

In the Matter of

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

and

**The INSURANCE COUNCIL OF BRITISH COLUMBIA
("Council")**

and

**PIOTR PAWEL (Peter) LIPSKI
(the "Former Licensee")**

and

ENTIRE FINANCIAL SERVICES LTD.

ORDER

Pursuant to section 237 of the Act, Council convened a hearing at the request of the Former Licensee to dispute an intended decision and 238 order dated October 9, 2008.

The subject of the hearing was set out in a Notice of Hearing dated June 2, 2010.

A Hearing Committee heard the matter on June 11, 2010, and presented its hearing report to Council at its August 10, 2010 meeting.

Council considered the findings contained in the Hearing Committee's report as well as its recommended disposition and made the following order pursuant to section 231, 236 and 241.1 of the Act:

1. the Former Licensee is subject to a licence cancellation for a two year period commencing from October 8, 2008;
2. the Former Licensee is assessed a fine of \$5,000.00;
3. the Former Licensee is assessed investigative costs of \$3,712.50;
4. the Former Licensee must complete or satisfy Council he has already successfully completed, within the last twelve months, an ethics course, satisfactory to Council, as a requirement of any application for an insurance licence;

ORDER

Piotr Pawel (Peter) Lipski and Entire Financial Services Ltd.

File Nos.: 096725-I410 and 9025519-I410

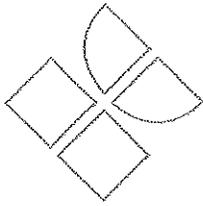
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5. if the Former Licensee applies for a life insurance agent's licence, he is required to re-qualify educationally as a condition of making the licence application;
6. as a condition of licensing, the Former Licensee must be under the direct supervision of a life insurance agent, who has at least five years' licensed experience, for a minimum period of two years;
7. the Former Licensee is required to pay the above mentioned fine and costs no later than November 15, 2010.

This order takes effect on the **13th day of August, 2010.**



Barbara MacKinnon, CAIB
Chairperson, Insurance Council of British Columbia



August 13, 2010

PRIVATE AND CONFIDENTIAL

**Re: Piotr Pawel (Peter) Lipski (the "Former Licensee") and
Entire Financial Services Ltd.
Hearing of June 11, 2010
File Reference Numbers: 096725-I410 and 9025519-I410**

On June 11, 2010, a hearing was held at the request of the Former Licensee. A Hearing Committee was constituted by the Insurance Council of British Columbia ("Council") pursuant to section 223 of the *Financial Institutions Act* (the "Act"). Upon completion of the hearing, a Hearing Committee prepared its findings, as well as recommendations on disposition, and submitted its report to Council.

The Report of the Hearing Committee (the "Report") was considered by Council at its August 10, 2010 meeting, where it made an order for the disposition in this matter.

In making its order, Council reviewed the findings contained in the Report and gave consideration to the recommended disposition proposed by the Hearing Committee. Enclosed is a copy of the Report as well as the resulting order issued by Council.

In requiring the Former Licensee to re-qualify educationally, Council is prepared to allow the Former Licensee one attempt of Council's life licensing qualification exam without first completing the Life Licensing Qualification Program ("LLQP"). If the Former Licensee elects to attempt Council's qualification exam without first taking the LLQP and is unsuccessful, he will be required to successfully complete the LLQP before he will be permitted any further attempts of Council's qualification exam.

In ordering the Former Licensee to pay Council's investigative costs, Council acknowledges that these costs have already been paid.

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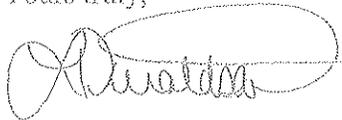
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Pursuant to section 242 of the Act, the Former Licensee may appeal Council's order to the Financial Services Tribunal (the "Tribunal"). Pursuant to section 242(3), the Financial Institutions Commission is a party to an appeal of a decision of Council to the Tribunal and may also appeal a decision of Council to the Tribunal.

