior decisions relate to the penalty of licensees entering false toll bridge receipt numbers and have occurred by way of an intended decision pursuant to sections 231 and 236 of the Act.

In the matter of *Ernie Nguyen*, Mr. Nguyen entered a total of 116 false receipt numbers in order to override the toll bridge debts when he processed Autoplan transactions. During the material time, Mr. Nguyen was a level 1 general insurance salesperson. Mr. Nguyen admitted he entered false receipt numbers to override toll bridge debts. He was suspended by ICBC from conducting Autoplan business for a period of 12 weeks as a result of his conduct. Mr. Nguyen wrote a letter of apology to ICBC stating that he failed to appreciate the severity of his actions at the time, and he subsequently completed an ethics course. Mr. Nguyen's general insurance licence was suspended for a period of five months.

In the matter of *Heidi Johnson*, Ms. Johnson entered a total of 53 false receipt numbers to override toll bridge debts. Ms. Johnson admitted that she entered the false numbers, explaining

that she was trying to make things easier for her clients with the debts. Ms. Johnson was suspended by ICBC from conducting Autoplan business for a period of 12 weeks as a result of her conduct. Like Mr. Nguyen, Ms. Johnson wrote a letter of apology to ICBC and subsequently completed an ethics course. Ms. Johnson had been licensed with Council since 1992. At times she had been licensed as a level 2 and 3 general insurance agent, as well as being an agency nominee for a period of time. Council determined that Ms. Johnson's general insurance licence would be suspended for a period of seven months.

In the matter of *Cheryl Lee Das*, Ms. Das entered a total of 32 false receipt numbers to override toll bridge debts. At the time, Ms. Das was a level 3 general insurance agent. Ms. Das acknowledged that she entered false receipt numbers to override toll bridge debts, and explained that she was doing so to try and help her customers who either did not have a credit card or whose insurance would expire that same day. Council suspended Ms. Das' general insurance licence for nine months.

Finally, in the decisions of *Edmund George* and *Mi Keun Lee*, those licensees entered 45 and 36 false receipt numbers respectively. Both were level 1 agents during the material time. Mr. George received an eight month licence suspension and Ms. Lee received a six month licence suspension.

Council submitted that the circumstances of this matter, particularly given the Licensee's managerial position, warranted a nine month suspension when compared to the above prior decisions. Council also sought to have the Licensee be required to complete the Ethics for Insurance Brokers course or a similar course acceptable to Council and also to pay Council's costs associated with the hearing.

THE LICENSEE'S EVIDENCE

Mr. Maltas also provided a written submission on behalf of the Licensee. The Licensee acknowledged that the Agency had a problem at the relevant time in terms of toll bridge overrides, but emphasized that the steps voluntarily taken by the Agency following the investigation by ICBC were serious changes to the Agency's business practices and submitted that they ought to be a relevant and prominent mitigating factor to any discipline imposed in this matter. Mr. Maltas took the Hearing Committee through the 10 paragraphs of the Licensee's affidavit which outlined the steps that had been taken by the Agency and the Licensee following the ICBC investigation.

In addition to the affidavit evidence, the Licensee was also sworn in as a witness and subject to cross-examination by Council, as well as questions from the Hearing Committee.

The Licensee clarified in response to questions from Council that ICBC never personally suspended him, but that he was told by ICBC that he needed to have his level 2 general insurance licence if he wanted to again complete transactions for ICBC following his suspension.

The Licensee also deposed at paragraph 10 of his affidavit that he had taken the Council's Rules course. In cross-examination by Council, the Licensee initially represented that he had also completed an ethics course in approximately January 2018 and that he had done so after the previous decisions from Council in similar matters which referenced this course. He later clarified after checking his email during a break in the hearing that he completed the Rules course offered by Council in January 2018 and may have also completed an ethics course but he could not recall which course it was or when he did so. The Licensee accepted that he would take any additional course as ordered by Council.

In response to questions from the Hearing Committee, the Licensee confirmed that to his knowledge no other employees from the Agency had been subject to discipline by Council. The Licensee had deposed at paragraph 4(b) of his affidavit that the Agency's employee with the highest number of false transactions no longer worked at the Agency, leaving only the impression that this employee had quit. The Licensee clarified during his evidence that this individual's employment had in fact been terminated by the Agency. He also confirmed that the Agency had imposed a requirement on the remaining employees that they all had to obtain their level 2 designation to do ICBC work. The Licensee believed that the nominee gave the employees approximately six months to obtain the additional training.

