

In the Matter of

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

and

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

and

**PELLING & ASSOCIATES INSURANCE BROKERS CONSULTANTS INC.
(the "Agency")**

ORDER

As Council made an intended decision on January 11, 2011, 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 with written reasons and notice of the intended decision dated March 18, 2011; 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, 236 and 241.1 of the Act, Council orders:

1. the Agency is fined \$5,000.00;
2. the Agency is assessed Council's investigative costs of \$687.50; and
3. a condition is imposed on the Agency's general insurance licence that the Agency pay the above mentioned fine and investigative costs no later than **July 13, 2011**. 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 14, 2011**, 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.

This Order takes effect on the **13th day of April, 2011**.



Barbara MacKinnon, CAIB
Chairperson, Insurance Council of British Columbia

In the Matter of

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

and

The INSURANCE COUNCIL OF BRITISH COLUMBIA
("Council")

and

ROBERT BRADLEY PELLING
(the "Licensee")

ORDER

As Council made an intended decision on January 11, 2011, pursuant to sections 231 and 236 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 March 18, 2011; 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 sections 231 and 236 of the Act, Council orders:

1. the Licensee is fined \$5,000.00; and
2. a condition imposed on the Licensee's general insurance licence that the Licensee pay the above mentioned fine no later than **July 13, 2011**. If the Licensee does not pay the ordered fine in full by this date, the Licensee's general insurance licence is suspended as of **July 14, 2011**, without further action from Council and the Licensee 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 **13th day of April, 2011**.



Barbara MacKinnon, CAIB
Chairperson, Insurance Council of British Columbia

INTENDED DECISION

of the

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

respecting

**PELLING & ASSOCIATES INSURANCE BROKERS CONSULTANTS INC.
(the "Agency")**

and

**ROBERT BRADLEY PELLING
(the "Nominee")**

INTRODUCTION

Pursuant to section 232 of the *Financial Institutions Act* (the "Act"), Council conducted an investigation to determine whether there was compliance by the Agency and the Nominee with the requirements of the Act.

The Agency has an Autoplan Agency Agreement with the Insurance Corporation of British Columbia ("ICBC") that allows it to access an ICBC Autoplan database ("ICBC Extranet"), which maintains insurance records of ICBC insurance policyholders as well as vehicle rating information. In or around the fall of 2007, Family Insurance Solutions Inc. ("Family"), a direct competitor of ICBC in the optional automobile insurance market in British Columbia, used the Agency's ICBC Extranet user identification codes ("User IDs") and passwords to access the ICBC Extranet and obtain information on certain ICBC vehicle class rates without the permission of ICBC. Council's investigation addressed whether the Nominee and the Agency permitted, or assisted in Family's unauthorized access of the ICBC Extranet.

An investigation report was presented to Council at its January 11, 2011 meeting. At the conclusion of its meeting, Council determined the matter should be disposed of in the manner set out below.

INTENDED DECISION 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/or 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.

INTENDED DECISION

Pelling & Associates Insurance Brokers Consultants Inc. and Robert Bradley Pelling

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FACTS

Based on the information contained in the investigation report, Council made the following findings of fact:

1. the Agency was first licensed as a general insurance corporate agent on October 5, 1999;
2. the Nominee was first licensed with Council on March 18, 1982, as a Level 1 general insurance salesperson;
3. the Nominee is currently licensed as a Level 3 general insurance agent nominee with the Agency;
4. the Agency offers basic automobile insurance through ICBC as well as optional automobile insurance through ICBC and Family;
5. the Agency is party to an Autoplan Agency Agreement with ICBC that allows it to access ICBC's Extranet provided that this usage is in accordance with conditions set by ICBC. In particular, ICBC Extranet usage is restricted to only allow licensed brokers of ICBC to obtain information in the database, and access to this information is only allowed for the purpose of facilitating ICBC transactions;
6. in 2007, the Agency had two full-time employees and additional part-time employees. The office had approximately six to seven computers. Agency employees could log onto an Agency computer without any passwords or User IDs, however, a User ID and a password were required to log onto ICBC's Extranet;
7. each computer could access the ICBC Extranet. In 2007, all Agency staff used the ICBC Extranet. ICBC Extranet passwords were changed every month by the Agency, which had a set pattern for producing a new password. This was implemented by the Nominee. Each User ID had the same password;
8. each computer had a little sticky note that had a User ID (or more than one User ID) and password written on it. The sticky note was either on the monitor or on the keyboard. The passwords changed at different times for each User ID. For example, one User ID may have a password that would be required to be changed today; and another User ID would have a password that may not be required to change for two weeks;
9. the Agency computers also had Family Point-of-Sale software that allowed for interface with Family and enabled staff at the Agency to access and sell Family's insurance products. In 2007, every employee of the Agency could access Family's Point-of-Sale software;

