

In the Matter of

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

and

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

and

**GROUPHEALTH NORTHERN PARTNERS INC.**  
(the "Agency")

## ORDER

As Council made an intended decision on July 15, 2014, 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 July 30, 2014; 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 \$1,750.00.
2. A condition is imposed on the Agency's life and accident and sickness insurance licence that requires it to pay the above-ordered fine no later than **November 19, 2014**. 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 **November 20, 2014**, without further action from Council and the Agency 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 **19<sup>th</sup> day of August, 2014**.

  
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Ruth Hoyte  
Chairperson, Insurance Council of British Columbia

## **INTENDED DECISION**

of the

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

**respecting**

**GROUPHEALTH NORTHERN PARTNERS INC.**  
(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, a Review Committee (the “Committee”) met with the Agency and its current nominee (the “Nominee”) on June 23, 2014 to discuss allegations:

1. The Agency failed to meet the requirements of Council Rule 7(3) by not notifying Council within five business days that the former nominee had ceased to act as the Agency’s nominee.
2. The Agency operated in breach of Council Rule 7(10) by not having a nominee in place between March 2011 and March 2013.
3. The Agency made material misstatements on its 2011 and 2012 annual filings.

The Committee was comprised of one voting member and one non-voting member 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 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 July 15, 2014 meeting, and a determination on how the matter should be disposed of was made and is 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 been licensed as a life and accident and sickness insurance agent since June 1, 2007. The Nominee has been licensed as a life and accident and sickness insurance agent since August 1995. The Nominee assumed the role of the Agency's nominee on March 26, 2013.

Between 2011 and 2013, the Agency had an average of six licensees.

The Nominee confirmed that the former nominee retired as nominee in March 2011. At that time, there were discussions within the Agency about who would be nominee, and it was decided that the Nominee would assume the role. There was some confusion at the Agency as to who was responsible for notifying Council and, due to that confusion, Council was not notified of the change in nominee.

Between 2011 and 2013, the former nominee remained working at the Agency. He continued to attend a majority of the Agency's meetings, including the weekly meetings where licensees discussed renewals, reviews, and new business. The former nominee retired from the Agency in June 2013. The Nominee stated that if the former nominee was asked, he would say that he was not the nominee during the time period in question.

## **ANALYSIS**

Council found that the Agency operated between March 2011 and March 2013 without a nominee, in breach of Council Rule 7(10). The Agency completed two annual filings while in breach of the Council Rule and, as a result, Council found the Agency had made material misstatements under section 231 of the Act.

A nominee and an agency both have an obligation to understand Council Rules. When a nominee ceases to act in this capacity, an agency has a responsibility to notify Council of this fact. In this case, Council was not notified by either the Agency, the former nominee, or the Nominee. While the Agency appointed a new nominee, it failed to notify Council of this change, or obtain its approval for the Nominee to act as the Agency's new nominee. When an Agency ceases to have a nominee, there is potential risk to the public.

In determining the disposition of the matter, Council considered the prior matter of *World Financial Group Insurance Agency of Canada Inc.* In that matter, the former nominee of the agency ceased employment with the agency, and the agency continued to conduct insurance activities in breach of Council Rule 7(10) for more than 90 days, until a new nominee was appointed. The agency was one of the largest in British Columbia, with more than 700 licensees. The agency had also failed to notify Council that the former nominee was no longer authorized to represent the agency and, given previous reminders of that particular obligation, Council found the agency's failure to cease operations while no nominee was in place even more egregious. The agency was fined \$15,000.00 for the breach of Council Rule 7(10).

Council considered the relevant factors to be the size of the agency and the length of the time of the breach. However, Council also noted that in this matter, the Agency self-reported its error to Council, and the fact that a new nominee was appointed internally.

Council found this represented a breach of Council Rules, and determined a fine of \$750.00 for the breach of Council Rule 7(10), and a fine of \$500.00 for each of the Agency's material misstatements on its annual filings to be appropriate in the circumstances.

#### **INTENDED DECISION**

Pursuant to sections 231 and 236 of the Act, Council made an intended decision to fine the Agency \$750.00 for its breach of Council Rule 7(10), and \$1,000.00 for the Agency's material misstatements on its annual filings.

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 intended decision will take effect on **August 19, 2014**, 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 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 **August 18, 2014**. 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 Agency does not request a hearing by **August 18, 2014**, 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](http://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](mailto:FinancialServicesTribunal@gov.bc.ca)

Dated in Vancouver, British Columbia, on the **30<sup>th</sup> day of July, 2014**.

For the Insurance Council of British Columbia

  
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Gerald D. Matier  
Executive Director

GM/cc