

In the Matter of

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

and

The INSURANCE COUNCIL OF BRITISH COLUMBIA
("Council")

and

INTERNATIONAL INSURANCE AGENCIES LTD.
(the "Agency")

and

THEODORE (TED) YOUNG LEE
(the "Former Licensee")

ORDER

As Council made an intended decision on April 17, 2012, 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 Former Licensee with written reasons and notice of the intended decision dated May 1, 2012; and

As the Agency and the Former Licensee 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 Former Licensee is prohibited from holding an insurance licence for two years commencing April 12, 2011.
2. The Former Licensee is prohibited from holding a Level 3 general insurance agent's licence, or being a director, officer, partner, or controlling shareholder of an insurance licensee for a period of ten years commencing April 12, 2011.
3. The Former Licensee is fined \$5,000.00.
4. The Agency is fined \$5,000.00.

5. The Agency and the Former Licensee are held jointly and severally liable for the costs of the investigation, which are \$2,125.00.
6. As a condition of this Order, the Agency and the Former Licensee are required to pay the above-ordered fines and investigative costs in full, no later than **August 23, 2012**.

This Order takes effect on the **23rd day of May, 2012**.



Dan Swanlund, B.Comm, CFP
Chairperson, Insurance Council of British Columbia

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA
(“Council”)

respecting

INTERNATIONAL INSURANCE AGENCIES LTD.
(“International”)

and

THEODORE (TED) YOUNG LEE
(“Lee”)

INTRODUCTION

Pursuant to section 232 of the *Financial Institutions Act* (the “Act”), Council conducted an investigation into allegations Lee and International failed to remit insurance premiums to insurers as required and then used the premiums for purposes other than intended.

As part of Council’s investigation, on March 12, 2012, an Investigative Review Committee (the “Committee”) met with Lee to discuss the matter. The Committee was comprised of one voting member and three non-voting members of Council. Prior to the Committee’s meeting with Lee, an investigation report was distributed to the Committee and Lee for review. A discussion of this report took place at the meeting and Lee 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 Lee, the Committee made a recommendation to Council as to how this matter should be disposed.

A report setting out the Committee’s findings and recommended disposition, along with the aforementioned investigation report, were considered by Council at its April 17, 2012 meeting. Based on its review, Council accepted the Committee’s recommended disposition and 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 Lee and International of the action it intends to take under sections 231, 236 and/or 241.1 of the Act before taking any such action. Lee and International may then accept Council’s decision or request a hearing. This intended decision operates as written notice of the action Council intends to take against Lee and International.

FACTS

Lee was first licensed with Council in March 2000. He held a nominee's licence for approximately three years before purchasing International in March 2007, along with his wife (Mi Sun Lee) and two other shareholders. International was licensed as both a general and life insurance agent, although the vast majority of its business pertained to general insurance. Mi Sun Lee was responsible for International's life insurance business, held a life insurance agent's licence and was International's nominee.

Lee's purchase of International was financed by an insurer and the financing was based on it having an annual revenue stream of \$426,000.00. Prior to purchasing International in March 2007, Lee conducted due diligence on the agency, which included the construction of a rapid transit system around the area of International's office. Lee was concerned about the impact of the construction on International. From this due diligence, it was Lee's understanding that International was a viable agency and construction of the rapid transit system would have minimal affect on its business.

Shortly after purchasing International, Lee observed a noticeable decline in its business, with revenue decreasing to approximately \$292,000.00 at the end of the first fiscal year. Its revenue increased to approximately \$330,000.00 in the next year, but then decreased to approximately \$263,000.00 for the fiscal year ending in March 2010.

International's decline in revenue was primarily attributed to the construction of the rapid transit system. Other merchants near International experienced similar problems, which were well documented in local media. Throughout this period, Lee attempted to both relocate and sell International, however, this never transpired due to resistance from its minority shareholders. Lee had also hoped a class action lawsuit involving the rapid transit system construction would result in compensation for International that could be used to offset its mounting debt. However, this never came to fruition.

