

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

and the

INSURANCE COUNCIL OF BRITISH COLUMBIA
(“Council”)

and

FRANSEN INSURANCE SERVICES LTD. dba
SEA TO SKI INSURANCE SERVICES
(the “Former Agency”)

and

ANTONY RONALD FRANSEN
(the “Former Licensee”)

ORDER

Pursuant to section 237 of the Act, Council convened a hearing at the request of the Former Agency and Former Licensee to dispute an intended decision of Council, dated September 2, 2015, and an order of Council, dated March 8, 2016.

The subject of the hearing was set out in a Notice of Hearing dated April 30, 2018.

A Hearing Committee heard the matter on May 17, 2018 and presented a Report of the Hearing Committee to Council at its November 20, 2018 meeting.

Council considered the Report of the Hearing Committee and made the following order pursuant to sections 231, 236 and 241.1 of the Act:

1. The Former Licensee is not suitable to hold an insurance licence of any level for 3 years commencing on **March 8, 2016** and ending at midnight on **March 8, 2019**;
2. The Former Licensee may apply to Council after **March 8, 2019** for a Level 1 general insurance salesperson licence;
3. Council will not consider an application for a level 2 general insurance agent licence from the Former Licensee until he has obtained two additional years of active licensing as a Level 1 general insurance salesperson;

Order

Fransen Insurance Services Ltd. dba Sea to Ski Insurance Services and Antony Ronald Fransen

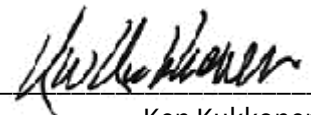
LIC-84611C69652R1, LIC-175875C110885R1, COM-2016-00040

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4. The Former Licensee is permanently prohibited from holding a Level 3 general insurance agent licence;
5. The Former Licensee is permanently prohibited from being a controlling shareholder, partner, officer, or director of any licenced insurance agency;
6. The Former Licensee must requalify to hold any insurance licence;
7. The Former Licensee is fined **\$7,500.00**;
8. The Former Agency is fined **\$15,000.00**;
9. The Former Licensee and the Former Agency are jointly and severally liable to pay the fines set out in (7) and (8) above;
10. The Former Licensee and the Former Agency are jointly and severally liable to pay Council's investigative costs in the amount of **\$5,750.00**;
11. The Former Licensee and the Former Agency are jointly and severally liable to pay hearing costs in the amount of **\$5,011.85**; and
12. The Former Licensee and the Former Agency are required to pay the above-noted fines and costs no later than **March 8, 2019** and, in any event, prior to any re-licensing by Council.

This order takes effect on the 3rd day of January, 2019.



Ken Kukkonen
Chairperson, Insurance Council of British Columbia

INSURANCE COUNCIL OF BRITISH COLUMBIA
(“Council”)

REPORT OF THE HEARING COMMITTEE

IN THE MATTER OF THE *FINANCIAL INSTITUTIONS ACT*
(R.S.B.C. 1996, c.141)
(the “Act”)

AND

**FRANSEN INSURANCE SERVICES LTD. dba
SEA TO SKI INSURANCE SERVICES**
(the “Former Agency”)

AND

ANTONY RONALD FRANSEN
(the “Former Licensee”)

Date: May 17, 2018
9:30 a.m.

Before: Darlene Hyde Chair
Nicole Federucci Member
Frank Leong Member

Location: Suite 300, 1040 West Georgia Street
Vancouver, British Columbia V6E 4H1

Present: David McKnight Counsel for Council
Antony Ronald Fransen Former Licensee

BACKGROUND AND ISSUES

Mr. Fransen held a general insurance licence with Council for 25 years and was the nominee of Fransen Insurance Services Ltd. dba Sea to Ski Insurance Services (“STS”) since its inception in 2009.

On August 11, 2015 Council made an intended decision pursuant to sections 231, 236 and 241.1 of the Act regarding Mr. Fransen’s and STS’ failure to remit insurance premiums in accordance with insurer agreements. Council provided Mr. Fransen and STS with written reasons and notice of the intended decision on September 2, 2015. On September 18, 2015 Mr. Fransen and STS requested a hearing on the matter before Council pursuant to section 237(3) of the Act.