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10. around the summer or fall of 2007, Family set out to obtain information on certain ICBC vehicle class rates. Family stated that its purpose in doing so was to address concerns that it was undercharging in certain classes of vehicles and its rates were not in-line with ICBC's rates;
11. Family's nominee and Family's president agreed that in order to stay competitive, Family would need assistance from brokers in collecting ICBC vehicle class rates. There were a couple of hundred ICBC rate quotes that Family wanted to obtain;
12. Family determined that the Agency could help in this regard because it was located in Vancouver, it was relatively small, and the nominee of Family and the Nominee were on familiar terms from previous professional experiences;
13. Family's nominee submitted that he briefly spoke with the Nominee on the telephone about obtaining his assistance with gathering vehicle class rating information and the Nominee responded by stating that he was busy and did not have the time to help, however, he could help if Family sent someone to the office. Family's nominee further submitted that he advised the Nominee that he would send Family's Rating Analyst to the Agency to get the information in question;
14. Family's Rating Analyst has a degree in computer science;
15. Family's Rating Analyst was instructed to go to the Agency's office to get this information, to contact the Nominee and make arrangements with him to get the information, and attend the Agency, on more than one occasion as necessary, to achieve this objective;
16. Family's Rating Analyst advised that he did not contact the Nominee in order to arrange a time for his first visit to the Agency. He submitted that he went to the Agency on a day that was selected by Family's nominee;
17. according to Family's Rating Analyst, he drove to the Agency and went inside. He spoke with a staff member, advised the staff member that he was from Family, and asked for the Nominee. Family's Rating Analyst submitted that the Nominee met him at the front of the Agency and then brought him to a room in the back with a computer. He further submitted that he advised the Nominee that he was there to obtain vehicle rate information and access to the ICBC Extranet and that the Nominee logged him onto the ICBC Extranet and then left the room;
18. Family's Rating Analyst advised that on his first visit to the Agency, he obtained approximately 50 to 80 quotes in the approximate two to three hours he was present at the office. When he was finished for the day, he told someone at the Agency that he was leaving;

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19. according to Family's Rating Analyst, his second visit to the Agency could have been within the same week as the first visit or the following week. Once again, he went to the front of the office and asked for the Nominee, who then took him to the room in the back and logged him onto the ICBC Extranet;
20. Family's Rating Analyst advised that he visited the Agency's office approximately four to six times for the purpose of collecting ICBC rate information. The length of these visits would be approximately thirty minutes to one hour per visit. After the first visit, he usually made arrangements to come back to the Agency by calling the Nominee on his business telephone number;
21. according to Family's Rating Analyst, the Nominee used the Agency's User IDs and the passwords to log him onto the ICBC Extranet on approximately four to six occasions. He recalled one other staff member of the Agency used the User IDs and the passwords to log him onto the ICBC Extranet on approximately two to three occasions, but he could not identify the name of this individual and could not describe her other than to say that she was a female;
22. sometimes the computer that Family's Rating Analyst was using at the Agency would freeze and he would get booted out of the computer. He had obtained some of the User IDs and the passwords from the sticky notes, witnessed an Agency staff member type a User ID on the computer keyboard, or made a mental note when a User ID remained on the screen of the ICBC Extranet after a staff member had already logged him in. He wrote down the User ID after the person left;
23. the User IDs were quite different from one to another. The passwords were easier to determine because ICBC assigns what the User IDs are, whereas the passwords can be chosen by the Agency staff;
24. Family's Rating Analyst advised that he obtained approximately two to three of the User ID's while at the Agency without advising the Nominee that he had done so. This allowed him to use a Family laptop from his home on approximately six occasions to access ICBC rate information on the ICBC Extranet with the Agency's User IDs and the passwords. He found working from the Family laptop at his home to be more efficient than going to the Agency and using one of its computers. He was on the ICBC Extranet for approximately thirty minutes to one hour during each occasion from his home;
25. no other information was taken from the ICBC Extranet, other than vehicle rate information;

