

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

and

The INSURANCE COUNCIL OF BRITISH COLUMBIA
(“Council”)

and

ANNPARIT ANNA DUA
(the “Nominee”)

ORDER

As Council made an intended decision on May 17, 2016, pursuant to sections 231, 236, and 241.1 of the Act; and

As Council, in accordance with section 237 of the Act, provided the Nominee with written reasons and notice of the intended decision dated July 29, 2016; and

As the Nominee 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. A condition is imposed on the Nominee’s general insurance licence that requires the Nominee to successfully complete, on or before **November 17, 2016**, Council’s Level 3 course (Duties and Responsibilities of a Level 3 General Insurance Agent), available through the Insurance Brokers Association of British Columbia.
2. A condition is imposed on the Nominee’s general insurance licence that requires the Nominee to successfully complete, on or before **November 17, 2016**, the Council Rules course, available through the Insurance Brokers Association of British Columbia.
3. A condition is imposed on the Nominee’s general insurance licence that requires the Nominee to register for, and successfully complete, the Insurance Institute of Canada course C132 (Practical Issues in Broker Management) at its **next available offering** through the Insurance Institute of British Columbia.

4. A condition is imposed on the Nominee's general insurance licence that if the Nominee does not successfully complete each of the above-noted courses by the date required by this order, the Nominee's general insurance licence is suspended without further action from Council the following day, and the Nominee will not be permitted to complete any subsequent annual filings until such time as the ordered courses are successfully completed.
5. The Nominee is fined \$2,500.00.
6. A condition is imposed on the Nominee's general insurance licence that requires the Nominee to pay the above-ordered fine no later than **November 17, 2016**. If the Nominee does not pay the ordered fine in full by this date, the Nominee's general insurance licence is suspended as of **November 18, 2016**, without further action from Council and the Nominee 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 **17th day of August, 2016**.



Dr. Eric Yung
Chairperson, Insurance Council of British Columbia

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA (“Council”)

respecting

ANNPART ANNA DUA (the “Nominee”)

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

As part of Council’s investigation, on April 11, 2016, a Review Committee (the “Committee”) met with the Nominee to discuss allegations regarding conduct and practices within two agencies for which she is the nominee, All Write Insurance Agencies Ltd. dba All Write Insurance Service (the “Agency”) and All Write Insurance Services (2013) Ltd. (“All Write 2013”). The allegations include that: a licensee of the Agency participated in improperly declaring the territory region for insurance coverage in order to assist clients to avoid the AirCare requirement; a licensee of the Agency sold a motor vehicle and cancelled insurance without the knowledge of the vehicle owner; the Agency failed to provide Council with the required disclosure, within five business days, when a licensee ceased to have authority to represent the Agency; there was unlicensed activity by All Write 2013; and the Nominee was engaged in activities that represented a potential conflict of interest.

The Committee was comprised of one voting member and three non-voting members of Council. Prior to the Committee’s meeting with the Nominee, an investigation report was distributed to the Committee and the Nominee for review. A discussion of this report took place at the meeting and the Nominee was provided an opportunity to make further submissions. Having reviewed the investigation materials and after discussing this matter with 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 May 17, 2016 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 Nominee of the action it intends to take under sections 231 and 236 of the Act before taking any such action. The Nominee 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 Nominee.

FACTS

The Nominee and the Agencies

The Nominee has held a general insurance licence in British Columbia since 1997. The Nominee obtained a Level 3 general insurance agent licence in 2007, and has represented the Agency and been its nominee since May 2012. She became the nominee of All Write 2013 in August 2013.

The Agency has held a general insurance licence in British Columbia since 2005. All Write 2013 has held a general insurance licence in British Columbia since August 2013. The Nominee is one of two directors of All Write 2013 and holds a 50% ownership position in All Write 2013.

The Agency and All Write 2013 operate from the same premises. The Agency conducts Insurance Corporation of British Columbia ("ICBC") Autoplan insurance business, and All Write 2013 conducts all non-ICBC general insurance business.

Complaints to Council

Council received two complaints (the "Complaints") regarding the conduct of licensees at the Agency. One complaint was received from the Motor Vehicle Sales Authority of British Columbia ("VSA") alleging that an Agency employee participated in improperly declaring the territory region for insurance coverage for motor vehicles, in order to help Agency clients avoid the AirCare requirement. A second complaint was received from a customer of the Agency who alleged that his motor vehicle was sold and insurance on the motor vehicle was cancelled, without his knowledge, by an Agency employee.

