

In the Matter of

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

and

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

and

FAMILY INSURANCE SOLUTIONS INC.
(the "Agency")

ORDER

As Council made an intended decision on June 7, 2010, 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 June 23, 2010; 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 pay a fine of \$20,000.00;
2. the Agency pay the costs of Council's investigation into the matter assessed at \$4,537.50; and
3. as a condition of the Agency's licence, that it is required to pay the above mentioned fine and investigative costs by **October 20, 2010**. If the Agency does not pay the ordered fine and investigative costs by this date, the Agency's licence is suspended as of **October 21, 2010**, without further action from Council.

This order takes effect on the 20th day of July, 2010.



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

GRAHAM NELSON DOERR
(the "Nominee")

ORDER

As Council made an intended decision on June 7, 2010, pursuant to sections 231 and 236 of the Act; and

As Council, in accordance with section 237 of the Act, provided the Nominee with written reasons and notice of the intended decision, dated June 23, 2010; and

As the Nominee 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 Nominee pay a fine of \$10,000.00;
2. the Nominee's licence is suspended for one month, commencing on August 3, 2010, and ending at midnight on September 1, 2010; and
3. as a condition of, the Nominee's licence that he is required to pay the above mentioned fine by **October 20, 2010**. If the Nominee does not pay the ordered fine by this date, his licence is suspended as of **October 21, 2010**, without further action from Council.

This order takes effect on the 20th day of July, 2010.



Barbara MacKinnon, CAIB
Chairperson, Insurance Council of British Columbia

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA
(“Council”)

respecting

FAMILY INSURANCE SOLUTIONS INC.
(the “Agency”)

and

GRAHAM NELSON DOERR
(the “Nominee”)

INTRODUCTION

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

As part of Council’s investigation, on April 12, 2010, an Investigative Review Committee (the “Committee”) met with the Nominee, the Agency’s President, Harry Kloosterhuis (the “President”), and their legal counsel to discuss the circumstances under which the Agency obtained Insurance Corporation of British Columbia (“ICBC”) vehicle rating information.

The Committee was comprised of one voting and two non-voting members of Council, all of whom have significant experience in the insurance business. Prior to the Committee’s meeting with the Nominee and the President, an investigation report was distributed to the Committee and the representatives of the Agency for review. The Committee considered this report and following the meeting, directed Council staff to obtain particulars of the evidence already reflected in the report to facilitate further review of the matter.

An updated investigation report dated May 10, 2010, was presented to the Nominee and the Agency, and their legal counsel responded with written submissions (the “Agency’s Submissions”). The May 10, 2010 report and the Agency’s Submissions, were presented to Council at its June 7, 2010 meeting. At the conclusion of its meeting, Council determined that the matter should be disposed of in the manner set out below.

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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 a written notice of the action Council intends to take against the Nominee and the Agency.

FACTS

Based on the information contained in the May 10, 2010 report and the Agency's Submissions, Council made the following findings of fact:

1. the Agency was first licensed as a general insurance corporate agent on July 23, 1999;
2. the Nominee was first licensed with Council on November 20, 1989, 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 acts as a managing general insurance agency that, on behalf of an insurer, offers an optional automobile insurance product to other insurance agencies;
5. the automobile insurance product offered by the Agency competes with the optional automobile insurance product sold by ICBC;
6. the Nominee is also the Marketing Manager of the Agency;
7. in or around the summer of 2007, the Nominee and the President had discussions about the Agency growing faster than they had anticipated, particularly in relation to automobile insurance products;
8. based in part on feedback received from other insurance agents, the Nominee submitted that the Agency had concluded it was likely underrating vehicles relative to ICBC;
9. in an interview with Council staff, the Nominee did not recall a specific discussion per se, but submitted that he and the President regularly engaged in conversations about the need for controlled growth, and, in particular, had determined that if the Agency updated its vehicle rating, it would result in an increase in premiums, slow growth in the long run, and ensure the Agency wasn't undercharging;
10. the Nominee submitted that it is a normal industry practice for providers of insurance products to subscribe to a rating service and share rating information across the country, and that the only exception to this general practice is in regard to automobile insurance in British Columbia;