On March 8, 2016 Council issued an order pursuant to sections 231 and 238 of the Act regarding new allegations that Mr. Fransen and STS collected and failed to remit insurance premiums due to insurers, on more than one occasion, and continued to remain in arrears on those payments. On March 17, 2016 Council received a request from Mr. Fransen for a hearing before Council relating to its March 8, 2016 order pursuant to section 238(2) of the Act.

In August 2016, Mr. Fransen and STS ceased to hold general insurance licences with Council due to non-filing.

On March 19, 2018 Mr. Fransen requested to proceed with one hearing before Council pursuant to the Act with respect to the intended decision of August 11, 2015 and the order of March 8, 2016.

A Hearing Committee was formed to hold a hearing on May 17, 2018 to determine whether:

1. STS and Mr. Fransen both failed to act in a trustworthy, financially reliable and competent manner, in good faith, and in accordance with the usual practice of the business of insurance:
 - a. by failing to handle insurance premiums in accordance with insurer agreements;
 - b. by using premium funds collected on behalf of one insurer to pay outstanding amounts to other insurers and/or for purposes other than in accordance with insurer agreements;
 - c. by continuing to accept premiums from clients after being put on direct billing only by insurers, and by using the premiums for purposes other than their intended purpose;
 - d. by putting clients at risk as a result of the manner in which the premium funds were managed;
 - e. by issuing numerous non-sufficient funds cheques to insurers and insurance intermediaries over a significant period of time; and
 - f. in any other manner.
2. STS and Mr. Fransen are able to carry on the business of insurance in a trustworthy, financially reliable and competent manner, in good faith, and in accordance with the usual practice of the business of insurance, as required under Council Rule 3(2) and pursuant to section 231(1)(a) of the Act.
3. STS and Mr. Fransen should be subject to any disciplinary or other action in the circumstances, and if so, whether Council should do one or more of the following in accordance with sections 231 and 241.1 of the Act:

- a. reprimand STS and/or Mr. Fransen;
- b. prohibit STS and/or Mr. Fransen from holding an insurance licence;
- c. fine STS an amount of not more than \$20,000.00;
- d. fine Mr. Fransen an amount of not more than \$10,000.00;
- e. require STS and/or Mr. Fransen to cease any specified activity related to the conduct of insurance business or to carry out any specified activity related to the conduct of insurance business; and
- f. require STS and/or Mr. Fransen to pay the costs of Council's investigation and/or of this hearing.

EVIDENCE

Evidence heard, reviewed and considered by the Hearing Committee consisted of:

- Exhibit 1 – Agreed Statement of Facts;
- Exhibit 2 – Council's Book of Documents;
- Exhibit 3 – [REDACTED] Discussion Paper dated January 21, 2015; and
- oral evidence of Mr. Fransen.

Council's investigation into Mr. Fransen and STS has a long history going back several years and has resulted in the issuance of three section 238 orders. A comprehensive evidentiary record of Council's investigations and findings was placed before the Hearing Committee in the form of an extensive Agreed Statement of Facts (Exhibit 1) supported by 55 documents as source evidence contained in Council's Book of Documents (Exhibit 2). Mr. McKnight reviewed the agreed facts and supporting documents at the hearing at some length. Set out immediately below is a summary of some of the agreed facts.

History of Proceedings

On April 21, 2015 Council was notified by [REDACTED] that STS failed to remit insurance premiums collected from 8 clients. [REDACTED] advised that the amount of the outstanding premiums was approximately \$36,000.00.

Council conducted an investigation and identified additional instances where Mr. Fransen and STS failed to remit insurance premiums to other insurers as required.

Council issued three orders pursuant to section 238 of the Act. The first section 238 order was issued on May 21, 2015 and required Mr. Fransen and STS to:

1. retain a Certified Professional Accountant ("CPA") by June 4, 2015;

2. provide Council with an audit report from the CPA attesting to STS' current financial position by July 21, 2015; and
3. remit a written business plan to Council by July 21, 2015 detailing how they would address the premium remittance deficiencies and how they would ensure future compliance with Council Rules regarding the handling of premiums.

