

In the Matter of

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

and

The INSURANCE COUNCIL OF BRITISH COLUMBIA
("Council")

and

JASON JOSEPH DILLON RIOUX
(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 14, 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 reprimanded.
2. The Licensee is assessed Council's investigative costs of \$1,137.50.
3. A condition is imposed on the Licensee's general insurance licence that requires him to pay the above-ordered investigative costs no later than **March 3, 2015**. 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 **March 4, 2015**, 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 **3rd day of December, 2014**.



Ruth Hoyte
Chairperson, Insurance Council of British Columbia

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA
(“Council”)

respecting

JASON JOSEPH DILLON RIOUX
(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.

On September 15, 2014 a Review Committee (the “Committee”) met with the Licensee, his employer, and his employer’s lawyer to discuss allegations that the Licensee failed to properly conduct an Autoplan transaction.

Prior to the Committee’s 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, were reviewed by Council at its October 21, 2014 meeting and a determination on how the matter should be disposed of is 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 has a Level 1 general insurance salesperson licence. He has been licensed with Council since November 17, 2010.

The Renewal

In October 2012, a lease customer (the "Lease Customer") obtained a lease vehicle from an auto dealership (the "Auto Dealership"). The Licensee was a mobile road service agent at the Auto Dealership and conducted the insurance transactions for the Lease Customer.

The Licensee advised that around the time of the Lease Customer's renewal in September 2013, the business manager of the Auto Dealership asked him to call several customers that had upcoming Insurance Corporation of British Columbia ("ICBC") renewals.

According to the Licensee, he called and spoke with the Lease Customer on the telephone on September 20, 2013. He informed the Lease Customer that his auto insurance renewal was coming up and told him that he offered a delivery service and would be able to deliver the renewal policy to him. The Lease Customer agreed to have the Licensee do the renewal. The Licensee discussed coverage with the Lease Customer and noted "all coverages confirmed" with the Licensee's initials on the transaction documents. The Licensee did not take any other notes of the conversation.

The Licensee and the Lease Customer were unable to arrange a time to meet, so the Licensee arranged to process the renewal and mail it to the Lease Customer. The Licensee mailed the decal and the customer copy of the ICBC transaction to the Lease Customer by Canada Post standard mail.

There is a conflict in the evidence regarding whether or not the Lease Customer and the Licensee discussed the renewal prior to the Licensee mailing out the transaction documents. According to the Lease Customer, he does not recall speaking to the Licensee on the telephone about the renewal. The Lease Customer stated that he eventually contacted the Licensee after receiving the mailed documents, and the Licensee told him that he renewed the Lease Customer's insurance as a convenience to him. The Lease Customer stated that he then told the Licensee that he had not given him permission to renew his vehicle.

The Lease Customer stated that the insurance the Licensee obtained for him was identical to the insurance that he had the year before. He had no problem with the actual coverage that the Licensee obtained.

ICBC Policy

Section 1.1 of the ICBC manual states the following:

Business conducted by mail

It is recognized that a small percentage of inventory is mailed to motorists, both within the province and beyond.

To ensure delivery of number plates and decals, follow these procedures:

- *Within BC: When the mailing of number plates and decals is unavoidable (for example, fleets), use business reply mail, signature service courier, registered mail, express, priority, or parcel post. Maintain a record of all transactions and inventory sent...*

The Licensee was at the Auto Dealership at the time that he executed the ICBC renewal. He had the business manager of the Auto Dealership sign the Owner's Certificate of Insurance and Vehicle Licence page, but he did not have her sign the Coverages Fees and Premiums section, or the Excess Underinsured Motorist Protection Policy section.

The Lease Customer did not sign the Payment Plan Agreement (APF207A) section of the ICBC documents. The Licensee advised that he did not ask the Lease Customer to sign the Payment Plan Agreement (APF207A) section of the ICBC documents.

Section 18.2 of the ICBC manual states the following:

You must confirm that the person signing the APF207A or APF207

- *is the payment plan owner, and*
- *has signing authority for the account used...*

The signature on the Payment Plan Agreement is required in addition to your customer's signature on the APV250 or APV9. It confirms that your customer understands and agrees to the Terms and Conditions of the payment plan.

Your customer's signature on the Payment Plan Agreement is required for all financed transactions.

With respect to securing required signatures in the renewal transaction, the Licensee stated that "all I knew was the dealership had authority to sign for the policy, but I didn't feel they had authority to sign for the customer's info so I left that blank." He has since realized that the Lease Customer's signature was required on the payment policy documents.

The Licensee is now aware of the requirements regarding payment plan signatures and mailing protocol, and has advised he will not make the same mistakes again.

Employer Response

The Licensee received a Letter of Reprimand from his employer. He was suspended for two days and placed on probation for three months. The Licensee was required to re-take the ICBC basic Autoplan course.

ANALYSIS

Council considered the actions of the Licensee and the Licensee's submissions.

With regard to whether the Licensee contacted the Lease Customer before renewing his auto insurance, Council noted that there were differing stories being told by the Licensee and the Lease Customer. Based on an e-mail sent by the Lease Customer to the Licensee, Council accepted the Licensee's position that he had contacted the Lease Customer about the renewal and that he had authority to process the renewal from the Lease Customer. Council noted that had the Licensee conducted the transaction in accordance with the usual practice of the business of insurance, he would have properly documented his telephone conversations with the Lease Customer.

However, Council determined the Licensee failed to properly conduct the renewal transaction. In particular, he did not secure the Lease Customer's signature on the payment plan document as required, and should not have mailed the transactional documents to the Lease Customer by regular mail.

Council considered the precedent of *A. Kuhn*. In *A. Kuhn*, Council determined that the licensee, who was experienced, failed to properly execute an ICBC transaction. Council held that the licensee was under pressure to service a client in a timely manner, and deviated from her normal practice. Council determined that a reprimand and assessment of investigative costs was appropriate to address the licensee's failure to act in accordance with the usual practice.

In this case, Council determined that the Licensee failed to act in accordance with the usual practice when he failed to follow ICBC procedures. Council found that the Licensee ought to have known better given his experience conducting Autoplan business over the past three years. Council determined the Licensee exercised poor judgment when he was under pressure to service a client in a timely manner.

In determining a penalty, Council took into consideration the fact the Licensee was disciplined by his employer and had completed the ICBC basic Autoplan course prior to Council's decision.

Council determined that an appropriate penalty was a reprimand and the assessment of investigative costs.

INTENDED DECISION

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

1. Reprimand the Licensee.
2. Assess the Licensee Council's investigative costs of \$1,137.50.

The Licensee is advised that should the intended decision become final, the costs will be due and payable within 90 days of the date of the order. In addition, failure to pay the 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 costs are paid in full.

The intended decision will take effect on **December 3, 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 2, 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 2, 2014**, the intended decision of Council will take effect.

Intended Decision
Jason Joseph Dillon Rioux
182569-I1490
November 14, 2014
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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 14th day of November, 2014.

For the Insurance Council of British Columbia



Gerald D. Matier
Executive Director
604-695-2001
gmatier@insurancecouncilofbc.com

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