

In the Matter of

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

and

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

and

**GARY KA WAI MA
(the “Licensee”)**

ORDER

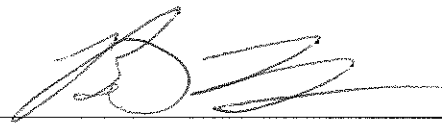
As Council made an intended decision on February 9, 2016, pursuant to section 231 of the Act;
and

As Council, in accordance with section 237 of the Act, provided the Licensee with written reasons
and notice of the intended decision dated April 1, 2016; 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 section 231 of the Act, Council orders that the Licensee is reprimanded.

This order takes effect on the **20th day of April, 2016.**



Brett Thibault
Chairperson, Insurance Council of British Columbia

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA (“Council”)

respecting

GARY KA WAI MA
(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 January 11, 2016, a Review Committee (the “Committee”) met with the Licensee’s nominee (the “Nominee”), as well as a licensee who acts as a liaison/regional manager for a group of insurance agencies (the “Liaison”), which the Licensee is licensed to represent, to discuss the allegation that the Licensee engaged in unlicensed insurance activities. The Licensee did not attend the meeting.

The Committee was comprised of two voting members and one non-voting member of Council. Prior to the Committee’s meeting, an investigation report was distributed to the Committee, the Nominee, and the Licensee for review. Having reviewed the investigation materials, and after discussing this matter with the Nominee and the Liaison, 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.

PROCESS

Pursuant to section 237 of the Act, Council must provide written notice to the Licensee of the action it intends to take under section 231 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 was first licensed with Council on September 21, 1999 as a Level 1 general insurance salesperson, and has been licensed as a Level 2 general insurance agent (“Level 2 agent”) since September 5, 2000. He began working at Mapleleaf Insurance Services Ltd. (“Mapleleaf”) shortly after being licensed as a Level 2 agent. The Licensee joined Kensington Insurance Services Ltd. (“Kensington”) as a director and a Level 2 agent on November 18, 2008, and joined another agency on January 30, 2015. All agencies the Licensee is licensed with are part of the same group of insurance agencies.

In 2014, the Licensee failed to submit his annual filing, resulting in the termination of his general insurance licence on July 31, 2014. When he was a staff member, the Licensee’s annual filing was handled by either Kensington or Mapleleaf, but once he was made a producer, he became responsible for his own annual filing.

The Licensee did not receive his licence termination letter from Council dated July 31, 2014, until early September 2014, as he had moved to a new address and had failed to update his contact information with Council. The Licensee became aware of his licence termination on September 4, 2014 and contacted Council on September 5, 2014. At that time, Council advised the Licensee he would have to reapply for his licence, and that he was required to submit information regarding his unlicensed activity to Council.

On September 15, 2014, Council received a re-application for a Level 2 agent licence from the Licensee, but it did not include information regarding the Licensee’s unlicensed activity. The application was signed by a director of Kensington and Mapleleaf (the “Director”), who was not the nominee of either Kensington or Mapleleaf. Council again advised the Licensee that he must provide information regarding his unlicensed insurance activities before his licence could be re-issued. On November 24, 2014 Council issued the Licensee a Level 2 agent licence.

On October 29, 2014, the Nominee, who is nominee for Kensington and Mapleleaf, became aware of the Licensee’s termination and immediately instructed the Licensee to stop selling insurance on behalf of Kensington and Mapleleaf. The Licensee did not comply with the Nominee’s instruction.

At Kensington and Mapleleaf, the Licensee worked alone; typically did not use agency staff for assistance; used his own computer; worked from home; and often worked in the office after hours. A tenuous relationship existed between the Licensee and the Nominee, and the Licensee chose not to listen to the direction provided by the Nominee.

Between July 31, 2014 and September 4, 2014, the Licensee produced 81 Insurance Corporation of British Columbia (“ICBC”) transactions and five new, or endorsed, personal lines or commercial policies. Between September 5, 2014 and October 28, 2014, he produced 134 additional ICBC transactions and 16 new, or endorsed, personal lines or commercial policies. After the Nominee became aware of the Licensee’s insurance activities and instructed him to stop, a further nine transactions were processed before the Licensee was issued a licence by Council.

The Nominee has subsequently implemented new procedures to ensure that all licensees at Kensington and Mapleleaf complete their annual filings.

ANALYSIS

Between July 31, 2014 and November 24, 2014, the Licensee engaged in insurance activities at both Kensington and Mapleleaf while unlicensed. The unlicensed activity continued after the Licensee became aware of his licence termination, after Kensington and Mapleleaf were aware of his termination, and after the Nominee instructed the Licensee to cease his unlicensed activity.

Council determined there was a lack of procedures in place at Kensington and Mapleleaf to ensure that all licensees were licensed. Council found that by September 4, 2014, the Licensee was aware he was not licensed and could no longer engage in insurance activities, but continued to do so anyway.

Council considered the actions of the Licensee and found that he knowingly chose to act in an unlicensed capacity. Council found that the Licensee was initially advised that he was unlicensed by Council in September 2014, and again by the Nominee in October 2014. Throughout the unlicensed period, the Licensee continued to engage in unlicensed activity.

Council noted that the misconduct occurred while the Licensee did not hold an insurance licence and accordingly, short of finding the Licensee unsuitable to hold an insurance licence, it was limited in what actions it could take against the Licensee.

Council concluded that the Licensee should be reprimanded. In addition, Council took the opportunity to caution the Licensee that should he ever act contrary to the Act, its regulations, or Council Rules again, it will reflect directly upon his suitability to continue to hold an insurance licence.

INTENDED DECISION

Pursuant to section 231 of the Act, Council made an intended decision to reprimand the Licensee.

The intended decision will take effect on **April 20, 2016**, 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 **April 19, 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 Licensee does not request a hearing by **April 19, 2016**, 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 or contact them directly at:

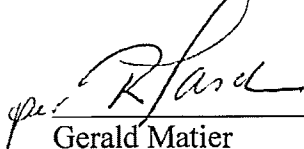
Financial Services Tribunal
PO Box 9425 Stn Prov Govt
Victoria, British Columbia
V8W 9V1

Reception: 250-387-3464 Fax: 250-356-9923
Email: FinancialServicesTribunal@gov.bc.ca

Intended Decision
Gary Ka Wai Ma
140599-11771
April 1, 2016
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Dated in Vancouver, British Columbia, on the 1st day of April, 2016.

For the Insurance Council of British Columbia

A handwritten signature in black ink, appearing to read "G. Matier", is written over a horizontal line.

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

GM/rm