

**In the Matter of the**

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

**and the**

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

**and**

**PARK GEORGIA INSURANCE AGENCIES (2014) LTD.**  
(the “Agency”)

**and**

**CHURK YIN WINNIE LO**  
(the “Nominee”)

## **ORDER**

As Council made an intended decision on August 14, 2018, 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 and the Nominee with written reasons and notice of the intended decision dated October 9, 2018; and

As the Agency and the Nominee have 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 Nominee’s Level 3 general insurance licence is downgraded to a Level 2 general insurance licence for a period of two years, commencing on **November 7, 2018** and ending at midnight on **November 6, 2020**, at which time the Nominee may reapply for a Level 3 general insurance licence.
2. A condition is imposed on the Nominee’s general insurance licence that requires the Nominee to successfully complete the Council Rules Course on or before **February 5, 2019**.
3. The Nominee is fined \$5,000.00 to be paid in full on or before **February 5, 2019**.

Order

Park Georgia Insurance Agencies (2014) Ltd. and Churk Yin Winnie Lo

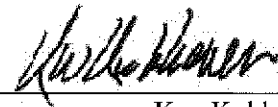
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4. The Agency is fined \$20,000.00 to be paid in full on or before **February 5, 2019**.
5. A condition is imposed on the Agency's general insurance licence that prohibits it from continuing to provide any of its existing Level 1 general insurance salespersons an authority to represent the Agency if they do not complete the Council Rules Course by **December 7, 2018**.
6. A condition is imposed on the Agency's general insurance licence that prohibits it from providing a Level 1 general insurance salesperson, who does not currently represent the Agency, with an authority to represent the Agency if the Level 1 general insurance salesperson has not completed the Council Rules Course.
7. A condition is imposed on the Agency's general insurance licence that, by **December 7, 2018**, the Agency will submit a written plan to Council advising of the steps it will take to ensure Level 1 general insurance salespersons authorized to represent the Agency are compliant with the conditions of their licences.
8. The Agency is assessed Council's investigative costs of \$375.00 to be paid in full on or before **February 5, 2019**.
9. A condition is imposed on the Nominee's general insurance licence that failure to pay the \$5,000.00 fine or successfully complete the ordered-course within the stipulated time frame will result in automatic suspension of her licence and the Nominee will not be permitted to complete any annual filing until such time as the fine is paid in full and the course successfully completed.
10. A condition is imposed on the Agency's general insurance licence that failure to pay the \$20,000.00 fine, the investigative costs or abide by the imposed conditions within the stipulated time frames will result in the automatic suspension of the Agency's 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 and the imposed conditions fulfilled.

This order takes effect on the **7<sup>th</sup> day of November, 2018**.



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Ken Kukkonen  
Chairperson, Insurance Council of British Columbia

**INTENDED DECISION**  
**of the**  
**INSURANCE COUNCIL OF BRITISH COLUMBIA**  
**(“Council”)**  
**respecting**  
**PARK GEORGIA INSURANCE AGENCIES (2014) LTD.**  
**(the “Agency”)**  
**and**  
**CHURK YIN WINNIE LO**  
**(the “Nominee”)**

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

As part of Council’s investigation, on July 9, 2018, a Review Committee met with the Nominee to discuss allegations that the Agency and Nominee allowed Level 1 general insurance salespersons (“Salespersons”) to engage in insurance activities outside of the Agency, contrary to Rules 6(1)(b) and (c) of Council Rules, and paid the Salespersons solely by commissions, contrary to Rule 6(1)(d).

Prior to the Committee’s meeting with the Nominee, an investigation report had been distributed to the Nominee, Agency, and Committee. A discussion of this report took place at the meeting and the Nominee was provided an opportunity to make further submissions. Having reviewed the investigation materials 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, were reviewed by Council at its August 14, 2018 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 and Agency of the action it intends to take under sections 231, 236 and 241.1 of the Act before taking any such action. The Nominee and 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 Nominee and Agency.

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## **FACTS**

The Nominee has held a general insurance licence with Council since 1991 and a life insurance agent licence with Council since 1995. She has acted as the Agency's sole nominee since the Agency became licensed in October 2014.

During an inspection conducted by Council in June 2017, the Nominee provided Council staff with a list of general insurance licensees authorized to represent the Agency. In reviewing the list with Council staff, the Nominee wrote a "P" (for "producer") beside any Salespersons who had conducted insurance business outside of the Agency. The Nominee identified 36 such Salespersons. In addition, the Nominee advised that these Salespersons were being paid solely in commissions.

The Nominee acknowledged that she and the Agency were aware that the Salespersons were acting in contravention of Council Rules, both with respect to their compensation structure and in permitting the Salespersons to conduct insurance business outside the Agency.

During the July 9, 2018 Committee meeting, the Nominee advised that some of the Salespersons knew little about the insurance industry as they mainly conducted Autoplan insurance business. She stated she believed some of the Salespersons would discuss insurance with potential clients outside of the Agency in social settings. The Nominee acknowledged that she knowingly allowed some Salespersons to conduct insurance business outside of the Agency. She further acknowledged that, as Nominee, it was her responsibility to ensure that the Salespersons did not act in contravention of their licence conditions and restrictions.

With respect to the compensation structure, the Nominee advised the Committee that, since Council's investigation, the Agency has been withholding the Salespersons' commissions until they become Level 2 general insurance licensees. In addition, the Nominee stated that these Salespersons are not facilitating new business and strictly deal only with existing clients by handling policy renewals.

The Nominee advised the Committee that many of the Salespersons identified in the investigation report have since left the Agency and that additional Salespersons will be terminated unless they commence Level 2 training by a deadline imposed by the Agency.

