

In the Matter of

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

and

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

and

**THE WHISTLER SHOPPE LTD. dba THE WHISTLER INSURANCE SHOPPE
(the “Agency”)**

and

**PEGGY KATHLEEN JOHANNSON
(the “Nominee”)**

ORDER

As Council made an intended decision on February 9, 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 Agency and the Nominee with written reasons and notice of the intended decision dated March 21, 2016; and

As the Agency and the Nominee have 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 Agency’s general insurance licence that the Agency must have a full-time Level 3 general insurance agent who is in regular attendance at the Agency.
2. A condition is imposed on the Nominee’s general insurance licence that requires the Nominee to successfully complete Council’s Level 3 seminar within 60 days of the date of Council’s order. If the Nominee does not successfully complete Council’s Level 3 seminar by **June 13, 2016**, the Nominee’s general insurance licence is suspended as of **June 14, 2016**, without further action from Council and the Nominee will not be permitted to complete any annual filing until such time as Council’s Level 3 seminar is successfully completed.

Order

The Whistler Shoppe Ltd. dba The Whistler Insurance Shoppe and Peggy Kathleen Johannson

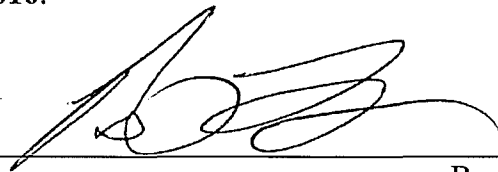
165359-I1813 and 121266-I1813

April 12, 2016

Page 2 of 2

3. A condition is imposed on the Nominee's general insurance licence that limits her to being the nominee for a maximum of two insurance agencies, unless each insurance agency for which she is a nominee has a full-time Level 3 general insurance agent who is in regular attendance at the insurance agency.
4. The Agency is fined \$5,000.00.
5. The Nominee is fined \$2,500.00.
6. The Agency is assessed Council's investigative costs of \$1,112.50.
7. 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 **July 12, 2016**. 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 **July 13, 2016**, 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.
8. A condition is imposed on the Nominee's general insurance licence that requires her to pay the above-ordered fine no later than **July 12, 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 **July 13, 2016**, without further action from Council and the Nominee 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 **12th day of April, 2016**.



Brett Thibault
Chairperson, Insurance Council of British Columbia

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA
(“Council”)

respecting

THE WHISTLER SHOPPE LTD. dba THE WHISTLER INSURANCE SHOPPE
(the “Agency”)

and

PEGGY KATHLEEN JOHANNSON
(the “Nominee”)

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

As part of Council’s investigation, on December 7, 2015, a Review Committee (the “Committee”) met with the Nominee, and a Level 2 general insurance agent (“Level 2 agent”) who is also a director of the Agency, to discuss allegations that the Agency failed to ensure a client’s policy was renewed, and that the Nominee failed to adequately supervise the Agency’s insurance activities.

The Committee was comprised of one voting member and two 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 February 9, 2016 meeting, where it was determined the matter should be disposed of in the manner set out below.

Intended Decision

The Whistler Shoppe Ltd. dba The Whistler Insurance Shoppe and Peggy Kathleen Johansson

165359-11813 and 121266-11813

March 21, 2016

Page 2 of 6

PROCESS

Pursuant to section 237 of the Act, Council must provide written notice to the Nominee and 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 Nominee and the Agency 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 and the Agency.

FACTS

The Agency was first licensed in December 2005 as Brunette Insurance Agencies (Whistler) Ltd., before changing its name to The Whistler Shoppe Ltd. in July 2010. Up until July 2011, the Agency was owned by the Level 2 agent and another partner. In July 2011, the Agency became part of a larger group of insurance agencies that are affiliated through common ownership. The partner sold his interest, but the Level 2 agent remained a director of the Agency.

The Nominee was first licensed in 1995, and first became a nominee of an agency in 1999. The Nominee became the nominee of the Agency in June 2012. She is also the nominee for three other agencies, which are all part of the aforementioned affiliated group of insurance agencies.

The Agency does primarily personal lines insurance, such as home, condo, rental properties, but also handles travel medical insurance, and some commercial business. The Agency is staffed by the Level 2 agent, who oversees all operations, and two Level 1 general insurance salespersons ("Salesperson"). The Salespersons do not have regularly scheduled shifts at the Agency and neither assist with the Level 2 agent's files. There is also an unlicensed assistant at the Agency who takes messages and performs other administrative tasks when the Level 2 agent is away from the office.

The Nominee stated that she attends the Agency approximately once a year, but is in contact with the Agency by telephone on a monthly basis. The Nominee explained that she spends most of her time at one of the other agencies where she is the nominee, and attends the other two agencies on a weekly and monthly basis, respectively.

In February 2015, Council received a complaint from an Agency client (the "Complainant") that the Level 2 agent had failed to renew the Complainant's insurance policy when it expired. The Complainant only discovered he was without insurance when he suffered a fire loss.

The Complainant's insurance was part of a program operated by the Agency for short-term rental properties. The insurance policies offered under the Agency's program all expired at the same time. In 2013, the program had to be re-marketed with a new insurer, as the underlying insurer no longer insured short-term rentals. This resulted in all the policies under the old program expiring, without automatic renewal.

