

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

**and**

**The INSURANCE COUNCIL OF BRITISH COLUMBIA**  
**("Council")**

**and**

**SILK MAY TO**  
**(the "Former Licensee")**

**ORDER**

As Council made an intended decision on September 11, 2012, pursuant to sections 231, 236, and 241.1 of the Act; and

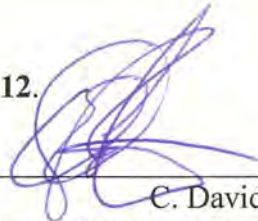
As Council, in accordance with section 237 of the Act, provided the Former Licensee with written reasons and notice of the intended decision dated September 27, 2012; and

As the Former 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 Former Licensee is prohibited from holding a general insurance licence for a minimum period of two years from the date of this order.
2. The Former Licensee is fined \$5,000.00.
3. The Former Licensee is assessed Council's investigative costs of \$1,562.50.
4. As a condition of this order, the Former Licensee is required to pay the above-ordered fine and investigative costs in full no later than **January 16, 2013**.

This order takes effect on the **16<sup>th</sup> day of October, 2012**.

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

## **INTENDED DECISION**

**of the**

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

**respecting**

**SILK MAY TO**  
(the “Former Licensee”)

### **INTRODUCTION**

Pursuant to section 232 of the *Financial Institutions Act* (the “Act”), Council conducted an investigation to determine whether the Former Licensee acted in compliance with the requirements of the Act, while previously licensed as a Level 1 general insurance salesperson (“Salesperson”).

As part of Council’s investigation, on July 16, 2012, an Investigative Review Committee (the “Committee”) met to discuss allegations that the Former Licensee processed Insurance Corporation of British Columbia (“ICBC”) transactions on a vehicle knowing the principal operator of the vehicle was misstated; provided an ICBC decal to a friend without placing insurance on the friend’s vehicle; and took ICBC stock (decal and temporary operating permits) from her employer’s office without proper authority.

The Committee was comprised of one voting member and three non-voting members of Council. Prior to the Committee’s meeting, an investigation report was distributed to the Committee and personally served on the Former Licensee for review. A discussion of this report took place at the meeting. The Former Licensee did not respond to Council’s correspondence on this matter and did not attend the July 16, 2012 meeting.

A report setting out the Committee’s findings and recommended disposition, along with the aforementioned investigation report, was reviewed by Council at its September 11, 2012 meeting. The report was personally served on the Former Licensee for review prior to this 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 Former Licensee of the action it intends to take under sections 231, 236 and/or 241.1 of the Act before taking any such action. The Former 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 Former Licensee.

## FACTS

During the material time, the Former Licensee was authorized to represent three affiliated insurance agencies as a Salesperson.

### *Missing Inventory*

ICBC conducted audits of one of the agencies ("Agency A") on June 8, 2011, April 15, 2010, and July 9, 2009. Several ICBC stock items were missing and were directly attributed to the Former Licensee.

As a result of the June 8, 2011 ICBC audit, Agency A placed restrictions on the Former Licensee and informed her that she was no longer authorized to take unissued ICBC stock out of the office. In July 2011, the Former Licensee stopped working out of the offices of Agency A and one of the other agencies ("Agency B"). She began working exclusively at the third agency ("Agency C").

### *Improper Principal Operator Declaration*

The Former Licensee's friend had a poor driving record which led to high ICBC insurance premiums on his vehicle, a Honda. As the friend did not want to pay the high premiums, he asked the Former Licensee to register and insure his Honda under the name of another person, although he would be driving the vehicle. According to the friend, the Former Licensee advised him he could sign several of the ICBC documents in the other person's name.

The transactional documents completed by the Former Licensee for the Honda indicate that between January 2010 and August 2011, when the Former Licensee worked from the offices of Agency A and Agency C, she repeatedly processed ICBC transactions on the Honda knowing the principal operator of the vehicle was improperly declared and signatures on the transactional documents were forged. This was done to help her friend avoid paying high insurance premiums.



