

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

and the

INSURANCE COUNCIL OF BRITISH COLUMBIA
(“Council”)

and

DARSHAN SINGH SIDHU
(the “Nominee”)

ORDER

As Council made an intended decision on May 8, 2018, pursuant to sections 231, 236, and 241.1 of the Act; and

As Council, in accordance with section 237 of the Act, provided the Nominee with written reasons and notice of the intended decision dated June 28, 2018; and

As the Nominee has not requested a hearing of Council’s intended decision within the time period provided by the Act;

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

1. A condition is imposed on the Nominee’s Level 3 general insurance agent licence that requires the Nominee to successfully complete the Council Rules Course and the Duties and Responsibilities for Level 3 Agents and Nominees in British Columbia course, both available through the Insurance Brokers Association of British Columbia, by no later than **October 18, 2018**, or the Nominee’s general insurance agent licence will be suspended as of **October 19, 2018** without further action from Council and the Nominee will not be permitted to complete any subsequent annual filings until such time as the aforementioned courses are successfully completed;
2. The Nominee is fined \$1,500.00;
3. The Nominee is assessed Council’s investigative costs of \$1,625.00.
4. A condition is imposed on the Nominee’s Level 3 general insurance agent licence that requires the Nominee to pay the above-ordered fine and investigative costs no later than **October 18, 2018**. If the Nominee does not pay the ordered fine and investigative costs in full by this date, the Nominee’s Level 3 general insurance agent licence is suspended as of **October 19, 2018**, without further

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action from Council and the Nominee 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 **20th day of July, 2018.**



Ken Kukkonen
Chairperson, Insurance Council of British Columbia

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA
(“Council”)

respecting

MULTIPLE INSURANCE SERVICES INC.
(the “Agency”)

and

DARSHAN SINGH SIDHU
(the “Nominee”)

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

As part of Council’s investigation, on February 5, 2018, a Review Committee (the “Committee”) met with the Nominee to discuss allegations that the Nominee failed to adequately supervise a licensee (the “Licensee”) and allowed the Licensee to engage in insurance activities on behalf of the Agency while the Licensee’s general insurance licence was under suspension.

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 May 8, 2018 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 Nominee of the action it intends to take under sections 231, 236, and 241.1 of the Act before taking any such action. 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 Nominee.

FACTS

The Nominee has held a Level 3 general insurance agent (“Level 3 agent”) licence since August 1996 and has been nominee of the Agency since September 1998.

On July 1, 2016, the Licensee began working at the Agency as a Level 2 general insurance agent conducting personal lines insurance business. Prior to starting at the Agency, the Licensee was the subject of disciplinary action which resulted in a two-month suspension of his general insurance licence, effective from July 13, 2016 to the end of day on September 12, 2016 (the “Suspension Period”).

The reasons for the suspension are set out in the decision of the Financial Services Tribunal: 2015-FIA-002(a).

In addition to the suspension, a condition was imposed on the Licensee’s general insurance licence requiring that he be supervised by a Level 3 agent following completion of his suspension and until September 2017. The Nominee accepted responsibility for the supervision of the Licensee.

The Nominee stated that during the Suspension Period the Licensee rarely attended the Agency’s office and, when he did attend the office, he did not conduct any insurance business.

In late July 2016, it was reported to Council that the Licensee was engaging in insurance activity during the Suspension Period. In particular, a client of the Licensee’s former employer (the “Client”) spoke with the Licensee between July and August 2016 regarding insuring a recently purchased home. Council reviewed text messages between the Client and the Licensee which were exchanged during the Suspension Period. The text correspondence included the Licensee responding to the Client’s inquiry related to earthquake coverage, providing details of policy payment, and setting a meeting to complete the policy documentation. The Client was under the impression that the Licensee still represented his former employer. The Client’s home insurance policy was eventually placed through the Agency.

The Nominee submitted that he was unable to monitor the Licensee’s activities during the Suspension Period because the Licensee was not in the office. The Nominee stated that the Licensee referred business to the Agency during the Suspension Period in the form of “*underwriting data*” and policy information, and this information would then be used by the Agency to contact a client and facilitate the insurance business.

ANALYSIS

Council found that the Licensee's dealings with the Client during the Suspension Period amounted to insurance activity for the purpose of placing insurance coverage for the Client through the Agency. Council also found that the Nominee knew about the Licensee's Suspension Period.

As Council Rule 7(6) places responsibility on the Nominee for all activities of the Agency, Council concluded it stands to reason that the Nominee is responsible for the Client's insurance coverage being facilitated, whether in whole or in part, by the Licensee while he was under a licence suspension. Council did not find it mitigating that the Nominee claimed to have no knowledge of the Licensee's activities with the Client.

Council determined that a fine of \$1500.00 was appropriate in the circumstances and that the Nominee would benefit from further education to address his role and responsibility as a nominee.

INTENDED DECISION

Pursuant to sections 231, 236, and 241.1 of the Act, Council made an intended decision to:

1. Impose a condition on the Nominee's Level 3 general insurance agent licence that requires the Nominee to successfully complete the Council Rules Course and the Duties and Responsibilities for Level 3 Agents and Nominees in British Columbia course, both available through the Insurance Brokers Association of British Columbia, within 90 days of the date of Council's order;
2. Fine the Nominee \$1,500.00;
3. Assess Council's investigative costs of \$1,625.00 against the Nominee.

The Nominee is advised that should the intended decision become final, the fine and investigation costs will be due and payable within 90 days of the date of the order.

The Nominee is also advised that failure to pay the fine and investigation costs within the 90 days, or failure to successfully complete both the Council Rules Course and the Duties and Responsibilities for Level 3 Agents and Nominees in British Columbia course within the 90 days, will result in the automatic suspension of his general insurance licence and he will not be permitted to complete any annual filing until such time as the fine and investigative costs are paid in full and the ordered courses are successfully completed as required.

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Subject to the Nominee's right to request a hearing before Council pursuant to section 237 of the Act, the intended decision will take effect after the expiry of the hearing period.

RIGHT TO A HEARING

If the Nominee wishes to dispute Council's findings or its intended decision, 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 Nominee must give notice to Council by delivering to its office written notice of this intention **within fourteen (14) days of receiving this intended decision**. 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 Nominee does not request a hearing **within fourteen (14) days of receiving this intended decision**, the intended decision of Council will take effect.

Even if this decision is accepted by 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:

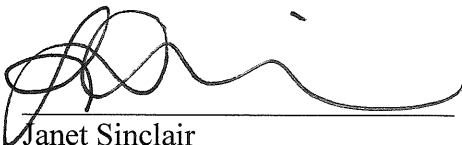
Financial Services Tribunal
PO Box 9425 Stn Prov Govt
Victoria, British Columbia
V8W 9V1

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

Email: FinancialServicesTribunal@gov.bc.ca

Dated in Vancouver, British Columbia, on the **28th day of June, 2018**.

For the Insurance Council of British Columbia



Janet Sinclair
Executive Director
604-695-2001
jsinclair@insurancecouncilofbc.com

JS/lh