

In the Matter of
The *FINANCIAL INSTITUTIONS ACT*
(RSBC 1996, c.141)
(the "Act")
and
The INSURANCE COUNCIL OF BRITISH COLUMBIA
("Council")
and
ALL WRITE INSURANCE AGENCIES LTD.
dba
ALL WRITE INSURANCE SERVICE
(the "Agency")

ORDER

As Council made an intended decision on May 17, 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 July 29, 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 fined \$2,500.00.
2. The Agency is assessed Council's investigative costs of \$500.00.
3. A condition is imposed on the Agency's general insurance licence that requires the Agency to pay the above-ordered fine and investigative costs no later than **November 17, 2016**. 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 **November 18, 2016**, without further action from Council and the Agency will not be permitted to complete any subsequent annual filings until such time as the ordered fine and investigative costs are paid in full.

This order takes effect on the 17th day of August, 2016.



Dr. Eric Yung
Chairperson, Insurance Council of British Columbia

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA
(“Council”)

respecting

ALL WRITE INSURANCE AGENCIES LTD.
dba ALL WRITE INSURANCE SERVICE
(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 April 11, 2016, a Review Committee (the “Committee”) met with Annparit Anna Dua, the Agency’s nominee (the “Nominee”) to discuss complaints of inappropriate conduct of two licensees; that Council was not being notified as required when licensees ceased to represent the Agency; that an individual licensee had been representing the Agency without Council having received notice that the licensee was authorized to represent the Agency; and, that Insurance Corporation of British Columbia (“ICBC”) protocols were not being followed.

The Committee was comprised of one voting member and three non-voting members of Council. Prior to the Committee’s meeting with the Agency, an investigation report was distributed to the Committee and the Nominee for review. A discussion of this report took place at the meeting and the Nominee was provided an opportunity to clarify the information contained therein and make further submissions. Having reviewed the investigation materials and after discussing this matter with the Nominee, 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 May 17, 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 Agency has held a general insurance licence in British Columbia since 2005 and primarily engages in automobile insurance business. In 2007, the Agency was disciplined by Council for failing to ensure that insurance activities carried out at the Agency were actively supervised by a Level 3 general insurance agent, including failing to ensure a Level 1 general insurance salesperson authorized to represent the Agency was directly supervised by a general insurance agent. The Nominee holds an ownership position in the Agency.

Complaints of Inappropriate Conduct

Council received two complaints regarding the conduct of two licensees at the Agency. The first complaint was received from the Motor Vehicle Sales Authority of British Columbia, which alleged that an Agency employee participated in improperly declaring the territory region for insurance coverage for motor vehicles, in order to help Agency clients avoid the AirCare requirement. The second complaint was received from a client of the Agency who alleged that his motor vehicle was sold and insurance on the vehicle was cancelled, without his knowledge, by an Agency employee.

Considering the allegation that a Level 1 general insurance salesperson (the "Salesperson") at the Agency assisted clients in avoiding the AirCare requirements, Council determined, in a separate investigation, that the Salesperson improperly declared the territory region when facilitating a vehicle owner transfer and insurance coverage on four different occasions in order to avoid the AirCare requirement. Council determined that the Salesperson involved in the transactions did not act in accordance with the usual practice of the business of insurance and that her actions reflected on her competency. In reviewing this matter, Council did not find evidence the Agency and the Nominee were aware of, or condoned, the Salesperson's actions.

Regarding the complaint of a motor vehicle being sold and insurance cancelled without the knowledge of an Agency client, Council determined there was no merit to the complaint but found the manner in which the insurance transaction was conducted reflected adversely on the insurance agent's competency. In reviewing this matter, Council did not find evidence the Agency or the Nominee failed to act appropriately.

Authority to Represent (“ATR”)

During a Council inspection at the Agency, two salespersons were identified as no longer representing the Agency. However, Council determined that the two salespersons continue to have an ATR with the Agency, even though neither has conducted insurance business at the Agency. The Nominee explained that each year the salespersons satisfy her that they have met their continuing education requirements, but the salespersons are required to pay their annual filing fee.

The Nominee advised she has been unable to contact the two salespersons in question and was unaware if either has an ATR at another agency. The Nominee was not sure how to proceed with terminating the ATRs of the two salespersons, and was concerned that by cancelling their ATRs it may affect the salespersons' licence status. The Nominee acknowledged she would address the issue before the next annual licence filing date.

The inspection also identified a licensee who was representing the Agency, even though the Agency had made no disclosure to Council, as required by Council Rules. The Nominee advised that she believed notification had been faxed to Council; however, there was no evidence to support this.

ICBC Document Review

Council's inspection of the Agency also looked at client files and insurance documentation. Council identified a number of issues with ICBC documents where licensees had taken shortcuts completing insurance documents. As an example, as many ICBC transaction documents prepared by Agency licensees, and reviewed by Council, did not contain the required names or signatures of the licensee.

A review of the Agency's ICBC producer stock log showed that logs were not printed or completed on a daily basis. It was also revealed that ICBC stock was signed back into the Agency, but never signed out. Some logs contained no Agency employee signature, and no employee had countersigned the logs to confirm stock being present. Decals dating back to 2012 were still listed on the stock log sheets as being signed out. The Nominee stated she did not know how to remove old decals from the producer stock list after the decals were returned to ICBC. However, the Agency noted that it has continually passed ICBC's audits with a "satisfactory" rating.

The Agency explained that it now has a licensee that performs error checking on ICBC documents. The Nominee now conducts random reviews of ICBC documents. The Agency has also added two experienced licensees who assist with batching. The Nominee advised that these changes help ensure that there are no errors or missing information on ICBC forms.

ANALYSIS

Council was satisfied that the Agency had not breached Council Rules by failing to notify Council within five business days when a licensee no longer had an ATR with the Agency. Council found the licensees in question still had the ATR with the Agency, even though they had not conducted any insurance business at the Agency. While concerned that the Nominee was unable to contact the licensees in question, and was unaware if either were still in the insurance industry, Council concluded that it was the Agency's decision whether the licensees were permitted to continue to represent the Agency.

With regard to the licensee who was permitted to conduct insurance business on behalf of the Agency without having an ATR, Council was concerned by the Nominee's lack of awareness and lack of policies and procedures within the Agency to ensure compliance with Council Rules. Council found that the Nominee had failed to ensure the Agency acted in accordance with Council Rules.

With respect to its ICBC document review, Council determined there was a lack of process and procedures at the Agency and that the Agency needed to improve its practices. While the Agency received a "satisfactory" rating from an ICBC audit, Council was not satisfied that the Agency's practices were in accordance with the usual practice of the business of insurance.

Overall, Council was concerned about the lack of policies and procedures, and apparent lack of oversight at the Agency. Council noted that the Agency, under a previous nominee, had been disciplined for failing to ensure proper supervision at the Agency and concluded the Agency demonstrated it was still not acting in accordance with the usual practice of the business of insurance.

INTENDED DECISION

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

1. Fine the Agency \$2,500.00.
2. Assess the Agency Council's investigative costs of \$500.00.

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

The intended decision will take effect on **August 17, 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 **August 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 Agency does not request a hearing by **August 16, 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 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

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

For the Insurance Council of British Columbia



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