### *Placing a Decal on an Uninsured Vehicle*

In July 2011, the Former Licensee's friend's Honda was in an automotive shop being repaired in order to pass AirCare. At the time, the vehicle was insured under a two-day temporary operating permit. After the Honda was repaired and passed AirCare, the friend asked the Former Licensee to place six months of ICBC insurance on the vehicle while it remained in the automotive shop. He also gave her cash for the premium payment.

The Former Licensee subsequently attended the automotive shop and gave an "October 2011" ICBC insurance decal to the automotive shop's manager. The decal was placed on the Honda; however, the Former Licensee did not subsequently place ICBC insurance on the vehicle.

On August 25, 2011, the friend was pulled over in the Honda by the police. The police saw the vehicle had a current ICBC decal on its licence plate, but the vehicle was not in fact insured. This decal had been taken from Agency A and was directly attributed to the Former Licensee. The Former Licensee advised ICBC that she took the decal from Agency A even after having been advised that she was prohibited from taking unissued ICBC stock out of the office.

The friend reported he was shocked when the police informed him there was no insurance on his vehicle, as he had provided a premium payment to the Former Licensee for the insurance. The Former Licensee admitted to ICBC that she failed to inform the friend that there was no insurance on his vehicle. The Honda was not insured until the Former Licensee processed an insurance transaction on the vehicle on August 26, 2011, the day after the friend was pulled over by the police.

### ANALYSIS

Council concluded that the improprieties described above began at a time when the Former Licensee had approximately eight years' experience as a licensee. Despite this experience, she blatantly disregarded proper practices and direction from her employer. Ultimately, both as a result of no insurance coverage being placed and invalid ICBC coverage, an uninsured driver was on the road for weeks, creating the potential for significant risk to the public. A further aggravating fact was that the driver was harmed as he was pulled over by the police and his vehicle towed when it was determined there was no insurance on his vehicle.

Council found this conduct to be particularly egregious and contrary to the requirements of trustworthiness and good faith, and that the Former Licensee is not suitable to hold an insurance licence for a minimum period of two years. Further, Council determined that since the Former Licensee stood to benefit financially from her intentional misconduct, she ought to be fined. In arriving at this disposition, Council relied on the *P. Ouellette*, *A. Fraser* and *J. Yang* precedents.



### **INTENDED DECISION**

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

1. Prohibit the Former Licensee from holding a general insurance licence for a minimum period of two years from the date on which the order takes effect;
2. Fine the Former Licensee \$5,000.00; and
3. Assess the Former Licensee Council's investigative costs of \$1,562.50.

The Former Licensee is advised that should the intended decision become final, the fine and costs will be due and payable in full within 90 days of the date of the order.

The Former Licensee is also advised that should she wish to reinstate her licence, she will be required to re-qualify for a licence and must demonstrate to Council her suitability to hold the licence by meeting with a Committee of Council.

The intended decision will take effect on **October 16, 2012**, subject to the Former Licensee's right to request a hearing before Council pursuant to section 237 of the Act.

### **RIGHT TO A HEARING**

If the Former Licensee wishes to dispute Council's findings or its intended decision, the Former 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 Former Licensee must give notice to Council by delivering to its office written notice of this intention by **October 15, 2012**. 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 Former Licensee does not request a hearing by **October 15, 2012**, the intended decision of Council will take effect.

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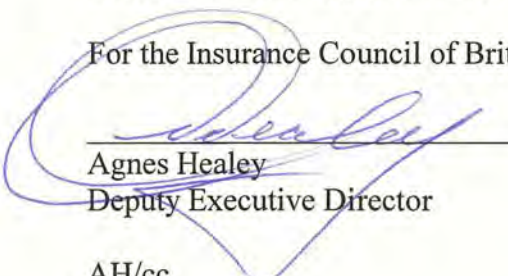
Even if this decision is accepted by the Former Licensee, pursuant to section 242(3) of the Act, the Financial Institutions Commission still has a right to appeal this decision of Council to the Financial Services Tribunal ("FST"). The Financial Institutions Commission has 30 days to file a Notice of 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](http://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](mailto:FinancialServicesTribunal@gov.bc.ca)

Dated in Vancouver, British Columbia, on the 27<sup>th</sup> day of September, 2012.

For the Insurance Council of British Columbia



Agnes Healey  
Deputy Executive Director

AH/cc