

**In the Matter of**

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

**and**

**The *INSURANCE COUNCIL OF BRITISH COLUMBIA***  
**("Council")**

**and**

**PERPETUAL INSURANCE SERVICES LTD.**  
**(the "Agency")**

**ORDER**

As Council made an intended decision on February 9, 2016, 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 with written reasons and notice of the intended decision dated March 11, 2016; and

As the Agency 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. The Agency is reprimanded.
2. The Agency is assessed Council's investigative costs of \$1,500.00.
3. A condition is imposed on the Agency's general insurance licence that requires it to pay the above-ordered investigative costs no later than **June 30, 2016**. If the Agency does not pay the ordered investigative costs in full by this date, the Agency's general insurance licence is suspended as of **July 4, 2016**, without further action from Council and the Agency will not be permitted to complete any annual filing until such time as the ordered investigative costs are paid in full.

This order takes effect on the **30<sup>th</sup> day of March, 2016**.



Brett Thibault  
Chairperson, Insurance Council of British Columbia

## **INTENDED DECISION**

of the

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

respecting

**PERPETUAL INSURANCE SERVICES LTD.**  
(the “Agency”)

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

As part of Council’s investigation, on January 11, 2016, a Review Committee (the “Committee”) met with Alexander Hamilton Cheung Hin Nam (the “Nominee”), and a Level 2 general insurance agent (“Level 2 agent”) authorized to represent the Agency (the “Licensee”), to discuss allegations the Licensee failed to place adequate insurance on a rental dwelling owned by an Agency client; and, that the Agency failed to have appropriate oversight and procedures in place with respect to the activities of its licensed representatives.

The Committee was comprised of one voting member and two non-voting members of Council. Prior to the Committee’s meeting with the Nominee and the Licensee, an investigation report was distributed to the Committee, the Nominee, and the Licensee for review. A discussion of this report took place at the meeting, and the Nominee and the Licensee were provided an opportunity to make further submissions. Having reviewed the investigation materials and after discussing this matter with the Nominee and 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 February 9, 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 Agency of the action it intends to take under sections 231, 236, and 241.1 of the Act before taking any such action. The Agency 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.

## **FACTS**

The Nominee has been licensed as a general insurance licensee for more than 25 years. He is a nominee and a director of four general insurance agencies, one of which is the Agency. The Agency has held a general insurance licence since 1985.

Between 2008 and 2012, the Agency had placed rental dwelling insurance coverage for a client. The Licensee, who is a Level 2 agent with more than 20 years of experience, was responsible for this client account and had handled the renewal of the client's rental dwelling insurance over multiple years. The Licensee dealt only with the client's realtor in handling the client's insurance, as the realtor was the property manager for the rental dwelling.

In 2012, the rental dwelling suffered a fire loss. When the insurer for the dwelling's insurance policy (the "Insurer") learned the dwelling was not occupied by a single family, as had been represented to it, it voided the policy and declined the claim. The Agency's errors and omissions insurance provider ultimately settled the client's claim.

The Licensee stated that the realtor was conscious of the cost of the insurance coverage for the client, and the realtor did not want any extra coverage on the dwelling. The Licensee also submitted that throughout the multiple years of facilitating the insurance coverage, he was not aware that the dwelling was not being occupied by a single-family. It was only after the fire loss occurred that the Licensee had the realtor complete a rental dwelling questionnaire, at which time the Licensee realized there was an occupancy issue.

The Licensee could not recall if he ever took any photographs of the rental dwelling and was not able to produce any file notes summarizing his discussions with the realtor. The Licensee acknowledged that he may have cut some corners in placing insurance on the dwelling. The Licensee stated that it was an oversight on his part not to have a rental dwelling questionnaire completed on the dwelling when he was first approached by the realtor and, again, when he moved insurance coverage to the Insurer approximately four years later.

The Licensee also accepted that he had failed to follow Agency procedures when handling this matter. During the material time, the Agency had procedures in place regarding the handling of personal lines business. This included having a personal lines manager review all new personal lines business to ensure sufficient information was gathered, and to confirm the business was something the Agency would accept. However, this process did not include a review of renewal business by the personal lines manager.

Following the fire loss, the Agency implemented additional procedures, including the requirement that checklists be completed to ensure that a rental dwelling questionnaire is obtained on any rental properties; annual updating of information on all client rental properties; having all personal lines business (whether renewals or not) reviewed by the Agency's personal lines manager; and auditing client files on a regular basis to ensure they are being handled appropriately.

## **ANALYSIS**

Council acknowledged that the Agency had procedures in place to help ensure that clients' insurance needs were properly addressed. However, Council determined the Agency lacked a process to oversee the proper handling of renewal insurance business. Had such a process been in place, the Licensee's failure to obtain rental dwelling questionnaires may have been detected and the client may have been provided the appropriate rental dwelling insurance.

Council considered the Nominee's responsibility in this matter and determined this was not a situation involving a nominee who had failed to fulfill his, or her, responsibilities. Rather, Council found the Nominee was well-intentioned, but unfortunately the Agency's procedures were not adequate to identify the shortcomings involving this matter.

Council concluded the Nominee should not be subject to discipline and that responsibility for the procedural shortcomings rested with the Agency. In this regard, and noting that no other concerns were identified with the Agency's insurance practices, Council determined that a reprimand was appropriate in the circumstances.

## **INTENDED DECISION**

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

1. Reprimand the Agency.
2. Assess the Agency Council's investigation costs of \$1,500.00.

The Agency is advised that should the intended decision become final, the costs will be due and payable within 90 days of the date of the order. In addition, failure to pay the costs within the 90 days, will result in the automatic suspension of the Agency's general insurance licence and the Agency will not be permitted to complete any annual filing until such time as the costs are paid in full.

Intended Decision  
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The intended decision will take effect on **March 30, 2016**, subject to the Agency's right to request a hearing before Council pursuant to section 237 of the Act.

## **RIGHT TO A HEARING**

If the Agency wishes to dispute Council's findings or its intended decision, the Agency 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 must give notice to Council by delivering to its office written notice of this intention by **March 29, 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 Agency does not request a hearing by **March 29, 2016**, the intended decision of Council will take effect.

Even if this decision is accepted by the Agency, 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](http://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](mailto:FinancialServicesTribunal@gov.bc.ca)

Dated in Vancouver, British Columbia, on the **11<sup>th</sup> day of March, 2016**.

For the Insurance Council of British Columbia



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