The May 21, 2015 order further required that, effective immediately, STS was prohibited from accepting premium payments from clients except where such premiums were directly deposited into a trust account managed and controlled by a CPA and held at a chartered Canadian bank or financial institution regulated under the Act.

The May 21, 2015 order lastly provided that STS' failure to meet any of the orders' requirements would result in automatic suspension of its licence without further action from Council.

On June 12, 2015 Council issued a notice that STS' licence was suspended on the basis that it did not retain a CPA by June 4, 2015.

The second 238 order issued by Council was dated June 19, 2015. By that order, Mr. Fransen's Level 3 general insurance licence and STS's licence were suspended until Council's investigation had been completed and considered by Council. In the June 19, 2015 order, Council determined, inter alia, that Mr. Fransen attempted to mislead Council regarding the hiring of a CPA, STS failed to retain a CPA and these determinations coupled with STS' mishandling of premiums represented a risk to the public.

Mr. Fransen and STS appealed the June 19, 2015 order to the Financial Services Tribunal (the "FST") and requested a stay of that order. Council did not oppose an interim stay of the June 19, 2015 order on the basis Mr. Fransen still had to comply with the July 21, 2015 deadlines set out in the May 21, 2015 order. The FST granted the interim stay on conditions. As a result of the stay, the suspensions of Mr. Fransen's and STS' licences were lifted.

On July 22, 2015, STS' licence was suspended again for failure to meet the July 21, 2015 deadlines set out in the May 15, 2015 order. As a result of the STS' suspension, Mr. Fransen's licence status was automatically changed to inactive. On August 10, 2015 Mr. Fransen's licence was made active as he became authorized to represent [REDACTED].

Council's third section 238 order was issued on March 8, 2016. Mr. Fransen's licence was suspended again. The March 8, 2016 order arose from, inter alia, Council's determination that:

1. after the May 15, 2015 order, Mr. Fransen collected premiums that were neither directly deposited into a trust account managed and controlled by a CPA nor remitted to the insurer in accordance with Council Rule 7(2);

2. on September 10, 2015 Mr. Fransen collected insurance premiums from two clients in excess of \$90,000.00 and deposited them into an account that was not an account of [REDACTED] and failed to remit the collected premiums to the insurer; and
3. Mr. Fransen continued to collect and handle premiums contrary to the May 21, 2015 order and that some of those insurance premiums remained outstanding.

[REDACTED]

In April 2015, Council was notified by [REDACTED] that STS failed to remit insurance premiums collected from clients, which were owed to [REDACTED] for business placed the previous year. The outstanding premiums were in the approximate amount of \$36,000.00 and related to an agency bill policy for five customers and seven policies. [REDACTED] reported a history of receiving cheques from STS that were returned NSF. [REDACTED] notified Council that it cancelled STS' brokerage access.

[REDACTED]

[REDACTED] reported that in 2009 STS was set up with agency billing on commercial lines. In January 2013, [REDACTED] switched this billing to direct billing effective March 2013 because of STS' frequency in submitting premiums late.

[REDACTED] did not receive direct payment from STS for a certain Strata policy that was written effective November 1, 2014. On January 13, 2015 Mr. Fransen wrote to [REDACTED] advising that the Strata policy premium was paid to STS on November 21, 2014 (\$11,076.00) and was not forwarded to [REDACTED] on the basis of his being confused whether the Policy was direct bill or agency bill, notwithstanding that STS has been set up as direct bill only since March 2013. As of February 1, 2015 [REDACTED] had not received the premium from STS and the Strata policy was never placed. STS' binding authority was rescinded on February 2, 2015. On May 15, 2015 [REDACTED] and STS agreed to cancel the agency agreement between them for all policies expiring on or after July 31, 2015.

Mr. Fransen stated that he contacted the Strata Corporation on February 2, 2015 and confirmed there had been no losses since November 1, 2014. A new policy was issued for the Strata Corporation through [REDACTED] effective February 2, 2015.

