

In the Matter of

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

and

The INSURANCE COUNCIL OF BRITISH COLUMBIA
("Council")

and

IRONWOOD INSURANCE AGENCIES LTD.
(the "Agency")

and

DEVENDER DAVE SOOD
(the "Nominee")

ORDER

Pursuant to section 237 of the Act, Council convened a hearing at the request of the Agency and the Nominee to dispute an intended decision, dated May 24, 2016, pursuant to sections 231, 236, and 241.1 of the Act.

The subject of the hearing was set out in a Notice of Hearing dated March 22, 2017.

A Hearing Committee heard the matter on May 18, 2017, and presented a Report of the Hearing Committee to Council at its July 11, 2017 meeting.

Council considered the Report of the Hearing Committee and made the following order pursuant to sections 231, 236, and 241.1 of the Act:

1. The Nominee's Level 3 general insurance agent licence is amended to a Level 2 general insurance agent licence.
2. The Agency is fined \$10,000.00.
3. The Agency is assessed Council's investigation costs of \$1,237.50.

Order

Ironwood Insurance Agencies Ltd. and Devender Dave Sood

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4. The Agency is assessed Council's hearing costs of \$4,236.31.
5. A condition is imposed on the Agency's general insurance licence that requires the Agency to pay the above-ordered fine, investigative costs, and hearing costs no later than **October 16, 2017**. If the Agency does not pay the ordered fine and costs in full by this date, the Agency's general insurance licence is suspended as of **October 17, 2017** without further action from Council and the Agency will not be permitted to complete any subsequent annual filings until such time as the ordered fine, investigative costs, and hearing costs are paid in full.

This order takes effect on the **17th day of July, 2017**.



Michael Connors, CIP, CRM
Chairperson, Insurance Council of British Columbia

INSURANCE COUNCIL OF BRITISH COLUMBIA
(“Council”)

REPORT OF THE HEARING COMMITTEE

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

AND

IRONWOOD INSURANCE AGENCIES LTD.
(the “Agency”)

AND

DEVENDER DAVE SOOD
(the “Nominee”)

Date: May 18, 2017
9:30 a.m.

Before: Vince Muto Chair
Lesley Maddison Member
Bob Scott Member

Location: Suite 300, 1040 West Georgia Street
Vancouver, British Columbia V6E 4H1

Present: David McKnight Counsel for Council
Devender (Dave) Sood Nominee

BACKGROUND AND ISSUES

As set out in the Notice of Hearing, the purpose of the hearing was to determine whether the Agency and the Nominee failed to act competently, in a trustworthy manner, in good faith, and in accordance with the usual practice of the business of insurance by:

- a) allowing a Level 1 general insurance salesperson (“Salesperson”) to engage in insurance activities outside of the Agency’s office, contrary to a Salesperson licence restriction; and

- b) allowing an insurance licensee, who was not authorized to represent the Agency, to engage in insurance activities on behalf of the Agency and, in doing so, failed to consider the restrictions on a Salesperson's licence.

The Hearing Committee was constituted pursuant to section 223 of the Act. This is a Report of the Hearing Committee as required pursuant to section 223(4) of the Act.

EVIDENCE

The evidence reviewed by the Hearing Committee in consideration of this matter included:

- Exhibit 1 Agreed Statement of Facts
- Exhibit 2 Council's Book of Documents.

AGREED STATEMENT OF FACTS

The Agency has held a general insurance licence in British Columbia for more than 30 years. The Nominee has been licensed as a general insurance agent for more than 30 years. The Nominee is one of the Agency's two directors, and has been its nominee since it was originally licensed.

The Agency's other director is the Nominee's son, who is also licensed to represent the Agency.

The Agency has two branch offices. One branch office is located on Steveston Highway in Richmond, British Columbia (the "Steveston Branch") and the second branch is located on Cambie Road in Richmond, British Columbia (the "Cambie Branch"). Both the Steveston and the Cambie branches engaged in Insurance Corporation of British Columbia ("ICBC") Autoplan business as well as other forms of property insurance.

The Agency has contracts with at least four general insurance companies. The Agency does not have a mobile road service agreement with ICBC, but the Agency will, if requested, meet a client at an automobile dealership upon request.

In addition to the Nominee, each of the branch offices has a Level 3 general insurance agent ("Level 3 agent") manager for each branch location; the Cambie Branch manager holds a Level 3 agent licence. The Cambie Branch manager was originally licensed in British Columbia in 2001 and obtained a Level 3 agent licence in 2007.

In 2012, the Agency met with Mervyn Poo-lean Ee ("Ee") about representing the Agency. Ee's wife, Pui Lin (Candy) Li ("Li"), also attended the meeting with her husband. Li held an insurance licence and had authorities to represent ("ATR") with other agencies. Li's attendance related more to assisting Ee to attend the meeting than to seek an ATR at the Agency.

