

In the Matter of

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

and

The *INSURANCE COUNCIL OF BRITISH COLUMBIA*
(“Council”)

and

COPELLA MILLER
(the “Licensee”)

ORDER

As Council made an intended decision on June 22, 2013, 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 July 18, 2013; 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. A condition is imposed on the Licensee’s general insurance licence that restricts her to holding a Level 1 general insurance salesperson licence until such time as she accumulates an additional twelve months of active licensing.
2. A condition is imposed on the Licensee’s general insurance licence that requires her to complete the Insurance Corporation of British Columbia’s Autoplan Essentials course within six months of obtaining an active general insurance licence, or her general insurance licence is automatically suspended without further action from Council.
3. The Licensee is assessed Council’s investigative costs of \$425.00.

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4. A condition is imposed on the Licensee's general insurance licence that requires her to pay the above-ordered investigative costs no later than **November 6, 2013**. If the Licensee does not pay the ordered investigative costs in full by this date, the Licensee's general insurance licence is suspended as of **November 7, 2013**, without further action from Council and the Licensee will not be permitted to complete any annual filing until such time as the ordered investigative costs are paid in full.

This order takes effect on the **6th day of August, 2013**.



Rita Ager, CFP, CLU, RHU, CSA
Chairperson, Insurance Council of British Columbia

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA
(“Council”)

respecting

COPELLA MILLER
(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.

As part of Council’s investigation, on May 13, 2013, an Investigative Review Committee (the “Committee”) met with the Licensee to discuss allegations that the Licensee failed to report a charge and conviction under the *Insurance (Vehicle) Act* (formerly the *Motor Vehicle Act*) to Council within the required five-business-day notification period and incorrectly reported on her 2011 annual filing that she was in compliance with the requirements under Council Rules.

The Committee comprised of one voting member and three non-voting members of Council. Prior to the Committee meeting with the Licensee, an investigation report was distributed to the Committee and the Licensee for review. A discussion of this report took place at the meeting and the Licensee was provided an opportunity to clarify the information contained therein and make further submissions. Having reviewed the investigation materials and after discussing this matter with the Licensee, the Committee made a recommendation to Council as to how this matter should be disposed.

A report setting out the Committee’s findings and recommended disposition, along with the aforementioned investigation report, was reviewed by Council at its June 22, 2013 meeting. At the conclusion of its meeting, Council accepted the Committee’s recommended disposition and 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/or 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

The Licensee's conviction stems from a motor vehicle accident that occurred in 2009, prior to the Licensee becoming licensed with Council. The Licensee provided false or misleading information to the Insurance Corporation of British Columbia ("ICBC") during its claims investigation and was convicted on this basis.

The Licensee advised the Committee that following the accident (which she considered to be minor) in her mother's vehicle in September 2009, she falsely reported to ICBC that she did not normally drive the vehicle to work. In fact, she often drove her mother's vehicle and did not regularly receive rides to work as she reported to ICBC.

On November 30, 2009, the Licensee obtained a Level 1 general insurance salesperson ("Salesperson") licence. Her licence became inactive on January 18, 2010, after her authority to represent an agency was terminated.

On November 1, 2010, the Licensee was charged under section 42.1(2)(a) of the *Insurance (Vehicle) Act* for providing false or misleading information to ICBC during the claims process related to the accident.

As part of her 2011 annual filing, the Licensee confirmed she was in compliance with the requirements relating to all mandatory disclosures to Council, one of them being the duty to disclose a criminal charge. At the time of this filing, the aforementioned charge was pending against the Licensee.

The Licensee advised the Committee that, prior to completing her 2011 annual filing, she contacted Council staff and was advised that she should send a letter to Council advising of the incident. She stated she did not send a letter as advised at that time, as she was waiting for the matter to "*be sorted out.*"

On November 28, 2011, the Licensee was convicted of the charge. She was fined \$2,000.00 and assessed a victim surcharge of \$300.00.

On April 25, 2012, the Licensee provided a written statement to Council by fax with information about the conviction, and advised she would be paying \$2,500.00 to ICBC for the damage caused in the accident to a third party's vehicle. This was the first time the Licensee notified Council of the matter.

ANALYSIS

The Licensee's position was that as a new licensee with less than two months experience, she was not familiar with Council Rules and did not understand her obligation to notify Council of her charge and conviction within five business days as required.

Council appreciated the fact the Licensee had only held an active general insurance licence for approximately two months, and that her failure to report the charge and conviction occurred at a time when she held an inactive licence. Council was, nonetheless, concerned that while the Licensee understood she could keep her licence inactive by completing annual filings, she failed to understand her other responsibilities under Council Rules.

In addition, the Licensee acknowledged that, prior to submitting her 2011 annual filing, she was aware of her obligation to disclose the pending charge to Council, but made her 2011 annual filing without doing so. Council was also concerned with the circumstances surrounding the conviction, which it believes reflects on a person's trustworthiness.

Council determined these concerns could be addressed by imposing a condition on the Licensee's licence that restricts her to holding a Salesperson licence, which is subject to direct supervision, until such time as she has accumulated an additional 12 months of active licensing, and imposing a condition on her licence that requires her to complete the ICBC Autoplan Essentials course within six months of her licence being reactivated.

Regarding the Licensee's failure to disclose the charge and conviction to Council within the required timeframe and on her 2011 annual filing, Council determined such conduct could warrant a fine. However, in this case, since the Licensee has incurred relatively substantial financial penalties related to this matter, Council held that imposing a fine would be overly punitive.

INTENDED DECISION

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

1. Impose a condition on the Licensee's general insurance licence that restricts her to holding a Salesperson licence until such time as she accumulates an additional twelve months of active licensing.
2. Impose a condition on the Licensee's general insurance licence that requires her to complete the ICBC Autoplan Essentials course within six months of obtaining an active general insurance licence.
3. Assess the Licensee Council's investigative costs of \$425.00.

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

The intended decision will take effect on **August 6, 2013**, 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 **August 5, 2013**. 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 **August 5, 2013**, 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 www.fst.gov.bc.ca or contact them directly at:


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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 **18th day of July, 2013.**

For the Insurance Council of British Columbia



Gerald D. Matier
Executive Director

GM/tp