In the Matter of

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

and

The INSURANCE COUNCIL OF BRITISH COLUMBIA
("Council")

and

KANWAR YUVRAJ WALIA
(the "Licensee")

ORDER

As Council made an intended decision on October 20, 2015, 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 November 17, 2015; 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 fined $2,000.00.
2. A condition is imposed on the Licensee's general insurance licence that requires him to pay the above-ordered fine no later than **March 8, 2016**. If the Licensee does not pay the ordered fine in full by this date, the Licensee's general insurance licence is suspended as of **March 9, 2016**, without further action from Council and the Licensee will not be permitted to complete any annual filing until such time as the ordered fine is paid in full.

This order takes effect on the **8th day of December, 2015**.



Brett Thibault
Chairperson, Insurance Council of British Columbia

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA
("Council")

respecting

GLOBAL INSURANCE AGENCY (2007) LTD.
(the "Agency")

and

HARVINDER KAUR WALIA
(the "Nominee")

and

KANWAR YUVRAJ WALIA
(the "Licensee")

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

As part of Council's investigation, on September 14, 2015, a Review Committee (the "Committee") met with the Licensee, the Nominee, and the Agency's office manager (the "Office Manager"), to discuss the results of an investigation respecting an Agency client who alleged that the Agency failed to place a commercial insurance policy.

The Committee was comprised of one voting member and three non-voting members of Council. Prior to the Committee's meeting with the Licensee and the Nominee, an investigation report was distributed to the Committee, the Licensee, and the Nominee for review. A discussion of this report took place at the meeting and the Licensee and the Nominee were provided an opportunity to clarify the information contained therein and make further submissions. Having reviewed the investigation materials and after discussing this matter with the Licensee and the Nominee, 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 October 20, 2015 meeting, where it was determined the matter should be disposed of in the manner set out below.

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PROCESS

Pursuant to section 237 of the Act, Council must provide written notice to the Licensee, the Nominee, and the Agency of the action it intends to take under sections 231, 236, and 241.1 of the Act before taking any such action. The Licensee, the Nominee, and the Agency 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, the Nominee, and the Agency.

FACTS

The Agency holds a general insurance licence with Council, and has been licensed since March 21, 2007. The directors of the Agency are the Licensee and the Nominee. There are three to four employees who regularly work at the Agency. The Agency has other employees who are authorized to represent it; however, the majority of these employees primarily work at other affiliated agencies and may only work at the Agency on occasion to meet staffing or vacation needs.

The Licensee is a Level 2 general insurance agent and has been licensed with Council since April 2, 2004. He is the General Manager of the Agency and manages the Agency's commercial insurance business. The Nominee was first licensed with Council on March 9, 1997, and became a Level 3 general insurance agent ("Level 3 agent") and nominee in June 2002. The Office Manager, a Level 3 agent, manages the Agency's office, under the direction of the Licensee.

In May 2014, the Agency provided an insurance quotation to a client. In providing the quote, the insurer stated that binding of coverage would be subject to the insurer first receiving a signed and dated version of the application form. The Agency accepted payment from the client and the Office Manager issued the client a Certificate of Insurance, before coverage was bound, and without the insurer's authorization.

The Licensee failed to submit the necessary documentation to bind the insurance policy. Approximately one month later, the Licensee realized his mistake and emailed the insurer requesting the policy be issued, with documents to follow. Despite the Agency's records indicating original documents were sent, the insurer had no record of receiving them. As a result, coverage was never bound and the client went uninsured.

The Agency acknowledged that it did not have procedures in place to reconcile its bank accounts, which is why the client's premium payment remained unaccounted for in the Agency's account. The Agency was using a manual filing system, and the client's documents were inadvertently filed indicating that the policy had been bound.

In May 2015, when the client went to renew his insurance through another agency, it was discovered that insurance had never been placed. Only after the client contacted the Agency did the Licensee realize the error and take steps to remedy it. The Licensee immediately confirmed the client's lack of coverage, issued a refund cheque for the premium paid by the client, and attempted, unsuccessfully, to obtain backdated coverage.

At the time Council considered this matter, the Agency had taken steps to modernize its practice to prevent a similar situation from occurring again.

ANALYSIS

Council determined that the Licensee and the Agency failed to properly handle the client's insurance requirements. Council accepted that an administrative error contributed to the failure to place insurance for the client, but found the failure was due to a lack of administrative and financial procedures and processes within the Agency. Council concluded that the Nominee and the Agency were responsible for the procedural shortcomings.

Council found that the Licensee had at least two opportunities to ensure coverage was placed for the client, but ultimately failed to do so. The Licensee's errors were compounded by those of the Office Manager, who issued a Certificate of Insurance without authorization to do so. By issuing a Certificate of Insurance, the client was left with the mistaken impression that he had insurance coverage. Council was concerned that the Licensee, the Nominee, and the Office Manager failed to recognize the error in issuing a Certificate of Insurance before insurance coverage was bound.

Council took into consideration that as soon as the error was identified, the Agency took immediate steps to rectify the situation, albeit, unsuccessfully. Council noted that since becoming aware of its error, the Agency has taken steps to modernize its processes to help ensure similar situations are not repeated. Council determined that disciplinary action was appropriate in this circumstance, particularly in light of the potential risk that was created for the client.

In coming to a disposition in this matter, Council considered its prior decision in the case of *A C & D (Quesnel) Insurance Services Ltd.*, in which a licensee failed to follow the agency's policies and procedures when conducting insurance business. The licensee, who was terminated, failed to place coverage for several clients, and further failed to forward premium refund cheques to those clients; instead depositing them into her own bank account. The clients were not advised of the lapse in their insurance coverage.

Council considered the factual matrix of the current matter to be somewhat analogous to *A C & D (Quesnel) Insurance Services Ltd.*, though the current matter was considered to be less egregious. Council determined that disciplinary action was warranted against the Nominee, the Agency, and the Licensee.

INTENDED DECISION

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

1. Reprimand the Nominee.

2. Fine the Licensee $2,000.00.

3. Fine the Agency $2,000.00.

4. Assess the Agency Council's investigative costs of $1,625.00.

The Licensee and the Agency 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 Licensee is advised that failure to pay the fine 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 fine is paid in full.

The Agency is advised that failure to pay the fine and investigative costs within the 90 days will result in the automatic suspension of the Agency's 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 intended decision will take effect on **December 8, 2015**, subject to the Licensee's, the Nominee's, and the Agency's right to request a hearing before Council pursuant to section 237 of the Act.

RIGHT TO A HEARING

If the Licensee, the Nominee, and the Agency wish to dispute Council's findings or its intended decision, the Licensee, the Nominee, and the Agency 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, the Nominee, and the Agency must give notice to Council by delivering to its office written notice of this intention by **December 7, 2015**. 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, the Nominee, and the Agency do not request a hearing by **December 7, 2015**, the intended decision of Council will take effect.

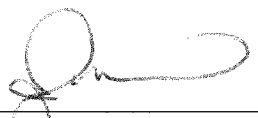
Even if this decision is accepted by the Licensee, the Nominee, and the Agency, pursuant to section 242(3) of the Act, the Financial Institutions Commission still has a right to appeal this decision of Council to the Financial Services Tribunal ("FST"). The Financial Institutions Commission has 30 days 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 **17th day of November, 2015**.

For the Insurance Council of British Columbia



Gerald Matier
Executive Director
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