

In the Matter of

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

and

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

and

**MELANIE JUNE LUND
(the “Licensee”)**

ORDER

As Council made an intended decision on January 10, 2017, 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 January 31, 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, 236, and 241.1 of the Act, Council orders:

1. The Licensee is reprimanded.
2. The Licensee is fined \$1,000.00.
3. A condition is imposed on the Licensee’s general insurance licence that requires the Licensee to successfully complete the following courses: Autoplan Basics for Brokers Program available through the Insurance Corporation of British Columbia; an errors and omissions course approved by Council; and the Council Rules Course. If the Licensee does not successfully complete all of these courses on or before **May 22, 2017**, the Licensee’s general insurance licence is suspended as of **May 23, 2017** without further action from Council, and the Licensee will not be permitted to complete any subsequent annual filings until such time as all of the above-noted courses are successfully completed.
4. The Licensee is assessed Council’s investigative costs of \$587.50.

5. A condition is imposed on the Licensee's general insurance licence that requires the Licensee to pay the above-ordered fine and investigative costs no later than **May 22, 2017**. 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 **May 23, 2017** without further action from Council, and the Licensee will not be permitted to complete any subsequent annual filings until such time as the ordered fine and investigative costs are paid in full.

This order takes effect on the **21st day of February, 2017**.



Dr. Eric Yung
Chairperson, Insurance Council of British Columbia

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA
(“Council”)

respecting

MELANIE JUNE LUND
(the “Licensee”)

Pursuant to section 232 of the *Financial Institutions Act* (the “Act”), Council conducted an investigation into allegations the Licensee acted improperly when completing a vehicle transfer of ownership.

As part of Council’s investigation, on November 14, 2016, a Review Committee (the “Committee”) met with the Licensee and the nominee (the “Nominee”) of her employer with respect to a complaint regarding the manner in which the Licensee conducted a vehicle transfer transaction.

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 make further submissions. After discussing this matter with the Licensee, the Committee prepared a report for Council.

The Committee’s report, along with the aforementioned investigation report, were reviewed by Council at its January 10, 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, 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 held a Level 2 general insurance agent licence in British Columbia for approximately 21 years.

Council received a complaint from the seller of a vehicle (the "Complainant") regarding concerns over how the Licensee facilitated the transfer of ownership of his vehicle to another person (the "Purchaser").

The Licensee conducted the vehicle transfer at the agency office without the Purchaser of the vehicle, who was a friend of the Licensee, being present. The Complainant was present, as well as the Purchaser's boyfriend.

The Licensee stated she contacted the Purchaser by telephone to confirm details for the vehicle transfer, along with the insurance requirements, once the vehicle transfer was complete. In completing the vehicle transfer transaction, the Complainant signed the Insurance Corporation of British Columbia's ("ICBC") APV9T Transfer/Tax Form (the "Transfer Form") but, because the Purchaser was not present at the agency, her signature was not obtained until later in the day. However, prior to obtaining the Purchaser's signature on the Transfer Form and subsequent insurance documents, the Licensee proceeded with issuing licence plates for the vehicle.

The licence plates, along with the supporting insurance documents, were given to the Purchaser's boyfriend. The vehicle was then driven away by the Complainant's son, who was declared a principal operator on the vehicle. The Complainant's son worked for the Purchaser's boyfriend and the vehicle was purchased for the Purchaser's boyfriend's business.

After the vehicle transfer was complete and the Complainant had left the agency, he realized he had not been provided a copy of the Transfer Form nor received payment for the vehicle. The Complainant contacted the Licensee to obtain the Purchaser's contact information but was told that information could not be divulged.

The Licensee acknowledged that the manner in which the vehicle transfer and insurance transactions were conducted was not her normal practice but the Purchaser was a friend and she was trying to be helpful.

ANALYSIS

The Licensee acknowledged that the manner in which she handled the transfer of the Complainant's vehicle and the subsequent insurance transaction on the vehicle for the Purchaser was improper. The Licensee should not have conducted the vehicle transfer or subsequent insurance transaction without the Purchaser being present.

The Licensee's actions in providing licence plates and insurance for a vehicle when the Purchaser was not present brought into questions the Licensee's competency and ability to act in accordance with the usual practice of the business of insurance. The Licensee's actions created the potential for public risk, in that insurance on a vehicle may not have been valid.

Council concluded that the Licensee, with 21 years of insurance experience, knew that her conduct was inappropriate. In coming to a disposition in this matter, the Committee considered *R. Sahota*, *P. Hung*, and *M. Skelton*.

In *R. Sahota*, the licensee was reprimanded, required to take a course, and assessed Council's investigative costs after Council determined that the licensee cancelled an ICBC policy, without obtaining proper signatures, on a vehicle that was to be left for sale on a motor vehicle dealership's lot. The licensee also misunderstood that the vehicle would be insured under the dealership's garage policy, and when the vehicle was subsequently sold, the signatures on the Vehicle Transfer/Tax Form were not verified.

In *P. Hung*, Council found the licensee turned a blind eye to a suspicious transaction involving the transfer of two luxury motor vehicles and that the licensee lacked familiarity with ICBC's position on conducting personal transactions. As a result, the licensee had conditions imposed on his general insurance licence that required the licensee to take relevant courses and prohibited him from conducting insurance activities other than in an agency office, until the courses had been completed. He was also assessed Council's investigative costs.

In *M. Skelton*, the licensee was fined \$1,000.00 and was assessed Council's investigative costs after Council determined that the licensee circumvented ICBC procedures for the convenience of a friend; improperly transferred a vehicle, claiming it was gifted; and, improperly claimed a PST exemption.

Council concluded that the Licensee should be reprimanded, fined, and assessed Council's investigative costs. In addition, Council determined additional education would be appropriate in this situation.

INTENDED DECISION

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

1. Reprimand the Licensee.
2. Fine the Licensee \$1,000.00.

3. Impose a condition on the Licensee's general insurance licence that requires the Licensee to successfully complete the Autoplan Basics for Brokers Program, available through the Insurance Corporation of British Columbia, within 90 days of the date of Council's order.
4. Impose a condition on the Licensee's general insurance licence that requires the Licensee to successfully complete an errors and omissions course, as acceptable by Council, within 90 days of the date of Council's order.
5. Impose a condition on the Licensee's general insurance licence that requires the Licensee to successfully complete the Council Rules Course within 90 days of the date of Council's order.
6. Assess the Licensee Council's investigative costs of \$587.50.

The Licensee is advised that should the intended decision become final, the fine and investigative costs will be due and payable within 90 days of the date of the order. In addition, failure to pay the fine and investigative costs within the 90 days, or failure to successfully complete the above-noted courses within 90 days of the date of Council's order, 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 fine and investigative costs are paid in full and the above-noted courses have been successfully completed.

The intended decision will take effect on **February 21, 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 **February 20, 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 **February 20, 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.

Intended Decision
Melanie June Lund
LIC-87105C69946R2
January 31, 2017
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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 **31st day of January, 2017.**

For the Insurance Council of British Columbia



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

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