

In the Matter of

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

and

The INSURANCE COUNCIL OF BRITISH COLUMBIA
("Council")

and

KARAMVIR JUSTIN SINGH SOHI
(the "Licensee")

ORDER

As Council made an intended decision on October 21, 2014, pursuant to sections 231, 236, and 241.1 of the Act; and

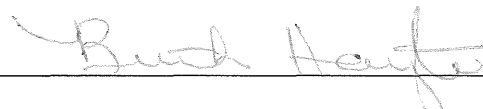
As Council, in accordance with section 237 of the Act, provided the Licensee with written reasons and notice of the intended decision dated November 12, 2014; and

As the Licensee has not requested a hearing of Council's intended decision within the time period provided by the Act;

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

1. The Licensee is fined \$2,000.00.
2. The Licensee is assessed Council's investigative costs of \$500.00.
3. A condition is imposed on the Licensee's general insurance licence that requires him to pay the above-ordered fine and investigative costs no later than **March 2, 2015**. If the Licensee does not pay the ordered fine and investigative costs in full by this date, the Licensee's general insurance licence is suspended as of **March 3, 2015**, without further action from Council and the Licensee will not be permitted to complete any annual filing until such time as the ordered fine and investigative costs are paid in full.

This order takes effect on the **2nd day of December, 2014**.



Ruth Hoyte
Chairperson, Insurance Council of British Columbia

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA
(“Council”)

respecting

KARAMVIR JUSTIN SINGH SOHI
(the “Licensee”)

INTRODUCTION

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

An investigation report was distributed to the Licensee for review. The Licensee was provided an opportunity to clarify the information contained therein and make further submissions.

The investigation report was reviewed by Council at its October 21, 2014 meeting, where it 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 Licensee of the action it intends to take under sections 231, 236, and 241.1 of the Act before taking any such action. The Licensee 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 Licensee.

FACTS

In or around April 2014, Council was informed by the Licensee’s supervisor (the “Supervisor”), at an agency where he was formerly employed (the “Agency”), that in 2011 the Licensee reported to her he had, out of curiosity, accessed the vehicle information of a number of professional athletes on the Insurance Corporation of British Columbia (“ICBC”) database. The Supervisor advised the Licensee that accessing the ICBC database in this manner was not permitted and not to do it again. She took no further action.

On June 23, 2014, Council contacted the Licensee to discuss the Supervisor’s comment. When asked if he had ever used the ICBC database to look up the personal information of an individual in an unauthorized manner, the Licensee responded that he had. The Licensee stated

that he accessed the personal information of five or six professional athletes sometime in the latter part of 2011. He could not recall the specific dates of the accesses, and he could not recall the specific time he reported the accesses. He told his Supervisor about the incident because he realized he should not have done it and felt he should report it.

The Licensee supplied a written statement to Council where he explained he accessed the ICBC database by going into the Autoplan Data Capture (ADC) system to look up the names of the athletes, and then into the system which revealed what type of vehicle was registered to them.

ICBC advised that it found no evidence that the Licensee improperly accessed personal information using the individual user identification code assigned to him. The Licensee could not explain this as he had never signed in under someone else's user ID. However, he did state it was possible the access was done while he was using an open terminal at the Agency, already signed on by someone else.

The Licensee submitted that since he left the Agency to work in a different environment, he feels he has been provided with better training. He has also improved his familiarity with Council's Rules. He submitted he has grown as a person and in the business of insurance. The Licensee provided verification that on September 8, 2014, he successfully completed ICBC's online Information Security and Privacy Course (commonly known as Privacy Please).

Failure to Disclose

On February 9, 2011, the Licensee was charged under section 253(1) of the *Criminal Code of Canada* – care or control of vehicle or vessel while impaired. The Licensee pled guilty on October 4, 2012 to a lesser charge and was convicted under section 144 (1)(a) of the *Motor Vehicle Act*, R.S.B.C. 1996 c 318 (“MVA”) – driving a motor vehicle without due care and attention. He received a suspension of his driver's licence.

According to Council Rule 7:

- (3) *A licensee must notify Council within 5 business days:*
- (a) *where the licensee or any business the licensee owns or has participated in as a director, officer or partner:*
 - (iv) *is charged or convicted of any criminal offence or any offence under any law of any jurisdiction, excluding traffic offences resulting in monetary fines only;*

The Licensee did not notify Council about the criminal charge or the conviction. The Licensee stated he thought he was only required to notify Council of criminal convictions. As his matter was reduced to a lesser charge, falling under the MVA, he did not understand that he was still required to notify Council.