Council determined that a Level 1 general insurance salesperson (“Salesperson”) at the Agency declared an incorrect territory region when facilitating a vehicle owner transfer and insurance coverage on four different occasions in order to avoid the AirCare requirement. Council determined that the Salesperson involved in the transactions did not act in accordance with the usual practice of the business of insurance, and that her actions reflected on her competency. In reviewing this matter, Council did not find evidence that the Agency or the Nominee were aware of, or condoned, the Salesperson’s actions.

Council also investigated an allegation that a Level 2 general insurance agent (“Level 2 agent”) of the Agency cancelled insurance and facilitated the sale of a customer’s vehicle without the knowledge of the consumer. Council determined there was no merit to the complaint, but found the manner in which the insurance transaction was conducted reflected adversely on the Level 2 agent’s competency. In reviewing this matter, Council did not find evidence the Agency or the Nominee failed to act appropriately.

Authority to Represent (“ATR”)

During a Council inspection at the Agency, two salespersons were identified as no longer representing the Agency. The two Level 1 general insurance salespersons continue to be authorized to represent the Agency, even though neither has conducted insurance business at the Agency. Each year, salespersons satisfy the Nominee that they have met their continuing education requirements, but salespersons are required to pay their annual filing fee.

The Nominee has been unable to contact the two salespersons in question and is unaware if either has an ATR at another agency. The Nominee was not sure how to proceed with terminating the ATRs of the two salespersons, and was concerned that by cancelling their ATRs it may affect the salespersons’ licence status. The Nominee acknowledged that the issue would be addressed before the next annual licence filing date.

The inspection also identified a licensee who was representing the Agency, even though the Agency had made no disclosure to Council, as required by Council Rules. The Nominee advised that she believed notification had been faxed to Council; however, there was no evidence to support this.

ICBC Document Review

Council’s inspection of the Agency also looked at client files and insurance documentation. Council identified a number of issues with ICBC documents where licensees were taking shortcuts when completing insurance documents. For example, Agency licensees were not always identifying themselves when facilitating ICBC transactions, as many ICBC documents reviewed did not contain the required names or signatures of the licensee. A review of the Agency’s ICBC producer stock log also showed inaccuracies and incomplete logs.

The Agency noted that it has continually passed ICBC's audits with a "satisfactory" rating. The Agency explained that it now has a licensee that performs error checking on ICBC documents. The Nominee now conducts random reviews of ICBC documents. The Agency has added two experienced licensees who assist with batching. The Nominee advised that these changes help ensure that there are no errors or missing information on ICBC forms.

Conflict of Interest

In 2014, the Nominee obtained a licence from the VSA and had an ATR with a motor vehicle dealer. The Nominee explained that this was done so that she could become a mobile finance operator.

The Nominee explained that this was to be a business activity in addition to her role as nominee, but she did not follow through with it. The Nominee acknowledged that she would not be able to engage in insurance activities while in the role. Both the Nominee and the Agency notified Council of the Nominee's plan to be a mobile finance operator.

The Nominee stated she did not conduct any transactions relating to her VSA licence and advised that she anticipates cancelling her VSA licence in 2016.

Unlicensed Insurance Activity

All Write 2013's general insurance licence was terminated effective July 31, 2015, after it failed to submit its 2015 annual filing with Council, in accordance with Council Rules. The Nominee was notified by Council when All Write 2013's licence was terminated.

The Nominee acknowledged receipt of the notification from Council, but relied on others to reinstate All Write 2013's licence. The Nominee stated she did not read Council's notification that All Write 2013's licence was terminated, as it was typical for the accountant to review mail addressed to All Write 2013. The Nominee agreed that the letter would have come in an envelope from Council; however, she did not pay attention to it. The Nominee advised that procedures relating to the mail have been changed.

On August 20, 2015, the accountant advised the Nominee that All Write 2013's general insurance licence was terminated, but the Nominee left it to All Write 2013's accountant to ensure the licence was reinstated. The Nominee acknowledged that she did not cease conducting insurance activity at All Write 2013.

On October 8, 2015, Council again contacted the Nominee to advise that All Write 2013's licence was still terminated and that an explanation as to why All Write 2013 did not submit its annual filing was still required. All Write 2013, however, continued to engage in unlicensed activity. By the end of October, the Nominee provided Council with the information required and the licence was reinstated.

An employee of the Agency was also noted to have conducted insurance activity at All Write 2013 without having an ATR with the agency.

ANALYSIS

The Complaints and Conduct of the Agency and All Write 2013

Council made separate intended decisions with respect to the Complaints, as well as the conduct of the Agency and All Write 2013.

The Complaints

With respect to the Complaints, Council determined that a licensee of the Agency improperly declared the territory region for insurance coverage in order to assist clients to avoid the AirCare requirement. Council determined that the complaint regarding the sale of the motor vehicle to be without merit, but Council had concerns with the manner in which the transaction was conducted. Council did not find evidence of improper conduct by the Nominee in either of those decisions.

