

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

and

The INSURANCE COUNCIL OF BRITISH COLUMBIA
("Council")

and

MARIA DOLORES ESTREMADURA
(the "Licensee")

ORDER

As Council made an intended decision on November 12, 2013, pursuant to sections 231 and 236 of the Act; and

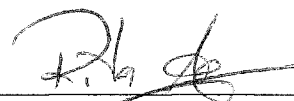
As Council, in accordance with section 237 of the Act, provided the Licensee with written reasons and notice of the intended decision dated November 18, 2013; and

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 \$5,000.00.
2. A condition is imposed on the Licensee's life and accident and sickness insurance licence that requires her to pay the above-ordered fine no later than **March 10, 2014**. If the Licensee does not pay the ordered fine in full by this date, the Licensee's life and accident and sickness insurance licence is suspended as of **March 11, 2014**, 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 **10th day of December, 2013**.



Rita Ager, CFP, CLU, CHS, CPCA, FEA
Chairperson, Insurance Council of British Columbia

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA
(“Council”)

respecting

MARIA DOLORES ESTREMADURA
(the “Licensee”)

INTRODUCTION

Pursuant to section 232 of the *Financial Institutions Act* (the “Act”), Council conducted an audit to determine whether the Licensee was in compliance with the requirements of the Act. As part of Council’s audit, in June 2013, the Licensee was requested to provide proof that she had completed the minimum amount of continuing education (“CE”) for the annual filing period ending May 31, 2013 and had valid errors and omissions (“E&O”) insurance coverage. Despite repeated requests for this information, no information has been forthcoming from the Licensee.

At its November 12, 2013 meeting, Council considered the Licensee’s failure to respond to an inquiry of Council, as well as her failure to demonstrate she is in compliance with Council Rules, and 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

1. The Licensee was first licensed as a life and accident and sickness insurance agent (“life agent”) on December 8, 1983.

2. The Licensee contacted Council on July 16, 2010 to advise she had been without E&O insurance coverage from October 1, 2008 to July 13, 2010, and that she had conducted insurance activities the entire time she was without coverage. As a result, in accordance with Council Rule 7(11)(e), her licence was terminated immediately.
3. After obtaining the required E&O insurance coverage, the Licensee re-applied for a life agent licence, which was issued effective July 20, 2010.
4. On June 18, 2013, the Licensee was requested, by letter, to confirm she had maintained her E&O insurance coverage and had completed her CE credits for the last three annual filing periods. A response was requested no later than July 10, 2013.
5. On July 10, 2013, Council received a letter from the Licensee requesting a one-week extension to allow her time to organize her CE documents.
6. When no further response was received, attempts were made to contact the Licensee by telephone, resulting in voice mail messages being left on August 20, 2013 and August 27, 2013.
7. When the Licensee did not respond, subsequent attempts were made to contact the Licensee by telephone; however, her voice mail box was full and messages could not be left.
8. On October 8, 2013, a registered letter was sent to the Licensee, which was signed for and received by the Licensee on October 10, 2013. The letter requested a response to the June 2013 E&O and CE audit request by no later than October 23, 2013. The letter also advised that if the required evidence of E&O insurance coverage was not received from the Licensee, it could result in the termination of her licence. No response was received.

ANALYSIS

Council determined the Licensee has had almost five months to respond to Council's request for proof of E&O insurance coverage and proof that she has met her CE requirements. Based on the Licensee's initial response dated July 10, 2013, Council found the Licensee was aware of the audit and of her responsibilities to provide the requested information.

Council determined, based on the Licensee's failure to provide evidence of having E&O insurance coverage, and her past breach in this regard, that the Licensee did not meet the requirements of Council Rule 7(11). In making this determination, Council deemed October 10, 2013, the date the Licensee received the registered letter from Council, as the date the Licensee ceased to have E&O insurance coverage. As a consequence, the Licensee has been uninsured in excess of 30 days; therefore, in accordance with Council Rule 7(11)(d), the Licensee's life agent licence was suspended effective November 9, 2013.

The Licensee is reminded that if she can demonstrate she has valid E&O insurance coverage on or before December 9, 2013, the suspension will be lifted and her licence will be reinstated. If proof is not forthcoming by December 9, 2013, her licence will be automatically terminated on December 10, 2013 as per Council Rule 7(11)(e).

Council was highly concerned with the Licensee's blatant lack of response to its inquiries. Council noted that the Licensee acknowledged receipt of its original inquiry in June 2013, had received follow-up voice mail messages, and had signed for a subsequent registered letter. Council found that the Licensee's failure to respond to its inquiries constitutes a breach of section 231(1)(b) of the Act. In determining the appropriate action to take in this case, Council was of the position that it was important to convey a strong message to the Licensee and the industry as a whole, that licensees have a responsibility to make a prompt response to Council's inquiries. As such, it was determined that a substantial fine would convey the severity with which Council views the Licensee's actions in not responding to its inquiries, particularly as these inquiries relate to whether the Licensee is in compliance with Council Rules.

INTENDED DECISION

Pursuant to sections 231 and 236 of the Act, Council made an intended decision to fine the Licensee \$5,000.00.

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, if the Licensee's licence has been reinstated before the 90 days are up, failure to pay the fine within the 90 days will result in the automatic suspension of the Licensee's life agent licence and the Licensee will not be permitted to complete any annual filing until such time as the fine is paid in full.

The intended decision will take effect on **December 10, 2013**, subject to the Licensee's right to request a hearing before Council pursuant to section 237 of the Act.

Intended Decision
Maria Dolores Estremadura
47298
November 18, 2013
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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 by **December 9, 2013**. 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 does not request a hearing by **December 9, 2013**, 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 www.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 **18th day of November, 2013**.

For the Insurance Council of British Columbia



Gerald D. Matier
Executive Director

GM/cp