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11. the President submitted that the Agency had received assistance in collecting this type of information in the past. For example, Agency staff members occasionally requested rate comparisons from other insurance agents;
12. the President recognized there are different methods for obtaining the rate information of a competitor, including "mystery shopping". In particular, he referred to companies that send out employees to an insurance agent's office and collect information for five or six policies and bring that information back to the company. The President attributed the frequency of this kind of practice to ICBC's policy against sharing this information in the public forum;
13. the Nominee and the President agreed that in order to stay competitive, they would need assistance from insurance agents, who represent ICBC, in collecting rates;
14. the Nominee submitted that he contemplated obtaining a few hundred different vehicle class rates from one insurance agent; the Nominee selected a particular insurance agent (the "Broker"), whom he had worked with in the past, to assist the Agency in this regard;
15. in or around this same time period, the Nominee submitted that he contacted the Broker via telephone and asked if he could help the Agency with some vehicle rating information;
16. as stated in the Addendum to the Autoplan Agency Agreement, the ICBC Autoplan Extranet usage is restricted to only allow licensed insurance agents who represent ICBC to obtain information from the database, and this information is allowed only for the purpose of facilitating ICBC transactions. Information provided on the ICBC Autoplan Extranet is given confidentially to these agents;
17. according to the Nominee, the Broker responded by stating that he was busy at the moment looking after clients and didn't have the time to help, but if the Nominee sent someone down to his office, he could help;
18. the Nominee submitted that he advised the Broker that he would send the Agency's Rate Analyst to the Broker's office to get information on ICBC's rates;
19. in or around September of 2007, the Nominee met with the Agency's Rate Analyst and informed him that the Broker was going to help the Agency obtain information on ICBC's rates;
20. the Nominee instructed the Rate Analyst to contact the Broker and make arrangements with him to get the information and go to the Broker's office, on multiple occasions if necessary, so as to achieve this objective;
21. the Nominee submitted that he did not know of any further details about how the Rate Analyst would technically obtain the information, nor did he have an understanding of what the Broker had in mind;

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22. the Rate Analyst's responsibilities at the Agency included updating the rating algorithm, maintaining the book of business and making rating recommendations. It was not his usual practice to conduct work outside of the Agency;
23. once the Nominee had the initial conversation with the Rate Analyst he left it to him to complete the task, checking in from time to time. He expected the whole process would be completed within a few weeks. The Nominee was confident that the Rate Analyst was sufficiently familiar with the rating algorithm and capable of entering the information directly into the Agency's system once he had collected the required information;
24. the President submitted that he did not direct the Nominee or the Rate Analyst to attend an insurance agent's office and obtain the rating information from the ICBC database;
25. the President submitted that the Nominee probably advised him of the plan; that he was aware of the Agency's intention to collect information, but he did not know the particulars of how an insurance agent would assist the Agency in the process;
26. the Rate Analyst submitted that he did not contact the Broker in order to arrange a time for his first visit to the Broker's office. Rather, he reported that he went to the Broker's office on a day that was selected by the Nominee. In regard to his understanding of why he was going to the Broker's office, the Rate Analyst stated he knew he was expected to collect the codes and the rate groups on a selected list of vehicles. He stated that he was not provided with any further "step-by-step" instructions on what he was to do once at the Broker's office;
27. the Rate Analyst cited an example of a vehicle code as "2N3Y", which would mirror what ICBC uses for its code on the same vehicle. To determine the rating for a particular vehicle, it is necessary to have the correct four digit vehicle code;
28. the Rate Analyst submitted that the Agency's system had always relied on the vehicle codes that ICBC used, likely dating back to when the information was released to the public. Over time, the Agency's vehicle code information had become outdated and inaccurate, which led to rates that were too competitive. As explained by the Rate Analyst, new models for vehicles are put on the market annually in September or October. ICBC premiums for the new models of vehicles were gradually increasing because the new models contained new safety features and additional equipment;
29. there are conflicting submissions from the Rate Analyst and the Broker on the particulars of how the Rate Analyst accessed the information once at the Broker's office. Notwithstanding, the records from ICBC and the admission from the Rate Analyst demonstrate that he did attend the Broker's office on more than one occasion and collected a high volume of ICBC rate quotes;

