In the Matter of the

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

and the

INSURANCE COUNCIL OF BRITISH COLUMBIA
("Council")

and

RAY FRANCIS DESILVA
(the "Licensee")

ORDER

As Council made an intended decision on February 26, 2019, 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 May 6, 2019; 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 that:

1. the Licensee is fined $500.00;
2. a condition is imposed on the Licensee's general insurance licence requiring the Licensee to successfully complete the Council Rules Course through the Insurance Brokers Association of British Columbia; and
3. a condition is imposed on the Licensee's general insurance licence that if the above-ordered fine is not paid and the above-ordered course not completed by **October 9, 2019,** the Licensee's general insurance licence will be automatically suspended and the Licensee will not be permitted to complete any subsequent annual filings until such time as the fine is fully paid and the course is successfully completed.

This order takes effect on the **11th day of July, 2019**.



Lesley Maddison
Chairperson, Insurance Council of British Columbia

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA
("Council")

respecting

Ray Francis Desilva
(the "Licensee")

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

As part of Council's investigation, on January 15, 2019, a Review Committee (the "Committee") met to discuss the allegation(s) that the Licensee failed to complete the Council Rules course prior to making their 2018 annual filing.

The Committee was comprised of three voting members and one non-voting member of Council. Prior to the Committee's meeting, an investigation report was distributed to the Committee for review. A discussion of this report took place at the meeting. Having reviewed the investigation materials, the Committee prepared a report for Council.

The Committee's report, along with the aforementioned investigation report, were reviewed by Council at its February 26, 2019 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 Licensee of the action it intends to take under sections 231 and 236 of the Act before taking any such action. The Licensee 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.

Facts

The Licensee obtained a general insurance licence from Council on January 26, 2018 and submitted their annual filing to Council in accordance with Council Rule 4(4)(b). In making the 2018 annual filing, the Licensee acknowledged compliance with all Council Rules, including completion of the minimum continuing education ("CE") requirements.

As an individual who obtained a licence between March 1, 2017 and February 28, 2018, the Licensee was required, as part of the CE requirements, to complete the Council Rules course, which is available from the Insurance Brokers Association of British Columbia. Notification of this requirement was provided to the Licensee when the licence was issued by Council. In addition, Council sent emails on April 19, 2018, May 3, 2018 and May 17, 2018 to remind the Licensee of the requirement.

As Council had no record of the Licensee completing the Council Rules course as required, the Licensee was given the opportunity to provide an explanation. The Licensee advised they had completed the wrong course. As of February 26, 2019, the Licensee had not completed the course.

Analysis

Council considered the actions of the Licensee, as well as their submission. Council found that the Licensee breached Council's Rule 7(5) by failing to complete the Council Rules course as required.

Based on the evidence before it, Council concluded that the Licensee, knew or ought to have known of their requirement to complete the course before completing their annual filing. After reviewing the Licensee's submission, Council could not identify sufficient reasons they did not complete the course prior to the deadline. In addition, Council sent emails on April 19, 2018, May 3, 2018 and May 17, 2018 to remind the Licensee of the requirement. Despite having been provided instruction on how to complete the course, they did not.

Council finds the Licensee's failure to comply with Council Rule 7(5) warrants disciplinary action and has concluded that a fine, as well as a requirement for the Licensee to demonstrate that the Council Rules course has been completed, is appropriate in the circumstances.

Intended Decision

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

1. Fine the Licensee $500.00.
2. Impose a condition on the Licensee's general insurance licence that requires the successful completion of the Council Rules Course within 90 days of the date of Council's order.

The Licensee is advised that should the intended decision become final, the fine will be due and payable within 90 days of the date of the order. In addition, failure to pay the fine within the 90 days, or failure to successfully complete the Council Rules course within 90 days of the date of Council's order, 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 and the course is successfully completed.

Subject to the Licensee'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 Licensee wishes to dispute Council's findings or its intended decision, the Licensee 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 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 of Council, Janet Sinclair.

If the Licensee 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 Licensee, 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 **6th day of May, 2019**.

For the Insurance Council of British Columbia



Janet Sinclair
Executive Director
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jsinclair@insurancecouncilofbc.com

JS/jr