

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

and

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

and

MARC-STEPHAN PARROUTY
(the “Licensee”)

ORDER

As Council made an intended decision on February 11, 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 March 18, 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. A condition is imposed on the Licensee’s general insurance licence that, if the Licensee seeks to represent another insurance agency, he must first inform the intended employer of the circumstances surrounding all of Council’s investigations into his conduct and the resulting licence conditions.
2. A condition is imposed on the Licensee’s general insurance licence that requires him to complete the Insurance Corporation of British Columbia’s “Privacy Please” tutorial by **July 8, 2014**, or his general insurance licence will be suspended without further action from Council.
3. A condition is imposed on the Licensee’s general insurance licence that restricts him from upgrading his licence without further consideration by Council.
4. The Licensee is fined \$1,000.00.

5. The Licensee is assessed Council's investigative costs of \$875.00.
6. 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 **July 8, 2014**. 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 **July 9, 2014**, 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 **8th day of April, 2014**.



Rita Ager, CFP, CLU, CHS, CPCA, FEA
Chairperson, Insurance Council of British Columbia

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA
("Council")

respecting

MARC-STEPHAN PARROUTY
(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 January 13, 2014, an Investigative Review Committee (the "Committee") met with the Licensee to discuss allegations that, contrary to Council Rule 7(8), the Licensee failed to act in a trustworthy and competent manner, in good faith, and in accordance with the usual practice of the business of insurance by: conducting unauthorized access of the Insurance Corporation of British Columbia ("ICBC") database to obtain information on an ICBC policyholder; processing an ICBC Autoplan 12 premium financing transaction contrary to ICBC protocol; and, completing a transfer of a vehicle without following the required transactional steps.

The Committee was comprised of one voting member and three non-voting members of Council. 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, was reviewed by Council at its February 11, 2014 meeting 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 has been licensed as a Level 1 general insurance salesperson ("Salesperson") since June 1997, and has been employed at his current agency (the "Agency") since November 2004.

On May 30, 2012, the Licensee facilitated the transfer of a vehicle from the registered owner (the "Owner") to the Owner's son and daughter-in-law (the "New Owners"). The Owner was hospitalized during the transaction, did not meet with the Licensee as part of the transaction, and is now deceased.

The New Owners elected to finance the insurance premium under a monthly payment plan through ICBC's Autoplan 12 premium financing program. This program requires that a void cheque, in the name of the registered owner of the vehicle, be provided to facilitate the financing. The Licensee did not receive a void cheque from either of the New Owners, as required by the program. Instead, at the request of the Owner's son, the Licensee processed the transaction using the Owner's banking information, which the Licensee obtained by accessing the Owner's financial information on the ICBC database. The Licensee did so without the Owner's knowledge or authorization.

The Licensee admitted he was aware that, according to ICBC rules, the bank account for Autoplan 12 premium financing must be in the name of the registered owner of the vehicle. The Licensee listed the Owner's daughter-in-law as the account holder, which did not correspond with the bank account used for the premium financing. The Licensee claimed that he used the Owner's banking information to assist the New Owners as they were experiencing financial difficulties.

The Licensee was unable to articulate whether he thought his actions constituted a breach of privacy, but claimed the Owner's son had permission from the Owner and that the Licensee utilized the Owner's banking information based on trust and good faith. The Licensee claimed he had developed a relationship with the family, having insured all of their vehicles over a number of years.

In order to facilitate the vehicle transfer, the Licensee was also required to complete an ICBC Transfer/Tax Form and a Vehicle Registration Form. The ICBC Autoplan guide requires that the licensee completing the transaction must first view the purchaser's identification. In this case, the Licensee completed this section of the ICBC Transfer/Tax Form by stating that the purchasers were "*known to agent*." The Licensee admitted that he did not view the New Owners' identification in order to complete this form.

On the ICBC Transfer/Tax Form the Licensee recorded the purchase price of the vehicle at \$1.00. The Licensee recorded the applicable tax payable as \$0.12, and paid it himself. The Licensee explained that the vehicle was being transferred from the Owner to the New Owners as a gift. However, a gift letter was not obtained from the Owner and therefore the Licensee could not process the transfer as a gift. The Licensee admitted that he did not follow the usual process for determining the applicable tax payable on the transfer of a vehicle with a \$1.00 value.

The Licensee claimed his conduct was not for personal gain, although he made a small commission on the transaction, but to accommodate his customers.

The Licensee claimed that he has since learned to follow proper procedures while conducting insurance transactions. The Licensee explained that the Agency has monitored his transactions since ICBC first investigated this matter in August 2012.

The Licensee was the subject to prior discipline by Council. On January 17, 2005, the Licensee was reprimanded for failing to act in a competent manner and in accordance with the usual practice of the business of insurance. The Licensee was found to have mishandled ICBC transactions by: processing ICBC insurance for 15 clients without their knowledge or permission and signing the names of the clients on insurance documents; and, signing on behalf of dealerships when processing dealer vehicle transfers rather than attending dealerships to obtain the appropriate signatures.

