

**In the Matter of**

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

**and**

**The *INSURANCE COUNCIL OF BRITISH COLUMBIA***  
**(“Council”)**

**and**

**GLOBAL WARRANTY (WEST COAST) CORPORATION**  
**(the “Agency”)**

**and**

**ANDREW MARK HALL**  
**(the “Nominee”)**

**ORDER**

As Council made an intended decision on April 11, 2017, pursuant to sections 231 and 236 of the Act; and

As Council, in accordance with section 237 of the Act, provided the Agency and the Nominee with written reasons and notice of the intended decision dated May 26, 2017; and

As the Agency and/or the Nominee have 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 \$6,000.00.
2. The Nominee is fined \$1,000.00.

Order

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3. A condition is imposed on the Nominee's general insurance licence that requires the Nominee to successfully complete the Council Rules Course provided by the Insurance Brokers Association of British Columbia on or before **September 20, 2017**. If the Nominee does not successfully complete the Council Rules Course by this date, the Nominee's general insurance licence is suspended as of **September 21, 2017** without further action from Council, and the Nominee will not be permitted to complete any subsequent annual filings until such time as the above-noted courses are successfully completed.
4. A condition is imposed on the Nominee's general insurance licence that requires the Nominee to pay the above-ordered fine no later than **September 20, 2017**. If the Nominee does not pay the ordered fine in full by this date, the Nominee's general insurance licence is suspended as of **September 21, 2017**, without further action from Council and the Nominee will not be permitted to complete any subsequent annual filings until such time as the ordered fine is paid in full.
5. A condition is imposed on the Agency's general insurance licence that requires the Agency to pay the above-ordered fine no later than **September 20, 2017**. If the Agency does not pay the ordered fine in full by this date, the Agency's general insurance licence is suspended as of **September 21, 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 is paid in full.

This order takes effect on the **20<sup>th</sup> day of June, 2017**.



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Mr. Michael B. Connors  
Chairperson, Insurance Council of British Columbia

**INTENDED DECISION**

of the

**INSURANCE COUNCIL OF BRITISH COLUMBIA**  
(“Council”)

respecting

**GLOBAL WARRANTY (WEST COAST) CORPORATION**  
(the “Agency”)

and

**ANDREW MARK HALL**  
(the “Nominee”)

Pursuant to section 232 of the *Financial Institutions Act* (the “Act”), Council conducted an investigation to determine whether the Agency and the Nominee acted in compliance with the requirements of the Act.

As part of Council’s investigation, on March 13, 2017, a Review Committee (the “Committee”) met with the Nominee via teleconference to discuss allegations that the Agency failed to disclose discipline by the Insurance Councils of Saskatchewan (the “ICS”), and failed to maintain errors and omissions (“E&O”) insurance and to notify Council when it ceased to have E&O insurance, in accordance with Council Rule 7(11).

The Committee was comprised of one voting member and three non-voting members of Council. Prior to the Committee’s meeting with the Nominee, an investigation report was distributed to the Committee and the Nominee for review. A discussion of this report took place at the meeting and the Nominee was provided an opportunity to make further submissions. Having reviewed the investigation materials and after discussing this matter with the Nominee, the Committee prepared a report for Council.

The Committee’s report, along with the aforementioned investigation report, were reviewed by Council at its April 11, 2017 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 Agency and the Nominee of the action it intends to take under sections 231 and 236 of the Act before taking any such action. The Agency and the Nominee 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 and the Nominee.

## **FACTS**

The Agency holds a general insurance licence in British Columbia, restricted to the sale of vehicle warranty products to licensed vehicle warranty dealers. In addition to being licensed in British Columbia, the Agency is licensed in Saskatchewan. The Agency also does business in Ontario. However, as a managing general agent in Ontario, it is not required to have an insurance licence.

The Nominee holds a Level 3 general insurance agent licence in British Columbia and is the Agency's nominee in British Columbia only. The Nominee is subject to the same licence conditions as the Agency.

In August 2015, the Agency was disciplined by the ICS for failing to maintain minimum E&O insurance. The ICS found that the Agency allowed its E&O insurance policy to expire and was without E&O insurance for 138 days, between October 2014 and March 2015. This resulted in the Agency being disciplined by the ICS.

As a result of the ICS discipline, the Agency had an obligation to disclose the discipline to Council in accordance with Council Rule 7(3). The Agency failed to provide such disclosure to Council.

