

In the Matter of

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

and

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

and

BCAA INSURANCE AGENCY LTD.
(the "Agency")

ORDER

As Council made an intended decision on June 22, 2013, pursuant to sections 231 and 236 of the Act; and

As Council, in accordance with section 237 of the Act, provided the Agency with written reasons and notice of the intended decision dated July 5, 2013; and

As the Agency 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 Agency is fined \$10,000.00.
2. A condition is imposed on the Agency's general insurance licence that requires it to pay the above-ordered fine no later than **October 24, 2013**. If the Agency does not pay the ordered fine in full by this date, the Agency's general insurance licence is suspended as of **October 25, 2013**, without further action from Council and the Agency 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 **24th day of July, 2013**.



Rita Ager, CFP, CLU, RHU, CSA
Chairperson, Insurance Council of British Columbia

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA
(“Council”)

respecting

BCAA INSURANCE AGENCY LTD.
(the “Agency”)

INTRODUCTION

A review of the Agency’s conduct was undertaken in response to its failure to meet the requirement of Council Rule 7(3)(b), to notify Council within five business days when licensees ceased to have the authority to represent the Agency. As part of this review, on May 13, 2013, an Investigative Review Committee (the “Committee”) of Council met with the Agency.

The Committee was comprised of one voting member and three non-voting members of Council. Prior to the Committee’s meeting with the Agency, a report detailing the Agency’s conduct was distributed to the Committee and the Agency for review. A discussion of this report took place at the meeting and the Agency was provided an opportunity to clarify the information contained therein and make further submissions. Having reviewed the report and after discussing this matter with the Agency, the Committee made a recommendation to Council as to the manner in which this matter should be disposed.

Council considered the matter at its June 22, 2013 meeting, along with additional submissions made by the Agency, dated May 31, 2013 and June 11, 2013. Council determined the matter should be disposed of in the manner set out below.

PROCESS

Pursuant to section 237 of the *Financial Institutions Act* (the “Act”), Council must provide written notice to the Agency of the action it intends to take under sections 231 and 236 of the Act before taking any such action. The Agency 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 Agency.

FACTS

The Agency has been continuously licensed with Council since July 2010 and has more than 400 insurance licensees and approximately 600 employees. Prior to this, the Agency operated under a previous licence, BCAA Holdings Ltd. doing business as BCAA Insurance Agency (“BHL”). BHL’s licence was active from 1983 to July 2010. During the period in which BHL was licensed it received five reminder letters from Council regarding its failure to notify Council within five business days when a licensee no longer had authority to represent it. These reminder letters were sent between February 2006 and June 2007.

The Agency has had two different nominees since the inception of its licence in July 2010. From December 2011 to May 13, 2012 there have been 12 instances where the Agency failed to notify Council within five business days when a licensee no longer had authority to represent it.

The Agency’s current nominee (the “Nominee”) advised that the Agency’s individual branch offices were responsible for notifying Council when a licensee ceased to represent the Agency. After identifying a problem with this system of notification, the Nominee forwarded a recommendation to one of the Agency’s senior managers detailing how to address the Agency’s failures to notify Council, as required under Council Rule 7(3)(b). The Nominee made this recommendation approximately two months after becoming the Agency’s nominee.

ANALYSIS

Council found that on 12 occasions the Agency failed to notify Council within five business days when insurance licensees ceased to represent the Agency.

The Agency is a relatively large entity which, through its predecessor, had been reminded on five occasions about its obligations under Council Rule 7(3)(b). While Council accepts these reminders were sent to BHL, it felt it was no different than if the reminders had been sent to the Agency. Despite these reminders, Council found no evidence to suggest the Agency took any steps to implement sufficient procedural or system changes to ensure its compliance with this requirement. As a consequence, another 12 occurrences of non-compliance with Council Rule 7(3)(b) occurred between December 2011 and May 2012. Council determined that the Agency’s failure to address this matter represented a blatant disregard for its obligations under Council Rules.

Based on the Agency’s submissions, Council believes the Agency appears to be in the process of implementing changes to prevent similar situations from arising in future. However, it did not find that this mitigated the Agency’s past notification failures.

In determining an appropriate disposition, Council considered previous cases where licensees failed to meet a notification requirement. One involved *World Financial Group Insurance Agency of Canada Inc.*, where the licensee was fined \$5,000.00 when it failed to notify Council that its nominee ceased to act on its behalf, despite having received a reminder on the reporting requirement, which was issued after the licensee failed to meet the requirement on at least five previous occasions.

Council also considered the matter pertaining to *ClaimsPro Inc.*, where the licensee failed to notify Council when licensees ceased to represent it, despite being reminded to do so on five previous occasions. The licensee was fined \$2,000.00 and its nominee was fined \$200.00. Council differentiated the current matter from these previous cases in that it did not find any mitigating aspects in the Agency's situation. In fact, the extent of the Agency's failure to meet the notification requirement and the absence of any corrective measures being implemented by the Agency, despite having numerous opportunities to do so, was concerning to Council, particularly given the Agency's size.

As a consequence, Council determined that a significant penalty was required which would be meaningful to the Agency and would stress to all licensees the importance of compliance with the requirements under Council Rules. Council deemed that imposing a substantial fine on the Agency should address these objectives.

As for the Nominee, Council concluded that no action was required against her because she was not the nominee when the reminders were issued and was ultimately reliant on the Agency's senior management to implement her recommended changes.

INTENDED DECISION

Pursuant to sections 231 and 236 of the Act, Council made an intended decision to fine the Agency \$10,000.00.

The Agency 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 Agency's general insurance licence and the Agency 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 **July 24, 2013**, subject to the Agency's right to request a hearing before Council pursuant to section 237 of the Act.

RIGHT TO A HEARING

If the Agency wishes to dispute Council's findings or its intended decision, the Agency 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 Agency must give notice to Council by delivering to its office written notice of this intention by **July 23, 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 Agency does not request a hearing by **July 23, 2013**, the intended decision of Council will take effect.

Even if this decision is accepted by the Agency, 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:

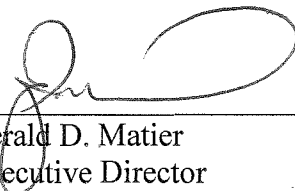
Financial Services Tribunal
PO Box 9425 Stn Prov Govt
Victoria, British Columbia
V8W 9V1

Reception: 250-387-3464
Fax: 250-356-9923

Email: FinancialServicesTribunal@gov.bc.ca

Dated in Vancouver, British Columbia, on the **5th day of July, 2013**.

For the Insurance Council of British Columbia



Gerald D. Matier
Executive Director

GM/cp