In the three-year period between early 2007 and early 2010, under the direction of Lee, insurance premiums collected from International clients were used to pay ongoing agency expenses such as payroll. International consequently accumulated debt with various insurers from its failure to remit net premiums to these insurers as required.

In January 2010, to help alleviate International's financial problems, Lee decided to sell its Insurance Corporation of British Columbia Autoplan Agreement ("Autoplan Agreement") to a different insurance agency ("Agency A"). The proceeds from the sale were used to pay back the loan from the insurer used to finance the purchase of International. Proceeds were also used to pay some of the debt owed to insurers relating to the outstanding net premiums.

Lee subsequently became authorized to represent Agency A and it was agreed that for a period of one year, International was entitled to any profits earned by Agency A under the Autoplan Agreement. Despite these arrangements, International struggled to meet its expenses. As of December 21, 2010, International's total debt was around \$558,000.00, with approximately \$250,000.00 owed to 16 different insurers for outstanding net premiums. Lee had also incurred personal debt to help pay International's operating costs.

Throughout 2010, International continued to use insurance premiums for purposes other than intended. In particular, according to Lee, rather than remit the premiums owed to insurers, the premiums were used for International's expenses which included compensation for himself and his wife. International was their primary source of income.

By failing to remit premiums to insurers as required, approximately 40 International clients had their property insurance policies cancelled for non-payment of premiums. This occurred in 2010 and the beginning of 2011. Around this time, Lee had been transitioning International's book of business to an insurance agency ("Agency B") affiliated with Agency A. International was also no longer operating from its previous location near the rapid transit system.

It was Lee's intent to handle the book of business at Agency B as a Level 3 general insurance agent; however, he became overwhelmed with the amount of work involved and admittedly did not properly administrate some of the business, which resulted in the following problems:

- Two clients left without insurance coverage due to Lee's failure to submit the required documentation to insurers.
- One client left without insurance coverage due to Lee's failure to properly process a premium that was to be paid by credit card.
- One client's policy cancellation request not being forwarded to an insurer.

Agency B consequently severed its relationship with Lee on February 22, 2011. During an audit of the book of business it had taken over from International, Agency B identified two situations in 2010 where Lee had placed two similar policies on the same risk. As Agency B identified problems with International and Lee's business through the audit, it took steps to rectify each situation. This included making sure client policies that had been improperly cancelled for non-payment of premiums were reinstated.

On March 2, 2011, at the request of Mi Sun Lee, International's life insurance agent's licence was terminated. Her life insurance agent's (nominee) licence was terminated at the same time. On March 31, 2011, International's general insurance agent's licence was terminated as it no longer maintained errors and omissions insurance as required by Council Rules.

On April 12, 2011, pending conclusion of Council's investigation into these matters, Lee's general insurance agent's licence was suspended pursuant to section 238 of the Act. His licence was automatically terminated on July 31, 2011, as he did not complete his annual licence filing.

ANALYSIS

Council concluded both International and Lee failed to act in a financially reliable manner, competently, and in good faith, contrary to its Code of Conduct.

Council acknowledged construction of the rapid transit system in front of International's office significantly affected International's business and Lee had not set out to harm his clients. However, there is no dispute International and Lee improperly used insurance premiums. This misconduct admittedly took place from the beginning of Lee's tenure as International's nominee. While in Lee's mind International would eventually be able to relieve the debts accruing to the various insurers once its business improved and/or compensation was received from the class action lawsuit, International and Lee nonetheless failed to adhere to the authority of its insurance markets. Council found this behaviour to be incompetent and financially unreliable.