Ee and Li both held Salesperson licences. Li subsequently upgraded to a Level 2 general insurance agent ("Level 2 agent") licence in 2014. As a result of the meeting, Ee was given the ATR.

Li had held an insurance licence since 2009 and has had multiple ATRs, but never had an ATR with the Agency.

Ee first obtained a general insurance licence in April 2010, at which time he represented another general insurance agency. In 2012, Ee left that agency when he obtained an ATR with the Agency. Ee also held a life and accident and sickness insurance agent licence, which he obtained in 2002.

Around the time Ee joined the Agency, he suffered from a major health issue that prevented him from working at his full capacity. Because of these health issues, Li began assisting him with his insurance activities.

When Ee and Li approached the Agency for employment, the Nominee only gave Ee an ATR with the Agency. Because of Ee's health issues, he was unable to engage in any insurance activities without assistance. Li proceeded to assist Ee move his former clients to the Agency through Letters of Brokerage. Li's assistance to Ee was supported by the Cambie Branch manager.

Upon the employment of Ee, the Agency characterized Ee's relationship as that of a 'producer,' which allowed Ee to set his own hours to attend at the Agency. The Cambie Branch manager acknowledges she was not aware of any licence restrictions on Ee's licence and felt that both Ee and Li were experienced producers.

Ee was not permitted to use the Agency's computer, nor did he have sign-in authority with any of the Agency's systems. After Ee obtained an ATR with the Agency, the Agency started to deal more and more directly with Li, even though she did not have an ATR with the Agency.

Li stated that she asked for ATR with the Agency on more than one occasion, but was told that the Nominee was satisfied with the existing relationship.

Agency files demonstrated that the Cambie Branch manager was dealing directly with Li on most of the transactions that were technically being attributed to Ee. Upon obtaining an ATR, Ee was permitted to engage in insurance activities outside of the Agency office, contrary to his licence restrictions. In addition, most of the communication that went on between the Agency and Ee went through Li.

The Nominee explained that he added Ee as a representative of the Agency in 2012 in an attempt to obtain more Asian clients. Ee was employed to be an outside producer even though he held a Salesperson licence, and the Nominee acknowledged that he did not pay attention to Ee's level of licence. The Nominee did not manage licensees, whom he viewed as producers; instead he left such requirements to the branch managers.

NOMINEE'S TESTIMONY

The Nominee confirmed that the Agreed Statement of Facts was an accurate representation of what occurred. The Nominee explained that Ee suffered a stroke around the time that he obtained an ATR with the Agency. The Nominee confirmed that Li attended the interview with Ee.

The Nominee stated that he offered Li an ATR but she declined. The Nominee acknowledged he was aware that Li did not have an ATR with his Agency, explaining he understood that Li was only driving her husband and helping with transactions relating to his insurance activities.

The Nominee explained that, as a result of his health, it was not possible for Ee to work at the Agency office, so Ee worked on a part-time basis, meeting with clients away from the Agency. The Nominee described Ee as being a 'producer.' The Nominee explained that a producer was someone who was an independent contractor and did not work full-time.

The Nominee stated that he was familiar with Council Rules and Council's Code of Conduct, but he did not seem to appreciate that a Salesperson is limited to working in an agency office. The Nominee explained that it was not his intention to do anything wrong; he was just trying to assist Ee because of his health issues.

The Nominee stated that he usually worked at the Steveston Branch and explained he did not take an active role in the Cambie Branch operation, leaving that up to his Cambie Branch manager. The Nominee stated he was not sure that Ee had transacted insurance business outside of the Agency office, even though he acknowledged that Ee did not have access to the Agency's systems and was viewed as a producer.

In explaining the role of Li and her involvement with the Agency's clients, the Nominee stated she was not involved with Agency clients, only with Ee's clients. The Nominee did not explain how he differentiated Ee's clients from those of the Agency, as Ee was a Salesperson and could not have his own clients.

FINDINGS OF THE HEARING COMMITTEE

After reviewing the Agreed Statement of Facts and testimony of the Nominee, the Hearing Committee found that the Agency and the Nominee had failed to ensure that the Agency acted in accordance with Council Rules and Council's Code of Conduct, had allowed a Salesperson to act contrary to their licence restrictions, and allowed a person to act on behalf of the Agency without an ATR.

The Hearing Committee noted the Nominee's statement that he was not aware of how insurance activities were being conducted at the Cambie Branch, placing responsibility on the branch manager. However, the Hearing Committee noted that it was the Nominee who interviewed and hired Ee and met with Li and offered her an ATR, which he stated she declined.

The Nominee acknowledged that he was aware that Ee was a Salesperson but repeatedly referred to Ee as a producer, which the Nominee explained meant an independent contractor who did not work full-time or from an Agency office. The Nominee stated he was familiar with the conditions and restrictions on a Salesperson licence, yet acknowledged that Ee did not work at the Cambie Branch or have sign-in authority to the Agency's systems. The Hearing Committee found it difficult to understand how a nominee with over 30 years of experience in the insurance industry could believe that a Salesperson could engage in insurance activities in the manner that Ee did.

