

**IN THE MATTER OF THE *FINANCIAL INSTITUTIONS ACT*,
RSBC 1996, c. 141**

- AND -

IN THE MATTER OF HUB INTERNATIONAL CANADA

NOTICE OF PENALTY

(Pursuant to section 253.1 of the *Financial Institutions Act*)

Contravention

1. The Superintendent of Financial Institutions (“Superintendent”) has been delegated the authority to issue administrative penalties to corporations up to \$25,000 and individuals up to \$10,000 under section 253.1 of the *Financial Institutions Act* (“FIA”) by an Instrument of Delegation issued April 4, 2018.
2. Pursuant to Section 253.1 of the FIA, the Superintendent has determined that Hub International Canada (“HUB”) contravened section 76(1)(c) of the FIA by:
 - a. Failing to report the placement of insurance with an unauthorized insurer to the Superintendent within 30 days of the end of the quarter, as required under the *Insurer Exemption Regulation* section 9(b), as required by the FIA section 76(1)(c).

Issue

3. The BC Financial Services Authority (“BCFSA”) received information from the Insurance Bureau of Canada (“IBC”) that HUB placed insurance with an unauthorized insurer for a Vancouver strata corporation. HUB did not file the required report to the Superintendent within 30 days of the end of the quarter.

Legislative Scheme

4. Section 76 of the FIA states in part:

Exceptions

76 (1) Despite section 75,

...

(c) an insurance agent licensed under Division 2 of Part 6 who is authorized by the resident to effect the contract of insurance may negotiate or procure a contract of insurance between a

resident of British Columbia and an insurer prohibited by section 75 from carrying on business in British Columbia, subject to the requirements or conditions, if any, imposed by regulation.

5. Section 9 of the *Insurer Exemption Regulation* states:

Conditions for section 76(1)(c) of the FIA

9 It is a condition of section 76(1)(c) of the Act that the insurance agent referred to in that section

(a) does not directly or indirectly solicit the resident for the contract of insurance, and

(b) files with the superintendent, within 30 days of the end of each quarter, the following information with respect to the contracts of insurance referred to in that section that are entered into by the agent:

(i) the names of the insureds;

(ii) the particulars of the insurance;

(iii) the names of the insurers;

(iv) the amount of insurance placed with each insurer referred to in subparagraph (iii) and the rate and the amount of premiums paid.

6. The *Administrative Penalties Regulation* item 30 provides for an administrative penalty not exceeding \$50,000 for a corporation in contravention of FIA section 76(1).
7. FIA section 76(1) does not relate to a filing listed under Appendix I of the Non-Compliant Filings Administrative Penalty Guideline (“NFAP”), and therefore, the NFAP would not apply.

The Contravention

8. HUB is licensed by the Insurance Council of British Columbia (“ICBC”) as an authorized insurance agency with both a life and general license. Information from IBC which was provided to BCFSa confirmed HUB received consent from a client strata corporation (“Strata”) to place strata insurance with an unauthorized insurer effective June 23, 2020. BCFSa was informed by the Strata that approximately 5-10% of the Strata’s insurance was placed with an unauthorized insurer.
9. HUB was unable to obtain 100% coverage for the Strata in the authorized insurer market and turned to the unauthorized market for the outstanding uninsured portion.
10. HUB provided a quote to the Strata and obtained approval from the Strata to proceed with insurance placement. HUB provided the following disclaimer to the Strata:

“Please note there is a non-admitted carrier in this policy. An unlicensed insurer is not subject to regulation under the *Insurance Act*, records are not available for inspection and you will not be protected by laws governing licensed insurers. Orderly payment of claims may be more difficult than with an insurer licensed under the *Insurance Act* in BC. The Superintendent of Insurance for British Columbia has no authority under the *Insurance Act* with respect to unlicensed insurers. This is permissible under Canadian Insurance Regulations, but some paperwork may need to be signed by the Insured”