Good faith issues subsequently arose when the failure to remit premiums continued after International's sale of its Autoplan Agreement in January 2010. At that time, by all accounts, International had relieved much of its debt. However, over the following year, premiums paid by International clients were still being misused. Admittedly, this was done in part for the purpose of compensating Lee and his wife, who were the only directors and officers of International at that time. This misuse of premiums was carried out by Lee for self-serving purposes and to the potential detriment of International clients.

Council also identified concerns with Lee's administration of insurance business as an individual producer at Agency B. Council recognized the challenges that can occur when transitioning a book of business from one agency to another. However, in this case, Council could not see how the amount of business being transitioned, which was not significant, would be overwhelming to someone with Lee's experience. Nonetheless, Lee was overwhelmed and poorly administrated files resulted in more clients being negatively affected. Council felt this further reflected on Lee's competency, and therefore should he seek to return to the insurance industry in the future, he should be subject to direct supervision as an additional measure of public protection.

Given these significant issues, Council does not believe Lee should be a directing mind of, or hold management responsibilities at, an insurance agency. It also determined for both punitive and deterrence reasons, he should not be allowed to hold an insurance licence for an extended period of time.

As for International, although it is no longer licensed, Council concluded it should be held accountable for the misconduct in this matter as well and determined a fine would be appropriate. It was noted since International is no longer licensed, measures that can be taken against it are limited.

In determining an appropriate disposition, Council considered three previous cases:

- *Y. Lui and Roadways Insurance Agencies Inc.*
- *G. Lehal, S. Mann, and Accost Insurance & Financial Centre Inc.*
- *G. Hicks*

With respect to imposing fines against International and Lee, Council did not believe it was necessary to impose maximum fines on the licensees given the other disciplinary measures being recommended. It also did not believe this case was as egregious as the cases cited above.

In making its recommendation on penalty, Council also considered that Lee, who is no longer licensed with Council, did not shirk responsibility in this matter as he voluntarily attended the Committee meeting, he was forthright and contrite, and he acknowledged disciplinary measures were necessary.

Finally, Council noted Lee's wife, Mi Sun Lee, was a director and officer of International during the material time. While she did not appear to be directly involved in the problems, she nonetheless benefited from Lee's misconduct and, as a directing mind of the agency, should be held accountable for International's lengthy period of misconduct. Accordingly, Council concluded should she seek to hold an insurance licence with Council or seek to be a director or officer of an insurance agency or firm that is or intends to be licensed with Council, her role in this matter will be taken into consideration at that time.

INTENDED DECISION

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

1. Prohibit Lee from holding an insurance licence for two years commencing April 12, 2011.
2. Prohibit Lee from holding a Level 3 general insurance agent's licence, or being a director, officer, partner, or controlling shareholder of an insurance licensee for a period of ten years commencing April 12, 2011.
3. Fine Lee \$5,000.00.
4. Fine International \$5,000.00.
5. Hold Lee and International jointly and severally liable for the costs of the investigation, which are \$2,125.00.

Council also determined that should Lee qualify to hold an insurance licence with Council in the future, he will require direct supervision by a licensee who meets Council's approval until such time as he accumulates 12 months of active licensing experience.

Lee and International are advised that, should the intended decision become final, the fines and investigative costs which will form part of the Order will be due and payable within 90 days of the date of the Order.

The intended decision will take effect on **May 23, 2012**, subject to Lee's and International's right to request a hearing before Council pursuant to section 237 of the Act.

RIGHT TO A HEARING

If Lee or International wish to dispute Council's findings or its intended decision, Lee or International 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, Lee or International must give notice to Council by delivering to its office written notice of this intention by **May 22, 2012**. 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 Lee or International do not request a hearing by **May 22, 2012**, the intended decision of Council will take effect.

Intended Decision
International Insurance Agencies Ltd. and Theodore (Ted) Young Lee
144177-I990
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Even if this decision is accepted by Lee or International, 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 www.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 **1st day of May, 2012.**

For the Insurance Council of British Columbia



Gerald D. Matier
Executive Director

GM/cc