## **ANALYSIS**

Pursuant to Council Rule 6:

- (1) The following restrictions are imposed on every general insurance salesperson licence:

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- (a) the licensee must not sign contracts of insurance on behalf of an insurer;
- (b) the licensee must not carry on general insurance business in any place other than on the premises of the insurance agency the licensee is authorized to represent, except where the licensee has completed the Council Rules Course and held an active general insurance salesperson licence for 6 of the preceding 9 months and has met Council's guidelines on the minimum training and experience necessary to engage in automobile insurance, at which time the licensee may conduct automobile insurance on the premises of an automobile wholesaler, dealer or auction, or a car rental business;
- (c) the licensee must only conduct general insurance business under the direct supervision of a general insurance agent; and
- (d) the licensee's compensation must consist of a salary, whereby a minimum of 60% of the annual income is based on an hourly, daily, monthly, or other regular rate.

Council agreed with the Committee's conclusion that the Agency and the Nominee knowingly allowed Salespersons authorized to represent the Agency to conduct insurance business outside the Agency and had compensated the Salespersons solely through commissions, resulting in the Salespersons acting contrary to Rules 6(1)(b),(c) and (d). Council found this behavior particularly egregious as the Agency and the Nominee had created an environment of non-compliance with respect to their Salespersons. It was further troubling that the Nominee did not appear to be properly supervising the Salespersons within the Agency.

Council found that these circumstances demonstrated the Agency and the Nominee failed to meet the good faith and competence requirements in Council's Code of Conduct in these matters.

In considering sanction, Council reviewed the facts and disposition from a July 17, 2017 case where an agency and nominee permitted a Level 1 general insurance licensee to work unsupervised and outside of the agency and, in addition, allowed an individual to act on behalf of the agency without an authority to represent. The nominee in that case had been in the industry for over 30 years yet was reportedly unfamiliar with basic licensing conditions and restrictions and the agency failed to have appropriate procedures in place to ensure compliance. Council downgraded the nominee's Level 3 general insurance licence to a Level 2 and prohibited him from acting as a nominee. The agency was assessed a fine of \$10,000.00, investigation costs of \$1,237.50, and hearing costs of \$4,236.31.

Although the July 17, 2017 case is instructive, Council is not bound by precedent. Council determined that the gravity of the contraventions in the present matter were more egregious due to the fact that considerably more Salespersons were involved. The July 17, 2017 case only

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involved one general insurance salesperson working outside of the agency as a producer as opposed to 36 in the present case. Further, in the present case, both the Nominee and the Agency knew the Salespersons were not permitted to conduct business outside of the agency office and that their compensation structure was in breach of Council Rules. As such, Council determined that a more stringent sanction against both the Agency and the Nominee is required.

**INTENDED DECISION**

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

1. Downgrade the Nominee's Level 3 general insurance licence to a Level 2 general insurance licence for a period of two years from the date of Council's order, at which time the Nominee may reapply for a Level 3 general insurance licence;
2. Impose a condition on the Nominee's general insurance licence that requires her to successfully complete the Council Rules Course within 90 days of Council's order;
3. Fine the Nominee \$5,000.00 to be paid within 90 days of Council's order;
4. Fine the Agency \$20,000.00 to be paid within 90 days of Council's order;
5. Impose a condition on the Agency's general insurance licence that prohibits it from continuing to provide any of its existing Level 1 general insurance salespersons an authority to represent the Agency if they do not complete the Council Rules Course within 30 days of Council's order;
6. Impose a condition on the Agency's general insurance licence that prohibits it from providing a Level 1 general insurance salesperson, who does not currently represent the Agency, with an authority to represent the Agency if the Level 1 general insurance salesperson has not completed the Council Rules Course;
7. Impose a condition on the Agency's general insurance licence requiring that, within 30 days of Council's order, the Agency submit a written plan to Council advising of the steps it will take to ensure Level 1 general insurance salespersons authorized to represent the Agency are compliant with the conditions of their licences; and
8. Assess the Agency Council's investigative costs of \$375.00 to be paid within 90 days of Council's order.

The Nominee is advised that, should the intended decision become final, failure to pay the \$5,000.00 fine or successfully complete the Council Rules Course within the stipulated time frame will result in the automatic suspension of the Nominee's general insurance licence and the

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Nominee will not be permitted to complete any annual filing until such time as the fine is paid and the course successfully completed.

The Agency is advised that, should the intended decision become final, failure to pay the \$20,000.00 fine, the investigative costs, or abide by the imposed conditions within the stipulated time frame will result in the automatic suspension of the Agency's licence and the Agency will not be permitted to complete any annual filing until such time as the fine and investigative costs are paid and the imposed conditions fulfilled.

Subject to the Nominee's and Agency's right to request a hearing before Council pursuant to section 237 of the Act, the intended decision will take effect after the expiry of the hearing period.

**RIGHT TO A HEARING**

If the Nominee and/or the Agency wish to dispute Council's findings or its intended decision, either or both 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 requesting licensee must give notice to Council by delivering to its office written notice of this intention **within fourteen (14) days of receiving this intended decision**. 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 neither the Nominee nor the Agency request a hearing **within fourteen (14) days of receiving this intended decision**, the intended decision of Council will take effect.

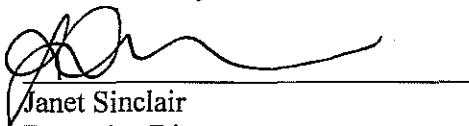
Even if this decision is accepted by the Nominee and Agency, pursuant to section 242(3) of the Act, the Financial Institutions Commission still has a right to appeal this decision of Council to the Financial Services Tribunal ("FST"). The Financial Institutions Commission has 30 days to file a Notice 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 **9<sup>th</sup> day of October, 2018**.

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For the Insurance Council of British Columbia



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