



In the matter of the *Financial Institutions Act*,

R.S.B.C. 1996, Chapter 141

and

Industrial Alliance Insurance and Financial Services Inc.

NOTICE OF PENALTY

(s. 253.1)

***Financial institution disclosure of identity: The legislative scheme***

1. Section 91 of the *Financial Institutions Act* ("FIA") requires that financial institutions must ensure that their identity is clearly stated in documents relating to their business:

*Disclosure of identity in advertising, etc*

91 *In all advertising, correspondence, application forms, evidences of indebtedness and other documents in its control relating to its business, a financial institution must ensure that its identity is clearly stated.*

2. Section 253.1 of the FIA and section 2 of the *Administrative Penalties Regulation* ("Regulation") provide that administrative penalties may be ordered against a financial institution which does not comply with section 91 of the FIA:

*Administrative Penalties*

253.1 (1) *If, in the opinion of the commission, a person has contravened*

*(a) a prescribed provision of the Act,*

...

*the commission may give written notice to the person requiring the person to pay an administrative penalty in the amount specified in the notice.*

...

*Monetary penalties for prescribed provisions of the Act and regulations*

2 *(1) The provisions of the Act and Regulations in Column 2 of the schedule are prescribed for the purposes of section 253.1 (1) (a) and (b) of the Act, as applicable.*

*(2) A person who contravenes a provision in Column 2 of the schedule is liable to an administrative penalty not exceeding the monetary penalty in Column 3 of the schedule for that contravention, as applicable.*

...

3. Columns 2 and 3 of the Regulation set out that a contravention of Section 91 of the FIA attracts a maximum penalty of \$50,000 for a corporation.
4. The Superintendent has been delegated the authority to issue administrative penalties to corporations up to \$25,000 under section 253.1 of the FIA by the Financial Institutions Commission ("Commission") in its Instrument of Delegation issued April 4, 2018.

***The contravention***

5. Industrial Alliance Insurance and Financial Services Inc. ("IAF") is authorized by the Commission as an extraprovincial insurance company to write accident and sickness, credit protection, and life insurance in British Columbia.
6. IAF distributes its travel insurance policies through licensed insurance agencies. One such agency is 1916368 Ontario Inc. doing business as Travel Insurance Specialists ("TIS").

7. TIS sells IAF travel medical insurance under the brand name "Travel Health" through its website and in person at its British Columbia office.
8. During 2018 the TIS website through which the IAF insurance could be purchased and brochures provided by TIS to consumers advertising the IAF insurance and setting out some terms of the insurance did not identify IAF as the financial institution offering the insurance. No financial institution was identified.
9. After a number of inquiries were made by FICOM Staff to IAF about ensuring their identity was clearly indicated, in 2019 IAF took steps to rectify the compliance issues under section 91 of the FIA.

***Amount of penalty***

10. The Commission expects all institutions it regulates to comply with the identification requirements of the legislation. It is important that consumers know that they are dealing with an authorized insurance company, and which company they are dealing with at all stages of the transaction.
11. The goal of administrative penalty orders is to protect the public by promoting compliance with the FIA.
12. In assessing an appropriate administrative penalty I take into account mitigating and aggravating factors, as well as precedent to arrive at an appropriate penalty to provide both specific deterrence to IAF and general deterrence to the industry against future similar conduct.
13. I find the following to be mitigating factors:
  - a. FICOM has not issued administrative penalty orders against IAF in the past;
  - b. IAF fully cooperated with FICOM Staff in this matter; and
  - c. IAF is implementing a series of remedial measures which should address this type of controls failure.

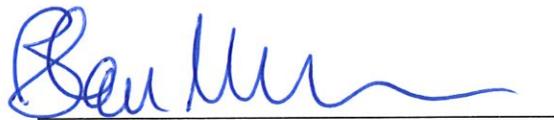
14. I find the following to be aggravating factors:

- a. There was a consent order entered into in October 2008 with IAF concerning implementation of distribution controls with regard to group creditor insurance and proper identification of the insurer (see *Re Industrial Alliance Pacific Insurance and Financial Services Inc.*, Consent Order of the Superintendent of Financial Institutions, October 21, 2008); and
- b. IAF assured Staff that all issues were resolved without initially independently confirming the corrections had been made by TIS. Staff discovered continued non-compliance.

15. There are no precedents for penalties issued by FICOM or the Superintendent against financial institutions solely for a breach of section 91.

16. In light of all of the circumstances in this matter, and in order to provide adequate specific deterrence to IAF and general deterrence to the industry, I find that an appropriate penalty for IAF's contravention of FIA section 91 is \$10,000.

Issued this 9<sup>th</sup> day of August, 2019, at  
Vancouver, British Columbia



Blair Morrison

Superintendent of Financial Institutions

**NOTICE TO INSTITUTION:****PENALTY CALCULATION INFORMATION**

You have been assessed an administrative penalty of \$10,000.

**PAYMENT**

Pursuant to section 253.1 of the FIA you have 14 days after receipt of this notice to either pay the penalty, or deliver a written notice disputing the penalty and/or the amount of penalty. Please remit on Receipt of this Notice. Accounts not paid within 30 days of notice date will be subject to interest charges. Cheques should be made payable to the Minister of Finance and sent to:

Accounting Department  
Financial Institutions Commission  
2800 – 555 West Hastings Street  
Vancouver, BC V6B 4N6

Please note that administrative penalties are subject to the *Interest on Overdue Accounts Receivable Regulation*, under the *Financial Administration Act*.

