In the Matter of

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

and

The INSURANCE COUNCIL OF BRITISH COLUMBIA
("Council")

and

PAUL IAN BIDESHI
(the "Former Licensee")

ORDER

As Council made an intended decision on April 12, 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 Former Licensee with written reasons and notice of the intended decision dated May 10, 2016; and

As the Former 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. The Former Licensee is fined $3,000.00.
2. The Former Licensee is assessed Council's investigative costs of $587.50.
3. A condition is imposed on the Former Licensee's life and accident and sickness insurance licence that requires the Former Licensee to pay the above-ordered fine and investigative costs no later than **August 31, 2016**. If the Former Licensee does not pay the ordered fine and investigative costs in full by this date, the Former Licensee will not be permitted to re-apply for an insurance licence until such time as the fine and investigative costs are paid in full.

This order takes effect on the **31st day of May, 2016**.

Brett Thibault
Chairperson, Insurance Council of British Columbia

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA
("Council")

respecting

PAUL IAN BIDESHI
(the "Former Licensee")

Pursuant to section 232 of the *Financial Institutions Act* (the "Act"), Council conducted an investigation to determine whether the Former Licensee acted in compliance with the requirements of the Act.

As part of Council's investigation, on February 15, 2016, a Review Committee (the "Committee") met with the Former Licensee via teleconference to discuss an allegation that the Former Licensee processed insurance business through another life agent in an inappropriate manner.

The Committee was comprised of one voting member and three non-voting members of Council. Prior to the Committee's meeting with the Former Licensee, an investigation report was distributed to the Committee and the Former Licensee for review. A discussion of this report took place at the meeting and the Former Licensee was provided an opportunity to make further submissions. Having reviewed the investigation materials, and after discussing this matter with the Former Licensee, the Committee prepared a report of its meeting for Council.

The Committee's report, along with the aforementioned investigation report, were reviewed by Council at its April 12, 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 Former Licensee of the action it intends to take under sections 231, 236, and 241.1 of the Act before taking any such action. The Former 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 Former Licensee.

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FACTS

The Former Licensee was first licensed as a life and accident and sickness insurance agent ("life agent") in British Columbia in 1993. The Former Licensee's licence was terminated by Council effective July 31, 2015, due to non-filing.

Council's investigation arose from a complaint an insurer received from a client (the "Client"). The Client alleged that the Former Licensee's manager (the "Manager"), signed the Client's insurance applications of November 1, 2013 and September 15, 2014, as both agent and witness, although it was the Former Licensee who actually met with the Client. The Client's applications were then remitted to the insurer under the Manager's insurer code.

The Client believed the Former Licensee was her agent of record, and was surprised when she was informed by the insurer that the Manager had processed her applications.

The Former Licensee was recruited by the Manager to be part of a team he managed. With the Client's first insurance application in November 2013, the Former Licensee did not have a contract with that insurer. The Manager agreed to assist the Former Licensee by signing the Client's application and submitting it to the insurer under his code.

The Former Licensee again had the Manager sign the Client's insurance application completed in September 2014. At this time, the Former Licensee had a contract with the insurer but it was through a different managing general agent ("MGA") than that of the Manager. The Manager signed the September 2014 application so the business would go through his MGA.

The Manager received the commission associated with the Client's applications and then forwarded the full amount to the Former Licensee.

In completing the Client's application, the Former Licensee never explained to the Client that another life agent would be signing and submitting the Client's application. However, the Former Licensee did provide the Client with written disclosure regarding whom the Former Licensee represented, including the name of the MGA that both the Former Licensee and the Manager represented, and who had processed both of the Client's insurance applications.

ANALYSIS

Council found that the Former Licensee allowed the Client's insurance applications to be signed by the Manager and then submitted to the insurer without any specific disclosure to the Client or the insurer.

Council found that the Former Licensee had a duty to ensure that the Client understood how he intended to proceed with the Client's insurance transactions. Council noted that the Client received some written disclosure about the Former Licensee's relationship with the MGA and the insurer, and determined such disclosure would have been appropriate if the Former Licensee had signed and submitted the Client's applications to the insurer. However, as the Former Licensee was not going to be the life agent who signed and submitted the application, Council found the Former Licensee had a duty to provide the Client with greater disclosure.

Just as importantly, the Former Licensee had a duty to the insurer to disclose that, while he had met with and assisted the Client in the completion of the insurance applications, he was not the life agent who was signing and submitting the insurance applications. Council found the Former Licensee's failure to include specific notes on the Client's insurance applications to advise the insurer of this occurrence was not in accordance with the usual practice of the business of insurance.

Council considered *C. Canavan*, as well as general and specific deterrence principles, and determined a fine and the assessment of investigative costs would be appropriate to address the Former Licensee's conduct.

In light of his failure to grasp the importance of full disclosure regarding the Client's transactions, Council felt that the Former Licensee would benefit from an errors and omissions course. Normally Council would impose this as a licence condition, but the Former Licensee does not currently hold an insurance licence. Consequently, Council has directed that, should the Former Licensee decide to re-apply for an insurance licence at some future date, he will be required to successfully complete an errors and omissions course as a requirement of any licence application.

INTENDED DECISION

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

1. Fine the Former Licensee $3,000.00.
2. Assess the Former Licensee Council's investigative costs of $587.50.

The Former Licensee 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 Former Licensee not being permitted to re-apply for an insurance licence until such time as the fine and investigative costs are paid in full.

The intended decision will take effect on **May 31, 2016**, subject to the Former Licensee's right to request a hearing before Council pursuant to section 237 of the Act.

RIGHT TO A HEARING

If the Former Licensee wishes to dispute Council's findings or its intended decision, the Former 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 Former Licensee must give notice to Council by delivering to its office written notice of this intention by **May 30, 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 Former Licensee does not request a hearing by **May 30, 2016**, the intended decision of Council will take effect.

Even if this decision is accepted by the Former 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 **10th day of May, 2016**.

For the Insurance Council of British Columbia

Gerald Matier
Executive Director
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