

In the Matter of

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

and

The INSURANCE COUNCIL OF BRITISH COLUMBIA
("Council")

and

ARTHUR WILLIAM LUDLOW
(the "Licensee")

ORDER

As Council made an intended decision on October 16, 2012, pursuant to sections 231 and 236 of the Act; and

As Council, in accordance with section 237 of the Act, sent written notice of the intended decision dated November 2, 2012, to the Licensee's service address; 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 and 236 of the Act, Council orders:

1. the Licensee's life and accident and sickness insurance licence is suspended until such time as full restitution of all outstanding fees, including service charges, is made in the form of cash, certified cheque, or money order; and
2. the Licensee is prohibited from completing any annual filing until such time as full restitution is made.

This order takes effect on the **21st day of November, 2012.**



C. David Porter, LL.B., FCIP, CRM
Chairperson, Insurance Council of British Columbia

INTENDED DECISION
of the
INSURANCE COUNCIL OF BRITISH COLUMBIA
(“Council”)
respecting
ARTHUR WILLIAM LUDLOW
(the “Licensee”)

INTRODUCTION

Pursuant to section 232 of the *Financial Institutions Act* (the “Act”), Council conducted an investigation to determine whether there was compliance by the Licensee with the requirements of the Act.

At its October 16, 2012 meeting, Council considered an allegation that the Licensee failed to make restitution on a dishonoured cheque submitted to Council on July 26, 2012, as part of his 2012 annual filing.

The Licensee was left voicemail messages and sent two registered letters regarding the dishonoured cheque and was advised that if no response was received, the matter would be considered by Council. As of October 16, 2012, the Licensee had neither made restitution to Council nor responded to Council inquiries.

The Licensee’s licence is currently inactive.

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

Based on the Licensee's file, Council made the following findings of fact:

1. On July 26, 2012, Council received a cheque in the amount of \$215.00, which formed part of the Licensee's 2012 annual filing for his life and accident and sickness insurance agent licence.
2. Council subsequently received a Chargeback Notice from the financial institution, due to "Account Closed."
3. On August 10, 2012, Council staff called the Licensee's residential telephone number. Since the telephone call was not answered, Council staff left a voicemail message for the Licensee asking him to return the call.
4. On August 15, 2012, Council staff sent a letter to the Licensee by registered mail to his given residential address requesting payment of the outstanding filing fee and the \$25.00 service charge incurred by Council. The letter advised the Licensee that if payment was not received by August 28, 2012, the matter would be considered by Council. The letter was returned to Council as unclaimed.
5. On September 11, 2012, Council staff sent a second letter to the Licensee by registered mail. This letter, which was sent to the Licensee's given service address, also requested payment of the outstanding filing fee and service charge. The letter advised the Licensee that if payment was not received by September 25, 2012, the matter would be considered by Council. The letter was successfully delivered to the Licensee's service address on September 13, 2012.
6. As of October 16, 2012, restitution had not been made to Council.

ANALYSIS

Section 231 of the Act requires a licensee to continue to meet the licensing requirements established by a rule made by Council. Council Rule 4(4)(b) requires that licensees submit to Council a filing, including supporting documentation, in the form required by Council. One of the requirements of an annual filing is the payment of a fee as prescribed in Council's Fee Schedule. Council found that the Licensee's failure to make restitution on the dishonoured cheque represents a breach of Council Rules in that the Licensee failed to complete a filing for an insurance licence. Council also found that the Licensee's failure to make restitution on the dishonoured cheque brings into question his financial reliability.

INTENDED DECISION

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

1. suspend the Licensee's life and accident and sickness insurance agent licence until such time as full restitution of all outstanding fees, including service charges, is made in the form of cash, certified cheque or money order; and
2. prohibit the Licensee from completing any annual filing until such time as full restitution, as outlined in number 1 above, is made.

The intended decision will take effect on **November 21, 2012**, 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 **November 20, 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 the Licensee does not request a hearing by **November 20, 2012**, the intended decision of Council will take effect.

Dated in Vancouver, British Columbia, on the **2nd day of November, 2012**.

For the Insurance Council of British Columbia



Gerald D. Matier
Executive Director

GM/cc