

**In the Matter of**

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

**and**

**The INSURANCE COUNCIL OF BRITISH COLUMBIA**  
**(“Council”)**

**and**

**ARNOLDUS JOHANNES ZWIERS**  
**(the “Licensee”)**

**ORDER**

As Council made an intended decision on April 11, 2017, 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 18, 2017; 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 the Licensee to pay the above-ordered fine no later than **September 6, 2017**. 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 **September 7, 2017**, without further action from Council and the Licensee will not be permitted to complete any subsequent annual filings until such time as the ordered fine is paid in full.

This order takes effect on the **6<sup>th</sup> day of June, 2017**.

  
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Dr. Eric Yung  
Chairperson, Insurance Council of British Columbia

## **INTENDED DECISION**

of the

**INSURANCE COUNCIL OF BRITISH COLUMBIA**  
(“Council”)

respecting

**ARNOLDUS JOHANNES ZWIERS**  
(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 March 20, 2017, a Review Committee (the “Committee”) met with the Licensee via teleconference to discuss allegations the Licensee failed to obtain the minimum continuing education (“CE”) credits for the 2013 and 2015 licence periods.

The Committee was comprised of one voting member and three non-voting members of Council. Prior to the Committee’s meeting with the Licensee, an investigation report was distributed to the Committee and the Licensee for review. A discussion of this report took place at the meeting and the Licensee was provided an opportunity to make further submissions. After reviewing the investigation materials and discussing this matter with the Licensee, the Committee prepared a report for Council.

The Committee’s report, along with the aforementioned investigation report, was reviewed by Council at its April 11, 2017 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 has held a life and accident and sickness insurance agent licence in British Columbia since 2007.

In 2013, the Licensee was subject to a CE audit for the licence period ending May 31, 2013. For that licence period, the Licensee was required to obtain a minimum of ten CE credits. The Licensee was unable to demonstrate that he had met the minimum CE requirement for the 2013 licence period.

The Licensee explained that he had obtained the necessary CE credits for the 2013 licence period, but was unable to locate the supporting documentation. The Licensee explained that he had earned additional CE credits in the 2012 licence period which he thought he could carry over, so he did not keep the CE certificates. In fact, the CE program does not permit the carryover of CE credits to another licence period.

The Licensee did provide proof that he had earned nine CE credits in July 2013, but these nine CE credits were completed during the 2014 licence period and only a few days after being notified by Council of the CE audit. As a result of being unable to demonstrate he had met the CE requirement for the 2013 licence period, the Licensee was reminded of his responsibility to understand and comply with Council's CE requirements.

In 2015, the Licensee was again subject to a CE audit for his 2014 and 2015 licence periods. Council found that the Licensee had evidence of completing the minimum CE for the 2014 licence period but was unable to provide evidence of having completed any CE during the 2015 licence period. The Licensee did produce evidence that he had earned nine CE credits in October 2015, but this was outside the 2015 licence period.

As with the 2013 licence period, the Licensee argued that he had completed the minimum CE for the 2015 licence period but failed to produce any records to support this.

## **ANALYSIS**

Council noted that, during the first CE audit conducted in 2013, the Licensee was unable to demonstrate that he had completed the minimum CE for the 2013 licence period. No action was taken at that time but the Licensee was reminded of his responsibilities to comply with all aspects of Council's CE requirements.

Council's second CE audit found that the Licensee was again unable to demonstrate that he had completed the minimum CE for the 2015 licence period. The Licensee explained that he had completed the minimum CE, but could not provide proof, utilizing the same argument he used during the 2013 CE audit, which Council had found to be unacceptable.

Council noted that, while this explanation was barely plausible after the 2013 CE audit, it was not believable a second time. Council found the Licensee's statement that he had completed the minimum CE but could provide no proof, such as credit card receipts or excerpts from his calendar, unacceptable and concluded that the Licensee had not met the minimum CE requirements for the 2013 and 2015 licence periods.

Council found that the Licensee had failed to act in accordance with Council Rule 7(5) by failing to meet the minimum CE requirement for both the 2013 and 2015 licence periods. Council determined that the Licensee's failure to adhere to Council's requirements, particularly in the 2015 licence period, represented a serious breach, in light of the fact that the CE requirements were specifically brought to his attention after the 2013 CE audit. Council determined that a significant fine was necessary under the circumstances.

#### **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, failure to pay the fine within the 90 days will result in the automatic suspension of the Licensee's life 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 intended decision will take effect on **June 6, 2017**, subject to the Licensee's right to request a hearing before Council pursuant to section 237 of the Act.

#### **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 **June 5, 2017**. 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.

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Intended Decision  
Arnoldus Johannes Zwiers  
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May 18, 2017  
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If the Licensee does not request a hearing by **June 5, 2017**, the intended decision of Council will take effect.

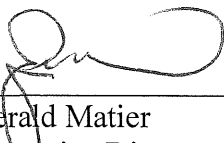
Even if this decision is accepted by the Licensee, pursuant to section 242(3) of the Act, the Financial Institutions Commission still has a right to appeal this decision of Council to the Financial Services Tribunal ("FST"). The Financial Institutions Commission has 30 days to file a Notice of Appeal, once Council's decision takes effect. For more information respecting appeals to the FST, please visit their website at [fst.gov.bc.ca](http://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](mailto:FinancialServicesTribunal@gov.bc.ca)

Dated in Vancouver, British Columbia, on the **18<sup>th</sup> day of May, 2017**.

For the Insurance Council of British Columbia



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Gerald Matier  
Executive Director  
604-695-2001  
[gmatier@insurancecouncilofbc.com](mailto:gmatier@insurancecouncilofbc.com)

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