

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

and

The INSURANCE COUNCIL OF BRITISH COLUMBIA
(“Council”)

and

GURMINDER JOHAL
(the “Nominee”)

ORDER

As Council made an intended decision on December 8, 2015, pursuant to sections 231, 236, and 241.1 of the Act; and

As Council, in accordance with section 237 of the Act, provided the Nominee with written reasons and notice of the intended decision dated January 26, 2016; and

As the Nominee has not requested a hearing of Council’s intended decision within the time period provided by the Act;

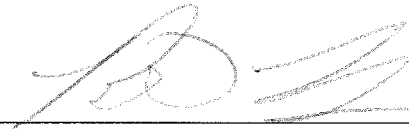
Under authority of sections 231, 236, and 241.1 of the Act, Council orders:

1. The Nominee is reprimanded.
2. A condition is imposed on the Nominee’s Level 3 general insurance licence that requires the Nominee to successfully complete the following three courses provided by the Insurance Corporation of British Columbia (“ICBC”): Commercial Rate Classes and Territories; Commercial Inspection; and Trailers.
3. A condition is imposed on the Nominee’s Level 3 general insurance licence that if the Nominee does not successfully complete ICBC’s Commercial Rate Classes and Territories, Commercial Inspections, and Trailers courses, on or before **August 16, 2016**, the Nominee’s Level 3 general insurance licence is suspended effective **August 17, 2016**, without further action from Council.
4. The Nominee is assessed Council’s investigative costs of \$525.00.

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5. A condition is imposed on the Nominee's Level 3 general insurance licence that requires the Nominee to pay the above-ordered investigative costs no later than **May 16, 2016**. If the Nominee does not pay the ordered investigative costs in full by this date, the Nominee's Level 3 general insurance licence is suspended as of **May 17, 2016**, without further action from Council and the Nominee will not be permitted to complete any annual filing until such time as the ordered investigative costs are paid in full.

This order takes effect on the **16th day of February, 2016**.



Brett Thibault
Chairperson, Insurance Council of British Columbia

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA
(“Council”)

respecting

GURMINDER JOHAL
(the “Nominee”)

Pursuant to section 232 of the *Financial Institutions Act* (the “Act”), Council conducted an investigation to determine whether the Nominee acted in compliance with the requirements of the Act.

As part of Council’s investigation, on November 9, 2015, a Review Committee (the “Committee”) met with the Nominee to discuss an allegation that the Nominee knowingly processed an Insurance Corporation of British Columbia (“ICBC”) transaction in an improper manner.

The Committee was comprised of one voting member and three non-voting members of Council. Prior to the Committee’s meeting with the Nominee, an investigation report was distributed to the Committee and the Nominee for review. A discussion of this report took place at the meeting, and the Nominee was provided an opportunity to clarify the information contained therein and make further submissions. Having reviewed the investigation materials and after discussing this matter with the Nominee, the Committee prepared a report of its meeting for Council.

The Committee’s report, along with the aforementioned investigation report, were reviewed by Council at its December 8, 2015 meeting, where it was determined that 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 Nominee of the action it intends to take under sections 231, 236, and 241.1 of the Act before taking any such action. The Nominee 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 Nominee.

FACTS

The Nominee has approximately 10 years of experience as a Level 3 general insurance agent. Currently she is the owner and director of Newton Insurance Services Inc. (the "Agency"). The Nominee was investigated by ICBC and found to have knowingly processed a transaction in an improper manner, as set out below.

On September 3, 2014, the Nominee conducted an ICBC Autoplan insurance renewal transaction after a client (the "Client") contacted the Agency accusing Agency staff of failing to renew the Autoplan insurance for a trailer he operated for a trailer fleet company. Although the Nominee had experience in handling commercial fleet insurance transactions, she generally acted as a back-up for her staff, who were responsible for processing these types of transactions on a daily basis.

The Client told the Nominee he had been stopped by the Police and issued a \$700.00 ticket for not having valid Autoplan insurance for his trailer. He told the Nominee that the ticket would be waived if she processed the renewal of the plate and Autoplan insurance for the trailer immediately.

The Nominee noticed, in the Agency Auto-link Brokers computer system enquiry and inspection screens, that the trailer had not had its Autoplan insurance renewed and did not have a current Commercial Vehicle Inspection Program ("CVIP") "passed" inspection. The Client told the Nominee the trailer had passed the CVIP inspection, and that he would instruct the trailer fleet company's office to fax the CVIP inspection report immediately to the Agency.

Without a valid certificate of approval decal number and CVIP inspection report for the trailer, the Nominee processed the Autoplan insurance renewal transaction. Upon receipt of the records from the Client's office, the Nominee noticed that the decal number provided by the Client did not match the last two numbers of the actual decal number on the trailer, and she set aside the Client's file to discuss with her commercial fleet staff. Before the Nominee could discuss the file with her staff, she was contacted by an ICBC investigator.

The Nominee stated that she felt pressured by the Client to complete the insurance renewal transaction, even though she knew she should not have processed the transaction until she had received physical proof of the CVIP inspection report and certificate of approval decal number.

The Nominee was not personally familiar with the Client, and it was only after speaking with her staff that she learned the Client had attempted to circumvent the ICBC renewal system in the past.

ANALYSIS

Council accepted that the Nominee was misled by the Client. However, Council determined that the Nominee failed to follow established procedures in attempting to assist the Client. Council noted that the Nominee recognized and accepted responsibility for her actions, and was disciplined by ICBC. The Nominee has put procedures in place to ensure better communication between Agency staff regarding client management issues.

Council concluded that the Nominee's actions in this matter were an honest mistake and did not reflect on her competency, and it determined that a reprimand and additional training on ICBC practices was an appropriate penalty in the circumstances.

INTENDED DECISION

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

1. Reprimand the Nominee.
2. Impose a condition on the Nominee's Level 3 general insurance licence that requires her to successfully complete the ICBC Commercial Rate Classes and Territories, Commercial Inspections, and Trailers courses within six months of the date of Council's order.
3. Assess the Nominee Council's investigative costs of \$525.00.

The Nominee is advised that should the intended decision become final, the investigative costs will be due and payable within 90 days of the date of the order.

The Nominee is advised that failure to pay the investigative costs within the 90 days, or failure to successfully complete the Commercial Rate Classes and Territories, Commercial Inspections, and Trailers courses within 180 days, will result in the automatic suspension of her general insurance licence, and the Nominee will not be permitted to complete any annual filing until such time as the investigative costs are paid in full and the Commercial Rate Classes and Territories, Commercial Inspections, and Trailers courses are successfully completed as required.

The intended decision will take effect on **February 16, 2016**, subject to the Nominee's right to request a hearing before Council pursuant to section 237 of the Act.

RIGHT TO A HEARING

If the Nominee wishes to dispute Council's findings or its intended decision, the Nominee 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 Nominee must give notice to Council by delivering to its office written notice of this intention by **February 15, 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 Nominee does not request a hearing by **February 15, 2016**, the intended decision of Council will take effect.

Even if this decision is accepted by the Nominee, 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 **26th day of January, 2016**.

For the Insurance Council of British Columbia



Gerald Matier
Executive Director
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gmatier@insurancecouncilofbc.com

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