

In the Matter of

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

and

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

and

**ROEL REYES BERNARDINO
(the "Licensee")**

ORDER

As Council made an intended decision on April 14, 2015, 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 May 6, 2015; and

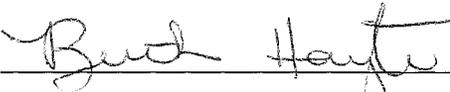
As the Licensee has not requested a hearing of Council's intended decision within the time period provided by the Act;

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 him to be supervised by a qualified life and accident and sickness insurance agent until such time as he accumulates an additional 24 months of active licensing from the effective date of this order.
2. A condition is imposed on the Licensee's life and accident and sickness insurance licence that requires him to successfully complete Advocis' Getting Established course on or before **May 26, 2016**.
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' Getting Established course on or before **May 26, 2016**, the Licensee's life and accident and sickness insurance licence is suspended as of **May 27, 2016**, without further action from Council and the Licensee will not be permitted to complete any annual filing until such time as the course is successfully completed.

4. A condition is imposed on the Licensee's life and accident and sickness insurance licence that prohibits him from acting as a supervisor of new life and accident and sickness insurance agents until three years after the completion of his supervision period.
5. The Licensee is assessed Council's investigative costs of \$1,837.50.
6. A condition is imposed on the Licensee's life and accident and sickness insurance licence that requires him to pay the above-ordered investigative costs no later than **August 26, 2015**. 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 **August 27, 2015**, 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 **26th day of May, 2015**.



Ruth Hoyte
Chairperson, Insurance Council of British Columbia

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA

(“Council”)

respecting

ROEL REYES BERNARDINO

(the “Licensee”)

INTRODUCTION

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 February 23, 2015, a Review Committee (the “Committee”) met with the Licensee to discuss allegations he misrepresented or failed to adequately explain changes to a client’s (the “Client”) insurance coverage, and had clients sign blank insurance transactional forms which were stored in the client’s file.

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 for Council’s consideration.

The Committee’s report, along with the aforementioned investigation report, were reviewed by Council at its April 14, 2015 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 was first licensed in British Columbia as a life and accident and sickness insurance agent (“life agent”) in June 2005.

The Licensee is also a new life agent supervisor, in accordance with Council Rule 7(16.1).

Client Complaint

The Client had a life insurance policy (“Policy A”) which she obtained from the Licensee in September 2006. Policy A was a \$100,000.00 whole life policy payable to age 100.

In January 2014, the Client completed an application for a \$50,000.00 whole life policy paid-up in 20 years. This application was approved and a policy (“Policy B”) was issued.

When Policy B was delivered in January 2014, it was returned for modification to change it to a \$100,000.00 policy, with a guaranteed paid-up premium after 20 years (“Policy C”). Policy C was issued in February 2014.

Shortly afterwards, the Client decided she did want to keep both Policy A and Policy C and indicated she may cancel Policy A. Ultimately, the Client stopped paying the premium on Policy C in April 2014.

Following Council’s investigation, the Client rescinded her complaint.

Licensee’s Submissions

The Licensee submitted that he recommended additional insurance to the Client and did not support cancelling Policy A. He stated that he explained the advantages and disadvantages associated with the policies and the additional coverage he recommended, and that the Client understood she was buying additional insurance.

The Licensee denied that he avoided communication with the Client and provided evidence of texts that he sent to the Client in February and April 2014.

Client Files

As part of its investigation 25 client files were reviewed. For the most part, the files contained mostly transactional documents. In addition, five client files were found to include incomplete documents pre-signed by clients. In these files there was no information regarding any fact finding or needs analysis.

The Licensee admitted that he occasionally had clients sign blank insurance transactional forms, which he kept in the client's file.

ANALYSIS

Council concluded the Licensee was well intentioned in his dealings with the Client and tried to provide her with additional insurance coverage which he had determined would be of benefit to her. In reaching this conclusion, Council took into consideration that the Client had subsequently retracted her complaint against the Licensee.

However, Council found the Licensee was overly focused on the sale of insurance at the expense of the Client's understanding of the proposed insurance and his responsibility to conduct an adequate assessment of the Client's insurance needs.

The Licensee's records of his dealings with the Client were very limited, causing Council to conclude the Licensee had failed to properly determine the Client's needs or explain his recommendations such that the Client could make an informed decision. Based on the Licensee's experience, Council found his failure to maintain proper books and records raised questions about the Licensee's ability to carry on insurance in accordance with the usual practice.

Council was troubled by the five instances of blank pre-signed insurance transactional forms found in client files. This practice together with the concerns identified above in his dealings with the Client, led Council to question the Licensee's competency and ability to act in accordance with the usual practice of the business of insurance.

In light of these concerns, Council determined the Licensee should undergo additional training, be subject to supervision, and be prohibited from being a new life agent supervisor.

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 him to be supervised by a qualified life and accident and sickness insurance agent until such time as he accumulates an additional 24 months of active licensing.

2. Impose a condition on the Licensee's life and accident and sickness insurance licence that requires him to successfully complete Advocis' Getting Established course within 12 months of the date of Council's order.
3. Impose a condition on the Licensee's life and accident and sickness insurance licence that prohibits him from acting as a new life and accident and sickness insurance agent supervisor for a period of three years following the completion of his supervision period.
4. Assess the Licensee Council's investigative costs of \$1,837.50.

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, or failure to successfully complete Advocis' Getting Established course within 12 months of the date of Council's order, will result in the automatic suspension of the Licensee's life insurance licence and the Licensee 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 **May 26, 2015**, 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 **May 25, 2015**. 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 **May 25, 2015**, the intended decision of Council will take effect.

Intended Decision
Roel Reyes Bernardino
163710-11617
May 6, 2015
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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:

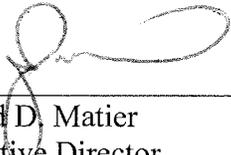
Financial Services Tribunal
PO Box 9425 Stn Prov Govt
Victoria, British Columbia
V8W 9V1

Reception: 250-387-3464
Fax: 250-356-9923

Email: FinancialServicesTribunal@gov.bc.ca

Dated in Vancouver, British Columbia, on the **6th day of May, 2015**.

For the Insurance Council of British Columbia



Gerald D. Matier
Executive Director
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gmatier@insurancecouncilofbc.com

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