

In the Matter of

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

and

The **INSURANCE COUNCIL OF BRITISH COLUMBIA**
("Council")

and

0866803 B.C. LTD. dba REGENCY VOLKSWAGEN
(the "Agency")

ORDER

As Council made an intended decision on January 13, 2015, pursuant to sections 231, 236, and 241.1 of the Act; and

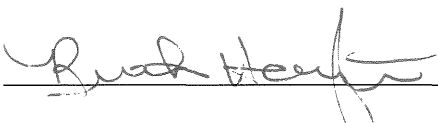
As Council, in accordance with section 237 of the Act, provided the Agency with written reasons and notice of the intended decision dated February 3, 2015; and

As the Agency has not requested a hearing of Council's intended decision within the time period provided by the Act;

Under authority of sections 231, 236, and 241.1 of the Act, Council orders:

1. The Agency is fined \$750.00.
2. The Agency is assessed Council's investigative costs of \$600.00.
3. A condition is imposed on the Agency's general insurance licence that requires it to pay the above-ordered fine and investigative costs no later than **May 25, 2015**. If the Agency does not pay the ordered fine and investigative costs in full by this date, the Agency's general insurance licence is suspended as of **May 26, 2015** without further action from Council, and the Agency will not be permitted to complete any annual filing until such time as the ordered fine and investigative costs are paid in full.

This order takes effect on the **24th day of February, 2015**.



Ruth Hoyte
Chairperson, Insurance Council of British Columbia

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA
(“Council”)

respecting

0866803 B.C. LTD. dba REGENCY VOLKSWAGEN
(the “Agency”)

INTRODUCTION

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

As part of Council’s investigation, on December 15, 2014, a Review Committee (the “Committee”) met with the Agency to discuss allegations that the Agency failed to notify Council of the departure of the Agency’s nominee; continued to sell insurance policies without having a licensed nominee; and allowed an unlicensed employee to solicit insurance on its behalf.

The Committee was comprised of one voting member and three non-voting members of Council. Prior to the Committee’s meeting with the Agency, an investigation report was distributed to the Committee and the Agency for review. A discussion of this report took place at the meeting and the Agency was provided an opportunity to make further submissions. Having reviewed the investigation materials and after discussing this matter with the Agency, the Committee made a recommendation to Council as to the manner in which this matter should be disposed.

A report setting out the Committee’s findings and recommended disposition, along with the aforementioned investigation report, were reviewed by Council at its January 13, 2015 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 Agency of the action it intends to take under sections 231, 236, and 241.1 of the Act before taking any such action. The Agency may then either 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 Agency.

FACTS

The Agency holds a general insurance licence restricted to the sale of automobile anti-theft insurance.

On November 22, 2013, an inspection of the Agency occurred. At the time of the inspection, Council records showed that two Level 1 general insurance salespersons were authorized to represent the Agency, and that the Agency had a nominee. The inspection revealed that the Agency nominee had departed on July 1, 2013. A review of Council's records indicated that it had not received notification of the departure of the nominee, as required by Council Rule 7(3).

With the departure of the nominee on July 1, 2013, the Agency continued to engage in insurance activity, even though it did not have a nominee, in contravention of Council Rule 7(10). Between July 1, 2013 and December 11, 2013, when the Agency's licence was suspended in accordance with Council Rule 7(10), it conducted 61 insurance transactions relating to the sale of automobile anti-theft insurance.

The Agency explained its failure to notify Council of the departure of its nominee and its continued solicitation of insurance as unintentional. The Agency acknowledged that its failure arose as a result of a lack of oversight and communication within the Agency, as well as a lack of understanding of Council Rules. The Agency has since put a process in place to avoid any further non-compliance with Council Rules.

Prior to the nominee leaving the Agency, an unlicensed employee was permitted to conduct four insurance transactions. The Agency explained that it believed its employees could begin selling automobile anti-theft insurance as soon as an application for an insurance licence was submitted to Council. At the time of the unlicensed activity, the unlicensed employee had submitted a licence application to Council and a licence was subsequently issued a few days after these insurance transactions occurred. The Agency now appreciates that its understanding was incorrect.

ANALYSIS

Council determined that the Agency failed to notify Council of the departure of its nominee, and engaged in the sale of insurance for approximately five months without having a nominee, contrary to Council Rules. Council also determined that the Agency allowed an unlicensed employee to engage in the solicitation of insurance.

Council acknowledged that when the issues were brought to the Agency's attention, it took them seriously and acted in a timely manner to change its procedures to prevent similar circumstances from arising again.

Council noted that the sale of insurance by the Agency is incidental to its primary activity as a motor vehicle dealer, and that the Agency did not intend to act contrary to Council Rules. However, Council found this does not excuse the Agency from its obligation to know and act in accordance with Council Rules and all relevant legislation.

In determining an appropriate disposition in this matter, Council considered the prior decisions *Grouphealth Northern Partners Inc.*, and *Tomlinson Alliance Group Financial Ltd. and S. Perryman*. In those matters, the agencies continued to sell insurance despite certain events occurring which required them to cease such activity. In the latter decision, the agency also failed to provide Council with the required notification when licensees ceased to represent it, and the agency also conducted business under a name that was not registered as required. In those decisions Council fined the agencies \$750.00 and \$3,000.00 respectively, and in the latter decision, the agency's nominee was fined \$1,500.00.

INTENDED DECISION

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

1. Fine the Agency \$750.00.
2. Assess the Agency Council's investigative costs of \$600.00.

The Agency is advised that should the intended decision become final, the fine and investigative costs will be due and payable within 90 days of the date of the order. The Agency is advised that failure to pay the fine and investigative costs within the 90 days will result in the automatic suspension of its restricted 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 **February 24, 2015**, subject to the Agency's right to request a hearing before Council pursuant to section 237 of the Act.

RIGHT TO A HEARING

If the Agency wishes to dispute Council's intended decision, 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 Agency must give notice to Council by delivering to its office written notice of this intention by **February 23, 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.

Intended Decision
0866803 B.C. Ltd. dba Regency Volkswagen
180305-11537
February 3, 2015
Page 4 of 4

If the Agency does not request a hearing by **February 23, 2015**, the intended decision of Council will take effect.

Even if this decision is accepted by 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 StnProvGovt
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 **3rd day of February, 2015**.

For the Insurance Council of British Columbia



Gerald D. Matier
Executive Director
604-695-2001
gmatier@insurancecouncilofbc.com

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