For more information respecting appeals to the Tribunal, please visit their website at www.fic.gov.bc.ca/fst or contact them directly at:

Financial Services Tribunal
Suite 1200, 13450 102 Avenue
Surrey, British Columbia
V3T 5X3
Tel: 604-953-5300
E-mail: FST@gov.bc.ca

Yours truly,



gm: Gerald D. Matier
Executive Director

Encl.

GM/ah

INSURANCE COUNCIL OF BRITISH COLUMBIA
("Council")

REPORT OF THE HEARING COMMITTEE

IN THE MATTER OF THE *FINANCIAL INSTITUTIONS ACT*
(S.B.C. 1996, c. 141)
(the "Act")

AND

PIOTR PAWEL (Peter) LIPSKI
(the "Former Licensee")

AND

ENTIRE FINANCIAL SERVICES LTD.
(the "Agency")

DATE: June 11, 2010
9:30 A.M.

BEFORE: Graham Calder Chair
John Manuel Member
Carman Holmes Member

HEARING AT: Insurance Council of British Columbia
Suite 300, 1040 West Georgia Street
Vancouver, British Columbia V6E 4H1

PRESENT: David McKnight Counsel for Council
Christopher M. McHardy Counsel for Former Licensee
Piotr Pawel (Peter) Lipski Former Licensee

Issues

On October 9, 2008, Council made an order terminating the Former Licensee's life insurance agent's licence, pursuant to sections 231 and 238 of the Act, after it found the Former Licensee unsuitable to hold an insurance licence.

As set out in the Notice of Hearing dated June 2, 2010, the purpose of the hearing was to determine whether the Former Licensee:

- (a) failed to act in a trustworthy manner, in good faith and in accordance with the usual practice of the business of insurance, and whether the Former Licensee:
 - (i) made misrepresentations and failed to disclose material information;
 - (ii) submitted altered documents in support of his client's mutual fund applications which he knew were altered;
 - (iii) engaged in unlicensed life insurance activities; and
 - (iv) made false and misleading statements to Council;
- (b) is able to carry on the business of insurance in a trustworthy and competent manner, in good faith and in accordance with the usual practice, as required under Rule 3(2) of Council Rules and pursuant to section 231(1)(a) of the Act; and
- (c) should be subject to any disciplinary or other action in the circumstances.

The Hearing Committee was constituted pursuant to section 232 of the Act. This is a report of the Hearing Committee as required by section 232(4) of the Act.

Evidence

Evidence reviewed by the Hearing Committee in consideration of this matter:

- Exhibit 1: Agreed Statement of Facts
- Exhibit 2: Council's Book of Documents
- Exhibit 3: Correspondence dated October 20, 2008, letter from the Former Licensee to Gerald Matier, Executive Director of Council
- Exhibit 4: Letters of reference

Background

Based on the Agreed Statements of Facts, submitted as Exhibit 1, the Hearing Committee knows the following.

The Former Licensee was initially licensed in 1992 as a Level 1 life insurance agent. The Former Licensee began representing a specific insurer in 1994 and maintained that relationship with the insurer until April 2008, when the insurer cancelled the Former Licensee's contract due to inappropriate conduct relating to several of his clients' leveraged (non-insurance) accounts. At the time the insurer's contract was terminated, the Former Licensee held a life insurance agent's licence and was the nominee of his Agency.

REPORT OF THE HEARING COMMITTEE

August 10, 2010

Piotr Pawel (Peter) Lipski and Entire Financial Services Ltd.

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Prior to the termination of his contract, the Former Licensee's primary business activity pertained to the sale of life insurance products and services. He was also licensed as a mutual fund salesperson.

A number of the Former Licensee's clients' purchased Stone and Co. Flagship Growth and Income Fund ("Stone Fund"), a mutual fund, based on his recommendation. The Former Licensee sold over \$2,000,000.00 of Stone Fund product and received \$125,875.00 in net commissions. At least nine of these clients purchased Stone Fund with the aid of leveraging.