Mr. Fransen's explanation to Council was that it was his full intention to forward the premium upon receipt, but STS had large post-dated cheques going through its bank account at around the same time which depleted available funds. This was supported by bank statements showing a cheque for \$18,626.84 being cashed by [REDACTED] on November 21, 2014 that was NSF and replaced by a bank draft on November 27, 2014.

[REDACTED]

[REDACTED] did business with STS. Around mid-2012 [REDACTED] began experiencing delays in receipt of payments from STS. In October 2013,

█ received an NSF cheque for approximately \$200,000.00 after several attempts for remittance. █. In February 2014, the parties agreed to a six-month installment repayment plan, which was honoured.

█ began dealing with STS in January 2014. As of April 30, 2015 █ had not received numerous premium payments due from STS and the current outstanding balance was \$103,104.10 with \$8,156.25 of that being more than 90 days overdue. As of May 31, 2015 STS owed █ \$72,831.95 of which \$25,484.65 was more than 90 days overdue. On June 18, 2015 Council staff sent a further request to Mr. Fransen, through his then lawyer, for the documents requested during Council's meeting with Mr. Fransen on April 24, 2015. Council staff also requested current bank statements to verify that no premiums had been collected through STS' bank account in violation of Council's May 21, 2015 order. This requested information remains outstanding.

█ and █

Both █ and █ experienced late payments from STS. In the case of █ STS was repeatedly late in remitting premiums for policies, continually three to six months overdue.

█ and █

On February 15, 2016 █ notified Council that Mr. Fransen had failed to remit premiums for policies procured for █ and █ through █ in April 2015 and July 2015. The total premiums collected by Mr. Fransen for these policies amounted to approximately \$230,000.00. Documents in evidence confirmed receipt of these premiums from █ and █ directly into a bank account of STS, which was then under a licence suspension. It was this conduct that resulted in Council's March 8, 2016 section 238 order suspending Mr. Fransen's general insurance licence.

As of March 8, 2016, the date of Council's section 238 order, \$148,970.00 in respect of premiums for █ remained outstanding and owed to █ even though it was collected by STS approximately six months earlier. Also as of March 8, 2016, STS owed █ \$75,000.00 in net premiums for the █ coverage.

On March 3, 2016 Mr. Fransen provided a submission to Council. Mr. Fransen acknowledged that the premiums collected were not deposited into STS' trust account, as was stipulated in Council's order of May 21, 2015.

The March 3, 2016, submission included copies of cheques that STS remitted to █ in July 2015 and on November 5, 2015 that Mr. Fransen stated were intended for █ and █. █ reported that some of the funds in these cheques were for policies unrelated

to [REDACTED] or [REDACTED]. In an email of November 16, 2015 to [REDACTED], Mr. Fransen acknowledged owing outstanding premiums for the [REDACTED] and [REDACTED] coverages. On February 18, 2016, [REDACTED] issued an account statement to STS indicating that net premiums of \$148,970.00 for [REDACTED] coverage and \$75,000.00 for the [REDACTED] coverage remained outstanding.

Mr. Fransen's Testimony

Mr. Fransen first obtained a general insurance licence in 1991. In late 2008, Mr. Fransen's long-held employment was upended and financial and family circumstances led him to incorporate and commence operating STS in early 2009. The business started off poorly, with little cash flow and high costs. Mr. Fransen also had to defend a lawsuit shortly after start-up, thereby incurring even greater costs. He and STS quickly "got behind the eight ball." What little cash that did flow into the business was in the form of premium payments and he used those funds to deal with the most pressing of the debts. He described it as a "situation of robbing Peter to pay Paul." He did not think about the funds he was using to deal with his debts and now he knows that was not the right way to think about it.

Mr. Fransen tried to secure a line of credit to get caught up and pay everyone back. The Exhibit 3 [REDACTED] Discussion Paper dated January 21, 2015 reflected STS' attempt to secure loans for that purpose, but ultimately [REDACTED] would not advance a loan and it left Mr. Fransen and STS with \$300,000.00 less than they hoped to have.

Mr. Fransen provided evidence of his varied other attempts to get STS' financial house in order, including working with [REDACTED] to get the outstanding premium payments owed to [REDACTED] caught up, but discussions failed leading to [REDACTED]'s complaint to Council.

