

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

**and the**  
**INSURANCE COUNCIL OF BRITISH COLUMBIA**  
(“Council”)

**and**  
**MARIA RHODORA BANADA THOMAS**  
(the “Licensee”)

**ORDER**

As Council made an intended decision on July 10, 2018, 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 October 3, 2018; 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 agent licence that requires the Licensee to pay the above-ordered fine no later than **January 24, 2019**. If the Licensee does not pay the fine in full by this date, the Licensee’s life and accident and sickness insurance agent licence is suspended as of **January 25, 2019** without further action from Council and the Licensee will not be permitted to complete any subsequent annual filings until such time as the fine is paid in full.

This order takes effect on the **26<sup>th</sup> day of October, 2018**.

  
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Ken Kukkonen  
Chairperson, Insurance Council of British Columbia

**INTENDED DECISION**  
**of the**  
**INSURANCE COUNCIL OF BRITISH COLUMBIA**  
**(“Council”)**

**respecting**  
**MARIA RHODORA BANADA THOMAS**  
**(the “Licensee”)**

**INTRODUCTION**

Pursuant to section 232 of the Financial Institutions Act (the “Act”), Council conducted an investigation to determine whether the Licensee acted in compliance with Council Rules.

As part of Council’s investigation, on May 14, 2018, a Review Committee (the “Committee”) met with the Licensee by teleconference to discuss the allegation that the Licensee was not covered by errors and omissions insurance (“E&O”) from July 1, 2017 to February 4, 2018, as required under Council Rule 7(11).

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 for Council.

The Committee’s report, along with the aforementioned investigation report, were reviewed by Council at its July 10, 2018 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**

1. The Licensee has held an active life and accident and sickness insurance agent licence with Council since 2005.
2. The Licensee was not covered by E&O insurance from July 1, 2017 to February 4, 2018, while holding an active licence.

3. The Licensee apologized and advised that her failure to renew her E&O insurance was in error and was partially due to personal circumstances. She also advised that she did not conduct insurance business during the period she was without coverage.
4. The Licensee assured the Committee this will not happen again and that she will take extra care to ensure procedures are in place to keep track of expiry and renewal dates on her E&O insurance.

#### **ANALYSIS**

Council Rule 7(11) stipulates that a licensee must maintain or be covered by E&O insurance which extends to all activities as a licensed insurance agent, salesperson or adjuster, with a minimum limit of \$1,000,000.00 per claim and a minimum aggregate limit of \$2,000,000.00.

Council found the above-mentioned facts constituted a breach of Council Rule 7(11) in that the Licensee did not maintain or was not covered by E&O insurance as required while holding an active licence, regardless of whether she was conducting insurance business or not. Council accepted that the Licensee's failure was unintentional and that she did not conduct any insurance activities while she was without E&O insurance and, therefore, did not place any clients at risk. Nevertheless, the Licensee was responsible to fulfil this requirement and failed to do so. Accordingly, Council determined that her actions warrant discipline in the circumstances.

In considering the appropriate disposition in this matter, Council noted that previous cases with regard to unintentional breaches of Council Rule 7(11) by individual life and accident and sickness insurance agents resulted in a fine of \$500.00. However, Council is not bound by precedent and determined that a failure to comply with this requirement ought to be subject to a minimum fine of \$1,000.00 regardless of the reason for the breach.

#### **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 in full 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 agent licence and the Licensee will not be permitted to complete any annual filing until such time as the fine is paid in full.

Subject to the Licensee's right to request a hearing before Council pursuant to section 237 of the Act, the intended decision will take effect after the expiry of the hearing period.

## 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 **within fourteen days of receiving this intended decision**. 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 within fourteen days of receiving this intended decision, 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 [www.fst.gov.bc.ca](http://www.fst.gov.bc.ca) or contact them directly at:

Financial Services Tribunal  
PO Box 9425 Stn Prov Govt  
Victoria, British Columbia  
V8W9V1  
Reception: 250-387-3464  
Fax: 250-356-9923  
Email: [FinancialServicesTribunal@gov.bc.ca](mailto:FinancialServicesTribunal@gov.bc.ca)

Dated in Vancouver, British Columbia, on the 3<sup>rd</sup> day of October, 2018.

For the Insurance Council of British Columbia



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Janet Sinclair  
Executive Director