In the Matter of the

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

and the

INSURANCE COUNCIL OF BRITISH COLUMBIA
("Council")

respecting

GARRETT AGENCIES LTD.
(the "Agency")

and

JOHN RICHARD GARRETT
(the "Nominee")

ORDER

As Council made an intended decision on April 10, 2018, pursuant to sections 231 and 236 of the Act;

As Council, in accordance with section 237 of the Act, wrote to the Nominee on May 18, 2018 providing written reasons and notice of the intended decision; 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 Agency is fined $2,000.00;
2. A condition is imposed on the Nominee's life and accident and sickness insurance licence requiring him to successfully complete the Council Rules Course available through Advocis no later than **September 17, 2018**. If the Nominee does not complete the Council Rules Course by this date, the Nominee's life and accident and sickness insurance licence will be suspended as of **September 18, 2018** without further action from Council and the Nominee will not be permitted to complete any subsequent annual filings until such time as the Council Rules Course is successfully completed; and
3. A condition is imposed on the Agency's life and accident and sickness insurance licence requiring the Agency to pay the above-ordered fine no later than **September 17, 2018**. If the Agency does not pay the ordered fine in full

by this date, the Agency's life and accident and sickness insurance licence will be suspended as of **September 18, 2018** 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 **19th day of June, 2018**.

Ken Kukkonen
Chairperson, Insurance Council of British Columbia

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA
("Council")

respecting

GARRETT AGENCIES LTD.
(the "Agency")

and

JOHN RICHARD GARRETT
(the "Nominee")

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

As part of Council's investigation, on February 6, 2018, a Review Committee (the "Committee") met with the Nominee via teleconference to discuss the allegation that the Agency breached Council Rule 7(3)(a)(i) by not notifying Council within five business days of disciplinary action taken by another regulator.

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 Agency for review. A discussion of this report took place at the meeting and the Nominee was provided an opportunity to 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, were reviewed by Council at its April 10, 2018 meeting, where it was determined the matter should be disposed of in the manner set out below.

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PROCESS

Pursuant to section 237 of the Act, Council must provide written notice to the Agency and Nominee of the action it intends to take under sections 231 and 236 of the Act before taking any such action. The Agency and Nominee 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 and Nominee.

FACTS

The Agency is based in Calgary, Alberta. The Agency has been licensed in British Columbia since 2012. It also holds a licence in Alberta, Manitoba, and Ontario.

The Nominee is domiciled in Alberta. He has held a life and accident and sickness insurance agent ("life") licence in British Columbia since 1989. He is authorized to represent Garrett Agencies Ltd. He holds an accident & sickness insurance agent licence and a life agent licence in Alberta, and a life agent licence in Saskatchewan, Manitoba, Ontario and New Brunswick.

On September 17, 2015, Council staff noted that the Agency had been disciplined by the Insurance Councils of Saskatchewan ("ICS") on August 18, 2015 for failing to maintain a valid policy of errors and omissions ("E&O") insurance for a period of 48 days between November 22, 2013 and January 8, 2014. The Agency was further disciplined for failing to immediately notify the ICS of the cancellation or non-renewal of its E&O insurance. The Agency did not notify Council within five business days of the ICS discipline. When asked, the Agency representative advised they were unaware they were required to notify other provinces of the discipline.

As this was the first breach, and it was confirmed that the Nominee of the Agency had E&O insurance in British Columbia that provided vicarious liability to the Agency, the Agency was sent a reminder letter on October 16, 2015. The letter indicated that "should a further breach occur, it will be reviewed in light of this reminder and may result in discipline."

In November 2017, the Agency was disciplined by the Alberta Insurance Council ("AIC") for failure to disclose the ICS discipline as required.

Then, the Agency again failed to notify Council within five business days of having been disciplined by the AIC. When asked why Council had not been notified of the AIC discipline, the Nominee's compliance representative replied that it had not been in "front of mind" to do so.

The Nominee stated that this situation has led the Agency to update its procedures with respect to compliance measures in an effort to be more proactive. The Agency will notify all regulatory bodies in which the Agency is licensed for any disciplinary action the Agency has faced.

ANALYSIS

Council found that the Agency breached Council Rule 7(3)(a)(i) by failing to notify Council within five business days of the disciplinary action taken by the AIC.

Council took into consideration that the Agency had notified Council of the underlying disciplinary matter for which it was sanctioned by the ICS. However, Council concluded, particularly in light of the previous reminder letter provided to the Agency regarding the need to notify of discipline by other regulators, that the Agency should have taken appropriate steps to ensure it remained in compliance with Rule 7(3)(a)(i).

Council was also concerned that the Nominee, after being disciplined by the ICS and AIC, did not, in order to determine notification criteria, review the requirements of the other jurisdictions in which the Agency was licensed. Council determined that a fine and education were appropriate in all the circumstances.

INTENDED DECISION

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

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

The Nominee and the Agency are 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 Nominee is advised that failure to successfully complete the Council Rules Course within 90 days of the date of the order will result in the automatic suspension of his life and accident and sickness insurance agent licence and the Nominee will not be permitted to complete any subsequent annual filing until such time as the Council Rules Course is successfully completed as required.

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

Subject to the Nominee's and the Agency's right to request a hearing before Council, pursuant to section 237 of the Act, the intended decision will take effect after the expiry of the hearing period.

RIGHT TO A HEARING

If the Agency and/or Nominee wish to dispute Council's findings or its intended decision, the Agency or Nominee 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 **within fourteen (14) days of receiving this intended decision**. 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 does not request a hearing **within fourteen (14) days of receiving this intended decision**, the intended decision of Council will take effect.

Even if this decision is accepted by the Agency or 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"). Once Council's decision takes effect, the Financial Institutions Commission has 30 days to file a Notice of Appeal. For more information respecting appeals to the FST, please visit their website, 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 May, 2018**.

For the Insurance Council of British Columbia

Janet Sinclair
Executive Director
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jsinclair@insurancecouncilofbc.com

JS/ap