

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

and

The INSURANCE COUNCIL OF BRITISH COLUMBIA
("Council")

and

JOEL RENE JOSEPH BOURGOUIN
(the "Licensee")

ORDER

As Council made an intended decision on February 9, 2016, pursuant to sections 231 and 236 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 March 8, 2016; 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 is fined \$1,000.00.
2. A condition is imposed on the Licensee's life and accident and sickness insurance licence that requires him to pay the above-ordered fine no later than **June 29, 2016**. If the Licensee does not pay the ordered fine in full by this date, the Licensee's life and accident and sickness insurance licence is suspended as of **June 30, 2016**, without further action from Council and the Licensee will not be permitted to complete any annual filing until such time as the ordered fine is paid in full.

This order takes effect on the **29th day of March, 2016**.



Brett Thibault
Chairperson, Insurance Council of British Columbia

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA
(“Council”)

respecting

JOEL RENE JOSEPH BOURGOUIN
(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.

As part of Council’s investigation, on January 18, 2016, a Review Committee (the “Committee”) met with the Licensee to discuss the allegation that the Licensee breached Council Rule 7(3)(a)(i) by not reporting to Council within five business days that he had been disciplined by the Insurance Council of Manitoba (“ICM”).

The Committee was comprised of one voting member and three non-voting members of Council. Prior to the Committee’s meeting with the Licensee, an investigation report was distributed to the Committee and the Licensee for review. A discussion of this report took place at the meeting and the Licensee was provided an opportunity to make further submissions. Having reviewed the investigation materials, and after discussing this matter with the 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 February 9, 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 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

The Licensee has been licensed in British Columbia as a life and accident and sickness insurance agent (“life agent”) for approximately 10 years. The Licensee is a resident of Manitoba, where he holds a life agent licence. He is also licensed in Alberta.

On March 17, 2015, ICM published a decision reporting that the Licensee had failed to continually maintain Errors and Omissions Insurance (“E&O”), and failed to notify ICM that his E&O had lapsed, resulting in a fine and assessment of investigation costs.

Prior to this ICM decision, the Licensee had been previously disciplined by ICM and, as a result, in April 2010, Council sent him a letter reminding him of his obligation under Council Rule 7(3)(a)(i) to notify it if he is subject to disciplinary action by a financial sector regulator.

Following ICM’s March 2015 disciplinary action, the Licensee failed to inform Council, as required by Council Rule 7(3), and subsequently submitted his 2015 annual filing to Council, in which he acknowledged that he was in compliance with all Council Rules.

The Licensee advised that he does little insurance business in British Columbia and it did not cross his mind to inform Council of the disciplinary action by ICM. The Licensee acknowledged that he did not consider Council Rules. The Licensee explained that, at the time of his 2015 annual filing, he was of the view that, since the ICM decision was finalized in March 2015, he felt there were no outstanding issues. The Licensee stated he believed he was in compliance with Council Rules when he completed his 2015 annual filing.

ANALYSIS

Council determined that the Licensee failed to meet the requirements of Council Rule 7(3)(a)(i) by failing to notify Council within five business days of the disciplinary action taken against him by ICM in March 2015.

Council noted that, while the Licensee may not have intended to breach Council Rule 7(3)(a)(i), this was his second breach and he had previously been reminded of his obligation in 2010. Council concluded that the Licensee knew, or ought to have known, of his obligations under Council Rule 7(3) and determined that disciplinary action was warranted.

Intended Decision
Joel Rene Joseph Bourgouin
164975
March 8, 2016
Page 3 of 4

INTENDED DECISION

Pursuant to sections 231 and 236 of the Act, Council made an intended decision to fine the Licensee \$1,000.00.

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

The intended decision will take effect on **March 29, 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 **March 28, 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 Licensee does not request a hearing by **March 28, 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

Intended Decision
Joel Rene Joseph Bourgouin
164975
March 8, 2016
Page 4 of 4

Dated in Vancouver, British Columbia, on the **8th day of March, 2016.**

For the Insurance Council of British Columbia



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

GM/rm