An investigation into these accounts by the Former Licensee's mutual fund dealer, as well as subsequent investigation by Council staff, revealed that documentation and applications to support the leveraged loans and mutual fund transactions contained discrepancies. These discrepancies included Canada Revenue Agency ("CRA") Notices of Assessment, falsified T4 slips, falsified pay stubs and employment letters. In all cases, the documents had been altered to report an income that was higher than the actual amount.

In one case, the Former Licensee prepared an employment letter reportedly from a health food store and signed by a person who was a client of the Former Licensee. A review of the signature on the employment letter to that on file with the Former Licensee was found to be significantly different.

In another case, an employment letter was submitted from a contracting business and signed by the general manager "Peter Kirsky". The contact information for Peter Kirsky included the same telephone number as the Former Licensee. When the number was called, it was the Former Licensee who answered the call pretending to be Peter Kirsky. The Former Licensee carried out the charade of being the (fictitious) employer and confirmed the employment of the client involved when contacted, first by the mutual fund dealer's compliance staff and later by Council staff.

In explaining his actions, the Former Licensee stated nine of his clients were either self-employed or had other means and could not provide documentation required to obtain an investment loan, despite having the necessary income or resources. The Former Licensee argued his motives were based solely on wanting to assist his clients.

When first approached about these allegations, the Former Licensee attempted to point the blame at another person, who had assisted these individuals in obtaining mortgages and business loans previously. When the clients were contacted directly, they all denied knowing this individual and had no knowledge of altered CRA Notices of Assessment.

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Throughout the investigation, first conducted by the mutual fund dealer and subsequently by Council, the Former Licensee made numerous false statements in an attempt to mislead or confuse the investigators. During the initial stages of the investigation, the Former Licensee failed to disclose that he had prepared the personal income taxes for all the clients in question. When confronted with this knowledge and the fact that he was the one who had assisted in preparing the documents submitted in support of the leveraged loans, the Former Licensee continued to provide changing and conflicting explanations by claiming the clients had been mistaken in naming him and Stantax Services (an accounting business owned by the Former Licensee) as the persons responsible for preparing their income tax returns. In a subsequent statement to Council on June 6, 2008, the Former Licensee provided a written statement in which he denied he had altered or falsified any information on applications for leveraged loans, but could not provide an explanation as to why the Notices of Assessment differed from the originals.

In October 9, 2008, Council issued a 238 Order cancelling the Former Licensee's life insurance agent's licence. The order was delivered to the Former Licensee on October 11, 2008. In November 2008, the Former Licensee engaged in unlicensed activity by soliciting and completing three applications for life and critical illness insurance from three clients. This was done at a time when the Former Licensee knew that he was no longer licensed and was not qualified to conduct any insurance activity.

Submissions of David McKnight ("McKnight")

McKnight submitted the Former Licensee has now acknowledged that he altered documents on behalf of nine clients. The documents were altered to facilitate obtaining a leveraged loan which would not otherwise have been available to the clients. The loans were obtained to fund the purchase of the Stone Fund, which resulted in commissions being earned by the Former Licensee.

In addition to his responsibilities as a life insurance agent and a mutual fund salesperson, the Former Licensee also provided tax and bookkeeping services to these clients. The clients, when interviewed, have all stated they were unaware of the altered documents used to obtain the leveraged loans.

The Former Licensee, when confronted with the falsified documents, failed to be forthright and honest to questions that were put to him, first by the compliance department of his mutual fund dealer and, subsequently, by Council staff.

McKnight noted that the Former Licensee is only now acknowledging his involvement and this has only occurred after he realized he could not maintain his lies and deception.

McKnight also commented on the fact that once the Former Licensee's licence was cancelled, he continued to act as a life insurance agent, taking applications from three separate clients and submitting them to an insurance company.

Submissions of Christopher M. McHardy ("McHardy")

McHardy stated the Former Licensee acknowledges his involvement and that none of the nine transactions in question could have happened without his assistance. In doing so, it was also established that the clients have all continued to service their loans and have continued to hold onto their Stone Fund investments. It was noted that none of the nine clients have complained about the Former Licensee's actions in this matter and suggested his clients knew what the Former Licensee was doing and were willing participants.

McHardy stated the Former Licensee, prior to these events, had been in the insurance business for over 18 years without any complaints.