11. The Strata's insurance policy came into effect on June 23, 2020. Pursuant to Section 9(b) of the *Insurer Exemption Regulation*, HUB was required to file a report to the BCFSa by no later than 30 days after the end of the quarter, which was June 30, 2020.
12. Given BCFSa understood this to be an isolated breach under the applicable legislation, BCFSa issued a warning letter to HUB on October 13, 2020 advising that while BCFSa was aware of the FIA breach, no administrative penalty would be issued. HUB was reminded of the legislative reporting requirements and was requested to submit the required report by October 23, 2020. No response from HUB was received. On October 26, 2020, BCFSa again wrote to HUB requesting that the required report be submitted by end of day on October 26, 2020. No response was received from HUB.
13. On November 17, 2020, HUB was contacted and informed the BCFSa that the October emails were sent to a HUB employee who had retired. No communication of this was delivered to the BCFSa and no explanation of this failure to communicate was provided to the BCFSa.
14. On November 23, 2020, HUB submitted the required report. In that report, HUB advised the BCFSa there have been additional insurance policies placed with unauthorized insurers for which HUB did not file the required report with BCFSa. HUB noted their reason for not complying with the FIA reporting requirement was that their internal procedures did not reference the legislative requirement. HUB advised their procedures have since been updated to reflect the legislative reporting requirement.
15. On December 4, 2020, HUB submitted reports for an additional 15 policies for which insurance was placed with unauthorized insurers. In total, there were 3 policies placed in 2018; 4 policies in 2019; and 9 policies in 2020. All 15 policies were past their required reporting dates as set out in the legislation.

Amount of Penalty

16. The BCFSa expects all institutions it regulates to comply with the reporting requirements in the FIA. It is important particularly in circumstances such as these, where the consumer may be making a necessary decision but one that has risk attached to it, that the consumer be fully informed of that risk and that the regulator is fully aware of what is taking place in the market.
17. The goal of administrative penalty orders is to protect the public by promoting compliance with the FIA.
18. In assessing an appropriate administrative penalty, I consider both mitigating and aggravating factors as well as precedent to arrive at an appropriate penalty to provide both specific deterrence to HUB and general deterrence to the industry against future similar conduct.
19. I find the following to be mitigating factors:
 - a. BCFSa has not issued administrative orders against HUB in the past, and

- b. HUB has implemented remedial measures by ensuring that their internal procedures reference the legislative requirement under section 76(1)(c) of the FIA.

20. I find the following aggravating factors:

- a. HUB only cooperated after several communications from the BCFSa seeking clarification and information,
- b. The number of instances in which HUB failed to comply with the FIA, and
- c. The length of time over which these instances of non-compliance took place.

21. Due to the number of instances HUB failed to comply with the FIA reporting requirements, the span of time over which the non-compliance took place and the risk to the public and in order to provide specific deterrence to HUB and adequate general deterrence to the industry, I find that an appropriate penalty for HUB's contravention of the reporting requirements in the FIA is 50% of the maximum penalty of \$50,000, being a penalty in the amount of \$25,000.

Issued this 30th day of January, 2021, at the city of Vancouver, in the Province of British Columbia.



BLAIR MORRISON
Superintendent of Financial Institutions

NOTICE TO INSTITUTION

Penalty Calculation Information

You have been assessed an administrative penalty of **\$25,000**.

PAYMENT

Pursuant to section 253.1 of the FIA, you have 14 days after receipt of this Notice of Penalty (“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 this Notice date will be subject to interest charges. Cheques should be made payable to the ‘BC Financial Services Authority’ and sent to:

Accounting Department
BC Financial Services Authority
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 FIA.

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 BC Financial Services Authority within 14 days of receipt of this Notice. Your notice does not need to set out the particulars of the dispute; you have 30 days from receipt of this Notice to provide your full written submission. However, if you wish to include your submission with the notice you may do so.

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 his/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 this Notice. 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.

CONTACT INFORMATION

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

BC Financial Services Authority
2800 - 555 West Hastings Street
Vancouver, BC V6B 4N6