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26. ICBC produced documents that show a large amount of rate quotes accessed from the Agency's IP address at the material time:
 - a) on September 13, 2007, 65 rate quotes were obtained between 1:19 p.m. – 2:49 p.m.;
 - b) on September 14, 2007, 73 rate quotes were obtained between 10:05 a.m. – 11:28 a.m.; and
 - c) on October 10, 2007, 86 rate quotes were obtained between 12:00 p.m. - 12:43 p.m.
27. data also shows that the Agency's User IDs were used to log onto ICBC's Extranet in order to obtain these rate quotes;
28. data supplied by ICBC shows that for the period of August 1 – August 31, 2007, only 70 rate quotes were done with rate quotes ranging from 0 – 13 rate quotes per day; and for the period of November 1 – November 20, 2007, only 40 rate quotes were done in this entire 20 day period, with rate quotes ranging from 0 – 12 rate quotes per day;
29. ICBC data also shows rate quotes accessed from the Family's Rating Analyst's residential IP address at the material time. The available data indicates that on approximately nine occasions between September 22, 2007 – October 30, 2007, the Agency's User IDs were used to log onto ICBC's Extranet to obtain rate quotes from his residential IP address;
30. in or around November 2007, the Nominee received a call from his ICBC Broker Relations Representative. The ICBC Broker Relations Representative expressed some concern about recent excessive rate quotes from the ICBC codes of the Agency;
31. when the Nominee subsequently met with ICBC and reviewed ICBC reports illustrating the excessive rate quoting, he noticed that many of the incidents had occurred at unusual times when the Agency was closed, such as during evening hours and on Sundays;
32. according to the Nominee, he never had a conversation with Family's nominee about the Agency providing ICBC vehicle rate information to Family, or sending someone from Family to the Agency to get ICBC vehicle rate information. The Nominee does not recall having any conversation with Family's nominee in the fall of 2007 regarding the Family nominee sending someone from Family to the Agency's office for any reason at all;
33. the Nominee further submitted that in 2007, he did not know who Family's Rating Analyst was. He briefly met him on one occasion when the Nominee was at the office of Family to have a meeting with the underwriters. Many staff members of Family were briefly introduced to the Nominee on that occasion;

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34. the Nominee submitted that he did not have any recollection of an individual from Family coming to the office in 2007, or any unauthorized person in the Agency at that time. The Nominee submitted that he never logged anyone other than an employee of the Agency onto the ICBC Extranet. The Nominee stated that he has never given the User IDs and the passwords to anyone other than an employee of the Agency, nor is he aware of any employee of the Agency who has done this;
35. in May 2008, ICBC was able to determine that Family's Rating Analyst had used the Agency's User IDs and passwords to access ICBC's Extranet offsite. In an ICBC Arbitration, ICBC reported that the Nominee was contacted and again asked if he had given the passwords or User IDs to anyone, and whether the Nominee knew Family's Rating Analyst. The Nominee did not indicate that he did;
36. in an ICBC Arbitration respecting the matter, an award dated March 30, 2009, concluded that the Agency:

...seriously breached the Agency Agreement by failing to safeguard the user codes and password for the ICBC Extranet. That breach allowed a competitor of ICBC to obtain access to the ICBC Extranet for its own commercial benefit. It is only fortuitous that the user codes and passwords were not used to access other information that might be available for other purposes. We do not conclude, on the balance of probabilities on the evidence before us despite our reservations, that Pelling Insurance was an active participant in the use by [Family's Rating Analyst] of the user codes and passwords.

37. in a document dated May 22, 2009, the Panel for the ICBC Arbitration assessed the penalty against the Agency as follows:

The panel directs that commencing June 1, 2009 no commissions shall be paid to Pelling in respect of any insurance transaction conducted pursuant to the Agency Agreement until the value of the unpaid commissions totals \$20,000.

