

In the Matter of

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

and

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

and

DEREK LOUBE BELL
(the "Licensee")

ORDER

As Council made an intended decision on December 10, 2013, 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 January 16, 2014; 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 \$1,800.00.
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 **May 5, 2014**. 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 **May 6, 2014**, 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 **4th day of February, 2014**.



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

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA
(“Council”)

respecting

DEREK LOUBE BELL
(the “Licensee”)

INTRODUCTION

Pursuant to section 232 of the *Financial Institutions Act* (the “Act”), Council conducted an investigation into allegations the Licensee failed to notify Council of the loss of mandatory errors and omissions (“E&O”) insurance coverage within five business days of the loss of coverage, and did not cease conducting insurance activities as required by Council Rule 7(11).

As part of Council’s investigation, an Investigative Review Committee (the “Committee”) met with the Licensee on September 16, 2013. The Committee was comprised of one voting member and two 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 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 recommended disposition, along with the aforementioned investigation report, was reviewed by Council at its December 10, 2013 meeting. Based on this, Council 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 was first licensed as a life and accident and sickness insurance agent on October 2, 2009.

Council received notification that the Licensee's E&O policy lapsed on September 9, 2011. The Licensee explained that at the time of his E&O insurance renewal, he had attempted to arrange for payment on an installment basis, but this was not acceptable to his insurer. As a result, and because of a number of personal issues occurring at the time, the Licensee failed to follow up and his E&O insurance lapsed.

On November 16, 2011, Council contacted the Licensee, who confirmed he had conducted insurance activities after the termination of his E&O policy. In accordance with Council Rule 7(11) the Licensee's licence was terminated on November 16, 2011. The Licensee's licence was reinstated on January 12, 2012, after he submitted a licence reapplication, which included proof of E&O insurance.

The Licensee accepted full responsibility for his failure to maintain E&O insurance.

ANALYSIS

Council found the above-mentioned facts constituted a breach of Council Rules 7(11)(c)(i) and 7(11)(c)(ii) by the Licensee for failing to notify Council within five business days of losing E&O coverage, and continuing to conduct insurance activities without E&O coverage in place.

Council acknowledged the Licensee took responsibility for his failure to comply with Council Rule 7(11). Council recognized that the Licensee ceased conducting insurance business once he received notification he was in breach of Council Rule 7(11). Council concluded the Licensee's actions represented an unintentional breach of Council Rule 7(11).

Council considered prior decisions relating to unintentional breaches of Council Rule 7(11). These decisions included cases where, for various personal reasons, licensees continued to conduct insurance activities without the minimum E&O insurance in place. In such cases, the usual penalty was a fine equal to approximately two times the licensee's annual E&O insurance premium. Council determined that this case was similar in nature and warranted a similar penalty.

INTENDED DECISION

Pursuant to sections 231 and 236 of the Act, Council made an intended decision to fine the Licensee \$1,800.00.

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 **February 4, 2014**, 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 **February 3, 2014**. 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 **February 3, 2014**, 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 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

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Dated in Vancouver, British Columbia, on the **16th day of January, 2014.**

For the Insurance Council of British Columbia



Gerald D. Matier
Executive Director

GM/fs