Mr. Fransen testified that past debts have all been paid except for what is owed to [REDACTED]. [REDACTED] Insurance has been his career and livelihood and he does not know how to do anything else. The only way he can pay [REDACTED] is getting his licence back and getting back to work. He would like to run an insurance agency again under whatever restrictions and conditions Council deems appropriate.

Mr. Fransen acknowledged he did things he was not supposed to do, including knowingly breaching the orders of Council. He says he did it to pay his clients, but he did not contact Council to discuss the reasons why he breached its orders.

SUBMISSIONS OF COUNCIL BY DAVID MCKNIGHT

Pursuant to the Act and Council's policies and guidelines, Council is responsible for protecting the public by ensuring that insurance licensees are trustworthy, competent, financially reliable and carry on the business of insurance in accordance with the usual practice in the industry. All of these considerations are in play on the facts of this case.

Where Council determines that there has been a breach of conduct by a licensee, it must determine the appropriate sanction keeping in mind that the fundamental purpose of sanctioning misconduct is to ensure the public is protected from further acts of misconduct by the licensee and to deter and prevent other licensees from committing similar acts. Council is not bound by precedent to follow the outcomes from prior decisions, but similar conduct should result in similar outcomes within a reasonable range. Any penalties imposed should not be disparate with those imposed in other similar cases. Mr. McKnight provided and made submissions with respect to three prior Council decisions:

1. SSEI Insurance Agency and Nicholas Di Perno (March 31, 2012);
2. International Insurance Agencies Ltd. and Theodore (Ted) Young Lee (May 23, 2012); and
3. Ateeya Zaffar Lail aka Ateeya Manzoor (September 9, 2014).

Mr. McKnight highlighted provisions from Council's Code of Conduct, Council's Policy + Guidelines and the Act that he submitted should be considered in the circumstances. He submitted that the allegations and the facts as agreed to by Mr. Fransen raise serious issues of trustworthiness, good faith, competence, and financial reliability on the part of Mr. Fransen and STS. In particular, the evidence illustrates that Mr. Fransen was unable to effectively manage STS and he and STS were unable to act in accordance with the usual practice of the business of insurance regarding the collection and remittance of insurance premiums.

Mr. McKnight also identified the collateral issue of Mr. Fransen's failure to comply with Council's orders when he continued to collect premiums and deposit them into STS' account after the June 19, 2015 order and after his licence was suspended on July 22, 2015. Mr. McKnight submitted this was very serious misconduct that Mr. Fransen acknowledged in his testimony he should not have engaged in and that this misconduct by itself could be the basis for a stand-alone hearing.

Mr. McKnight for Council submitted that Mr. Fransen failed to meet the suitability requirements to be licenced. He also submitted that Mr. Fransen failed to understand the significance of Council's orders and his responsibility to comply with those orders. This in itself speaks to Mr. Fransen's suitability to be licensed.

Mr. McKnight submitted that the Hearing Committee should make the following orders:

1. Mr. Fransen is not suitable to hold an insurance license for a period of 3 to 5 years;
2. Mr. Fransen be fined \$10,000.00;
3. STS be fined \$20,000.00;
4. Mr. Fransen be prohibited from holding a Level 3 general insurance agent's license, or being a director, officer, partner, or controlling shareholder of an insurance licensee;

5. STS and Mr. Fransen be jointly and severally liable to pay fines;
6. STS and Mr. Fransen be jointly and severally liable to pay Council's investigative costs in the amount of \$5,750.00;
7. Mr. Fransen and STS be jointly and severally liable to pay Council's costs associated with this hearing (to be determined); and
8. Mr. Fransen and STS be required to pay the above-mentioned fines and costs by a date to be determined by the Hearing Committee, and in any event, prior to any re-licensing by Council.

SUBMISSIONS BY MR. FRANSEN

Mr. Fransen apologized for his conduct. He recognized he caused a lot of grief to a lot of people. He did not give Council, his clients and the insurance companies he dealt with the respect that they deserved. He did not intentionally breach Council's orders, but he acknowledges that he did so. He likes to think he would not have done what he did but for the money problems he faced.