The Level 2 agent had an expiry list to identify all of the policies affected by the change in the program, and processed the renewals in May and June 2013. After processing all the renewals, the Level 2 agent left on vacation. While on vacation, the Complainant's spouse contacted the Level 2 agent inquiring about their insurance policy. The Level 2 agent advised that she would forward the policy, credit card authorization for payment, and the invoice as one package. The Level 2 agent did not have access to her files, and did not realize that she had not completed the Complainant's application for insurance before going on vacation.

Upon her return from vacation, the Level 2 agent processed, invoiced, and mailed to clients all of the policy applications relating to the program. The Level 2 agent did not follow-up with the Complainant and did not realize the Complainant's insurance application had been missed.

The Level 2 agent stated she did not know how to check the expiry list on the Agency's system and was unfamiliar with running expiry lists. The Level 2 agent failed to compare her list of submitted applications for insurance to policies previously issued, and did not create an abeyance system, resulting in the Complainant's insurance not being renewed.

Upon learning of the Complainant's loss, the Level 2 agent contacted the Agency's errors and omissions provider, which stepped in to manage the claim. The Level 2 agent stated that she did not report the matter to the Nominee, who only learned of the matter when contacted by Council in February 2015.

The Nominee stated she did not actively supervise the activities at the Agency, was unaware that the Level 2 agent did not keep an expiry list, was not familiar with the Agency's record management system, or that the Agency did not have appropriate procedures to track client renewals.

ANALYSIS

Council determined that the Agency failed to properly handle the Complainant's insurance requirements. While acknowledging that an administrative error by the Level 2 agent contributed to the failure to renew the Complainant's insurance, Council found that a lack of administrative and financial procedures at the Agency was the primary reason.

Intended Decision

The Whistler Shoppe Ltd. dba The Whistler Insurance Shoppe and Peggy Kathleen Johansson

165359-11813 and 121266-11813

March 21, 2016

Page 4 of 6

Council noted that the Nominee was not in regular attendance at the Agency; attending only once a year. The Nominee acknowledged that she was not aware of how the Level 2 agent was performing her insurance activities. Council determined that the Agency appeared to be operating without proper oversight. Council noted that the Agency had two Salespersons who appeared to be permitted to work at the Agency without any supervision.

Council found the Nominee had failed to perform her duties as a nominee, raising concerns over the manner in which the Agency is managed. Council found that both the Agency and the Nominee had failed to act in a competent manner, and in accordance with the usual practice of the business of insurance by allowing the Agency, the Level 2 agent, and the Salespersons to engage in insurance activities without adequate procedures or oversight.

INTENDED DECISION

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

1. Fine the Nominee \$2,500.00.
2. Fine the Agency \$5,000.00.
3. Impose a condition on the Nominee's general insurance licence that requires her to successfully complete Council's Level 3 seminar within 60 days of the date of Council's order.
4. Impose a condition on the Nominee's general insurance licence limiting her to being the nominee for a maximum of two agencies, unless there is a full-time Level 3 general insurance agent, who is in regular attendance, at every agency for which she is a nominee.
5. Impose a condition on the Agency's general insurance licence that the Agency must have a full-time Level 3 general insurance agent, who is in regular attendance at the Agency.
6. Assess the Agency Council's investigative costs of \$1,112.50.

The Nominee and the Agency are advised that should the intended decision become final, the fines and investigative costs will be due and payable within 90 days of the date of the order.

Intended Decision

The Whistler Shoppe Ltd. dba The Whistler Insurance Shoppe and Peggy Kathleen Johansson

165359-11813 and 121266-11813

March 21, 2016

Page 5 of 6

The Nominee is advised that failure to pay the fine within the 90 days, or failure to successfully complete Council's Level 3 seminar within 60 days of Council's order, 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 Level 3 seminar is successfully completed as required.

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 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 **April 12, 2016**, subject to the Nominee's and the Agency's right to request a hearing before Council pursuant to section 237 of the Act.

RIGHT TO A HEARING

If the Nominee and/or the Agency wish to dispute Council's findings or its intended decision, the Nominee and/or 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 Nominee and/or the Agency must give notice to Council by delivering to its office written notice of this intention by **April 11, 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 and/or the Agency do not request a hearing by **April 11, 2016**, the intended decision of Council will take effect.

Even if this decision is accepted by the Nominee and 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 Stn Prov Govt
Victoria, British Columbia
V8W 9V1

Reception: 250-387-3464

Fax: 250-356-9923

Email: FinancialServicesTribunal@gov.bc.ca

Intended Decision

The Whistler Shoppe Ltd. dba The Whistler Insurance Shoppe and Peggy Kathleen Johannson

165359-I1813 and 121266-I1813

March 21, 2016

Page 6 of 6

Dated in Vancouver, British Columbia, on the **21st day of March, 2016.**

For the Insurance Council of British Columbia



Gerald Matier

Executive Director

604-695-2001

gmatier@insurancecouncilofbc.com

GM/ig