

In the Matter of

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

and

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

and

TSN INSURANCE SERVICES (SURREY) LTD.
(the “Agency”)

ORDER

As Council made an intended decision on September 13, 2016, 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 with written reasons and notice of the intended decision dated October 21, 2016; and

As the Agency 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 Agency’s general insurance licence that requires all Level 3 general insurance agents authorized to represent the Agency, both current and future, to successfully complete the Council Rules Course within the later of 90 days of the date of Council’s order, or within 90 days of becoming authorized to represent the Agency as a Level 3 general insurance agent.
2. The Agency is fined \$10,000.00.
3. The Agency is assessed Council’s investigative costs of \$1,437.50.

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

TSN INSURANCE SERVICES (SURREY) LTD.
(the “Agency”)

Pursuant to section 232 of the *Financial Institutions Act* (the “Act”), Council conducted an investigation to determine whether the Agency 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 Agency’s nominee (the “Nominee”) to discuss allegations that the Agency failed to maintain proper books and records; allowed its Level 1 general insurance salespersons (“Salespersons”) to act contrary to restrictions on their insurance licences; and mishandled the insurance requirements of a client (the “Client”).

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, the Agency, 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 the Agency, 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 written submissions from the Agency, 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 Agency of the action it intends to take under sections 231, 236, and 241.1 of the Act before taking any such action. The 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 Agency.

FACTS

The Agency has held a corporate general insurance licence with Council since 2005.

In October 2014, Council received a complaint from the Client that the Agency failed to place an adequate amount of insurance on the Client's principal residence; did not provide the Client with a copy of his insurance policy; and failed to handle a premium refund in a timely manner.

The Nominee responded that any error in the assessment of the Client's property value was due to the Agency being provided with the incorrect square footage for the Client's property. With respect to the other concerns, the Nominee denied that the Agency failed to deliver the policy; however, he acknowledged the Agency did not handle a premium refund on the policy in a timely manner. The Nominee attributed the premium refund shortcoming to problems with accounting processes and data entry at the Agency.

Council Inspections of the Agency

In 2012, Council inspected the Agency. Following the inspection, Council sent a letter to the Nominee which included a reminder of the following:

- The duty to notify Council when the Agency ends the authority of a licensed representative.
- The restrictions on a Salesperson's licence.
- Client notification responsibilities on policy renewals.
- Proper handling of insurance transactions and documents that require signatures.

In 2016, Council inspected the Agency again. At the time of the inspection, 38 licensees were authorized to represent the Agency, with 30 of them licensed as Salespersons, and nine licensed as Level 2 general insurance agents ("Level 2 agents") or higher, including the Nominee.

Six of the Salespersons advised Council that it was generally understood they were to operate as producers, which meant soliciting 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 he may have been "spread too thin".

The Nominee advised that improvements were required to the management structure at the Agency and that it is 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 Salespersons take the required education to upgrade their insurance licences so they can engage in insurance business as Level 2 agents.

ANALYSIS

In light of the Client complaint and issues identified from Council's inspections of the Agency, the Nominee acknowledged there was a lack of proper processes at the Agency and inadequate supervisory oversight. To address these shortcomings, the Nominee advised that various steps will be implemented, such as updating the Agency's electronic computer system and bolstering its management team to improve the level of oversight.

Council acknowledged that the Agency is taking steps to ensure its 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 Council requirements. Council found it particularly egregious that Salespersons representing the Agency acted contrary to their licence restrictions despite the aforementioned reminder.

Council concluded that the Agency failed to ensure that all of its insurance activities were actively supervised as required and therefore it acted contrary to the usual practice of the business of insurance and Council Rules.

In light of the previous reminder, Council determined it was necessary to impose a meaningful fine on the Agency to emphasize the seriousness of the shortcomings in its operations, which Council concluded were contributing factors in the Client complaint. Council also determined that all Level 3 general insurance agents representing the Agency should be required to successfully complete Council's Level 3 Seminar (Duties and Responsibilities of a Level 3 General Insurance Agent).

Council further concluded it is necessary to inspect the Agency prior to March 31, 2017, to determine whether the concerns in this matter have been adequately addressed.

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 Agency's general insurance licence that all Level 3 general insurance agents authorized to represent the Agency, both current and future, be required to complete the Council Rules Course within the later of 90 days of the date of Council's order; or within 90 days of becoming authorized to represent the Agency as a Level 3 general insurance agent.
2. Fine the Agency \$10,000.00.
3. Assess the Agency Council's investigative costs of \$1,437.50.

The Agency is advised that, should the intended decision become final, the fine and investigative costs will be due and payable within 90 days of the date of the order. In addition, failure to pay the fine and investigative costs within the 90 days will result in the automatic suspension of the Agency's general insurance 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.

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

RIGHT TO A HEARING

If the Agency wishes to dispute Council's findings or its intended decision, the Agency 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 Agency 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 Agency does not request a hearing by **November 8, 2016**, the intended decision of Council will take effect.

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Even if this decision is accepted by the 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 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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