**DISPUTE PROCESS**

Pursuant to section 253.1 of the FIA, if you wish to dispute this administrative penalty and/or the amount of penalty, you must deliver a written notice of dispute to the Financial Institutions Commission within 14 days of receipt of this notice. Your notice of dispute must set out whether you elect for your dispute to proceed by way of written submissions or oral hearing.

**WRITTEN DISPUTE**

If you elect for your dispute to proceed by way of written dispute, the written submission must clearly articulate the reason for the dispute and the facts that the Superintendent should take into consideration as part of her review, including any extenuating circumstances that prevented compliance from occurring. The complete submission must be received by the Superintendent no later than 30 days after receipt of the Notice of Penalty. Upon receipt of your submission the Superintendent may decide to confirm the penalty or by order reduce the penalty or order no penalty. The Superintendent cannot increase the penalty.

**ORAL HEARING**

If you elect to proceed by oral hearing the Office of the Superintendent will acknowledge receipt of the request and will schedule a hearing. Hearings will be held within a reasonable time.

**NOTICE INFORMATION**

All correspondence, including payment and any request for dispute and election of form of dispute, should be addressed to:

Financial Institutions Commission  
Attention: Executive Director, Market Conduct  
2800 - 555 West Hastings  
Vancouver BC, V6B 4N6  
email: [insurance@ficombc.ca](mailto:insurance@ficombc.ca)

**Financial Institutions Act****Sections 253.1-253.3***Administrative penalties*

253.1 (1) *If, in the opinion of the commission, a person has contravened*

- (a) a prescribed provision of the Act,*
- (b) a prescribed provision of the regulations,*
- (c) a condition of a business authorization,*
- (d) an order under section 244 (2) (f), 245 (1) (f) to (j) or 247, or*
- (e) an undertaking given to the commission or the superintendent under section 208 or 244 (2) (g),*

*the commission may give written notice to the person requiring the person to pay an administrative penalty in the amount specified in the notice.*

*(2) A notice of administrative penalty under subsection (1) must specify all of the following:*

- (a) the contravention;*
- (b) the amount of the administrative penalty;*
- (c) the date by which the person must pay the administrative penalty;*
- (d) the right of the person, within 14 days after the notice is delivered, to dispute the administrative penalty, including disputing the amount of the administrative penalty, and the procedure for disputing the penalty.*

*(3) A person to whom an administrative penalty notice is given must, within 14 days after receiving the notice,*

*(4) A notice of dispute respecting a penalty described under subsection (5) (b) must indicate whether the person wishes to proceed by way of written submissions or oral hearing.*

*(5) A person may dispute an administrative penalty as follows:*

- (a) by written submissions only, if the administrative penalty specified in the notice is less than*
  - (i) \$5 000, in the case of a corporation, or*
  - (ii) \$2 000, in the case of an individual;*
- (b) by written submissions or oral hearing, if the administrative penalty specified in the notice is*
  - (i) \$5 000 or more, in the case of a corporation, or*

*(ii) \$2 000 or more, in the case of an individual.*

*(6) If a person is proceeding by way of written submissions, the submissions must be delivered to the commission no later than 30 days after the person receives the administrative penalty notice.*

*(7) If a person requests an oral hearing, the commission must hold an oral hearing within a reasonable time after delivery of the notice referred to in subsection (3) (b).*

*(8) The commission must, within a reasonable time after receiving written submissions or holding an oral hearing, confirm whether the person committed the contravention, and if so, may, by order, confirm the penalty specified in the notice under subsection (1) or order a lesser penalty or no penalty.*

*(9) If a person requests an oral hearing respecting a penalty described under subsection (5) (b) and fails to appear at the time scheduled for the hearing, the commission may exercise its powers under subsection (8) in the person's absence.*

*(10) An administrative penalty for a contravention must not exceed the amount prescribed by regulation for that contravention, and in any event must not exceed*

*(a) \$50 000, in the case of a corporation, and*

*(b) \$25 000, in the case of an individual.*

*(11) An order made under subsection (8) must specify all of the following:*

*(a) the contravention;*

*(b) the amount of the administrative penalty;*

*(c) the date by which the person must pay the administrative penalty;*

*(d) the person's right to an appeal.*

*(12) The commission must deliver to the person a copy of any order made under subsection (8).*

*(13) A person on whom an administrative penalty is imposed by order under subsection (8) must, within 30 days after receiving the order,*

*(a) pay the administrative penalty, or*

*(b) file notice of appeal.*

*(14) An appeal of an order made under subsection (8) operates as a stay and suspends the order until disposition of the appeal.*

*(15) The time limit for serving an administrative penalty notice under subsection (1) is 2 years after the date that the superintendent or the commission first had knowledge of the facts on which the notice of contravention is based, whichever is earlier.*

*(16) If a corporation commits a contravention referred to in subsection (1), the commission may, in accordance with this section, impose an administrative penalty on an officer, director or agent of the corporation who authorized, permitted or acquiesced in the contravention, even though the corporation is liable for or pays an administrative penalty.*

*(17) An administrative penalty must be paid into the consolidated revenue fund.*

#### *Limitation on proceedings*

*253.2 (1) A person on whom a penalty is imposed and who pays the penalty may not be charged and a prosecution does not lie against the person for an offence under this Act for the same contravention.*

*(2) The commission may not impose an administrative penalty under section 253.1 in respect of a contravention if the person has been charged with an offence under this Act for the same contravention.*

#### *Failure to pay administrative penalty*

*253.3 If a person fails to pay an administrative penalty within the time period specified in a notice under section 253.1 (1) or an order under section 253.1 (8), as applicable, or by the date specified in the order made on appeal, if any, the commission may file with the court a certified copy of the order imposing the administrative penalty 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.*