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30. specifically, ICBC rate quote activity records indicate that in the month of September, 2007, 287 quotes were completed. In particular, on September 13, 2007, 65 rate quotes were completed for the following vehicles: 2007 Acura, Dodge, Mazda, Toyota; and 2008 Chevrolet, Ford, Kia, Mazda, Nissan, and Toyota. On September 14, 2007, 73 rate quotes were completed for the following vehicles: 2001 Chevrolet, 2002 Audi, 2008 Chrysler, Dodge, Ford, Hyundai, Pontiac, and Volkswagen. The quotes were done from IP address 70.79.64.251, which is associated with the Broker's office;
31. on September 22, 2007, 13 rate quotes were completed on the 1990 Nissan, and 2007 Acura and Kia. On September 23, 2007, 81 rate quotes were completed for the 2007 Kia, 2008 Acura, Buick, Chrysler, Honda, Hyundai, Infiniti, Lexus, Lincoln, Mazda, Mercedes, Mitsubishi, Saturn, Subaru, Suzuki, and Volkswagen. These quotes were done from IP address 24.85.149.174, which is associated with the Rating Analyst's home address;
32. on October 10, 2007, another 86 rate quotes were done from the Broker's IP address;
33. by way of comparison, ICBC records indicate a total of 70 rate quotes were completed by the Broker's office for the entire month of August, 2007;
34. subsequent to the first visit to the Broker's office, the Rate Analyst used his home computer on approximately six occasions to access ICBC rate information on the ICBC Autoplan Extranet with the IDs and the Passwords he had collected. He found working from his home computer to be more efficient than going to the Broker's office, and using one of its computers. He was on the ICBC Autoplan Extranet for approximately thirty minutes to one hour during each occasion from his home;
35. ICBC records indicate the following details on the rate quotes done from the Rating Analyst's home IP address: on October 13, 2007, 48 rate quotes were done; on October 21, 2007, 30 rate quotes were done; on October 27, 2007, 69 rate quotes were done; on October 29, 2007, 59 rate quotes were done; and on October 30, 2007, 24 rate quotes were done;
36. the Rate Analyst did this on his own volition, for convenience, and the Nominee had not instructed him to do so;
37. upon learning what had occurred, the Nominee was concerned as it did not accord with the Broker's initial offer to assist the Agency and that the Rate Analyst's conduct was not part of the agreement;
38. the Nominee advised that he became aware of what the Rate Analyst had done sometime in late 2007 or early 2008. He stated that he had a conversation with the Broker in which he learned the Broker had been contacted by ICBC about the rate quotes. Subsequently, the Nominee stated that he approached the Rate Analyst to discuss the matter and the Rate Analyst acknowledged that he had actually collected the rate quotes outside of the Broker's office;

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39. the Nominee advised he had informed the President that the Rate Analyst had taken it upon himself to access the ICBC Autoplan Extranet outside of the Broker's office. The President communicated to the Nominee that this conduct was inappropriate;
40. in response to when he informed the President of the Rate Analyst's actions, the Nominee stated that he did not have a precise recollection of the series of the events;
41. the President and the Nominee discussed the matter with the Rate Analyst and told him that they were not aware of his accessing the ICBC Autoplan Extranet from his home. In their view, they made him fully aware that this was inappropriate;
42. no specific discipline was imposed upon the Rate Analyst by the Agency;
43. the President reported that he initiated an internal investigation and had the Nominee collect information regarding what the Rate Analyst had accessed and collected on the ICBC Autoplan Extranet;
44. the President subsequently went to ICBC and informed ICBC about what had been collected by the Rate Analyst;
45. the President submitted that the Agency acted immediately to remedy the situation with ICBC upon learning of the improper actions of its employee; he contacted ICBC straight away in the week of July 21st, 2008, which was when he first learned what had happened, apologized, arranged a meeting, and wrote a letter outlining the Agency's internal investigation into the matter; and,
46. the Agency has changed its corporate policy to include that employees of the Agency must not access any database in an unauthorized manner. The Agency also changed its code of conduct to include that if unauthorized access occurs by an employee of the Agency, that the employee could be terminated.

