

In the Matter of

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

and

The INSURANCE COUNCIL OF BRITISH COLUMBIA
(“Council”)

and

CASCADE INSURANCE AGENCIES (BURNABY) INC.
(the “Agency”)

and

GURBIR SINGH PURI
(the “Nominee”)

ORDER

As Council made an intended decision on October 18, 2016, pursuant to sections 231, 236, and 241.1 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 November 25, 2016; and

As the Agency and the Nominee initially elected to exercise their right to a hearing, in accordance with section 237 of the Act but subsequently withdrew their hearing request on June 29, 2017 and agreed to accept Council’s intended decision, dated November 25, 2016;

Under authority of sections 231, 236, and 241.1 of the Act, Council orders:

1. The Nominee is fined \$2,500.00.
2. A condition is imposed on the Nominee’s general insurance licence that requires the Nominee to successfully complete Council’s Level 3 seminar: *Duties and Responsibilities of a Level 3 General Insurance Agent* on or before **October 18, 2017**. If the Nominee does not successfully complete the above-noted course by this date, the Nominee’s general insurance licence is suspended as of **October 19, 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 course is successfully completed.

Order

Cascade Insurance Agencies (Burnaby) Inc. and Gurbir Singh Puri


LIC-9024781C113726R1 and LIC-12141C119732R1 / COM-2016-00066

July 18, 2017

Page 2 of 2

3. The Agency is fined \$5,000.00.
4. The Agency is assessed Council's investigative costs of \$1,512.50.
5. A condition is imposed on the Nominee's general insurance licence that requires the Nominee to pay the above-ordered fine no later than **October 18, 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 **October 19, 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.
6. A condition is imposed on the Agency's general insurance licence that requires the Agency to pay the above-ordered fine and investigative costs no later than **October 18, 2017**. If the Agency does not pay the ordered fine and investigative costs in full by this date, the Agency's general insurance licence is suspended as of **October 19, 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 and investigative costs are paid in full.

This order takes effect on the **18th day of July, 2017**.



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

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA
(“Council”)

respecting

CASCADE INSURANCE AGENCIES (BURNABY) INC.
(the “Agency”)

and

GURBIR SINGH PURI
(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 September 12, 2016, a Review Committee (the “Committee”) met with the Nominee and representatives of the Agency to discuss allegations that the Agency failed to ensure proper recordkeeping procedures were followed. In particular, a former employee (the “Salesperson”) and an employee (the “Licensee”) of the Agency failed to adequately record the details of a homeowner’s home business, resulting in the homeowner being improperly insured. The Committee was also asked to consider whether the Salesperson conducted insurance business outside of the Agency office, contrary to the restrictions on her insurance licence.

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, as well as an additional written submission from the Nominee dated September 11, 2016, were reviewed by Council at its October 18, 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 Agency and the Nominee of the action it intends to take under sections 231, 236, and 241 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 has a general insurance licence. It has been licensed with Council since May 15, 1995. The Agency has five locations throughout British Columbia. There are approximately 58 licensees with authority to represent the Agency.

The Nominee has been licensed with Council since November 30, 1981.

The Licensee is a Level 2 general insurance agent. She first became licensed with Council on April 6, 1988 and has represented the Agency since 2001.

The Salesperson was a Level 1 general insurance salesperson ("Level 1 Salesperson") at the Agency. She first became licensed with Council on October 27, 1995. She started working for the Agency on May 29, 2014, and her employment ended when her licence was terminated on June 3, 2016.

The Complaint

A homeowner (the "Complainant") purchased a homeowner's insurance policy for a new home through the Agency. A loss occurred, but the claim was denied by the insurer after the insurer determined the homeowner had not disclosed that "*business operations beyond incidental office use*" were being conducted in the home. The Complainant stated that she informed the Salesperson about the business operations in the home when the application for homeowner's insurance was completed.

The Salesperson's primary role was to obtain information from the Complainant. As part of the application process, the Salesperson reviewed the information that she obtained from the Complainant with the Licensee. The Licensee's primary role was to communicate with the insurer and ensure all required information was obtained.

