

In the Matter of

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

and

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

and

**MELVIN SINGH JOHAL
(the “Nominee”)**

ORDER

As Council made an intended decision on September 13, 2016, pursuant to sections 231 and 236 of the Act; and

As Council, in accordance with section 237 of the Act, provided the Nominee with written reasons and notice of the intended decision dated October 21, 2016; and

As the Nominee 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:

1. A condition is imposed on the Nominee’s general insurance licence that requires the Nominee to successfully complete the Council Rules Course, Council’s Level 3 Seminar (Duties and Responsibilities of a Level 3 General Insurance Agent), and an errors and omissions course acceptable to Council, on or before **February 9, 2017**. If the Nominee does not successfully complete all of the above-noted courses by this date, the Nominee’s general insurance licence is suspended as of **February 10, 2017**, without further action from Council and the Nominee will not be permitted to complete any subsequent annual filings until such time as all of the above-noted courses are successfully completed.
2. The Nominee is fined \$10,000.00.

Order
Melvin Singh Johal
LIC-152860C121266R1
November 9, 2016
Page 2 of 2

3. A condition is imposed on the Nominee's general insurance licence that requires the Nominee to pay the above-ordered fine no later than **February 9, 2017**. If the Nominee does not pay the ordered fine in full by this date, the Nominee's general insurance licence is suspended as of **February 10, 2017**, without further action from Council and the Nominee will not be permitted to complete any subsequent annual filings until such time as the ordered fine is paid in full.

This order takes effect on the **9th day of November, 2016**.



Dr. Eric Yung
Chairperson, Insurance Council of British Columbia

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA (“Council”)

respecting

MELVIN SINGH JOHAL (the “Nominee”)

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

As part of Council’s investigation, on August 15, 2016, a Review Committee (the “Committee”) met with the Nominee to discuss allegations that he failed to carry out his duties and responsibilities as a nominee, including taking steps to ensure that insurance agencies he represented as nominee maintained proper books and records; that Level 1 general insurance salespersons (“Salespersons”) acted within their licence restrictions; and that insurance coverage for two clients was handled in an appropriate manner.

The Committee was comprised of one voting member and two non-voting members of Council. Prior to the Committee’s meeting with the Nominee, 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, further written submissions provided by TSN Insurance Services (Surrey) Ltd. (“TSN Surrey”) and TSN Insurance Services Ltd. (“TSN”) (collectively, the “Agencies”), and after discussing this matter with the Nominee, the Committee prepared a report for Council.

The Committee’s report, along with the aforementioned investigation report and the written submissions provided by the Agencies, were reviewed by Council at its September 13, 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 Nominee of the action it intends to take under sections 231 and 236 of the Act before taking any such action. The Nominee 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 Nominee.

FACTS

The Nominee has been licensed with Council as a Level 3 general insurance agent (“Level 3 agent”) for more than seven years. He is the nominee of the Agencies. He has been the nominee of the Agencies since 2008 and primarily works from TSN’s office in Vancouver. He attends TSN Surrey every few days.

Council received complaints against the Agencies from two different clients. One client, who was serviced by TSN Surrey, alleged that this agency underinsured his property and failed to provide him with policy documents and a premium refund in a timely manner. The other client, who was serviced by TSN, alleged that this agency did not properly handle the renewal of coverage on his strata unit or the collection of an insurance premium.

The Nominee denied that the Agencies failed to properly place coverage for the clients as alleged, or that TSN Surrey had failed to deliver a policy. However, he acknowledged his staff made administrative errors which resulted in the TSN Surrey client not receiving a premium refund in a timely manner and the TSN client not being properly invoiced for a premium due. The Nominee also said that TSN could have handled the renewal of its client coverage better. The Nominee attributed the errors to problems with accounting processes and data entry at the Agencies.

The Nominee advised that, as a result of the client complaints and Council’s investigation, the Agencies are in the process of developing employee training manuals, moving from a paper-based filing system to an electronic agency management system, and requiring that its representatives take the required education to upgrade their insurance licences so they can engage in insurance business as Level 2 general insurance agents.