The insurance business is Mr. Fransen's life. He can do better and will do better. He is willing to work under whatever conditions and restrictions Council deems appropriate.

LEGISLATION AND GUIDELINES

Pursuant to the Act, Council is responsible for maintaining standards of professional conduct within the insurance industry to provide protection to the public relating to the sale of insurance products and services. Council's Code of Conduct for insurance agents, salespersons and adjusters requires them to:

1. be trustworthy, conducting all professional activities with integrity, reliability and honesty;
2. carry on the business of insurance in good faith;
3. conduct all insurance activities in a competent manner; and
4. be financially reliable, properly safeguarding and accounting for money entrusted to them and to promptly deliver them in accordance with the circumstances.

Council's Policies and Guidelines, December 2016(R3) Section 4.1 Suitability Polices are intended to assist Council in assessing the suitability of a person where Council learns of a possible suitability concern. Council considers the nature of a matter to determine if it is relevant to the person's trustworthiness, competence or intention to carry on the business of insurance in good faith and to determine the person's overall fitness to be an insurance licensee.

When considering the suitability of a person for licensing or ongoing licensing, Council can take aggravating factors into account. These factors include, but are not limited to:

- if there is possible risk of harm to the public in the conduct of the business of insurance;
- if there are outstanding or unfulfilled obligations involving the relevant matter;
- if the person has been subject to more than one relevant matter; and
- if it is likely that the relevant matter or something of a similar nature may be repeated.

Conversely, Council can take mitigating factors into account, including, but not limited to:

- if the relevant matter is isolated in nature;
- if there are no outstanding or unfulfilled obligations related to the relevant matter;
- if there is little to no risk of harm to the public; and
- if the person has made rehabilitative efforts to improve his suitability through education, employment or other means.

Pursuant to section 231 of the Act:

Council may suspend, cancel or restrict licences and impose fines

(1) If, after due investigation, Council determines that the licensee or former licensee or any officer, director, employee, controlling shareholder, partner or nominee of the licensee or former licensee;

- (a) no longer meets a licensing requirement established by a rule made by Council or did not meet that requirement at the time the licence was issued, or at a later time,

then Council by order may do one or more of the following:

- (f) reprimand the licensee or former licensee;
- (g) suspend or cancel the licence of the licensee;
- (h) attach conditions to the licence of the licensee or amend any conditions attached to the licence;
- (i) in appropriate circumstances, amend the licence of the licensee by deleting the

name of a nominee;

- (j) require the licensee or former licensee to cease any specified activity related to the conduct of insurance business or to carry out any specified activity related to the conduct of insurance business;
- (k) in respect of conduct described in paragraph (a), (b), (c), (d), (e) or (e.1), fine the licensee or former licensee an amount
 - (i) not more than \$20,000.00 in the case of a corporation, or
 - (ii) not more than \$10,000.00 in the case of an individual.

FINDINGS OF THE HEARING COMMITTEE

The relevant facts are not in dispute in this matter and are set out at length in the Agreed Statement of Facts (Exhibit 1) supported by the documents contained in Council's Book of Documents (Exhibit 2). Mr. Fransen's evidence and his submissions were not to take issue with the facts, but to explain how he got into and remained in the financial predicament that caused his and STS' misconduct.

Mr. Fransen incorporated STS in 2009 to conduct his insurance business through. From the outset of the operation of that business he ran into financial difficulties and, in an effort to keep the business afloat and deal with his other financial and legal problems, he improperly used insurance premiums he received from insureds rather than remitting them to the insurers.

This misconduct carried on for years. Far from being isolated in nature, it was common practice and resulted in multiple complaints and disciplinary proceedings and orders to and by Council.

While there was no direct evidence of insureds suffering an uninsured loss as a result of premiums not being paid to the insurer, there was certainly the potential that, as a result of Mr. Fransen's misconduct, the public was at risk of such an outcome.

The Hearing Committee finds that Mr. Fransen has failed to meet the trustworthiness, good faith and competence standards required of a licensee as set out in the Code of Conduct. He dishonestly dealt with premium funds received by failing to remit them in a timely and forthright manner to the relevant insurer on multiple occasions over the course of many years. In doing so, he must be taken to have known he was prejudicing the interest of clients and insurers for his personal gain in keeping his business afloat and dealing with other debts and financial needs. He clearly failed to properly manage the business and financial aspects of STS, including the proper handling and remittance of premium money to insurers.

