

In the Matter of

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

and

The INSURANCE COUNCIL OF BRITISH COLUMBIA
("Council")

and

THE INSURANCE SERVICES DEPARTMENT OF LONDON DRUGS LIMITED
(the "Agency")

and

SHANNON LYNNE FREW
(the "Nominee")

ORDER

As Council made an intended decision on February 14, 2017, 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 and the Nominee with written reasons and notice of the intended decision dated April 6, 2017; and

As the Agency and the Nominee have decided not to exercise their right to a hearing, in accordance with section 237 of the Act;

Under authority of sections 231, 236, and 241.1 of the Act, Council orders:

1. The Nominee is fined \$10,000.00.
2. The Agency is fined \$6,000.00.
3. A condition is imposed on the Nominee's general insurance licence that requires the Nominee to successfully complete the Council Rules Course and Council's Level 3 seminar: *Duties and Responsibilities of a Level 3 General Insurance Agent*.

Order

The Insurance Services Department Of London Drugs Limited and Shannon Lynne Frew

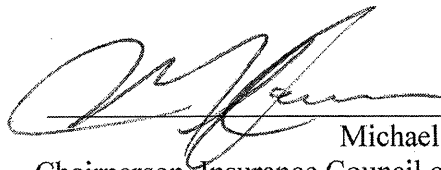
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4. A condition is imposed on the Agency's general insurance licence that requires the Agency to notify each of the affected Autoplan clients about the Agency's improper disclosure of their personal information, on or before **December 21, 2017**.
5. The Agency is assessed Council's investigative costs of \$1,012.50.
6. A condition is imposed on the Nominee's general insurance licence that requires the Nominee to pay the above-ordered fine and to successfully complete the above-ordered education no later than **November 21, 2017**. If the Nominee does not pay the ordered fine in full and successfully complete the ordered education by this date, the Nominee's general insurance licence is suspended as of **November 22, 2017**, without further action from Council and the Nominee will not be permitted to complete any subsequent annual filings until such time as the ordered fine is paid in full and the ordered education is successfully completed.
7. A condition is imposed on the Agency's general insurance licence that requires the Agency to pay the above-ordered fine and investigative costs no later than **November 21, 2017**. If the Agency does not pay the ordered fine and investigative costs in full by this date, the Agency's general insurance licence is suspended as of **November 22, 2017**, 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 and investigative costs are paid in full.

This order takes effect on the **21st day of August, 2017**.



Michael Connors, CIP, CRM
Chairperson, Insurance Council of British Columbia

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA
(“Council”)

respecting

THE INSURANCE SERVICES DEPARTMENT OF LONDON DRUGS LIMITED
(the “Agency”)

and

SHANNON LYNNE FREW
(the “Nominee”)

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

As part of Council’s investigation, on November 14, 2016 a Review Committee (the “Committee”) met with the Nominee and the Agency’s general manager to discuss allegations the Nominee requested that licensed managers at each Agency location provide an Insurance Corporation of British Columbia (“ICBC”) Autoplan client renewal list to store managers who were neither licensed with, nor employed by, the Agency.

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 Nominee for review. A discussion of this report took place at the meeting and the Agency and the Nominee were 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 and further written submissions provided by the Nominee, were reviewed by Council and it has determined the matter should be disposed of in the manner set out below.

PROCESS

Pursuant to section 237 of the Act, Council must provide written notice to the Agency and the Nominee of the action it intends to take under sections 231, 236, and 241.1 of the Act before taking any such action. The Agency and the 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 the Nominee.

FACTS

The Nominee has been licensed in British Columbia since 1992. The Nominee holds a Level 3 general insurance agent ("Level 3 agent") licence and is the Agency's nominee. The Nominee has been the Agency's nominee since May 2014.

The Agency holds a general insurance licence and has been licensed in British Columbia since 1995. The Agency is a full-service general insurance agent, assisting with automobile, home, travel, and a variety of other insurance products. The Agency has 19 office locations in British Columbia and one call centre. There are approximately 77 individual insurance licensees authorized to represent the Agency.

All of the Agency's locations are located in London Drugs retail stores and operate as a separate department of the retail stores. Each Agency location has a Level 3 agent as a branch manager, who is responsible for that location's insurance activities.

Each London Drugs retail location has a store manager responsible for the overall operations of the retail store. None of the London Drugs store managers hold an insurance licence, nor are they employed by the Agency. London Drugs store managers and Agency branch managers work together with respect to sales results for each London Drugs location.

In June 2016, the Nominee directed the Agency's branch managers to provide their respective London Drugs store managers with Autoplan client renewal lists. The Nominee provided this direction when she became concerned that customers were not receiving automobile insurance renewal reminders. By providing the Autoplan client renewal lists to the London Drugs store managers, the Nominee believed it would improve the client renewal performance of each Agency location.

The Autoplan client renewal lists that the Nominee directed branch managers to provide to unlicensed store managers contained clients' names and addresses, telephone numbers, coverage expiry dates, licence plates, and vehicle makes and registration numbers.

After being advised by the Nominee to share the Autoplan client renewal lists, one of the Agency branch managers contacted the Nominee about sharing this information with an unlicensed London Drugs store manager, as the lists contained personal information that should only be used for insurance purposes.

The Nominee explained that she believed the lists could be shared with unlicensed London Drugs staff, based on London Drugs' corporate privacy policy. After learning of the Agency branch manager's privacy concerns, the Nominee subsequently spoke with an ICBC representative to determine whether the sharing of the Autoplan client renewal lists breached privacy requirements. The Nominee stated that, in discussions with the ICBC representative, she was advised that distribution of client information to unlicensed London Drugs store managers was not viewed as a privacy breach.

