



## FINANCIAL SERVICES TRIBUNAL

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October 13, 2017

Appeal Files: 2017-FIA-002 to 2017-FIA-008

**Re: Appeal to the Financial Services Tribunal (“FST”) – Financial Institutions Commission (FICOM) v. Insurance Council of British Columbia (Council) and Seven Additional Respondents (Licensees) –**

### **RULING ON APPLICATION FOR DISCLOSURE OF APPEAL RECORDS**

Seven appeals by the Financial Institutions Commission (“FICOM”) are currently pending before the Financial Services Tribunal (“FST”), all from decisions of the Insurance Council of British Columbia (“Council”) sanctioning insurance agents (“licensees”) in separate disciplinary processes for conduct pertaining to the overriding of bridge toll debts.

By letter of September 20, 2017 to the FST, FICOM sought an Order that the seven appeals be heard together by a single decision-maker. The FST then advised the other parties in writing of this application and invited submissions by specified dates. Council and two of the licensees have since indicated their consent to the application.

Another licensee, Jacqueline Nicole Babcock, responded through counsel by asking for production of the file materials for the other six appeals, taking the position that a review of those materials was essential to the matter of whether the seven appeals should be combined for hearing. By letter to all parties of October 3, 2017, the FST (among other things) explained that this request had been made and asked that any responses to it be provided in writing by October 11, 2017. Three of the licensees replied, two of whom expressed feelings about the situation generally but without commenting specifically on the request for the sharing of documents, and the other indicating through counsel that he did not object to the disclosure requested by FICOM, although requesting that the documents not be otherwise made public or provided to the media. No other responses on the specific question of disclosure of file materials were provided, and in the result no party has opposed Ms. Babcock’s request for the sharing of file materials.

I agree that a review of the materials across these seven files may bear upon the question of whether it is fair and efficient that they be heard together on appeal. Of course, if FICOM’s application for joinder of the appeals were to succeed, which is unknown at the moment but is urged or accepted by several parties thus far, the documentary barriers between these appeals would presumably cease to exist in any case (barring some qualifying term in the Order, which has not been sought to this point).

While seeking an order for the sharing of files, Ms. Babcock requests that various types of identifying information within her own file should not be shared with others. I am inclined to allow that request, at least at this stage where no joinder of the appeals has been ordered, and also to extend to the other six licensees an opportunity to indicate whether there is information within the records bearing on their appeals that they similarly wish protected.

Ms. Babcock also takes the position that her file materials should not be otherwise disclosed to the public or the media.

Given the potential relevance of the various files to FICOM's pending application, and considering the lack of any opposition to the request for the sharing of files, I order as follows:

- (a) The licensees other than the applicant shall have until **October 20, 2017** to identify in writing to the FST any portions of their file materials that they do not wish shared with the other licensees;
- (b) The FST itself will then proceed to provide copies of the records for all seven of these appeals to each of the licensees, while redacting from Ms. Babcock's file the identifying information she has referenced and from the other files any identifying information other licensees have by then indicated they wish redacted, on condition that the FST considers such latter redactions appropriate;
- (c) Within ten days of the date of mailing of those files to the seven licensees, each of them shall be entitled to express to the FST their written position regarding FICOM's application to have the appeals heard together by a single decision-maker, with such deadline date to be specified in the FST's correspondence; and
- (d) The materials within the appeal records shall not otherwise be disclosed to the public or the media by the FST until, assuming such disclosure falls for consideration, all of the licensees in these appeals have been given an opportunity to express a position as to whether such disclosure should occur.

"Patrick F. Lewis"

Patrick F. Lewis  
Vice- Chair  
Financial Services Tribunal

cc. Sandra A. Wilkinson, Counsel for the appellant FICOM  
David T. McKnight, Counsel for the respondent Insurance Council