

In the Matter of

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

and

The INSURANCE COUNCIL OF BRITISH COLUMBIA
("Council")

and

JAGMOHAN SINGH BHANDARI
(the "Former Licensee")

ORDER

As Council made an intended decision on May 14, 2013, pursuant to sections 231 and 236 of the Act; and

As Council, in accordance with section 237 of the Act, provided the Former Licensee with written reasons and notice of the intended decision dated May 29, 2013; and

As the Former Licensee requested a hearing of Council's intended decision within the time period provided by the Act, but no longer wishes to proceed with the hearing;

Under authority of sections 231 and 236 of the Act, Council orders:

1. The Former Licensee is fined \$5,000.00.
2. It is a condition of this order that the Former Licensee is required to pay the fine no later than **August 26, 2014**.
3. Should the Former Licensee obtain a life and accident and sickness insurance licence prior to August 25, 2014, a condition will be imposed on the licence that if the ordered fine is not paid in full as of August 25, 2014, the Former Licensee's life and accident and sickness insurance licence is suspended as of **August 27, 2014**, without further action from Council and the Former Licensee will not be permitted to complete any annual filing until such time as the ordered fine is paid in full.

This order takes effect on the **26th day of May, 2014**.



Rita Ager, CFP, CLU, CHS, CPCA, FEA
Chairperson, Insurance Council of British Columbia

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA
(“Council”)

respecting

JAGMOHAN SINGH BHANDARI
(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 April 22, 2013, an Investigative Review Committee (the “Committee”) met with the Licensee to discuss allegations that the Licensee failed to notify Council of disciplinary action as required by Council Rule 7(3).

The Committee was comprised of one voting member and three non-voting members of Council. Prior to the Committee 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 clarify the information contained therein and make further submissions. Having reviewed the investigation materials, and after discussing this matter with the Licensee, the Committee made a recommendation to Council as to the manner in which this matter should be disposed.

A report setting out the Committee’s findings and recommended disposition, along with the aforementioned investigation report, was reviewed by Council at its May 14, 2013 meeting. At the conclusion of its meeting, 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 the Licensee of the action it intends to take under sections 231 and 236 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

In 2002, the Licensee was disciplined by Council when he was found to have intentionally failed to meet the replacement requirements on seven occasions; improperly advised or assisted three clients to cancel their existing insurance prior to replacement insurance being issued; induced a client to replace an existing contract of insurance that was detrimental to the client's interests; and made a material misstatement to Council.

In June 2003, the Registrar of Mortgage Brokers disciplined the Licensee for failing to disclose Council's discipline on an application.

In May 2012, the Licensee reapplied for and obtained a life and accident and sickness insurance licence. At the time of his licence application, the Licensee had been recently disciplined by the Real Estate Board of Greater Vancouver for a breach of its *No Solicitation Prior to Expiry* rule and was suspended from the use of any of its services, including MLS listings, for a period of 14 days. In addition, the Licensee was being investigated by the Real Estate Council of British Columbia ("Real Estate Council"), with a hearing scheduled for June 2012. At that time, the Licensee advised he was working with the Real Estate Council on a consent order to finalize the matter.

The Licensee was granted a life and accident and sickness insurance licence subject to the following conditions:

1. The Licensee must only act as an insurance agent while under the supervision of a licensee who meets Council's approval, until such time as he accumulates 24 months of active licensed experience.
2. The Licensee must disclose to his supervisor his full disciplinary history with regulatory and professional bodies as well as any pending investigations.

At the same time, the Licensee was reminded of his obligation under Council Rules to disclose the outcome of the Real Estate Council investigation to Council once it was finalized. Upon concluding its review, the Real Estate Council suspended the Licensee for 30 days, ordered him to successfully complete the Real Estate Trading Services Remedial Education Course, and required him to pay its enforcement expenses of \$1,000.00. This action was taken on December 5, 2012. The Licensee subsequently failed to notify Council of this decision.

When contacted by Council, the Licensee advised that he was not attempting to hide anything from Council; however, as his licence was inactive, he thought he did not have to meet this requirement. The obligation to notify Council pursuant to Rule 7(3) remains in effect regardless of whether a licensee's licence is active or inactive.

ANALYSIS

Committee Meeting

The Committee was very concerned by the attitude demonstrated by the Licensee at the meeting. In response to the Committee's questions about his history of disciplinary action by professional regulatory bodies, the Licensee stated that he felt he was "*always a victim.*"

The Licensee stated he had not reviewed Council Rules or the Code of Conduct. He did not take responsibility for his failure to comply with Council Rule 7(3), despite clear warnings from Council of his obligations in this regard. The Committee was troubled that the Licensee failed to demonstrate any remorse for his conduct or any real intention of remedying his practices.

Full Council

From his dealings with the Registrar of Mortgage Brokers, the Real Estate Council, and Council, Council found the Licensee demonstrated a pattern of non-compliance with regulatory bodies. Council determined the Licensee's explanation that he did not notify Council because his licence was inactive was insufficient given the reminders provided to the Licensee regarding Rule 7(3). While Council accepted that, in some cases, a licensee may genuinely be mistaken regarding an obligation under the Rules, it determined that, in this case, the Licensee demonstrated a complete disregard for his responsibilities to the extent that it raised concerns about his suitability.

In light of the above, Council determined that a fine of \$5,000.00 was warranted to achieve a serious deterrent effect and address the Licensee's apparent disregard for Council Rules. Council held that this represented an exceptional circumstance, having regard to the Licensee's particular conduct, his apparent lack of respect for regulatory rules, and his submissions at the Committee meeting.

Further, Council determined a licence condition was required that before the Licensee can change his licence status from inactive to active, he must first appear before Council to determine what, if any, conditions should be placed on his licence. This was accomplished by an order, pursuant to sections 231 and 238 of the Act, which was provided to the Licensee by separate cover.

INTENDED DECISION

Pursuant to sections 231 and 236 of the Act, Council made an intended decision to fine the Licensee \$5,000.00.

The Licensee 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 will result in the automatic suspension of the Licensee's life and accident and sickness insurance licence until such time as the fine is paid in full.

The intended decision will take effect on **June 18, 2013**, 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 **June 17, 2013**. 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 **June 17, 2013**, the intended decision of Council will take effect.

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 www.fst.gov.bc.ca or contact them directly at:

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

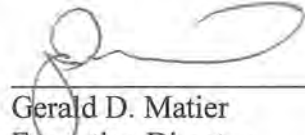
Reception: 250-387-3464
Fax: 250-356-9923

Email: FinancialServicesTribunal@gov.bc.ca

Intended Decision
Jagmohan Singh Bhandari
133990-11334
May 29, 2013
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Dated in Vancouver, British Columbia, on the 29th day of May, 2013.

For the Insurance Council of British Columbia



Gerald D. Matier
Executive Director

GM/cp