On March 17, 2015, the Salesperson met with the Complainant outside of the Agency office to obtain the Complainant's signature on the insurance application. The Salesperson advised that this was the first time she had met the Complainant in person and the only time she conducted insurance business outside of the Agency office. The Salesperson obtained payment for the policy at this meeting.

It was at this meeting that the Complainant informed the Salesperson that she was planning on operating a business in the home. The Salesperson stated that she did not obtain any additional information about the home-operated business at this time, as it was her intention to first clarify with the Licensee what additional information was needed from the Complainant.

The Complainant reported that she could not recall exactly what she told the Salesperson during the application process about the home-operated business. The Complainant believed she told the Salesperson that the business would be operating from the home, which meant clients and family would attend the home.

On March 18, 2015, the Salesperson called the Complainant and informed her that the insurer might not insure her if she was operating a business in the home. The Salesperson stated that the Complainant told her she was not going to be conducting business in the new home other than paperwork. The Salesperson reported that the Complainant had stated her business would be entirely mobile.

The Licensee recalled that the Salesperson informed her that she had called the Complainant, and confirmed the business operations would be mobile only. The Licensee passed this information on to the insurer to confirm the details required to issue the policy. Neither the Salesperson nor the Licensee made contemporaneous notes of these conversations.

Agency Procedures

The Licensee advised that the usual process for collecting information for a homeowner's insurance policy application was that the Salesperson would collect the required information by taking written notes. The Licensee would then transcribe the information into the data management system. Information not specifically set out in the insurance application would be noted in the remarks section. Based on a review of the Agency's files, file activity notes were minimal, and the Licensee acknowledged that many files did not contain adequate documentation to respond to a complaint like that of the Complainant.

After the complaint by the Complainant was made, the Licensee prepared notes regarding her recollection of the events in question, as no clear notes existed in the file. The Licensee stated that much of the communication with the Complainant was by email, but the Licensee acknowledged that she was not familiar with the process by which emails could be stored in the data management system. Consequently, a complete record of email communications with the Complainant was not available.

The Nominee acknowledged that recordkeeping practices at the Agency required improvement. The Nominee stated that, as a result of Council's March 2016 Notice ICN 16-002 (the "Notice") in regard to restrictions on a Level 1 Salesperson insurance licence ("Salesperson licence restrictions"), he is now aware that Level 1 Salespersons are not allowed to leave the office to collect premium payments or insurance applications. In the Nominee's written submission, dated September 11, 2016, he referred to the Notice as being a "*new directive*" regarding a Level 1 Salesperson's ability to engage in insurance activity outside of an agency office.

Both the Nominee and the Licensee had difficulty responding to questions regarding the Agency's procedures for recording file information and acknowledged that the proper practice would be to keep detailed written notes on all client issues, such as questions that were asked of clients when their insurance needs were assessed, and client responses. This was not done in the case of the Complainant.

Salesperson Activity

The Salesperson stated that it was not her practice to engage in insurance activities outside of the Agency office and confirmed that her only out-of-office activity occurred with the Complainant, as the Complainant had young children and found it difficult to visit the Agency. The Salesperson attended the Complainant's home to collect signatures and a premium payment, but conducted all other insurance business at the Agency. The Salesperson acknowledged that she did use her personal email for Agency work. The Nominee confirmed that employees used their personal email with his knowledge, in order to avoid the cost required to activate the Agency's email accounts.

ANALYSIS

Council considered whether the Salesperson and the Licensee had failed to provide the proper insurance coverage for the Complainant's home, resulting in the denial of a claim. Council found the evidence from the Complainant and the licensees in regard to the discussions that led up to a homeowner's policy being bound, to be contradictory. Consequently, Council could not find that the Agency, the Salesperson, or the Licensee had failed to act in a competent manner when they provided the Complainant with homeowner's insurance.

