

In the Matter of

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

and

The INSURANCE COUNCIL OF BRITISH COLUMBIA
(“Council”)

and

PROSPERITY PROTECTION CORP.
(the “Agency”)

ORDER

As Council made an intended decision on December 13, 2016, pursuant to sections 231 and 236 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 January 23, 2017; 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 and 236 of the Act, Council orders:

1. The Agency is fined \$1,000.00.
2. A condition is imposed on the Agency’s life and accident and sickness insurance licence that requires the Agency’s nominee to successfully complete the Council Rules Course, on or before **May 15, 2017**. If the Agency’s nominee does not successfully complete the Council Rules Course by this date, the Agency’s life and accident and sickness insurance licence is suspended as of **May 16, 2017**, without further action from Council, and the Agency will not be permitted to complete any subsequent annual filings until such time as the Council Rules Course is successfully completed.

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3. A condition is imposed on the Agency's life and accident and sickness insurance licence that requires the Agency to pay the above-ordered fine no later than **May 15, 2017**. If the Agency does not pay the ordered fine in full by this date, the Agency's life and accident and sickness insurance licence is suspended as of **May 16, 2017** without further action from Council, and the Agency 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 **15th day of February, 2017**.



Dr. Eric Yung
Chairperson, Insurance Council of British Columbia

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA
(“Council”)

respecting

PROSPERITY PROTECTION CORP.
(the “Agency”)

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 October 24, 2016, a Review Committee (the “Committee”) met with the nominee of the Agency (the “Nominee”) to discuss allegations the Agency breached Council Rule 7(3)(a)(i) by failing to notify Council within five business days of disciplinary action taken against the Agency by the Insurance Council of Saskatchewan (“ICS”), and breached Council Rule 7(11) by failing to notify Council within five business days of its errors and omissions (“E&O”) insurance lapsing.

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 make further submissions. Having reviewed the investigation materials and after discussing this matter with the Nominee, the Committee prepared a report for Council.

The Committee’s report, along with the aforementioned investigation report, was reviewed by Council at its December 13, 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 Agency of the action it intends to take under sections 231 and 236 of the Act before taking any such action. 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 Agency.

FACTS

The Agency has held a life and accident and sickness insurance licence in British Columbia since August 2013. The Agency is licensed in its home province of Alberta and was previously licensed in Saskatchewan.

On October 21, 2015, the ICS published a decision in which the Agency was disciplined for violating the ICS's bylaws that require licensees to maintain valid E&O insurance at all times. Between April 12, 2014 and May 21, 2014, the Agency operated without E&O insurance. During the same time frame, the Agency also failed to maintain valid E&O insurance in British Columbia.

After being disciplined by the ICS, the Agency failed to notify Council of the disciplinary action in accordance with Council Rule 7(3)(a)(i). In addition, the Agency failed to notify Council, in accordance with Council Rule 7(11), when its E&O insurance had lapsed.

The Nominee explained that he was unaware of Council Rules requiring such notification.

ANALYSIS

Council found that the Agency breached Council Rule 7(3)(a)(i) by failing to notify it within five business days of the disciplinary action by the ICS, and breached Council Rule 7(11) by failing to notify Council within five business days when it ceased to have E&O insurance.

Council took into consideration the Nominee's admission that he was not aware of the Agency's responsibility to provide Council with timely notification when it ceased to have E&O insurance or was disciplined by another financial regulator. However, Council concluded that once the Agency became aware that it was the subject of possible disciplinary action by the ICS for not having E&O insurance, it should have taken appropriate steps to determine whether similar requirements existed in British Columbia. Council found that no such action was taken by the Agency or the Nominee.

Council noted that the Agency breached two Council Rules, although the breaches arose out of the same issue; the lapse of the Agency's E&O insurance. Council found that while the Agency had not intended to let its E&O insurance expire, the Agency had an obligation to be aware of its responsibilities, particularly after it was disciplined by the ICS.

Council determined that a fine would be appropriate to address the Agency's breach of Council Rules. In addition, Council determined that the Nominee was responsible for ensuring that the Agency acted in accordance with Council Rules, but noted that the Nominee acknowledged a lack of understanding of Council Rules. Council determined that it would be appropriate to require the Nominee to complete the Council Rules Course.

INTENDED DECISION

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

1. Impose a condition on the Agency's life and accident and sickness insurance licence that requires its Nominee to successfully complete the Council Rules Course within 90 days of the date of Council's order.
2. Fine the Agency \$1,000.00.

The Agency 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. The Agency is advised that failure to pay the fine within the 90 days will result in the automatic suspension of its life and accident and sickness insurance licence and the Agency will not be permitted to complete any annual filing until such time as the fine is paid in full.

The Agency is advised that failure by its Nominee to successfully complete the Council Rules Course within 90 days will result in the automatic suspension of the Agency's life and accident and sickness insurance licence and the Agency will not be permitted to complete any annual filing until such time as the Council Rules Course is successfully completed.

The intended decision will take effect on **February 15, 2017**, 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 findings or its 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 14, 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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If the Agency does not request a hearing by **February 14, 2017**, 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 Stn Prov Govt
Victoria, British Columbia
V8W 9V1

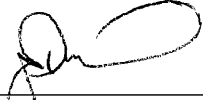
Reception: 250-387-3464

Fax: 250-356-9923

Email: FinancialServicesTribunal@gov.bc.ca

Dated in Vancouver, British Columbia, on the **23rd day of January, 2017**.

For the Insurance Council of British Columbia



Gerald Matier
Executive Director
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