

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

**and**

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

**and**

**DOUGLAS ARTHUR FREDELL**  
**(the “Licensee”)**

**ORDER**

As Council made an intended decision on October 18, 2016, 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 its intended decision dated December 1, 2016; 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 fined \$2,500.00.
2. The Licensee is assessed Council’s investigative costs of \$875.00.
3. A condition is imposed on the Licensee’s general insurance licence that requires the Licensee to successfully complete the Insurance Brokers Association of British Columbia’s Privacy Compliance for Insurance Brokers course (or equivalent approved by Council) and the Council Rules Course on or before **March 20, 2017**. If the Licensee does not successfully complete the above-noted courses by this date, the Licensee’s general insurance licence is suspended as of **March 21, 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. 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 **March 20, 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 **March 21, 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 **20<sup>th</sup> day of December, 2016**.

  
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Dr. Eric Yung  
Chairperson, Insurance Council of British Columbia

## **INTENDED DECISION**

of the

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

respecting

### **DOUGLAS ARTHUR FREDELL** (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.

As part of Council’s investigation, on June 13, 2016, a Review Committee (the “Committee”) met with the Licensee to discuss allegations the Licensee moved client information from one insurance agency to another, using his personal computer to do so, without first obtaining express authority from the clients, contrary to Council’s confidentiality guidelines.

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. Having reviewed the investigation materials and 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 October 18, 2016 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 was first licensed in British Columbia in 1994 and currently holds a Level 2 general insurance agent licence.

The Licensee had authority to represent (“ATR”) a general insurance agency (the “Former Agency”) between January 14, 2003 and March 25, 2014.

The Licensee had represented the Former Agency (and its predecessor entity) for approximately 15 years. The Former Agency and the Licensee had a contractual arrangement that allowed the Licensee to purchase the right to transition his clients from the Former Agency to a new insurance agency, without competition from the Former Agency.

In 2013, the Licensee gave notice to the Former Agency that he would cease representing it, and planned to represent a new general insurance agent (the “New Agency”). As part of the transition of clients from the Former Agency to the New Agency, the Licensee continued to maintain his ATR with the Former Agency for a period of time after giving notice. During this period, the Licensee maintained an ATR with both the Former Agency and the New Agency in order to better facilitate the transition of clients to the New Agency.

The Licensee advised that as part of his process in moving clients to the New Agency, while working at the Former Agency’s office, he emailed client information to his personal email, and then saved this information on his personal computer.

The Licensee continued working from the Former Agency’s office until the end of 2013. In January 2014, the Licensee began working at the New Agency’s office, where he began to transition clients to the New Agency by processing client renewals.

Between January and March 2014, the Licensee attended the Former Agency’s office periodically to obtain additional information needed to transact upcoming renewals. During this period, the Licensee continued to email client information to himself. The Licensee stated that he did not take physical files or documents from the Former Agency. All of the client information taken was in electronic form and kept on his personal computer.

In handling client information, the Licensee explained that he did obtain letters of brokerage from the majority of his clients before entering their information into the New Agency’s information system. However, in the case of 18 clients, the Licensee transferred their information into the New Agency’s information system without obtaining letters of brokerage or another form of client consent.

The Licensee subsequently reviewed Council's client confidentiality guidelines, and acknowledged that his actions were not in keeping with Council's guidelines. The Licensee advised that this was an oversight on his part, in that his focus had been on ensuring that no clients were missed during the transition.

## ANALYSIS

Council found that the Licensee inappropriately stored client information on his personal computer, having moved the client information from the Former Agency by using his personal email, prior to notifying clients of his intention to transfer their information to the New Agency. Council was concerned that the Licensee could not recall exactly what information was handled in this manner, noting that the Licensee could not rule out that banking information and other personal information beyond just contact information were included.

Council determined that the Licensee's compilation, retention, and storage of confidential client information on his personal computer and then, subsequently, at the New Agency, without the knowledge and consent of the clients, was contrary to the usual practice of the business of insurance.

Council considered the cases of *T. Cantin*, *S. Egan*, and *M. Subin*.

In *T. Cantin*, a licensee released client information to a former supervisor at the supervisor's request. Council accepted that the licensee had mistakenly assumed that the required authorization from the client had been secured. The licensee was restricted to holding a Level 1 general insurance salesperson licence for 12 months, fined \$1,000.00, and assessed Council's investigative costs. Although this was not a case involving access of the Insurance Corporation of British Columbia ("ICBC") database, Council required the licensee to complete the ICBC Privacy Please course, as this was the licensee's primary area of business.

In *S. Egan*, Council found that a licensee had intentionally requested that a former colleague provide her with confidential renewal premium and insurer information on a client's insurance coverage that had been placed by the licensee's former agency. Council determined that the licensee's reason for requesting the information was to impress her new employer and secure new business. Council held that in the course of requesting this information, the licensee unintentionally disclosed private information about the client's insurance risk to the former colleague. The licensee was restricted to representing her current employer, who was also addressing her conduct. She was fined \$2,500.00 and assessed Council's investigative costs.

In *M. Subin*, Council found that a licensee, after leaving his previous agency, stored client information in his home, and then transferred that client information to another agency without client notification or consent. Council determined that the licensee's compilation, retention, and storage of confidential client information, without the knowledge and consent of either his previous agency or his clients, was contrary to the usual practice of the business of insurance. The licensee was restricted from removing client information from any agency he is authorized to represent without the express knowledge and consent of the nominee, fined \$2,500.00, and assessed Council's investigative costs.

Council determined that a fine should be imposed to address deterrence principles, sending a message to the industry regarding the importance of protecting the privacy of client information. Council also determined that the Licensee would benefit from further education regarding privacy and Council Rules.

#### **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 requires the Licensee to successfully complete the Insurance Brokers Association of British Columbia's Privacy Compliance for Insurance Brokers course (or equivalent) and the Council Rules Course (the "Courses") within 90 days of the date of Council's order.
2. Fine the Licensee \$2,500.00.
3. Assess the Licensee Council's investigative costs of \$875.00.

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 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 Courses have been successfully completed.

The intended decision will take effect on **December 20, 2016**, 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 19, 2016**. 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 19, 2016**, 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](http://fst.gov.bc.ca) or contact them directly at:

Financial Services Tribunal  
PO Box 9425 Stn Prov Govt  
Victoria, British Columbia  
V8W 9V1

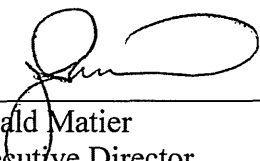
Reception: 250-387-3464

Fax: 250-356-9923

Email: [FinancialServicesTribunal@gov.bc.ca](mailto:FinancialServicesTribunal@gov.bc.ca)

Dated in Vancouver, British Columbia, on the **1<sup>st</sup> day of December, 2016**.

For the Insurance Council of British Columbia



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