The Nominee stated she did not contact Council or seek legal advice before directing the Agency's branch managers to share the Autoplan client renewal lists. Nor did she consider contacting Council or reviewing Council's privacy guidelines contained in Council's Code of Conduct.

ANALYSIS

Council found the information contained in the Autoplan client renewal lists represented information acquired in the course of the Agency's insurance relationship with those clients and should only have been used to facilitate a subsequent transaction with those clients.

Council determined the Agency and the Nominee's actions in directing its branch managers to share the Autoplan client renewal list with unlicensed individuals who were not employed with the Agency, to be in contravention of Council Rule 7(1).

Council noted that the Autoplan client renewal lists were shared with the unlicensed store managers to assist with the Agency's branch office performance. However, regardless of the purpose, Council found the sharing of these lists was inappropriate.

Council noted that even if ICBC had consented to the distribution of the Autoplan client renewal lists to London Drugs store managers, the Agency and the Nominee would still have been in breach of Council Rule 7(1). Council's privacy guidelines are quite specific and the only person(s) who can approve the sharing of Autoplan client information were the clients themselves, which did not occur in this case.

Council found the Agency and the Nominee were not familiar with requirements to maintain the confidentiality of the Agency's insurance clients' information. The Nominee's explanation that she believed that London Drugs' privacy policy could be relied upon by the Agency raised concerns about her competency as a nominee. The fact that London Drugs is the Agency's parent company meant that the Agency and the Nominee had a responsibility to ensure that clients' personal information was kept separate from London Drugs. The fact that this issue does not appear to have been addressed made the Agency and the Nominee's actions more egregious.

Council noted that a significant number of Autoplan clients' information was improperly shared with unlicensed individuals. Furthermore, to the best of its knowledge, none of the Autoplan clients have been advised that this breach has occurred.

In considering a disposition in this matter, Council considered *Pelling & Associates Insurance Brokers Consultants Inc. and R. Pelling* ("Pelling & Associates"). In that matter, the nominee of the agency permitted an employee of another agency, which was in direct competition with ICBC in the optional automobile insurance market in British Columbia, to access his own agency's ICBC Extranet to obtain information on ICBC vehicle class rates, without permission. In *Pelling & Associates*, the nominee and the agency were each fined \$5,000.00 and the agency was assessed Council's investigative costs.

Council also considered *Family Insurance Solutions Inc.* ("*Family Insurance*"). In *Family Insurance*, the agency permitted employees who were not licensed with Council to engage in insurance activities, contrary to Council Rules and the Act. The agency in *Family Insurance* had a difference of opinion with Council with regard to which activities required employees to be licensed with Council, and the Agency failed to take prudent steps to ensure it acted in accordance with the Act. The nominee brought the issue to the agency's attention, and Council found that he had taken sufficient steps to fulfill his duties as nominee. The agency was fined \$5,000.00.

Council determined that the Nominee was primarily responsible for the misuse of client information and concluded a significant fine should be assessed against her, as well as being required to complete some Council courses. Council also determined the Agency was accountable and should be fined and assessed the investigative costs for its failure to ensure it had an appropriate privacy policy governing the Agency's insurance activities.

Council also determined the Agency should be required, if it has not done so already, to notify each of the clients of the breach of their personal information.

INTENDED DECISION

Pursuant to sections 231, 236, and 241.1 of the Act, Council made an intended decision to:

1. Fine the Nominee \$10,000.00.
2. Fine the Agency \$6,000.00.
3. Impose a condition on the Nominee's Level 3 general insurance licence that requires her to successfully complete the Council Rules Course and Council's Level 3 seminar: *Duties and Responsibilities of a Level 3 General Insurance Agent* within 90 days of the date of Council's order.
4. Impose a condition on the Agency's general insurance licence that requires it to notify each of the Autoplan clients about its improper disclosure of their personal information, within 120 days of the date of Council's order.
5. Assess the Agency Council's investigative costs of \$1,012.50.

The Nominee and the Agency are advised that should the intended decision become final, the fine and investigative costs will be due and payable within 90 days of the date of the order.

The Nominee is advised that failure to pay the fine within the 90 days, or failure to successfully complete the Council Rules Course and Council's Level 3 seminar: *Duties and Responsibilities of a Level 3 General Insurance Agent* course within 90 days, will result in the automatic suspension of her insurance licence and the Nominee will not be permitted to complete any annual filing until such time as the fine is paid in full and the above-noted courses are successfully completed.

The Agency is advised that failure to pay the fine and investigative costs within the 90 days, will result in the automatic suspension of its general insurance licence and the Agency will not be permitted to complete any annual filing until such time as the fine and investigative costs are paid in full.

The intended decision will take effect on **April 25, 2017**, subject to the Agency's and the Nominee's right to request a hearing before Council pursuant to section 237 of the Act.

Intended Decision

The Insurance Services Department of London Drugs Limited and Shannon Lynne Frew

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RIGHT TO A HEARING

If the Agency and/or the Nominee wish to dispute Council's findings or its intended decision, the Agency and/or the 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 and/or the Nominee must give notice to Council by delivering to its office written notice of this intention by **April 24, 2017**. 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 and/or the Nominee do not request a hearing by **April 24, 2017**, the intended decision of Council will take effect.

Even if this decision is accepted by the Agency and/or the 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 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 **6th day of April, 2017**.

For the Insurance Council of British Columbia



Gerald Matier

Executive Director

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GM/rm