38. Council made a decision effective July 20, 2010, regarding the matter of Family and its nominee, and concluded the following:

Council found ... that the Nominee [of Family] and the Agency [Family] failed to act in a trustworthy manner, in good faith, and in accordance with the usual practice of the business of insurance. In particular, through improper means, they obtained vehicle rating information from a competitor that they knew or ought to have known was confidential and which was not freely available in the public domain.

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In or around the summer of 2007, the Nominee [of Family] and the Agency [Family] set out to obtain updated rating information on certain classes of vehicles to stay competitive with an insurance product offered by ICBC. However, instead of trying to collect rating information through legitimate means, the Nominee directed a Rate Analyst with the Agency [Family] to visit an insurance agency, who represented ICBC, to gather a couple hundred ICBC rate quotes. This was done to obtain a large volume of rate quotes in a comprehensive and efficient manner. As the Agency [Family] does not represent ICBC, nor does it have access to ICBC rating information, it attended the Broker's [Pelling's] office to obtain the required information.

The degree to which the Broker [Pelling] was complicit in the arrangement remains to be determined. However, in Council's view, this aspect of the case is not determinative of whether or not the Nominee [of Family] and the Agency's [Family's] decision to collect information to which they were not entitled, and the implementation of such a decision, was appropriate and in accordance with the usual practice of the business of insurance.

39. Family was fined \$20,000.00 and required to pay the costs of Council's investigation into the matter assessed at \$4,537.50; and
40. Council ordered Family's nominee to pay a fine of \$10,000.00 and suspended his nominee's licence for one month.

LEGISLATION

Rule 7(8) of the Council Rules

(8) A licensee must comply with Council's Code of Conduct, as amended from time to time.

Section 231 of the Act

Part 7 – Administration of the Regulation of Financial Institutions

Division 2 – Insurance Council of British Columbia

Council may suspend, cancel or restrict licences and impose fines

- (1) If, after due investigation, the council determines that the licensee or former licensee or any officer, director, employee, controlling shareholder, partner or nominee of the licensee or former licensee
 - (a) no longer meets a licensing requirement established by a rule made by the council or did not meet that requirement at the time the licence was issued, or at a later time,
 - (b) has breached or is in breach of a term, condition or restriction of the licence of the licensee,

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- (c) has made a material misstatement in the application for the licence of the licensee or in reply to an inquiry addressed under this Act to the licensee,
- (d) has refused or neglected to make a prompt reply to an inquiry addressed to the licensee under this Act,
- (e) has contravened section 79, 94 or 177, or
- (e.1) has contravened a prescribed provision of the regulations,

then the council by order may do one or more of the following:

- (f) reprimand the licensee or former licensee;
 - (g) suspend or cancel the licence of the licensee;
 - (h) attach conditions to the licence of the licensee or amend any conditions attached to the licence;
 - (i) in appropriate circumstances, amend the licence of the licensee by deleting the name of a nominee;
 - (j) require the licensee or former licensee to cease any specified activity related to the conduct of insurance business or to carry out any specified activity related to the conduct of insurance business;
 - (k) in respect of conduct described in paragraph (a), (b), (c), (d), (e), or (e.1), fine the licensee or former licensee an amount
 - (i) not more than \$20 000 in the case of a corporation, or
 - (ii) not more than \$10 000 in the case of an individual.
- (2) A person whose licence is suspended or cancelled under this section must surrender the licence to the council immediately.
- (3) If the council makes an order under subsection (1)(g) to suspend or cancel the licence of an insurance agent, or insurance adjuster, then the licences of any insurance salesperson employed by the insurance agent, and of any employees of the insurance adjuster are suspended without the necessity of the council taking any action.
- (3.1) On application of the person whose licence is suspended under subsection (1)(g), the council may reinstate the licence if the deficiency that resulted in the suspension is remedied.
- (4) If an insurance agent's licence or an insurance adjuster's licence is reinstated, the licences of any insurance salespersons or employees of the insurance adjuster who
 - (a) were employed by that agent or adjuster at the time of the suspension, and
 - (b) remain employees of that agent or adjuster at the time of reinstatement,are also reinstated without the necessity of the council taking any action.

