

In the Matter of

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

and

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

and

KANESARATNA SHARMA SIVAGNANA IYER
(the “Licensee”)

ORDER


As Council made an intended decision on April 11, 2017, pursuant to sections 231 and 236 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 June 21, 2017; 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 and 236 of the Act, Council orders the Licensee’s general insurance licence is suspended for a period of six months commencing on **August 4, 2017** and ending at midnight on **February 3, 2018**.

This order takes effect on the **11th day of July, 2017**.



Michael B. Connors, CIP, WRT, CRM
Chairperson, Insurance Council of British Columbia

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA
(“Council”)

respecting

KANESARATNA SHARMA SIVAGNANA IYER
(the “Licensee”)

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 by entering false information relating to Insurance Corporation of British Columbia (“ICBC”) Autoplan transactions in an effort to override outstanding toll bridge debts.

An investigation report was considered by Council at its April 11, 2017 meeting, where it was 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 and 236 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 is a Level 2 general insurance agent who has been licensed in British Columbia since 2010.

Overview: Toll Bridge Debt

In June 2015, ICBC commenced an investigation after becoming aware that some insurance licensees may be entering false information relating to ICBC Autoplan in an effort to override outstanding toll bridge debts. Under Volume 1, section 12.5 of the ICBC Autoplan Manual, the *Toll Bridge Restriction* requirements state that “customers who have unpaid toll bridge fees are subject to a refuse to issue (RTI) by ICBC on their driver licences, vehicle licences, and insurance policies.”

For the period under review, there were two toll bridge administrators, Quickpass for the Golden Ears Toll Bridge (“GETB”) and TReO for the Port Mann Toll Bridge (“PMTB”). Since the initial investigation, TReO now has the capacity to administer both bridges.

An RTI restriction related to toll bridge debt was applied differently depending on the bridge. For the PMTB, an RTI restriction was applied if more than \$25.00 was owed and the toll was over 90 days past due; and for GETB, an RTI restriction was applied if the toll debt was over 150 days past due.

An insurance licensee was not able to accept payment or make payment arrangements for toll bridge debts on behalf of a customer. In such situations, an insurance licensee was to direct the customer to contact the applicable bridge administrator to pay the outstanding toll bridge debt. An insurance licensee was then required to confirm the customer had paid the toll bridge debt in full before processing an ICBC Autoplan transaction.

ICBC Investigation

An RTI restriction relating to a toll bridge debt could be overridden if an insurance licensee entered a receipt number that was issued by Quickpass or TreO to a customer upon the payment of an outstanding toll bridge debt. Valid receipt numbers contain a combination of letters and numbers.

For the 18-month period from January 1, 2014 to June 15, 2015, ICBC compared all of the valid receipt numbers issued to customers by Quickpass and TreO, to all the receipt number entries made by every insurance licensee into ICBC’s system for the same period. This resulted in a list of false receipt numbers, which included details on the insurance licensee who completed the transaction and the name of the customer involved in the insurance transaction.

The Licensee was interviewed by ICBC on August 11, 2015. He acknowledged that, on February 18, 2015, he processed his own Autoplan transaction for the renewal of his personal vehicle. At the time, he had a PMTB debt, which he bypassed in order to renew his vehicle’s insurance coverage. The toll bridge debt was subsequently paid by the Licensee.

ANALYSIS

Council found that the Licensee improperly conducted his own Autoplan renewal by intentionally bypassing his toll bridge debt.

Insurance licensees are expected to carry on the business of insurance in a competent and trustworthy manner, in good faith, and in accordance with the usual practice of the business of insurance. In addition, an insurance licensee has a duty to the insurer to comply with the process established for completing an insurance transaction on behalf of that insurer. The Licensee's actions in entering a false toll bridge receipt number when renewing the insurance on his vehicle breached his responsibility to ICBC, as well as to the toll administrator.

In bypassing his toll bridge debt requirements for his motor vehicle, Council determined the Licensee took this action for personal benefit or convenience.

The Licensee's conduct in providing a false toll bridge debt receipt number speaks to his suitability to hold an insurance licence. Council found that the Licensee's actions warranted a suspension of his general insurance licence.

By failing to follow ICBC's procedure when bypassing the toll bridge debt requirements, Council determined the Licensee's actions brought into question his trustworthiness, and his ability to act in good faith and in accordance with the usual practice of the business of insurance.

Council determined the Licensee's conduct in providing false information to facilitate a personal insurance transaction represented a serious breach of his responsibilities and it is necessary to send a clear message to both the Licensee and the industry that such conduct is unacceptable.

INTENDED DECISION

Pursuant to sections 231 and 236 of the Act, Council made an intended decision to suspend the Licensee's general insurance licence for a period of six months.

The Licensee's suspension will begin on **August 4, 2017**, and end at midnight on **February 3, 2018**.

The intended decision will take effect on **July 10, 2017**, 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 **July 11, 2017**. 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 **July 11, 2017**, 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 **21st day of June, 2017**.

For the Insurance Council of British Columbia



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

GM/rm