The record illustrates that Mr. Fransen and STS have not been financially reliable. There are numerous examples of their having received funds from clients on behalf of an insurer and applying those funds improperly, thereby failing to pay the insurer all funds received less any

deductions authorized by the insurer. Mr. Fransen fell well short of putting the best interests of his clients first and ahead of his personal interests in failing to timely remit premiums. There is certainly an issue on the evidentiary record that Mr. Fransen was at times not making written disclosure of some of the fees he or STS was taking from clients.

An aggravating factor in the circumstances is that Mr. Fransen continued to accept premiums after Council's June 19, 2015 order and after his licence was suspended by the July 22, 2015 order and deposited them in STS' bank account when he was only authorized to represent [REDACTED] Mr. Fransen acknowledged reading and understanding the orders. His failing to adhere to them at worst is a blatant disregard and flouting of Council's supervisory and regulatory role over him, but at best a complete lack of understanding that he is required to conduct himself in accordance with the minimal standards set forth by the Code of Conduct. This in itself raises concern as to his suitability to be licensed.

The Hearing Committee finds multiple aggravating factors in considering Mr. Fransen's suitability for licensing. The record illustrates significant financial misconduct over several years and the possible risk of harm to the public in the conduct of his business of insurance. There are significant outstanding amounts owed to [REDACTED]. There was no evidence before the Hearing Committee that Mr. Fransen has made rehabilitative efforts to improve his suitability through education, employment or other means since the time of the relevant conduct.

In summary, the Hearing Committee determines that:

1. STS and Mr. Fransen both failed to act in a trustworthy, financially reliable and competent manner, in good faith, and in accordance with the usual practice of business of insurance:
 - a. by failing to handle insurance premiums in accordance with insurer agreements;
 - b. by using premium funds collected on behalf of one insurer to pay outstanding amounts to other insurers and/or for purposes other than in accordance with insurer agreements;
 - c. by continuing to accept premiums from clients after being put on direct billing only by insurers, and by using the premiums for purposes other than their intended purpose;
 - d. by putting clients at risk as a result of the manner in which the premium funds were managed;
 - e. by issuing numerous non-sufficient funds cheques to insurers and insurance intermediaries over a significant period of time; and
 - f. by failing to comply with orders made by Council.


2. STS and Mr. Fransen are not able to carry on the business of insurance in a trustworthy, financially reliable and competent manner, in good faith, and in accordance with the usual practice of the business of insurance as required under Council Rule 3(2) and pursuant to section 231(1)(a) of the Act.
3. STS and Mr. Fransen should be subject to disciplinary action in the circumstances as set out in the Recommendations of the Hearing Committee below.

RECOMMENDATIONS OF THE HEARING COMMITTEE

The Hearing Committee recommends the following disciplinary action:

1. Mr. Fransen is not suitable to hold an insurance licence of any level for 3 years from March 8, 2016;
2. Mr. Fransen may apply after March 8, 2019 for Level 1 licensure and must complete and abide by the requirements for that licence, including being under supervision;
3. after 2 years of Level 1 licensure, Mr. Fransen may apply for a Level 2 licence;
4. Mr. Fransen is permanently prohibited from holding a Level 3 licence;
5. Mr. Fransen be fined \$5,000.00;
6. STS be fined \$10,000.00;
7. Mr. Fransen and STS be jointly and severally liable to pay the fines set out in (5) and (6) above;
8. Mr. Fransen and STS be jointly and severally liable to pay Council's investigative costs in the amount of \$5,750.00;
9. Mr. Fransen and STS be jointly and severally liable to pay Council's costs associated with this hearing in an amount to be determined; and
10. Mr. Fransen and STS be required to pay the above-noted fines and costs by March 8, 2019 and, in any event, prior to any re-licencing by Council.

Dated at Vancouver, British Columbia on November 6, 2018



Darlene Hyde, Chair of Hearing Committee
Insurance Council of British Columbia