The Licensee also clarified the steps that the Agency took following the investigation by ICBC as set out in his affidavit. He confirmed that these changes to practice were imposed by the Agency itself. ICBC reviewed what the Agency had proposed and accepted them as conditions to the Agency continuing its contract with ICBC. The Licensee further explained that as a result of its investigation, ICBC suspended the entire Agency from performing ICBC work for a period of one month. The Hearing Committee understood that the Agency was closed during this time and the Licensee did not earn any employment income. The nominee also suspended the Licensee personally for an additional month, during which he also did not earn any income. During the three months following these two suspensions, ICBC imposed a condition that the Licensee personally not perform any ICBC work until he received his level 2 designation; however, the Licensee acknowledged that he had historically conducted a very low number of ICBC transactions and that he still sold personal lines and received a salary during this three month time period. The Licensee achieved his level 2 designation in August 2016.

Finally, the Licensee confirmed that, despite the statements recorded by ICBC and identified in Exhibit 1, he was not and has never been an owner or shareholder of the Agency. He was and still is merely the branch manager. At the relevant time he testified that the Agency had between seven and 10 employees.

SUBMISSIONS OF THE LICENSEE

During submissions and in response to questions from the Hearing Committee, Mr. Maltas emphasized that as much as the Licensee may have been part of the problem at the Agency, he was also part of the solution. Mr. Maltas highlighted that the only evidence before the Hearing Committee as to how many transactions the Licensee undertook was that of a single override

entered personally by the Licensee. The Licensee conceded that he did enter the override more than once, but the evidence was limited to that single transaction and the precedent decisions referred to by Council all referenced a specific number of transactions in the dozens, and in one case, more than one hundred, and this was not the case at hand.

Mr. Maltas also encouraged the Hearing Committee to carefully consider the context of the Licensee's management responsibilities at the Agency. He was not the nominee of the Agency, but only a level 1 agent in a management role. It was certainly an oversight position, but it did not carry with it the ultimate responsibility for the Agency.

Mr. Maltas submitted, and Council agreed, that there was no evidence that the Licensee benefitted financially from these transactions.

Balancing all of the evidence, Mr. Maltas submitted that the mitigating factors outweighed the aggravating ones and that a licence suspension of between three and five months was warranted for the Licensee, together with completion of the additional ethics course.

FINDINGS OF THE HEARING COMMITTEE

This matter presented certain challenges for the Hearing Committee given the restrictions imposed by the FST. As a result of the FST decision, the parties to this re-hearing were bound by the rather limited factual findings set out in the initial intended decision. This caused problems not only for the Licensee in terms of outlining what he argued to be the mitigating factors with respect to penalty, but it also appeared to tie Council's hands with respect to establishing the full extent of the Licensee's culpability. Those difficulties aside, the Hearing Committee was bound to consider this matter in accordance with the directions of the FST, which set out that the "baseline reasonable penalty" is a licence suspension of six months, with an ability to deviate from that sanction depending on the circumstances of the particular case.

Turning the matter at hand, with respect to the mitigating factors, the Hearing Committee acknowledges that the Licensee was a level 1 agent at the material time; he admitted his conduct; and he has already effectively been suspended from the Agency for a period of two months. During this time, he was without any employment income. Further, the Licensee was prohibited from conducting work for ICBC during an additional approximately three month period (however, on his own admission, ICBC work was never a meaningful part of his business and he continued to earn a salary from the Agency during this time for the other insurance business that he handled).

There was no evidence before the Hearing Committee that the Licensee had completed an ethics course. There was evidence that he had completed the Rules course, but the Hearing Committee is of the view that there is no connection between this type of education and the Licensee's misconduct and remediation thereof. This is also the case for the Licensee's completion of his level 2 designation, which was not done entirely at his election, but as part of ICBC's requirements before he could once again perform work for ICBC.

While the Hearing Committee recognizes that the Licensee participated in and may have directed a number of voluntary changes to the Agency practices, the Hearing Committee does not believe these changes to be worthy of significant weight in terms of determining an appropriate penalty for the Licensee. Those steps, while taken proactively to address disorganization and mismanagement of the Agency, were, in large part, done to protect the Agency's contract with ICBC. ICBC eventually made them a condition of the Agency's contract. The Agency's changes, although laudable, do not directly impact the issue before the Hearing Committee, being the Licensee's personal misconduct and the factors to consider in determining an appropriate penalty on an individual basis.

With respect to the aggravating factors, the Hearing Committee finds it significant that although not the nominee, the Licensee was the general manager of a relatively small brokerage at the relevant time. He had oversight responsibility over other agents who were participating in this debt override scheme, including one employee which the Licensee himself characterized as the worst offender. It was a finding in the intended decision that the Licensee knew or ought to have known what was taking place at the Agency. This of course must include knowledge of the conduct of the "prolific" offender.

