

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

and

The INSURANCE COUNCIL OF BRITISH COLUMBIA
(“Council”)

and

HARVINDER KAUR
(the “Licensee”)

ORDER

As Council made an intended decision on April 16, 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 May 2, 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. The Licensee’s general insurance licence is suspended for a period of 30 days.
2. 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 has accumulated an additional 12 months of active licensing from the date of this order.
3. A condition is imposed on the Licensee’s general insurance licence that requires her to complete an errors and omissions course approved by Council within six months of the date of this order, or her general insurance licence will be suspended without further action from Council.
4. The Licensee is fined \$2,000.00.
5. The Licensee is assessed Council’s investigative costs of \$906.25.

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A condition is imposed on the Licensee's general insurance licence requiring that she pay the above-ordered fine and investigative costs no later than **August 21, 2013**. 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 **August 22, 2013**, 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.

The Licensee's suspension will begin on **June 4, 2013**, and end on **July 3, 2013** at midnight.

This order takes effect on the **21st day of May, 2013**.



C. David Porter, LL.B., FCIP, CRM
Chairperson, Insurance Council of British Columbia

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA

("Council")

respecting

HARVINDER KAUR

(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 March 11, 2013, an Investigative Review Committee (the "Committee") met with the Licensee to discuss allegations the Licensee processed two temporary operating permits ("TOP") for a vehicle in order for it to go through AirCare, then voided the transactions without remitting premiums to the Insurance Corporation of British Columbia ("ICBC"). The Licensee also completed a new registration for the same vehicle, naming herself as the registered owner, without proper transfer documentation and participation from the registered owner, then voided the transaction the following day.

The Committee was 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 the manner in which 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 April 16, 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 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 had been employed full-time with an agency (the "Agency") since August 28, 2009. She was terminated on May 14, 2012 for improperly issuing and voiding two TOPs for a 1999 Ford Escort (the "Vehicle").

The Vehicle was originally owned by the Licensee's brother. On August 5, 2011, the Vehicle was "gifted" to a family friend (the "Friend"), who also worked for the Agency, but at a different branch. The Licensee told Council staff that the Friend borrowed the Vehicle for a short period of time as she was learning to drive.

On December 13, 2011, the insurance on the Vehicle was cancelled by the Friend, and the Vehicle was parked in the Licensee's driveway. The Vehicle needed to undergo AirCare prior to being reinsured. The Licensee stated she was in India with her brother when the Friend parked the Vehicle at their house. The Licensee returned from India in April 2012. Upon her return, the Licensee decided she wanted to use the Vehicle to commute to work.

While working at the Agency on Saturday, May 12, 2012, the Licensee issued a two-day TOP for the Vehicle in the Friend's name, as the Friend was still the registered owner. The Licensee stated she intended to obtain the Friend's signature that evening and had the funds to pay for the TOP, but voided the TOP before submitting the fee and obtaining a signature.

On that same morning, the Licensee scanned and emailed the TOP to herself, then forwarded the email to her brother, who printed the TOP in order to tape it to the Vehicle for use. The Licensee is aware that TOPs cannot be sent electronically and must be printed on ICBC paper.

On that same day, the Vehicle went through AirCare and passed. The Licensee stated she was unaware the Vehicle had gone through AirCare that day. The Licensee voided the TOP at the end of her shift at the Agency.

On Sunday, May 13, 2012, the Licensee issued a one-day TOP for the Vehicle under the Friend's name. She did not check the AirCare system and, therefore, thought she required an extra day. The Licensee did not remit the premium to ICBC. The TOP was subsequently voided that same day, when the Licensee learned that the Vehicle had gone through AirCare.

That evening, the Licensee registered the Vehicle in her name, without completing proper Autoplan transfer forms or obtaining required signatures from the Friend.

The following morning, the Licensee went to work at the Agency and voided the registration she completed the prior evening, and noted on the Autoplan document "*manager has to do transfer.*" The Licensee explained she made this note as she realized she was not permitted to process her own Autoplan transactions. That same morning, the Licensee stated she told her manager at the Agency about the registration documents she had voided. The Licensee stated she also told her manager about the TOPs she voided on the weekend. Ultimately, her actions resulted in her being terminated by the Agency the same day.

The Licensee stated she cannot excuse or explain her actions. She acted solely on her own, and the Friend was unaware of what she was doing. She is currently working at a different agency and her employer is aware of her previous conduct.

ANALYSIS

Council determined the Licensee improperly processed two consecutive TOPs and voided the transactions without remitting the required premiums, and improperly completed a new registration for the Vehicle without obtaining the proper transfer documentation and without the participation of the registered owner. Council held that this conduct was contrary to the usual practice of the business of insurance.

While Council appreciated that the Licensee admitted her behaviour to her previous and current employers, it was concerned the Licensee did not recognize the serious risks associated with her improper transactions. Council noted that the improper TOPs left the possibility of an uninsured claim in the event of an accident. Council found that the Licensee's failure to recognize the greater risks to the public associated with her improper transactions and procedures reflected on her level of competency.

Council determined the Licensee voided the TOP transactions in order to avoid paying the premium fees. Council felt the Licensee acted in an untrustworthy manner by voiding the transactions in order to avoid her payment obligations.

Council held that measures were necessary to address the issue of the Licensee's competency with respect to her failure to recognize the public risk associated with the issuance of improper TOPs, as well as to address the issues of trustworthiness and avoidance of payments.

Council determined that a suspension of 30 days, along with a fine of \$2,000.00 (\$1,000.00 for each improper TOP transaction) would address the Licensee's conduct. Council further determined that an errors and omissions ("E&O") course would also be appropriate in the circumstances.

Consideration was given to whether a lengthier suspension of the Licensee's licence would be appropriate, however, given the Licensee's forthright explanation for her behaviour and the support of her current employer, Council was satisfied that 30 days would be a sufficient deterrent in this case. Council held that the Licensee should remain as a Level 1 general insurance salesperson ("Salesperson") for a period of 12 months following the completion of her suspension.

INTENDED DECISION

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

1. Suspend the Licensee's general insurance licence for a period of 30 days.
2. Impose a condition on the Licensee's general insurance licence that restricts her to holding a Salesperson licence until such time as she has accumulated an additional 12 months of active licensing from the date of Council's order.
3. Impose a condition on the Licensee's general insurance licence that requires her to successfully complete an E&O course approved by Council within six months of the date of Council's order.
4. Fine the Licensee \$2,000.00.
5. Assess the Licensee Council's investigative costs of \$906.25.

The Licensee is advised that should the intended decision become final, the fine and costs which form part of the order 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 or failure to complete the E&O course will result in the automatic suspension of the Licensee's licence until the conditions are met.

The intended decision will take effect on **May 21, 2013**, subject to the Licensee's right to request a hearing before Council pursuant to section 237 of the Act.

The Licensee's suspension will begin on **June 4, 2013**, and end on **July 3, 2013** at midnight.

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 **May 20, 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 **May 20, 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:

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 **2nd day of May, 2013**.

For the Insurance Council of British Columbia



Gerald D. Matier
Executive Director

GM/cp