Section 236 of the Act

Part 7 – Administration of the Regulation of Financial Institutions

Division 2 – Insurance Council of British Columbia

Power to impose conditions

- (1) The commission, superintendent or council, depending on which of them has the power to make the order, give the consent or issue the business authorization permit or licence may
- (a) impose conditions that the person considers necessary or desirable in respect of
 - (i) an order referred to in section 235(1),
 - (ii) a consent referred to in section 235(2),
 - (iii) a business authorization,
 - (iv) a permit issued under section 187(1), or
 - (v) a licence issued under Division 2 of Part 6, and

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- (b) remove or vary the conditions by own motion or on the application of a person affected by the order or consent, or of the holder of the business authorization, permit or licence.
- (2) A condition imposed under subsection (1) is conclusively deemed to be part of the order, consent, business authorization, permit or licence in respect of which it is imposed, whether contained in or attached to it or contained in a separate document.
- (3) Except
 - (a) on the written application or with the written permission of the holder, or
 - (b) in the circumstances described in section 164, 231 or 249(1),a power of the commission, superintendent or council under this Act to impose or vary conditions in respect of
 - (c) a business authorization is exercisable only on or before its issue date, or
 - (d) a permit under section 187(1) or a licence under Division 2 of Part 6 is exercisable only on or before its issue datewith effect on and after that date.

Section 241.1 of the Act

Part 7 – Administration of the Regulation of Financial Institutions

Division 2 – Insurance Council of British Columbia

Assessment of Costs

- (1) If an order results from an investigation or hearing, the commission, the superintendent or the council may by order require the financial institution, licensee, former licensee or other person subject to the order to pay the costs, or part of the costs, or either or both of the following in accordance with the regulations:
 - (a) an investigation;
 - (b) a hearing.
- (2) Costs assessed under subsection (1)
 - (a) must not exceed the actual costs incurred by the commission, superintendent or council for the investigation and hearing, and
 - (b) may include the costs of remuneration for employees, officers or agents of the commission, superintendent or council who are engaged in the investigation or hearing.
- (3) If a person fails to pay costs as ordered by the date specified in the order or by the date specified in the order made on appeal, if any, whichever is later, the commission, superintendent or council, as the case may be, may file with the court a certified copy of the order assessing the costs and, on being filed, the order has the same force and effect and all proceedings may be taken on the order as if it were a judgment of the court.

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ANALYSIS

Council found the above mentioned facts constituted a breach of section 231(1)(b) of the Act in that the Nominee and the Agency failed to act in a competent manner and in accordance with the usual practice of the business of insurance. In particular, activities being carried out at the Agency were not sufficiently supervised or monitored and, as a result, a third party was able to obtain confidential information from ICBC in an unauthorized manner.

Council considered the Nominee's submission that he never agreed to assist Family to access the confidential ICBC information, and that he was unaware of an employee from Family attending his Agency on a number of occasions. The Nominee further denied that he personally assisted Family's Rating Analyst. He conceded that it was careless to allow the User IDs and passwords to be written on yellow sticky notes attached to the Agency's computers, and offered this oversight as an explanation for how a third party obtained access to the ICBC Extranet.

In contrast with the Nominee's submissions, Family's evidence has consistently been that the Nominee agreed to help out and spoke directly with its Rating Analyst to implement the plan. Family's Rating Analyst also suggested that the Nominee personally logged him onto the ICBC Extranet, whereas the Nominee denies ever having a substantial interaction with him.

Council considered these conflicting stories and determined that the chain of events which led to the ICBC Extranet being improperly accessed may never be established with any reasonable certainty. What Council has determined though, is that an excessive number of vehicle class rates were obtained from the Agency's terminals on at least three occasions during business hours and that this was unusual to the Agency's normal insurance practices. Council found this supported Family's evidence that it had accessed ICBC's Extranet at the Agency.

This led to the question of whether the Nominee knew or was aware that Family's Rating Analyst was mining information from the Agency without authority. With the Agency being relatively small, a total of five staff including the Nominee, two of which were part-time, Council found it very questionable that a third party could enter the Agency and access one of its computers without the Nominee's knowledge, which in essence the Nominee is asking Council to accept.