ATR

Council was satisfied the Agency had not breached Council Rules by failing to notify Council within five business days when a licensee no longer had an ATR with the Agency. Council found the licensees in question still had ATRs with the Agency, even though they had not conducted insurance business at the Agency. While concerned that the Nominee was unable to contact the licensees in question, and was unaware if either were still in the insurance industry, Council concluded that it was the Agency's decision whether the licensees were permitted to continue to represent the Agency.

With regard to the licensee who was permitted to conduct insurance business on behalf of the Agency without having an ATR, Council was concerned by the Nominee's lack of awareness and lack of policies and procedures within the Agency to ensure compliance with Council Rules. Council found that the Nominee had failed to ensure the Agency acted in accordance with Council Rules.

ICBC Document Review

With respect to its ICBC document review, Council determined there was a lack of process and procedures at the Agency, and that the Agency needed to improve its practices. While the Agency received a "satisfactory" rating from an ICBC audit, Council was not satisfied that the Agency's practices were in accordance with the usual practice of the business of insurance.

Overall, Council was concerned about the lack of policies and procedures, and apparent lack of oversight at the Agency. Council noted that the Agency, under a previous nominee, had been disciplined for failing to ensure proper supervision at the Agency, and concluded the Agency demonstrated it was still not acting in accordance with the usual practice of the business of insurance.

All Write 2013

Council was concerned about the lack of policies and procedures within All Write 2013, which resulted in a licensee without an ATR being permitted to conduct insurance activities on behalf of All Write 2013. Council found the Nominee should have been aware that the licensee did not have an ATR, and found this spoke to the Nominee's lack of knowledge of Council Rules, and a lack of supervision and oversight.

With regard to the termination of All Write 2013's general insurance licence, Council found the Nominee and All Write 2013 failed to take appropriate action once becoming aware that All Write 2013 was no longer licensed. The Nominee was aware of All Write 2013's licence termination as early as August 20, 2015, but allowed All Write 2013 to continue to conduct insurance, while relying on others to ensure the licence was reinstated without any follow up.

While Council accepted that the Nominee held an honest but mistaken view that the licence would be reinstated quickly, this did not justify the failure of the Nominee and All Write 2013 to take appropriate action to cease all insurance activity. The Nominee's failure was exacerbated by the fact that All Write 2013 engaged in unlicensed activity for almost three months.

The Nominee

Conflict of Interest

Council noted that the Nominee never used her VSA licence and appears not to intend to use the licence in the future. Council acknowledged that the Nominee disclosed this to Council, and recognized the potential for a conflict of interest. Council determined that no further action was required.

Competency

The Nominee was ultimately responsible for the unlicensed activity at All Write 2013, as well as the lack of oversight at both agencies. The Nominee demonstrated that she was not aware of Council Rules and did not appreciate her responsibilities as a nominee. Council concluded that the Nominee should be required to take courses to improve her understanding of her role as a nominee.

INTENDED DECISION

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

1. Fine the Nominee \$2,500.00.
2. Impose a condition on the Nominee's general insurance licence that requires the Nominee to successfully complete Council's Level 3 seminar: Duties and Responsibilities of a Level 3 General Insurance Agent, available through the Insurance Brokers Association of British Columbia, within 90 days of the date of Council's order.
3. Impose a condition on the Nominee's general insurance licence that requires the Nominee to successfully complete the Insurance Institute of Canada Course: C132: Practical Issues in Broker Management, at the first available time it is offered.
4. Impose a condition on the Nominee's general insurance licence that requires the Nominee to successfully complete the Council Rules Course, available through the Insurance Brokers Association of British Columbia, within 90 days of the date of Council's order.

The Nominee 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, or failure to successfully complete Council's Level 3 Seminar: Duties and Responsibilities of a Level 3 General Insurance Agent, the Council Rules Course within the 90 days, and the Insurance Institute of Canada Course: C132: Practical Issues in Broker Management at the first available time it is offered (the "Courses"), will result in the automatic suspension of the Nominee's general insurance licence and the Nominee will not be permitted to complete any annual filing until such time as the fine is paid in full and the Courses have been successfully completed as required.

The intended decision will take effect on **August 17, 2016**, subject to the Nominee's right to request a hearing before Council pursuant to section 237 of the Act.

RIGHT TO A HEARING

If the Nominee wishes to dispute Council's findings or its intended decision, the Nominee 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 Nominee must give notice to Council by delivering to its office written notice of this intention by **August 16, 2016**. 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 Nominee does not request a hearing by **August 16, 2016**, the intended decision of Council will take effect.

Even if this decision is accepted by the Nominee, 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 **29th day of July, 2016**.

For the Insurance Council of British Columbia



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