LEGISLATION

Rule 7(8) of the Council Rules

- (8) A licensee must comply with the 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,

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- (b) has breached or is in breach of a term, condition or restriction of the licence of the licensee,
- (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 3 – Hearings and Appeals

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

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- (v) a licence issued under Division 2 of Part 6, and
 - (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 date with 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 no 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.

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 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 and the Agency 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 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 does not represent ICBC, nor does it have access to ICBC rating information, it attended the Broker's office to obtain the required information.

The degree to which the Broker 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 and the Agency'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.

Council also concluded that the Rate Analyst's conduct within and outside of the Broker's office in gathering rating information was a direct outcome of discussions he had with the Nominee. The Nominee instructed him to attend the Broker's office to obtain ICBC rate information for a couple of hundred vehicles, and to return as many times as necessary to complete the task. The Nominee admittedly did not provide any specific direction to the Rate Analyst on how to gather the information; rather, he selected the Broker from whom to obtain assistance and allowed the events to unfold without any oversight. In Council's view, the absence of supervision in this regard aggravated an already inappropriate situation. Coupled with the impropriety of accessing the confidential rating information and the fact that the events compromised the Broker's position with ICBC, the Nominee and the Agency appeared to show a disregard of Council's Rules and Council's Code of Conduct; specifically, the principles of trustworthiness, good faith and the usual practice.

Council reviewed previous decisions to establish the appropriate parameters for discipline, including those referenced in the Agency's Submissions. As set out in the Agency's Submissions, the Agency and the Nominee concede that they ought to have known of the risk of the Rate Analyst's unauthorized access of competitor information, and as such, admit that there was a want of supervision over the conduct of the Rate Analyst. On this basis, the Agency and the Nominee submit that the *Raghubir Kaur Atwal* ("Atwal") decision is comparable in that Ms. Atwal, an agency nominee, failed to demonstrate competence in supervising the conduct of the agency's principals and employees. The principals of the agency kept information from Ms. Atwal and intentionally misled her, and she failed to diligently fulfil her role and ask the relevant questions that would have likely prevented the misconduct from carrying on for as long as it did.

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In the *Ralph Henry Libby* ("Libby") decision, Mr. Libby improperly disclosed his ICBC extranet user identification to a third party computer service provider who was contracted by his agency. The contractor had been denied access by ICBC because he provided services to competing optional insurance carriers. The contractor asked Mr. Libby for his user identification and password in order to "test the system for bugs", and Mr. Libby agreed. Council accepted Mr. Libby's statement that he would not have granted access to the contractor had he known the real purpose was to update the contractor's database of optional coverage rates. Council reprimanded Mr. Libby and he was ordered to pay the costs of the investigation. He was also precluded from upgrading his licence for a one year period.

In the *Basil Ian Sotheby Brodie Ketchen* decision, Mr. Ketchen accessed and used client information from his agency's and ICBC's computer system for the purposes of prospecting for new business. Information about a client obtained during the course of a transaction cannot be used or communicated except as required for the transaction in which the information was provided, or a similar subsequent transaction between the insurance agency and the same client, unless authorized by the client or as required by law. Council determined that he had failed to act in accordance with the usual practice of the business of insurance. Mr. Ketchen was fined \$500.00, required to complete the ICBC Autoplan basics course, and ordered to pay the costs of the investigation.

Council discussed the *Aurora Underwriting Services Inc.* decision, in which Council found that the agency, the nominee, and a licensee had failed to act in a trustworthy and competent manner, in good faith, and in accordance with the usual practice of the business of insurance. Under the direction of the nominee, the licensee altered a client's insurance policy document in order to conceal a policy fee that the agency felt it had earned, but had not disclosed to any of the parties in the insurance transaction. The agency had also failed to review the client's insurance documentation for accuracy, and failed to place proper insurance coverage as requested by the client, thereby demonstrating incompetency. The agency was fined \$20,000.00; the nominee was fined \$10,000.00; the licensee was fined \$5,000.00; and all three licences were suspended for eighteen months.