It was the responsibility of the Agency and the Nominee to ensure that Ee did not act in contravention of his licence conditions and restrictions.

The Hearing Committee was also concerned by the Nominee's comments that Ee only engaged in insurance activities on behalf of his own clients and not those of the Agency. As Ee only had an ATR with the Agency, all of Ee's 'clients' were Agency clients and the Agency and the Nominee were responsible for ensuring the clients' insurance matters were properly handled. The Nominee's belief that a Salesperson could have clients and that the Agency was not responsible for these clients, brought into question the Nominee's competency to be a nominee.

The Hearing Committee was disturbed that the Agency permitted Li to engage in insurance activities on its behalf. The Hearing Committee found the Nominee had not put any thought into the relationship he was entering into with Ee. The Nominee stated he offered Li an ATR, which she declined. However, he was aware that Li was assisting Ee. A review of Li's interaction with the Agency found that the Cambie Branch was communicating directly with Li, including providing information about Agency clients. This occurred even though Li did not have an ATR with the Agency and, at the relevant time, held a Salesperson's licence.

The Hearing Committee noted that the Nominee only had to provide written notice to Council, in accordance with Council Rules, and Li would have been authorized to represent the Agency. Instead, Li was permitted to assist Ee, essentially representing the Agency in an unlicensed capacity. As a result of this arrangement, Agency staff shared client information with Li without the knowledge and consent of the clients, in breach of Council Rule 7(1).

The Hearing Committee noted that Li had stated, in contradiction to the Nominee's evidence, that she had, on more than one occasion, asked for an ATR with the Agency but the Nominee had declined. The Hearing Committee found the Nominee's explanation that he worked primarily from the Steveston Branch and left the supervision of the Cambie Branch to the branch manager, to be unacceptable. The Hearing Committee determined the Nominee knew of Ee and Li's insurance activities and took no action to stop them.

The Hearing Committee concluded the Nominee had either failed to properly supervise the Agency's insurance activities or did not understand the regulatory responsibilities of the Agency and its nominee. The Nominee was supported by branch managers at each location but the Hearing Committee found no evidence that he had communicated their responsibilities to them, or taken steps to implement any proper practices.

The Hearing Committee was concerned by the Nominee's lack of understanding of how an agency is to conduct itself and noted that this raised serious questions about the suitability of the Nominee, as well as the Agency. The Hearing Committee noted that the Nominee has been the nominee of the Agency for more than 30 years and does not appear to have ever established prudent procedures. The Hearing Committee also found the Nominee's explanation that he left the oversight of Ee to the Cambie Branch manager, to be unacceptable. The evidence was clear that the Nominee was aware of the activities of Ee and Li and took no action to ensure compliance with Council Rules and the Act.

The Hearing Committee found the Nominee's lack of understanding of the licence conditions and restrictions on a Salesperson licence and willingness to allow a person without an Agency ATR to engage in insurance activities on behalf of the Agency and, in doing so, allowing a third party to have access to Agency clients' insurance information, made him unsuitable to hold a nominee licence.

The Hearing Committee concluded that the fact that the Nominee had demonstrated he had failed to ensure the Agency and its licensed staff acted in accordance with the Act and Council Rules, made him unsuitable to hold a Level 3 agent licence and therefore ineligible to be a nominee. The Hearing Committee reached this conclusion based on the fact the Nominee had been a nominee for over 30 years, yet was not familiar with even the most basic licensing conditions and restrictions.

In determining penalty, the Hearing Committee concluded the Nominee should be prohibited from acting as a nominee and be restricted to a Level 2 agent licence for allowing Ee to work unsupervised and outside of the Agency, contrary to Ee's licence restrictions, and for allowing Li, who did not have an ATR with the Agency, to have access to clients' insurance information, without proper consent.

The Hearing Committee also determined that the Agency should receive a \$10,000.00 fine for its failure to have appropriate procedures in place. The Hearing Committee also recommended that the Agency be assessed the investigative costs of \$1,237.50.

In considering the hearing costs, the Hearing Committee found that the Nominee did not introduce any new evidence that had not already been considered at the intended decision stage. While noting that the Agency and the Nominee accepted the facts as set out in the intended decision, the Hearing Committee concluded the Nominee attended the hearing for the purpose of arguing penalty; however, neither the Agency nor the Nominee made any arguments that directly related to these penalties, and focused on the fact that they were a small agency and had not intended to act in contravention of Council Rules.

Report of the Hearing Committee
Ironwood Insurance Agencies Ltd. and Devender Dave Sood
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The Hearing Committee recommends the Agency and the Nominee be jointly assessed Council's hearing costs.

Dated in Vancouver, British Columbia, on the 14th day of July, 2017.



Vince Muto, CIP
Chair of Hearing Committee