

In the Matter of

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

and

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

and

**CLARENCE DONALD REIN
(the “Licensee”)**

ORDER

As Council made an intended decision on March 8, 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 Licensee with written reasons and notice of the intended decision dated April 4, 2016; and

As the Licensee requested a hearing of Council’s intended decision in accordance with the Act, but no longer wishes to proceed with the hearing;

Under authority of sections 231, 236, and 241.1 of the Act, Council orders:

1. The Licensee is reprimanded.
2. The Licensee is assessed Council’s investigative costs of \$775.00.
3. A condition is imposed on the Licensee’s insurance adjuster licence that requires the Licensee to pay the above-ordered investigative costs no later than **August 25, 2016**. If the Licensee does not pay the ordered investigative costs in full by this date, the Licensee’s insurance adjuster licence is suspended as of **August 26, 2016**, without further action from Council and the Licensee will not be permitted to complete any annual filing until such time as the ordered investigative costs are paid in full.

This order takes effect on the **25th day of May, 2016**.



Brett Thibault
Chairperson, Insurance Council of British Columbia

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA (“Council”)

respecting

CLARENCE DONALD REIN (the “Licensee”)

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, and in particular whether the Licensee engaged in work as an insurance adjuster during a period in which the Licensee’s insurance adjuster licence was inactive.

The investigation report was reviewed by Council at its March 8, 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 Licensee of the action it intends to take under sections 231, 236, and 241.1 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

The Licensee was first licensed as an insurance adjuster in British Columbia in 1982. He remained licensed in this capacity until 1989. Between December 2008 and January 2011, the Licensee held a Level 1 insurance adjuster licence. On January 31, 2011, he became licensed as a Level 2 insurance adjuster, and remained active until May 1, 2013, when he ceased to have authority to represent a firm.

On December 11, 2013, the Licensee was granted a Level 3 insurance adjuster licence. Between May 1, 2013 and December 10, 2013, the Licensee’s insurance adjuster licence was inactive.

Council Rule 7 states the following:

“Conditions Applicable to Insurance Adjuster and General Insurance Licences

(12) *Where an insurance adjuster or general insurance salesperson or agent is no longer an authorized representative of an insurance agency, adjusting firm or general insurance direct writer:*

(a) *the licence of the individual is automatically suspended without Council taking any action; ...*

Conditions Applicable to Insurance Adjuster Licences

(18) *An individual insurance adjuster must only conduct insurance activities as an authorized representative of a licensed adjusting firm.”*

Section 168 of the Act defines the term “*insurance adjuster*” as “*a person who makes an adjustment or settlement of a claim under a contract of insurance other than a contract of marine insurance*”.

The Licensee’s Services

Council received a complaint from a consumer (the “Consumer”), who owns a used bookstore (the “Store”). On February 6, 2013, the Store suffered water damage, which resulted in significant damage to a large number of used books. The Consumer filed a claim with her insurer (the “Insurer”). The Consumer and the Insurer were subsequently unable to reach an agreement on the value of the loss.

The Consumer hired the Licensee in July 2013 to assist her with her claim. The Licensee’s involvement in the claim included: reviewing the Consumer’s policy and associated documents; meeting with her employees; attending the Store to review inventory; conducting valuations of the Consumer’s inventory; and, preparing and submitting a Proof of Loss to the Insurer.

The Licensee corresponded with the Insurer regarding the Consumer’s claim, and acted as a representative of the Consumer in the dispute resolution process provided for by section 12 of the *Insurance Act*.

The Licensee’s position is that he did not act as an insurance adjuster, but only as an appraiser. He stated that he was never paid by the Consumer for his services, but acknowledged that it was supposed to be a fee-for-service relationship.

ANALYSIS

Council found that the Licensee was involved in adjusting the Consumer's claim during the period of time when his insurance adjuster licence was inactive. Council noted that the Licensee's actions in preparing the Proof of Loss for the Consumer, and acting as her representative in negotiating the settlement of a claim with the Insurer, represented activities as an insurance adjuster, as defined by the Act.

Council determined that as the Licensee was licensed, but with an inactive status, he should have made it clear to the Consumer that he was prohibited from conducting insurance adjusting activities as his licence was not active.

INTENDED DECISION

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

1. Reprimand the Licensee.
2. Assess the Licensee Council's investigative costs of \$775.00.

The Licensee is advised that should the intended decision become final, the investigative costs will be due and payable within 90 days of the date of the order. In addition, failure to pay the investigative costs within the 90 days will result in the automatic suspension of the Licensee's insurance adjuster licence and the Licensee will not be permitted to complete any annual filing until such time as investigative costs are paid in full.

The intended decision will take effect on **April 26, 2016**, 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 **April 25, 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.

Intended Decision
Clarence Donald Rein
12496-11831
April 4, 2016
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If the Licensee does not request a hearing by **April 25, 2016**, 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 fst.gov.bc.ca or contact them directly at:

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

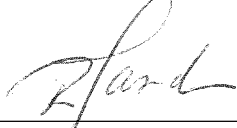
Reception: 250-387-3464

Fax: 250-356-9923

Email: FinancialServicesTribunal@gov.bc.ca

Dated in Vancouver, British Columbia, on the **4th day of April, 2016**.

For the Insurance Council of British Columbia

per 

Gerald Matier
Executive Director
604-695-2001
gmatier@insurancecouncilofbc.com

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