Council Inspections of the Agencies

In 2012, following inspections of the Agencies by Council, the Nominee was sent a letter reminding him of the following:

- The duty to notify Council when an agency ends the authority of a licensed representative.
- The restrictions on a Salesperson’s licence.
- The requirements on the renewal of insurance coverage.
- The proper handling of insurance transactions and obtaining client signatures.

Following receipt of the aforementioned client complaints, Council inspected the Agencies again in January 2016. Each agency had numerous Salespersons (30 in the case of TSN Surrey and 55 in the case of TSN) on record with Council as authorized representatives, many of whom acted as producers to solicit insurance business from family and friends outside of the office, and attending the agency only when bringing in clients to complete insurance transactions. The Nominee claimed to be unaware of these activities; however, he acknowledged that he may have been “spread too thin” and that improvements were required to the management structure at the Agencies.

ANALYSIS

In light of client complaints and issues identified from Council’s inspections of the Agencies, the Nominee acknowledged there was a lack of proper processes at the Agencies and inadequate supervisory oversight. To address these shortcomings, the Nominee advised he will be implementing various steps, such as updating electronic computer systems at the Agencies, and bolstering management teams to improve the level of oversight.

Council acknowledged that the Nominee is taking steps to ensure the Agencies and their representatives are in compliance with Council Rules. However, Council was concerned that these steps had not been taken until recently, despite Council’s reminder to the Nominee in 2012 about his duties and responsibilities, as well as the restrictions on a Salesperson’s licence. It was particularly egregious to Council that Salespersons representing the Agencies acted contrary to their licence restrictions despite the previous reminder.

Since nominees are responsible for all insurance activities within the insurance agencies they represent, and must ensure the activities are actively supervised by a Level 3 agent, it is not acceptable to Council when a nominee fails to implement sufficient supervision and procedures. This helps to ensure that agency representatives comply with Council Rules, which exist to protect the public. In this situation, the Nominee’s admitted failures are aggravated by the fact that he was reminded previously about his responsibilities.

In light of this, Council determined it was necessary to impose a meaningful fine on the Nominee to emphasize the seriousness of his shortcomings as the nominee at the Agencies. Council concluded the Nominee should be fined \$5,000.00 for his failure to properly fulfill his role as a nominee at TSN Surrey; and \$5,000.00 for the same misconduct at TSN. Council also determined that the Nominee would benefit from education on Council Rules, the duties and responsibilities of a nominee, and errors and omissions.

Council further concluded it is necessary to inspect the Agencies prior to March 31, 2017, to determine whether the concerns in this matter have been adequately addressed. Should Council's inspections reveal that the Nominee is not fulfilling his duties and responsibilities as required, it will reflect on his competency to be a nominee.

INTENDED DECISION

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

1. Impose a condition on the Nominee's general insurance licence that requires the Nominee to successfully complete the Council Rules Course; Council's Level 3 Seminar (Duties and Responsibilities of a Level 3 General Insurance Agent); and an errors and omissions course, acceptable to Council, within 90 days of the date of Council's order.
2. Fine the Nominee \$10,000.00.

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

The intended decision will take effect on **November 9, 2016**, subject to the Nominee's right to request a hearing before Council pursuant to section 237 of the Act.

RIGHT TO A HEARING

If the Nominee wishes to dispute Council's findings or its intended decision, the Nominee 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 Nominee must give notice to Council by delivering to its office written notice of this intention by **November 8, 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 Nominee does not request a hearing by **November 8, 2016**, the intended decision of Council will take effect.

Intended Decision
Melvin Singh Johal
LIC-152860C121266R1
October 21, 2016
Page 5 of 5

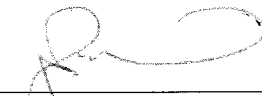
Even if this decision is accepted by the Nominee, pursuant to section 242(3) of the Act, the Financial Institutions Commission still has a right to appeal this decision of Council to the Financial Services Tribunal ("FST"). The Financial Institutions Commission has 30 days to file a Notice of Appeal, 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 **21st day of October, 2016.**

For the Insurance Council of British Columbia



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