In the *Gregory MacKay Hicks* decision, Council determined that Mr. Hicks, an agency nominee, as well as his agency, had breached a condition of their licences. Mr. Hicks used or applied premiums for purposes other than as described in the agency agreements with insurers with whom the agency was contracted, and failed to remit to these insurers all premiums collected or received, less any authorized commissions or deductions. He was fined \$10,000.00 and his Level 3 nominee licence was cancelled for a minimum two year period. As a condition of the agency's licence, Mr. Hicks was not permitted to be the director or officer of the agency for a minimum period of two years.

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The misconduct in the present case involves a breach of confidential business information as opposed to confidential personal information. Council's view is that both types of information are deserving of protection. In *Meredith Holly Phendler*, Council cancelled Ms. Phendler's licence for a minimum period of two years for improperly accessing the ICBC database to obtain personal and confidential information about another driver with whom she had a roadside altercation. The incident brought into question her suitability and trustworthiness.

Council accepts that the Nominee and the Agency failed to sufficiently oversee the Rate Analyst. However, Council does not believe it is a question of competence or lack of supervision. Rather, the Nominee and the Agency deliberately initiated a plan that they knew or ought to have known would involve improper access to competitor information in order to meet the business objectives of the Agency. Accordingly, this case can be distinguished from *Atwal* and *Libby*.

While this case was fairly unique to Council, it involved misconduct of an intentional nature by long standing licensees who ought to have known the conduct was not in accordance with principles established in Council's Code of Conduct. Because of this, Council felt any decision should reflect the egregiousness of the misconduct and communicate to the industry that such conduct will not be tolerated. In this regard, Council determined that maximum fines are warranted, which would be consistent with penalties imposed in other cases involving deliberate and serious misconduct by experienced persons. Council also determined it was appropriate to suspend the Nominee's licence for a period time that will allow him to reflect on his wrongdoing and provide him an opportunity to rehabilitate, without being excessively punitive. Council also intends to assess the costs of Council's investigation and it ultimately believes that the intended sanctions satisfactorily address the principles of sentencing, which include specific and general deterrence, rehabilitation, and garnering confidence from the industry.

INTENDED DECISION

Pursuant to section 231, 236 and 241.1 of the Act, Council intends to order the following:

1. the Agency pay a fine of \$20,000.00;
2. the Nominee pay a fine of \$10,000.00;
3. the Nominee's licence be suspended for one month;
4. the Agency pay the costs of Council's investigation into the matter assessed at \$4,537.50;
5. as a condition of Council's order, the Agency is required to pay the above mentioned fine and investigative costs by **October 20, 2010**. If the Agency does not pay the ordered fine and investigative costs by this date, the Agency's licence is suspended as of **October 21, 2010**, without further action from Council; and,

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6. as a condition of Council's order, the Nominee is required to pay the above mentioned fine by **October 20, 2010**. If the Nominee does not pay the ordered fine by this date, his licence is suspended as of **October 21, 2010**, without further action from Council.

The intended decision will take effect on **July 20, 2010**, 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 Nominee wish to dispute Council's findings or its intended decision, they may present their case at a hearing before Council where they may be represented by legal counsel. Pursuant to section 237(3) of the Act, to require Council to hold a hearing, the Agency or the Nominee must give notice to Council by delivering to its office written notice of this intention by **July 19, 2010**. 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.

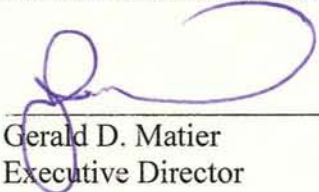
If the Agency or Nominee do not request a hearing by **July 19, 2010**, the intended decision of Council will take effect.

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.fic.gov.bc.ca/fst/ or contact them directly at:

Suite 1200 - 13450 102nd Avenue
Surrey, British Columbia
V3T 5X3
Telephone: 604-953-5300

Dated in Vancouver, British Columbia, on the **23rd day of June, 2010**.

For the Insurance Council of British Columbia



Gerald D. Matier
Executive Director

GM/tlh