

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

and

The INSURANCE COUNCIL OF BRITISH COLUMBIA
(“Council”)

and

MERVYN POO-LEAN EE
(the “Licensee”)

ORDER

As Council made an intended decision on April 12, 2016, 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 May 18, 2016; 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 reprimanded.
2. A condition is imposed on the Licensee’s general insurance licence that requires the Licensee to successfully complete the Council Rules Course on or before **September 6, 2016**. If the Licensee does not successfully complete the Council Rules Course by this date, the Licensee’s general insurance licence is suspended as of **September 7, 2016**, without further action from Council and the Licensee will not be permitted to complete any subsequent annual filings until such time as the Council Rules Course is successfully completed.

This order takes effect on the 7th day of June, 2016.



Brett Thibault
Chairperson, Insurance Council of British Columbia

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA
(“Council”)

respecting

MERVYN POO-LEAN EE
(the “Licensee”)

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.

As part of Council’s investigation, on March 7, 2016, a Review Committee (the “Committee”) met with the Licensee to discuss allegations that he engaged in insurance activities outside of the agency office for which he has an authority to represent (the “Agency”), in contravention of a licence restriction.

The Committee was comprised of one voting member and three 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 make further submissions. Having reviewed the investigation materials and after discussing this matter with the Licensee, the Committee prepared a report of its meeting for Council.

The Committee’s report, along with the aforementioned investigation report, were reviewed by Council at its April 12, 2016 meeting, where it was 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 first became licensed as a Level 1 general insurance salesperson on April 10, 2012, and joined the Agency on August 31, 2012.

An inspection of the Agency found that files assigned to the Licensee were actually being handled by the Licensee's wife, who held a Level 2 general insurance agent licence, but was not authorized to represent the Agency (the "Spouse").

The Spouse became involved in assisting the Licensee at the Agency after his working capacity became limited due to medical issues. The intent was to assist the Licensee with his insurance activities while he recovered from the medical issues. The actions of the Licensee and the Spouse were known to the Agency and the Agency's nominee.

In addition to being assisted by his Spouse, the Licensee was found to be conducting insurance activities outside of the Agency office, contrary to his licence restriction. The Licensee stated he was unaware of the restriction on his licence that prohibited him from conducting insurance activities outside of the Agency office. The Agency acknowledged it was aware of this conduct and should not have allowed the Licensee to conduct insurance activities outside of the Agency.

ANALYSIS

Council found the Licensee regularly acted contrary to his licence restriction by conducting insurance activities outside of the Agency office. The Licensee's insurance activities outside of the Agency office included discussing insurance coverage with clients and assisting clients with the completion of insurance applications.

Council took into consideration that the Licensee was acting under the direction of the Agency; was relatively inexperienced; and was remorseful about his conduct and the fact he was not aware he was acting in breach of a licence restriction.

Nonetheless, Council did not believe that his conduct should be excused as he ought to have known that his insurance activity outside of the Agency was in breach of a licence restriction.

Council considered the decision *J. Kim* in determining that a reprimand was an appropriate penalty in the circumstances.

INTENDED DECISION

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

1. Reprimand the Licensee.
2. Impose a condition on the Licensee's general insurance licence that requires him to successfully complete the Council Rules Course within 90 days of the date of Council's order.

The Licensee is advised that should the intended decision become final, the Licensee will be required to successfully complete the Council Rules Course within 90 days of the date of the order. Failure to successfully complete the Council Rules Course within the 90 days will result in the automatic suspension of the Licensee's general insurance licence and the Licensee will not be permitted to complete any annual filing until such time as the Council Rules Course is successfully completed.

The intended decision will take effect on **June 7, 2016**, 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 **June 6, 2016**. 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 **June 6, 2016**, 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 fst.gov.bc.ca or contact them directly at:

Intended Decision
Mervyn Poo-lean Ee
152902-I1958
May 18, 2016
Page 4 of 4

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 **18th day of May, 2016.**

For the Insurance Council of British Columbia



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Executive Director
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