

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

**and**

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

**and**

**JENG JUNG KIM**  
**(the "Licensee")**

**ORDER**


As Council made an intended decision on October 15, 2013, pursuant to section 231 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 29, 2013; 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 section 231 of the Act, Council orders that the Licensee is reprimanded.

This order takes effect on the 19<sup>th</sup> day of November, 2013.

  
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Rita Ager, CFP, CLU, CHS, CPCA, FEA  
Chairperson, Insurance Council of British Columbia

## **INTENDED DECISION**

of the

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

**respecting**

**JENG JUNG KIM**  
(the “Licensee”)

### **INTRODUCTION**

Pursuant to section 232 of the *Financial Institutions Act* (the “Act”), Council conducted an investigation into allegations that the Licensee, while engaging in insurance activity on behalf of Hanin Insurance Services Inc. (the “Agency”), breached a condition of his Level 1 general insurance salesperson (“Salesperson”) licence.

As part of Council’s investigation, on September 9, 2013, an Investigative Review Committee (the “Committee”) met with the Licensee to discuss the allegations. In addition to the Licensee, the Agency’s current nominee (the “Current Nominee”), its former nominee (the “Former Nominee”), and one of its Level 2 general insurance agents (the “Level 2 Agent”), also attended the meeting.

The Committee was comprised of one voting member and two non-voting members of Council. Prior to the Committee meeting, 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 clarify the information contained therein and make further submissions. Having reviewed the investigation materials and after discussing this matter with the Licensee, the Committee made a recommendation to Council as to the manner in which this matter should be disposed.

A report setting out the Committee’s findings and recommended disposition, along with the aforementioned investigation report, was reviewed by Council at its October 15, 2013 meeting. At the conclusion of its review, Council accepted the Committee’s recommended disposition and 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 section 231 of the Act before taking any such action. The Licensee may then either 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 a Salesperson during the material time and had been licensed in this capacity for approximately two years. The Agency has held a general insurance licence with Council since July 2006. The Former Nominee was the Agency's nominee during the material time and has been licensed as a Level 3 general insurance agent since 1995.

With the assistance of his supervisor at the Agency, the Licensee procured commercial insurance for a sushi restaurant (the "Restaurant") in March 2010. In placing the insurance, the Licensee attended the Restaurant on a few occasions to gather information about the risk, take pictures of the Restaurant, and discuss the cost of the insurance with the Restaurant's owner. This was done at the direction of the Level 2 Agent.

In December 2010, the Restaurant suffered a loss and made a claim for coverage under the commercial insurance policy. After it was determined that part of the loss would not be covered, a concern arose that the Licensee failed to place adequate coverage for the Restaurant, and also that he may have misled the Restaurant about the extent of coverage when discussing the claim with the Restaurant's owner.

The Licensee stated he had worked outside the Agency office on a number of occasions, contrary to a condition on his licence that prohibits Salespersons from engaging in insurance activities outside an agency office.

In response to the Licensee's conduct, the Current Nominee and the Former Nominee stated that while the Agency does not have a formal training manual on proper practices and procedures, Salespersons authorized to represent the Agency are reminded upon their hiring about the conditions on their licences, including that they cannot engage in insurance business outside the office, except to conduct Insurance Corporation of British Columbia ("ICBC") roadrunner service, as permitted.

The Level 2 Agent stated that when he procures insurance coverage for clients, he has, on occasion, directed an Agency Salesperson to attend the site of a risk to obtain more information. He did not provide specific details on what type of information would be gathered or if the Salesperson was expected to meet with a client when outside the office. However, he indicated he was unaware that Salespersons could not engage in this type of activity outside the office. Similarly, the Former Nominee understood Salespersons could go outside the office unaccompanied to take pictures of risks.

The Current Nominee and the Former Nominee acknowledged they should not have allowed the Agency's Salespersons to conduct insurance activity outside the office on behalf of the Agency. As a consequence, the Agency is now encouraging their Salespersons to take the required education to upgrade their licences, and more Level 2 general insurance agents are being hired.

## ANALYSIS

Council reviewed the information pertaining to the placement of coverage for the Restaurant and the subsequent insurance claim. Council determined, based on the information before it, that it could not be established that the Licensee misled the Restaurant, either at the time insurance coverage was placed or during the claims process. However, it noted situations such as this reinforce the importance of ensuring that Salespersons are adequately supervised and conduct insurance activities in compliance with their licence conditions and restrictions.

Council concluded that by attending the Restaurant to gather information about the risk and discuss insurance coverage with the Restaurant's owner, the Licensee breached the condition on his Salesperson licence that prohibited him from engaging in insurance activity outside of the Agency, except for the purposes of engaging in ICBC roadrunner service.

Council took into consideration that he was relatively inexperienced at the time and that he appeared to be acting under the direction of his supervisor. Nonetheless, Council did not believe his conduct should be excused since, ultimately, he knew or ought to have known that his insurance activity outside the Agency was in breach of a licence condition. For this, Council felt it was appropriate to admonish the Licensee's conduct.

## INTENDED DECISION

Pursuant to section 231 of the Act, Council made an intended decision to reprimand the Licensee.

The intended decision will take effect on **November 19, 2013**, 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 **November 18, 2013**. 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 **November 18, 2013**, 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  
V8W 9V1

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 **29<sup>th</sup> day of October, 2013**.

For the Insurance Council of British Columbia



Gerald D. Matier  
Executive Director

GM/cp