ANALYSIS

Council considered the actions of the Licensee and determined that, contrary to Council Rule 7(8) the Licensee failed to act in accordance with the usual practice of the business of insurance by: conducting unauthorized accesses of the ICBC database to obtain the Owner's banking information; processing an ICBC Autoplan 12 premium financing transaction contrary to ICBC protocol; and, completing a transfer of a vehicle without following the required transactional steps.

Council considered the precedents *S. Kearns*, *E. Dela Cruz*, *M. Le Flour*, and *T. Li*.

In *S. Kearns*, the licensee forged the signatures of two clients when executing insurance transactions for them. Council concluded that the forgeries were done for convenience. Council fined the licensee \$1,000.00, assessed investigative costs, required the licensee to complete an errors and omissions course, and required the licensee to remain under supervision for 12 months of active licensing.

In *E. Dela Cruz*, the licensee improperly executed ICBC transactions by allowing a customer to forge an ex-husband's signature on transactional documents. Council considered whether supervision or educational conditions were required in this case, but determined there was no concern with the licensee's overall competency and that such conditions were not necessary. Council fined the licensee \$1,000.00, and assessed investigative costs.

In *M. Le Flour*, the licensee processed an ICBC automobile insurance transaction without the proper authority of the registered owner. Council concluded that the unauthorized transaction was done for convenience. Council fined the licensee \$1,000.00, assessed investigative costs, required the licensee to complete ICBC's Autoplan Essentials course within six months of obtaining an active general insurance licence, and required the licensee to remain under supervision until such time as she accumulated an additional 12 months of active licensing.

In *T. Li*, the licensee accessed an ICBC database to look up an ICBC policy holder's telephone number. The licensee disclosed the policy holder's telephone number to one of her clients. Council determined that the licensee's conduct was a misguided attempt to assist a client in a claim matter. Council concluded that the licensee ought to have known that she was not permitted to access ICBC's database for the purpose that she did, and found that she acted carelessly. Council fined the licensee \$1,000.00, assessed investigative costs, required the licensee to complete a privacy course, and restricted the licensee from upgrading her general insurance licence until such time as she had accumulated an additional 12 months of active licensing as a Level 1 general insurance salesperson.

Council determined the Licensee's conduct was similar to the above-noted precedent cases involving improper ICBC transactions and the intent of a licensee to assist or convenience clients.

Council found that the Licensee's conduct constituted a breach of privacy when he accessed the Owner's banking information without authorization, and that the Licensee knowingly failed to follow the prescribed protocols and transactional steps required for the transfer and financing of the Owner's vehicle. Council recognized that the Licensee's conduct left open the possibility of an uninsured claim.

Council found the Licensee's conduct was mitigated by the fact that the privacy breach was conducted during an insurance transaction, the Licensee had an established relationship with his clients, and his intent was only to convenience his clients. Further, Council noted that there was no evidence before it to indicate the Owner was not in agreement with the vehicle transfer and insurance premium financing.

Council acknowledged that the Licensee was the subject of prior discipline, but also recognized that he had conducted insurance business for approximately eight years without incident. However, Council expressed concern that the Licensee did not understand the ramifications of his conduct, particularly in light of his prior discipline.

In addition, Council found the Licensee's conduct reflected on his competency as a Salesperson. Council noted this was the second time the Licensee was before Council for mishandling ICBC insurance transactions, and noted that future breaches of Council Rules could bring into question the Licensee's suitability to act as a Salesperson.

Based on the foregoing, Council determined the matter could best be resolved through a fine and a number of licence conditions.

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, if the Licensee seeks to represent another insurance agency, he must first inform the intended employer of the circumstances surrounding all of Council's investigations into his conduct and the resulting licence conditions.
2. Impose a condition on the Licensee's general insurance licence that requires him to complete ICBC's "Privacy Please" tutorial within 90 days of the date of Council's order.
3. Impose a condition on the Licensee's general insurance licence that restricts him from upgrading his licence without further consideration by Council.
4. Fine the Licensee \$1,000.00.
5. Assess the Licensee Council's investigative costs of \$875.00.

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, or failure to complete ICBC's "Privacy Please" tutorial within 90 days of the date of Council's order, will result in the automatic suspension of his general insurance licence and he will not be permitted to complete any annual filing until such time as the fine and costs are paid in full.

Intended Decision
Marc-Stephan Parrouty
133130-I1284
March 18, 2014
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The intended decision will take effect on **April 8, 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 **April 7, 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 **April 7, 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 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 **18th day of March, 2014**.

For the Insurance Council of British Columbia



Gerald D. Matier
Executive Director

GM/cp