McHardy acknowledged the Former Licensee was wrong in failing to provide full and true disclosure once the investigation was commenced by the mutual fund dealer. The Former Licensee should have acknowledged his actions immediately, but failed to demonstrate the level of trust expected of him.

McHardy stated the Former Licensee strongly believed the Stone Fund investments were good for his clients and was certain they could service the debt being arranged for them. Further, history has demonstrated this in fact is the case as all nine loans are still in effect and are current. The nine clients were not the only clients he recommended and sold Stone Fund. Of the \$125,000.00 in commission he earned on the sale of the Stone Fund, only \$30,000.00 of that related to the Stone Fund sold to the nine clients.

In explaining the Former Licensee's actions in continuing to act as a life insurance agent after his licence was cancelled, McHardy stated that most of the work was completed by the Former Licensee before the licence suspension. His primary goal was just to complete the transactions and assist his clients.

Evidence of the Former Licensee

The Former Licensee stated that in 2007 he made a bad decision. He learned of the Stone Fund and believed in it so much so, that he and his wife invested \$400,000.00. He identified approximately 60 clients who he thought would benefit from owning Stone Fund. To assist some of his clients, he altered documents for 12 clients who could not qualify for the leverage loans in the time allowed because they were self-employed. The Stone Fund was only available until December 2007, and for some of his self-employed clients there was not sufficient time to prepare proper accounting records to support their applications for a leveraged loan.

The Former Licensee expressed shame for his actions. His actions, including the loss of his life agent's licence, has seriously affected his health, created stress and had a serious affect on his family. Both he and his family are going through a difficult time as a result of his actions. The embarrassment has caused him to withdraw from the community. One of his daughters was employed with the insurance company involved and had to quit her job due to embarrassment.

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His younger daughter was attending private school and had to leave in her last year of high school due to the cost. Since losing his licence, their family income has declined by 80%.

In regards to his unlicensed activity, he explained he was just trying to complete applications on work he had started before his licence was suspended. He acknowledged that embarrassment may have played a part in why he did not have another agent complete the transactions for him. He acknowledged he was not thinking clearly and could not provide an excuse for his actions.

Closing Submissions of McKnight

Whether the clients knew or did not know about the altered documents is not relevant. The fact the Former Licensee created the false documents is the issue. The Former Licensee was in a position of trust and such actions bring into question his suitability and ability to act in good faith. The Former Licensee's actions in providing false documents and misrepresenting clients, placed both the lender and the clients in potential risk. The Former Licensee's actions directly benefited himself in that he earned \$30,000.00 of commissions for these transactions.

The Hearing Committee was reminded that the Former Licensee was not forthright throughout the investigation, and it is only now that he is admitting to his actions. The Former Licensee took great steps to cover his tracks and made numerous attempts to mislead people from discovering what he had done. The issue is not just the creation of the false documents, but the Former Licensee's lies and attempts to deceive many people once his actions were discovered.

The Hearing Committee must consider how far the actions of the Former Licensee in attempting to mislead and conceal his actions, go in determining his suitability to be licensed again.

Closing Statements of McHardy

McHardy reminded the Hearing Committee that none of the clients involved had complained, been hurt, or had cancelled their investments as a result of the Former Licensee's actions.

McHardy pointed to a number of Council decisions (including *Richard Jones, Larry Clark, Jocelyn Fenelon and Aurora Underwriting Services Inc.*) to argue that Council's intended action is inappropriate. He argued a more appropriate penalty may be a fine, licence suspension and assessment of costs, but a five year licence cancellation is excessive.

McHardy stated the Former Licensee poses no risk to the public and has already paid a high price for his actions. McHardy pointed out the Former Licensee has already paid Council's investigative costs, even though he requested a hearing. The Former Licensee is taking responsibility for his actions and is being forthright about his actions.

McHardy explained the Former Licensee has extensive experience in the insurance industry and believes he should be given an opportunity to return to insurance, with whatever restriction deemed appropriate.

