

In the Matter of

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

and

The INSURANCE COUNCIL OF BRITISH COLUMBIA
("Council")

and

CHRISTOPHER LESLIE CANAVAN
(the "Licensee")

ORDER

As Council made an intended decision on July 15, 2014, 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 July 22, 2014; and

As the Licensee requested a hearing of Council's intended decision within the time period provided by the Act, but no longer wishes to proceed with the hearing;

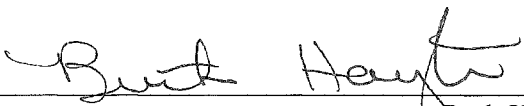
Under authority of sections 231 and 236 of the Act, Council orders:

1. A condition is imposed on the Licensee's life and accident and sickness insurance licence that requires him to successfully complete an errors and omissions course approved by Council on or before **March 31, 2015**.
2. A condition is imposed on the Licensee's life and accident and sickness insurance licence that if the Licensee does not complete the errors and omissions course on or before **March 31, 2015**, the Licensee's life and accident and sickness insurance licence is suspended as of **April 1, 2015**, without further action from Council and the Licensee will not be permitted to complete any annual filing until such time as the ordered errors and omissions course is completed.
3. The Licensee is fined \$2,500.00.

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4. 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 **January 5, 2015**. 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 **January 6, 2015**, 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 **2nd day of October, 2014**.



Ruth Hoyte
Chairperson, Insurance Council of British Columbia

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA
(“Council”)

respecting

CHRISTOPHER LESLIE CANAVAN
(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 the requirements of the Act.

An investigation report was prepared by Council staff and distributed to the Licensee for review. The Licensee was provided an opportunity to clarify the information contained therein and make further submissions.

The investigation report and additional submissions provided on behalf of the Licensee were reviewed by Council at its July 15, 2014 meeting. At the conclusion of its meeting, 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 has been licensed as a life and accident and sickness insurance agent (“life agent”) since October 17, 1995. He has been an authorized representative of an agency (the “Agency”) since August 10, 2004. The Licensee provides insurance services as part of a team of advisors (the “Licensee’s Team”).

In June 2012, trustees initiated discussions with a life agent who is part of the Licensee's Team (the "Agent") about purchasing payout annuities for the trust beneficiaries (the "Beneficiaries").

On June 5, 2012, a trustee met with the Agent to discuss the annuities. In April 2013, a trustee contacted the Licensee to proceed with the purchase of the annuities. The Licensee's Team structured three payout annuities according to the trustees' instructions.

On May 15, 2013, the Agent met with the Beneficiaries. The Agent explained the annuities and the Beneficiaries signed all the documents. The Agent returned to the Agency in Vancouver, British Columbia, with the documents, and the payout annuity applications were processed.

The Signatures

Three payout annuity applications and three identity verification forms (the "Forms") were signed by the Licensee. The Licensee was not present at the meeting with the Beneficiaries.

The "*Advisor information, declaration and attestation*" portion of the Application for a Payout Annuity form states that the advisor confirms he made certain disclosures to the policyholder(s), including:

"I have reviewed with the policyholder(s) the details provided in this application and, to the best of my knowledge, these details are full, complete, and true."

The Licensee signed this declaration and attestation on all three annuity applications. The Licensee also indicated in this section that commissions were not being shared; although in a written statement to Council, the Licensee said the commissions were shared with the Agent, stating:

"We are structured as a team and [the Agent] earns a percentage of all my commissions."

The "*Advisor attestation*" portion of the Identity verification, third party determination and politically exposed foreign persons (PEFP) form, states:

"I, the advisor, confirm that all of the identification details provided in this form match the original identification documents shown to me. I also confirm that I have reviewed the details provided in this form with the applicant/owner/signing officer and to the best of my knowledge, these details are full, complete, true and face-to-face in the presence of the client."

The Licensee signed this attestation.

In a written statement to Council, the Licensee stated that the reason he signed the Forms instead of the Agent, was to simplify the commissions. The Licensee advised that he now understands this is not an acceptable practice.

ANALYSIS

Council determined that by signing the Forms, without clearly indicating that he was not present at the meeting with the Beneficiaries, the Licensee failed to act in accordance with the usual practice of the business of insurance. Council determined that by indicating commissions were not being shared, the Licensee made an inaccurate disclosure regarding the commission arrangements with the Agent and the Licensee's Team.

Council found the Licensee did not act with any intention to mislead, but was troubled that the Licensee made inaccurate disclosures and attestations regarding the distribution of commissions. Council held that, as an experienced life agent, the Licensee should know that improper signature practices are not permissible in any circumstances.

Council took into consideration the principles of general and specific deterrence when considering penalty, and determined that a fine of \$2,500.00 was appropriate to address the Licensee's conduct. Council also determined that, in light of his failure to grasp the importance of accurate signature practices, the Licensee would benefit from the completion of an errors and omissions course.

INTENDED DECISION

Pursuant to sections 231 and 236, of the Act, Council made an intended decision to:

1. Impose a condition on the Licensee's life and accident and sickness insurance licence that requires him to successfully complete an errors and omissions course, acceptable to Council, within 180 days of the date of Council's order.
2. Fine the Licensee \$2,500.00.

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, or failure to complete the errors and omissions course within 180 days of the date of Council's order, 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 **August 12, 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 **August 11, 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 **August 11, 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

Dated in Vancouver, British Columbia, on the **22nd day of July, 2014**.

For the Insurance Council of British Columbia



Gerald D. Matier
Executive Director

GM/tp