Further, even though he was only a level 1 agent, the Licensee had between eight and nine years' experience at the relevant time and even the most inexperienced agent should have known that this type of conduct was wholly improper.

Unlike in the precedent cases presented to the Hearing Committee, it is not possible to say how many times the Licensee personally entered a manual override code. All that can be said definitively is that it was more than once. Given the bright line drawn by Council conducting these toll override investigations,¹ the Licensee, or the employees who reported directly to him who he was willfully blind to, engaged in this wrongful conduct more than 20 times, giving the Agency at which he held a management position the highest percentage of false receipt rates. In the result, even though a precise figure may not be available, the Hearing Committee was troubled by the volume of false receipts that appear to have been used by the Agency during a period of time when the Licensee held a managerial and oversight position.

RECOMMENDATIONS OF THE HEARING COMMITTEE

The factors in determining an appropriate penalty for the Licensee are deterrence, both general and specific (which will thereby protect the public), rehabilitation, punishment and isolation of the offender, the maintenance of the public confidence in the integrity of the profession and the regulatory system itself and proportionality (considering other similar decisions involving false bridge toll overrides): *Financial Services Commission v. The Insurance Council of British*

¹ As identified by the FST in Decision No. 2017-FIA-002(a), 003(a), 004(a), 005(a), 006(a), 007(a) and 008(a) at paragraph 17, licensees who overrode 20 or more toll bridge debts or for their own vehicle or a family member's vehicle were subject to investigation.

Columbia and Maria Pavicic, November 22, 2005 at p. 12 citing James T. Casey, *The Regulation of Professionals in Canada* (2003).

With respect to the principle of proportionality, the Hearing Committee notes that there were no cases presented to it with a licence suspension as low as three to four months as the Licensee submitted would be appropriate in these circumstances. There was one case with a suspension of five months in which the licensee had already been suspended for a period of 12 weeks, written a letter of apology and proactively taken an ethics course (*Nguyen*). Importantly, there were also few aggravating factors in that matter. There was another case referred to the Hearing Committee with a suspension period of nine months (*Das*), the suspension sought by Council in this matter. In *Das*, the Hearing Committee notes that there were few mitigating factors present. The aggravating factors were that Council did not fully accept the licensee's explanation as to her misconduct and that the licensee stood to benefit financially from related insurance transactions (which is in some ways present in all of these similar cases).

The Hearing Committee has considered the submissions of counsel, all of the evidence before it and the mandate by the FST that it **must** start from a baseline suspension of six months and then consider any mitigating or aggravating factors. The most significant factor in this case, in the eyes of the Hearing Committee, is the oversight responsibility of the Licensee as the manager of the Agency and the troubling statistic that the Agency had the highest percentage of false receipt rates. As a result of the role that the Licensee played within the Agency, the Hearing Committee believes that the period of licence suspension must be higher than the six month baseline referred to by the FST. The mitigating factors are such that the Licensee ought not to face the most serious level of discipline when the other cases are examined, but the penalty in this instance must nevertheless be significant in order for Council to meet its public interest mandate. The Hearing Committee does not believe that the Licensee's actions should lead to the most severe penalty of a nine months suspension. His misconduct, although serious, falls more within the range of some of the other licensees. The appropriate penalty must be higher than six months, but should not be as high as the suspension in *Das*.

In light of the facts and considerations set out above, the Hearing Committee recommends that Council consider the following penalty:


- a) the Licensee's general insurance licence be suspended for a period of eight months;
- b) as a term and condition of the licence, if he has not done so since the June 2017 intended decision, the Licensee successfully complete an "Ethics for Insurance Brokers" course through the Insurance Brokers Association of British Columbia, or an equivalent course as acceptable to Council, prior to completion of the Licensee's licence suspension; and
- c) the Licensee pay the reasonable costs of the hearing, as assessed.

With respect to hearing costs, the Licensee took the position that a reduction in any costs of the hearing awarded to Council is warranted. He noted that his only options in this matter were to

accept the intended decision setting out a penalty which imposed a suspension of nine months or go to this hearing where he could present further evidence on mitigating factors which were not considered by the FST.

The Hearing Committee considered this argument, but is of the view that because Council has been largely successful before the Hearing Committee, nothing in the circumstances warrants a departure from the usual order that the Licensee pay the reasonable costs of the hearing, as assessed.

Dated in Vancouver, British Columbia, on the **3rd day of June, 2019.**

A handwritten signature in black ink, appearing to read 'L. Maddison', written over a horizontal line.

Lesley Maddison, Chair of Hearing Committee
Insurance Council of British Columbia