Upon learning of the ICS disciplinary action, Council asked the Agency to confirm that it had E&O insurance in British Columbia during the same 138-day period. The Agency acknowledged that it was without E&O insurance in British Columbia for that period, and had failed to cease insurance activity and notify Council, as required by Council Rules 7(3) and (11).

The Nominee stated that he was unaware of the disciplinary action taken by the ICS and of the lapse of the Agency's E&O insurance. The Nominee explained that he is only the nominee for the Agency in British Columbia, and was not aware the Agency even held an insurance licence in Saskatchewan. Consequently, he was not advised of, nor made aware of, the disciplinary action by the ICS.

The Nominee explained that the Agency's head office, which is located in Ontario, is responsible for maintaining the Agency's E&O insurance. The Agency's head office failed to renew its E&O insurance and did not inform the Nominee that it had expired.

The Nominee confirmed he had not taken any steps to ensure that the Agency operated in British Columbia in compliance with Council Rules. This included not being aware of when the Agency's E&O insurance expired, or following up with the Agency's head office to ensure that the Agency had E&O insurance coverage in British Columbia.

## ANALYSIS

Council accepted the Nominee's statement that he was neither aware that the Agency held an insurance licence in Saskatchewan, nor that it had been disciplined by the ICS. While Council believes that a nominee of an agency that has its head office in another province has a responsibility to be familiar with the other provincial insurance operations, Council concluded it would be unreasonable to hold the Nominee responsible for failing to disclose the ICS disciplinary action, when he was neither licensed with nor the nominee of the Agency's operation in Saskatchewan.

However, Council found that the Nominee had a responsibility to ensure the Agency complies with its E&O insurance requirements in British Columbia. The fact that the Agency's E&O insurance was handled from the Agency's Ontario head office did not change his responsibility. Council determined the Nominee failed to take any steps to satisfy himself that the Agency maintained the minimum required E&O insurance in British Columbia.

Council found that the Agency was primarily responsible for the failure to disclose the disciplinary action by the ICS and ensuring its E&O insurance was maintained. The Agency's decision to centralize its regulatory responsibilities in Ontario, without any attempt to make itself aware of its regulatory obligations, was why the Agency failed to act in accordance with Council Rules.

Council concluded that the Nominee should be fined for failing to ensure the Agency maintained E&O insurance and be required to complete the Council Rules Course.

Council determined that a more significant fine should be assessed to the Agency, as it was the primary cause of the Agency's multiple breaches of Council Rules.

## **INTENDED DECISION**

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

1. Fine the Agency \$6,000.00.
2. Fine the Nominee \$1,000.00.
3. Impose a condition on the Nominee's general insurance licence that requires him to successfully complete the Council Rules Course provided by IBABC within 90 days the date of Council's order.

The Agency and the Nominee are advised that should the intended decision become final, the fines will be due and payable within 90 days of the date of the order.

The Nominee is advised that failure to pay the fine within the 90 days, or failure to successfully complete the Council Rules Course within the 90 days, will result in the automatic suspension of his general insurance licence and the Nominee will not be permitted to complete any annual filing until such time as the fine is paid in full and the Council Rules Course is successfully completed as required.

The Agency is advised that failure to pay the fine within the 90 days, will result in the automatic suspension of its 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 **June 14, 2017** subject to the Agency's and the Nominee's right to request a hearing before Council pursuant to section 237 of the Act.

## **RIGHT TO A HEARING**

If the Agency and/or the Nominee wish to dispute Council's findings or its intended decision, the Agency and/or the Nominee 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 and/or the Nominee must give notice to Council by delivering to its office written notice of this intention by **June 13, 2017**. 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 and/or the Nominee do not request a hearing by **June 13, 2017**, the intended decision of Council will take effect.

Intended Decision

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Even if this decision is accepted by the Agency and/or the Nominee, 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](http://fst.gov.bc.ca) or contact them directly at:

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

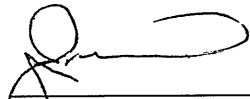
Reception: 250-387-3464

Fax: 250-356-9923

Email: [FinancialServicesTribunal@gov.bc.ca](mailto:FinancialServicesTribunal@gov.bc.ca)

Dated in Vancouver, British Columbia, on the **26<sup>th</sup> day of May, 2017.**

For the Insurance Council of British Columbia



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Gerald Matier  
Executive Director

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