Council determined, however, that the Agency had failed to maintain proper records in handling the Complainant's insurance and found that, in general, the Agency and the Nominee had failed to ensure that proper recordkeeping practices were maintained by all Agency staff.

Council was concerned that the Licensee, who was the only employee trained in the use of the Agency's data management system, claimed to not have a thorough knowledge of the system. Council identified a general lack of training and oversight with respect to recordkeeping and file documentation at the Agency, which was supported by statements made by the Licensee.

Council found that the responsibility for these issues rested with the Agency and the Nominee, as it is the responsibility of the Agency and the Nominee to ensure that staff are properly trained and proper insurance practices are followed. Council found the fact that a Level 1 Salesperson was permitted to engage in insurance activities outside the Agency office, in conjunction with the lack of proper recordkeeping, reflected poorly on the Nominee.

Council was also troubled by the fact that the Nominee considered the Notice to be a "new directive," when, in fact, the Notice dealt primarily with existing restrictions. Council determined that the Nominee was ultimately responsible for the lack of training, poor recordkeeping procedures, conduct of the Salesperson, and lack of supervision at the Agency.

Council considered *Global Insurance Agency (2007) Ltd. and H. K. Walia* ("Global") as well as *Island Insurance Agency Ltd. and B. S. Khaira* ("Island").

In *Global*, the agency failed to adequately handle a client's insurance requirements as a result of a lack of proper administrative procedures at the agency. Council determined that the agency and the nominee were responsible for the lack of procedures in place. Council reprimanded the nominee, fined the agency \$2,000.00, and assessed investigative costs. The licensee who mishandled the client's insurance business was also fined \$2,000.00.

In *Island*, the agency was found to have failed to adequately supervise its Level 1 Salespersons, an issue for which it had been previously disciplined. The agency was fined \$7,500.00 and assessed investigative costs. The nominee was fined \$2,500.00 and required to complete education requirements.

In this case, Council noted that, unlike *Global* and *Island*, there was insufficient evidence to determine that the Agency mishandled the Complainant's insurance application. Council was, however, troubled by the fact that prior to the Notice, the Nominee did not appear to have adequate knowledge of a Salesperson's licence restrictions and was unaware that it was inappropriate for the Salesperson to attend the Complainant's home to collect an insurance application and premium payment.

Accordingly, Council determined that the Nominee should be fined and required to successfully complete specific education in order to address the Nominee's lack of knowledge of his responsibilities as a nominee.

Council determined that the Agency should be assessed Council's investigative costs and fined, to address the lack of supervision and recordkeeping practices at the Agency.

INTENDED DECISION

Pursuant to sections 231, 236, and 241 of the Act, Council made an intended decision to:

1. Impose a condition on the Nominee's general insurance licence that requires the Nominee to successfully complete Council's Level 3 seminar: *Duties and Responsibilities of a Level 3 General Insurance Agent* within 90 days of the date of Council's order.
2. Fine the Nominee \$2,500.00.
3. Fine the Agency \$5,000.00.
4. Assess the Agency Council's investigative costs of \$1,512.50.

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

The Agency is advised that failure to pay the fine and investigative costs 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 and investigative costs are paid in full.

The Nominee is advised that failure to pay the fine within the 90 days, or failure to successfully complete the Level 3 Seminar within 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 Level 3 Seminar is successfully completed.

The intended decision will take effect on **December 14, 2016**, 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 wishes 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 **December 13, 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.

Intended Decision
Cascade Insurance Agencies (Burnaby) Inc. and Gurbir Singh Puri
LIC-9024781C113726R1 and LIC-12141C119732R1
November 25, 2016
Page 7 of 7

If the Agency and/or the Nominee do not request a hearing by **December 13, 2016**, the intended decision of Council will take effect.

Even if this decision is accepted by the Agency and 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 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 **25th day of November, 2016**.

For the Insurance Council of British Columbia



Gerald Matier
Executive Director
604-695-2001
gmatier@insurancecouncilofbc.com

GM/rm