ANALYSIS

ICBC Access

Council considered the actions of the Licensee and determined the Licensee had breached Council Rules 7(1) and 7(8), by accessing ICBC's database to obtain information about a third party without that person's permission.

Council considered the precedent *A. Kulkarni* and *K. Styles*.

In *A. Kulkarni*, the licensee accessed and obtained information about the ICBC president from ICBC's database, without authorization. The licensee was curious to know what kind of car the ICBC president drove. The licensee, on multiple occasions, denied accessing ICBC's database for this purpose. Later, the licensee admitted the access but claimed he felt there was no harm in accessing such information provided he kept it confidential. Further, the licensee accessed the ICBC president's information at a time when he was also conducting unrelated insurance business contrary to his Salesperson's licence conditions. The licensee was not forthright with his employer or ICBC throughout their investigation of the incident. Following a hearing, the licensee received an 18-month licence suspension, a \$1,000.00 fine, and was assessed Council's investigative costs of \$612.50. The penalty was reduced on appeal to the Financial Services Tribunal to a six-month suspension, \$500.00 fine and investigative costs. Judicial review of that decision is pending.

In *K Styles*, the licensee accessed ICBC's database, without authorization, in order to view information regarding an acquaintance's claims rated scale discount. Council determined that a licence suspension of one year was appropriate in the circumstances, but took into account that the licensee was terminated from her employment as a result of her actions and was unemployed for approximately four months. Consequently, Council determined the licensee should receive a licence suspension of eight months and be assessed Council's investigative costs.

In the Licensee case, Council identified a number of mitigating factors that distinguished the Licensee's situation and warranted a reduction in penalty.

The Licensee reported his conduct to the Supervisor on his own initiative, and took steps to ensure his employer was aware of the issue and could deal with it in an appropriate manner. Council noted the importance of recognizing the Licensee for his conduct in this regard. Three years has passed since this incident, which occurred when the Licensee had been licensed with Council for approximately one year. When contacted by Council, the Licensee was immediately cooperative, and was forthright throughout the investigation. The Licensee expressed considerable remorse for his actions, and has taken steps to educate himself regarding privacy issues. In all of the circumstances, Council determined that a fine of \$1,000.00 was appropriate to address the breach of privacy by the Licensee.

Failure to Disclose

Council found the Licensee's non-disclosure constituted a breach of Council Rule 7(3) for failing to notify Council within five business days of the initial criminal charge and subsequent traffic conviction under the MVA.

As a result, Council found that the Licensee made a material misstatement on his annual filings in 2011 and 2012, when he confirmed he was in compliance with all Council Rules, including "*all mandatory disclosures to Council.*"

Council accepted that it was not the Licensee's intention to hide the charges or conviction from Council, and that the breaches occurred due to his failure to familiarize himself with Council Rule 7(3). However, it is Council's position that it is the Licensee's responsibility to be aware of, and comply with, Council Rules.

Council considered that a fine of \$500.00 for each non-disclosure and the assessment of investigative costs was appropriate to address the Licensee's failure to comply with Council Rule 7(3) regarding the charges and conviction, and the resulting misstatement on his annual filings.

INTENDED DECISION

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

1. Fine the Licensee \$2,000.00.
2. Assess the Licensee Council's investigative costs of \$500.00.

The Licensee is advised that should the intended decision become final, the fine and costs will be due and payable within 90 days of the date of the order. In addition, failure to pay the fine and costs within the 90 days will result in the automatic suspension of the Licensee's general insurance licence and the Licensee will not be permitted to complete any annual filing until such time as the fine and costs are paid in full.

The intended decision will take effect on **December 2, 2014**, subject to the Licensee's right to request a hearing before Council pursuant to section 237 of the Act.

RIGHT TO A HEARING

If the Licensee wishes to dispute Council's findings or its intended decision, the Licensee 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 Licensee must give notice to Council by delivering to its office written notice of this intention by **December 1, 2014**. 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 Licensee does not request a hearing by **December 1, 2014**, the intended decision of Council will take effect.

Even if this decision is accepted by the Licensee, 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 12th day of November, 2014.

For the Insurance Council of British Columbia



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