Recommendations of the Hearing Committee

The Hearing Committee concluded the Former Licensee's actions in falsifying documents and then subsequently attempting to deny and conceal his actions once they were discovered, brought into question his ability to act in a trustworthy manner, in good faith and in accordance with the usual practice of the business of insurance.

Specifically, the Hearing Committee found the Former Licensee set about creating false documents to support his clients' applications for leveraged loans, knowing his actions were potentially detrimental to the lending institutions and the clients. The Hearing Committee found the Former Licensee's actions cannot be viewed as having been done solely for the benefit of his clients. The Former Licensee earned \$30,000.00 in commissions as a result of his actions. The fact that all the clients have continued to hold the investment and service the loans, cannot, and does not, justify his actions.

Once his actions came to the attention of his mutual fund dealer and eventually Council, the Former Licensee went to great lengths to avoid having his actions discovered. While the Hearing Committee acknowledges the Former Licensee was forthright at the hearing regarding his actions and appears truly remorseful, it cannot disregard the Former Licensee's actions leading up to this point. The Former Licensee had many opportunities prior to Council's October 2008 decision to admit to his actions, but instead continued in a futile attempt to point the blame elsewhere or to cover up his involvement. The Hearing Committee believes that had the Former Licensee been forthright from the beginning, he might not be before them now.

The Hearing Committee acknowledges that the transactions in question are not insurance related, but believes this has little relevance. The transactions were all financial in nature and could just as easily be related to the sale of segregated funds or some other life insurance product. The creation of false documents and the efforts to mislead Council and his mutual fund dealer go directly to his suitability, and the fact they were security related and not insurance makes no difference.

The Hearing Committee was concerned by the Former Licensee's continued insurance activities after his licence was terminated. There were a number of ways he could have properly addressed this situation, but instead he chose a course that put him in breach of the Act.

The Hearing Committee concluded the Former Licensee's actions brought into question his ability to act in a trustworthy manner, in good faith and in accordance with the usual practice of the business of insurance; characteristics that are critical to being an insurance agent.

However, the Hearing Committee recognized these transactions occurred almost four years ago. The Hearing Committee also noted that the Former Licensee has paid a significant price already, based on the effect it has had on his and his family's life. While the Hearing Committee does not view this as a mitigating factor, it does believe the effects cannot be ignored completely.

The Hearing Committee reviewed the decisions referenced by McKnight and McHardy and concluded that a five year licence cancellation is not consistent with past Council decisions.

Recommendation on Penalty

The Hearing Committee recommends the Former Licensee's licence be cancelled for two years and that the period for the licence cancellation commence with Council's order on October 9, 2008.

The Hearing Committee believes the Former Licensee should be required to complete an ethics course approved by Council as a requirement of any licence application. The Former Licensee gave evidence that he had recently completed an ethics course, but the Hearing Committee was not able to determine if the course was appropriate. The Former Licensee should be permitted to demonstrate whether the course he completed is appropriate before being required to complete another course.

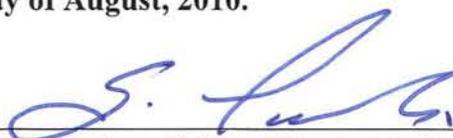
The Hearing Committee is also recommending the Former Licensee be assessed a fine of \$5,000.00 for his material misstatements to Council during its investigation and for conducting insurance activities while his licence was cancelled.

The Hearing Committee recommends the Former Licensee be assessed the investigative costs relating to the case which totals \$3,712.50 (*which the Former Licensee has already paid*).

On the issue of hearing costs, the Hearing Committee notes if its recommendation of a two year licence cancellation is accepted by Council, it will represent a reduction in penalty from five years contained in the original order. Where a penalty is reduced, Council has been reluctant to assess the hearing costs. On this basis, the Hearing Committee is not recommending hearing costs be assessed.

The Hearing Committee recommends that no disciplinary action be taken against the Agency as the Former Licensee was its only employee and licensed agent.

Dated in Vancouver, British Columbia, on the 10th day of August, 2010.



Graham Calder CFP, CLU, CH.F.C., RHU
Chair of Hearing Committee