Council did not necessarily believe the Nominee's explanations, however, felt that on a balance of probabilities the evidence was not sufficiently compelling to show the Nominee was a complicit participant in Family's plan to obtain the information. To arrive at this conclusion would require Council to make an inference without a sufficient evidentiary foundation and to also accept the evidence of Family's Rating Analyst, which both Council and ICBC's arbitration panel found to be somewhat inconsistent.

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Given the above, Council concluded that while the Nominee may not have known what was occurring in his office, he ought to have known, and had he been properly supervising the Agency the improper access of the ICBC Extranet would not have occurred.

On the whole, Council determined that the Nominee had seriously failed in his duty to monitor insurance activity at the Agency. Council considered the Agency's practice of leaving User IDs and passwords on sticky notes on the computers to be negligent. It created the potential for far reaching and significant privacy breaches. Council identified this as contrary to the usual practice of the business of insurance and short of meeting the standard of competence required by Council's Code of Conduct. It is well known that licensees have a duty to insurers with whom they are transacting business, to adhere to the authority granted by the insurer. It is equally well known that licensees also have a duty to their clients to protect their interests and privacy.

In considering an appropriate disposition in this matter, Council reviewed previous decisions involving analogous facts. In the *R. Atwal* decision, the nominee permitted a number of improper transactions to occur at an insurance agency and failed to provide sufficient supervision. The transgressions continued for a considerable time at the agency in part because of the fact that ICBC never directed any correspondence to her attention, and the deliberate effort of the principals to mislead the nominee. Council found that the nominee had failed to competently carry out her role and ordered her to pay a fine of \$5,000.00 in addition to the costs of Council's investigation. Unlike *Atwal*, the Nominee in the present case was not deliberately kept out of the loop by outside owners of the agency.

Council also considered generally, other incidents in which licensees have accessed the ICBC database for an improper purpose. Council views such transgressions seriously and accordingly, has imposed significant sanctions against the individuals responsible. In this case, it was determined that the Nominee allowed a third party into the Agency and failed to prevent this person from accessing confidential information that ought to have been more secure. It is fortunate that no private or personal information about the Agency's clients or other ICBC policyholders was exposed in the process.

The range of available penalties is considerable, with the higher end tending to be reserved for cases in which intention to commit wrongdoing is evident. In Council's view, the facts demonstrate that the Nominee ought to have exercised greater caution and implemented better security measures to protect against unauthorized mining of confidential business information. However, Council did not conclude that the Nominee had intentionally participated in the misconduct or found that the Nominee demonstrated a lack of trustworthiness that made him unsuitable to hold a licence. Council also noted that the Nominee has admitted to some wrongdoing and paid a \$20,000.00 penalty imposed by ICBC. In Council's view, the Nominee and the Agency do not represent a risk to the public and are not likely to engage in similar misconduct in the future. To address the gravity of the breach at issue, Council intends to impose a fine of \$5,000.00 against the Nominee, and an additional fine of \$5,000.00 against the

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Agency. In arriving at this amount for the financial sanction, Council took into account the Agency's previous payment of a substantial fine to ICBC. Otherwise, Council was prepared to impose a significantly higher fine.

INTENDED DECISION

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

1. fine the Agency \$5,000.00;
2. fine the Nominee \$5,000.00; and
3. assess the Agency Council's investigative costs of \$687.50;

The Agency and the Nominee are advised that should the intended decision become final, the above fines and costs, which form part of the Order, will become due and payable within 90 days of the date of the Order.

The intended decision will take effect on **April 13, 2011**, subject to the Agency and Nominee's right to request a hearing before Council pursuant to section 237 of the Act.

RIGHT TO A HEARING

If the Agency or the Nominee wish to dispute Council's findings or its intended decision, they 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 or Nominee must give notice to Council by delivering to its office written notice of this intention by **April 12, 2011**. 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 or Nominee do not request a hearing by **April 12, 2011**, the intended decision of Council will take effect.

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Even if this decision is accepted by the Agency and 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 www.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 18th day of March, 2011.

For the Insurance Council of British Columbia



Agnes Healey
Deputy Executive Director

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