

In the Matter of

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

and

The INSURANCE COUNCIL OF BRITISH COLUMBIA
("Council")

and

AVNINDER KAUR DHANOA
(the "Licensee")

ORDER

As Council made an intended decision on January 12, 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 Licensee with written reasons and notice of the intended decision dated January 29, 2016; 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 her to be supervised by a qualified life and accident and sickness insurance agent until such time as she accumulates an additional 12 months of active licensing.
2. A condition is imposed on the Licensee's life and accident and sickness insurance licence that requires her to successfully complete Advocis' ARMED seminar at the time of its next availability in British Columbia.

3. A condition is imposed on the Licensee's life and accident and sickness insurance licence that if the Licensee does not successfully complete Advocis' ARMED seminar when it is next available in British Columbia, or fails to notify Council that the ARMED seminar has been taken, the Licensee's life and accident and sickness insurance licence is suspended as of the 14th business day after the ARMED seminar was available in British Columbia without further action from Council.
4. The Licensee is assessed Council's investigative costs of \$1,475.00.
5. A condition is imposed on the Licensee's life and accident and sickness insurance licence that requires her to pay the above-ordered investigative costs no later than **May 17, 2016**. If the Licensee does not pay the ordered investigative costs in full by this date, the Licensee's life and accident and sickness insurance licence is suspended as of **May 18, 2016**, without further action from Council and the Licensee 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 17th day of February, 2016.


Brett Thibault
Chairperson, Insurance Council of British Columbia

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA (“Council”)

respecting

AVNINDER KAUR DHANOA (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 November 16, 2015, a Review Committee (the “Committee”) met with the Licensee to discuss allegations that the Licensee forged her client’s (the “Complainant”) signature on a segregated fund application, and switched the Complainant’s segregated fund holdings without authorization.

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 of its meeting for Council.

The Committee’s report, along with the aforementioned investigation report, were reviewed by Council at its January 12, 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 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 has a life and accident and sickness insurance agent (“life agent”) licence and has been licensed with Council since March 6, 2012.

In August 2012, the Licensee set up the Complainant, with whom the Licensee had a personal relationship, with an Equitable Life Pivotal Solutions DSC Tax Free Savings Account (the “Equitable DSC”). Monthly payments from the Complainant went into this segregated fund.

In June 2014, the Licensee facilitated a change, which resulted in a stop in the Complainant’s monthly payments from going into the Equitable DSC segregated fund. Instead, the Complainant’s monthly payments were to go into a new segregated fund, an Equitable Life Pivotal Select Investment Class Tax Free Savings Account (the “Equitable ISC”) with an initial sales charge. The forms originally completed to facilitate this change were insufficient, and on or about July 1, 2014, the Licensee and the Complainant met again and completed a new Equitable Life Insurance Company of Canada (“Equitable Life”) application and trade ticket. The Licensee did not keep any notes of these meetings with the Complainant.

On July 8, 2014, the Licensee attended her office to submit the forms that were completed on July 1, 2014. The Licensee’s office manager pointed out that the forms were not dated. The Licensee then telephoned the Complainant about dating the forms, and subsequently filled in the current date, despite the fact that they had been signed approximately one week earlier.

The funds already deposited into the Equitable DSC were not withdrawn so as to not incur any deferred sales charges. Only the Complainant’s subsequent monthly payments were directed into the Equitable ISC. The Licensee explained that the change occurred because the Complainant had indicated she may want to withdraw some of her funds in the future. To avoid possible deferred sales charges, the Licensee recommended depositing all future payments into an initial sales charge account.

The Complainant later contacted Equitable Life about the Equitable ISC account, where she was advised that on July 8, 2014, she signed a new application for the ISC fund. The Complainant alleged that her signature had been forged and that the Licensee transferred her from the Equitable DSC to the Equitable ISC without her knowledge. The Complainant advised that she could not have signed the documents on July 8, 2014 as she was out of town.

When confronted by Equitable Life about the documents dated July 8, 2014, the Licensee panicked and misled Equitable Life about the signing of the documents.

The Licensee was inexperienced in segregated funds and had only limited insurance experience since being licensed. The Licensee advised that she no longer deals with segregated funds and restricts her activities to life insurance only.

ANALYSIS

In reviewing the evidence, Council found irreconcilable differences between the allegations made by the Complainant and the Licensee's evidence, but, based on the balance of probabilities, accepted the Licensee's submissions. Council concluded that there was no benefit to the Licensee in making the change for the Complainant and that the change was not detrimental to the Complainant.

However, Council found that the Licensee knowingly misdated a client's signature and then failed to be forthright when confronted about the matter. In addition, Council found the Licensee added to the problem by failing to document her meetings and discussions with the Complainant.

Council concluded that the Licensee's behavior was not indicative of untrustworthiness, but found the Licensee's actions were not in accordance with the usual practice of the business of insurance. Given the Licensee's inexperience with segregated fund transactions and limited insurance activity since being licensed, Council determined that the matter reflected on the Licensee's competency. This finding was reinforced by the Licensee's failure to keep proper notes of the transaction.

Accordingly, Council determined that the Licensee would benefit from education as well as supervision until she has gained more experience in the insurance industry.

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 her to be supervised by a qualified life and accident and sickness insurance agent until such time as she accumulates an additional 12 months of active licensing.
2. Impose a condition on the Licensee's life and accident and sickness insurance licence that requires her to successfully complete Advocis' ARMED seminar at the time of its next availability in British Columbia. Failure to take the ARMED seminar when it is next available in British Columbia or failure to notify Council that the ARMED seminar has been taken, will result in the automatic suspension of the Licensee's life and accident and sickness insurance licence on the 14th business day after the ARMED seminar was available in British Columbia.
3. Assess the Licensee Council's investigative costs of \$1,475.00.

The Licensee is advised that should the intended decision become final, the investigative costs will be due and payable within 90 days of the date of the order. In addition, failure to pay the investigative costs within the 90 days, 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 investigative costs are paid in full.

The intended decision will take effect on **February 17, 2016**, 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 16, 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 Licensee does not request a hearing by **February 16, 2016**, 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:

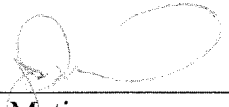
Financial Services Tribunal
PO Box 9425 Stn Prov Govt
Victoria, British Columbia
V8W 9V1

Reception: 250-387-3464
Fax: 250-356-9923
Email: FinancialServicesTribunal@gov.bc.ca

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January 29, 2016
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Dated in Vancouver, British Columbia, on the 29th day of January, 2016.

For the Insurance Council of British Columbia



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