

In the Matter of

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

and

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

and

RUBY MAY CHRISTIANSON
(the "Licensee")

ORDER

As Council made an intended decision on October 18, 2016, 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 November 30, 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 and 236 of the Act, Council orders:

1. A condition is imposed on the Licensee's general insurance licence that requires the Licensee to successfully complete an errors and omissions course, acceptable to Council, and the Council Rules Course, available through the Insurance Brokers Association of British Columbia, 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 the above-noted courses are successfully completed.

This order takes effect on the **20th day of December, 2016**.



Dr. Eric Yung
Chairperson, Insurance Council of British Columbia

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA
(“Council”)

respecting

RUBY MAY CHRISTIANSON
(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 September 12, 2016, a Review Committee (the “Committee”) met with the Licensee to discuss allegations the Licensee failed to maintain adequate recordkeeping procedures. In particular, the Committee considered a client complaint that a former licensee (the “Salesperson”) and the Licensee failed to adequately record the details of a homeowner’s home business, resulting in the homeowner being improperly insured.

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 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. She first became licensed in British Columbia in 1988 and has represented the agency that was the source of the client complaint (the “Agency”) since 2001.

The Salesperson was a Level 1 general insurance salesperson at the Agency. She first became licensed in British Columbia in 1995. She started to work for the Agency on May 29, 2014, and her employment ended when her licence was terminated on June 3, 2016.

The Complaint

A homeowner (the “Complainant”) purchased a homeowner insurance policy for a new home through the Agency. A loss subsequently occurred, but the claim was denied after the insurer determined the homeowner had engaged in business operations in the home beyond incidental office use. The Complainant stated that she had informed the Salesperson about the business operations in the home when the application for homeowner’s insurance was completed.

The Salesperson’s primary role was to obtain the necessary information about the home from the Complainant. Once the Salesperson had obtained the Complainant’s information, she reviewed the information with the Licensee. The Licensee was then responsible to communicate with the insurer and ensure all required information was obtained from the Complainant.

On March 17, 2015, the Salesperson met with the Complainant outside of the Agency office to obtain the Complainant’s signature on the application for homeowner’s insurance and to collect a premium payment. The Salesperson stated this was the first time she had met the Complainant in person. The Salesperson explained that it was not her practice to engage in insurance activities outside of the Agency office and that this was the first time. The Salesperson explained that the Complainant had been unable to attend the Agency office in person and the Salesperson was trying to accommodate the Complainant.

The Complainant stated it was at this meeting that she had informed the Salesperson she would be operating a business from the home. The Salesperson stated that she did not obtain any additional information about the home-operated business at this time, as it was her intention to first clarify with the Licensee what additional information was needed from the Complainant.

The Complainant stated she could not recall exactly what she told the Salesperson about the home business during the application process. The Complainant believed she told the Salesperson that the business would be operating from the home, which meant clients and family would attend the home.

On March 18, 2015, the Salesperson called the Complainant and informed her that the insurer might not insure her if she was operating a business in the home. The Salesperson stated that the Complainant told her she was not going to be conducting business in the home other than paperwork. The Salesperson reported that the Complainant had stated her business would be entirely mobile.

The Licensee stated that she recalled the Salesperson had advised her that she had called the Complainant and confirmed the business operations would be mobile only. The Licensee stated this was what she provided to the insurer prior to the issuance of the policy. However, neither the Salesperson nor the Licensee made contemporaneous notes of these conversations.

Agency Procedures

The Licensee advised that the usual process for collecting information for a homeowner's insurance application was for the Salesperson to first collect the required information by taking written notes. The Licensee would then transcribe the information into the data management system. Information not specifically set out in the insurance application would be noted in the remarks section. Based on a review of Agency files, file activity notes were minimal, and the Licensee acknowledged that many files did not contain adequate documentation to respond to a complaint similar to that of the Complainant.

After the Complainant's complaint was made, the Licensee prepared notes regarding her recollection of the events in question, as no clear notes existed in the file. The Licensee stated that much of the communication with the Complainant was by email, but the Licensee acknowledged that she was not familiar with the process by which emails could be stored in the Agency's data management system. Consequently, a complete record of email communications with the Complainant was not available.

The Licensee had difficulty responding to questions regarding the Agency's procedures for recording file information and acknowledged that the proper practice would be to keep detailed written notes on all client issues, such as questions that were asked of clients when their insurance needs were assessed, and client responses. This was not done in the case of the Complainant.

ANALYSIS

Council considered whether the Licensee had failed to provide the proper insurance coverage for the Complainant's home, resulting in the denial of a claim. Council found that the evidence from the Complainant and the licensees regarding the discussions that led up to a Complainant's policy being issued, to be contradictory. Consequently, Council could not conclude that the Licensee had failed to act in a competent manner when she provided the Complainant with homeowner's insurance.

Council determined, however, that the Licensee had failed to maintain proper records in handling the Complainant's insurance. Council was concerned that the Licensee, who was the only employee trained in the use of the Agency's data management system, claimed to not have a thorough knowledge of the system. Council identified a general lack of training and oversight with respect to recordkeeping and file documentation at the Agency.

Council determined that the Licensee failed to act in a competent manner and in accordance with the usual practice of the business of insurance by failing to maintain adequate records and note-keeping procedures. As proper recordkeeping procedures are essential to ensure the protection of both clients and insurers, Council determined that the Licensee should be required to complete an errors and omissions course, as well as the Council Rules Course, to address her failure to maintain adequate records of her discussions with clients and insurers.

INTENDED DECISION

Pursuant to sections 231 and 236 of the Act, Council made an intended decision to impose a condition on the Licensee's general insurance licence that requires the Licensee to successfully complete an errors and omissions course, acceptable to Council, and the Council Rules Course, available through the Insurance Brokers Association of British Columbia (the "Courses"), within 90 days of the date of Council's order.

The Licensee is advised that should the intended decision become final, the Licensee will be required to successfully complete the Courses within 90 days of the date of the order. 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 the Courses are successfully completed as required.

Intended Decision
Ruby May Christianson
LIC-71550C68435R1
November 30, 2016
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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 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 **30th day of November, 2016**.

For the Insurance Council of British Columbia



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Executive Director
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