

In the Matter of

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

and

The INSURANCE COUNCIL OF BRITISH COLUMBIA
("Council")

and

MARIYAM HASSAN
(the "Licensee")

ORDER

As Council made an intended decision on December 16, 2014, 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 December 29, 2014; 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 assessed Council's investigative costs of \$2,012.50.
3. A condition is imposed on the Licensee's general insurance licence that requires her to pay the above-ordered investigative costs no later than **April 20, 2015**. If the Licensee does not pay the ordered costs in full by this date, the Licensee's general insurance licence is suspended as of **April 21, 2015**, without further action from Council and the Licensee 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 **20th day of January, 2015**.



Ruth Hoyte
Chairperson, Insurance Council of British Columbia

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA
(“Council”)

respecting

MARIYAM HASSAN
(the “Licensee”)

INTRODUCTION

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 October 20, 2014, a Review Committee (the “Committee”) met with the Licensee to discuss allegations that the Licensee changed the date on a client’s (the “Client”) Insurance Corporation of British Columbia (“ICBC”) insurance premium cheque, batched the Client’s ICBC transaction without the Client’s signature on the transactional documents, and mailed ICBC transactional documents (including an insurance decal) to the Client for signature via standard mail, contrary to ICBC protocol.

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 made a recommendation to Council as to the manner in which this matter should be disposed.

A report setting out the Committee’s findings and recommended disposition, along with the aforementioned investigation report, were reviewed by Council at its December 16, 2014 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 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 is a Level 2 general insurance agent ("Level 2 agent"). She was first licensed with Council as a Level 1 general insurance salesperson in January 2005. The Licensee became a Level 2 agent in February 2012.

ICBC Renewal

In June 2013, the Licensee began attempting to contact the Client regarding the renewal of her ICBC insurance, which was due on July 8, 2013. The Licensee spoke with the Client over the telephone to discuss insurance coverage for the renewal. The Client informed her that she would be sending a cheque for payment of the insurance.

The Licensee received the Client's cheque on June 27, 2013. On June 28, 2013, the Licensee took the cheque to her office and processed the transaction. The Licensee advised that, at this time, she did not notice that the cheque was post-dated for July 1, 2013.

The Licensee then telephoned the Client advising that she had processed the transaction, and would be sending the ICBC transactional documents via courier for her signature. The Client informed her that she would be going out of town, and would not be available to receive any documents sent via courier. Although additional attempts were made, the Licensee was unable to contact the Client prior to the July 8, 2013 expiry of the Client's insurance coverage.

The Licensee was aware that she needed a signature on the ICBC transactional documents before they could be processed. The Licensee realized the vehicle was leased and, as such, the lessor of the vehicle could sign for the transaction. The Licensee attempted to contact the lessor, but was not able to speak to anyone with signing authority.

When the Licensee was unable to contact the Client or anyone with signing authority from the lessor, the Licensee decided to mail the Client's decal and ICBC transactional documents to the Client's address. Included in this mailing, the Licensee wrote a note to the Client requesting that she contact her. The Licensee also included a stamped, self-addressed return envelope to the Licensee's residential address.

The Client complained after her post-dated cheque was deposited prior to July 1, 2013. The Licensee stated that she did not alter the Client's cheque. When the cheque was deposited, she stated that she brought this to the attention of the bank teller, with instructions not to deposit the cheque until the July 1, 2013 date. The bank subsequently looked at what had occurred and apologized for its error in processing the cheque before July 1, 2013.

The Licensee explained her actions in batching the transaction before obtaining the Client's signature was because she believed all ICBC transactions had to be batched on the same day as the transaction and to ensure that the Client's insurance did not expire. The Licensee stated she did the batching involving this transaction, but admitted it was not one of her regular duties. The Licensee advised that batching was normally done by another employee, and that she was called on to do so once every six to seven months.

The Licensee acknowledged that she erred by sending the Client's ICBC documents via standard mail. She submitted that she felt stuck, and did not know what to do to get the decal and the documents to the Client, given the pending coverage expiry and the fact that the Client was away.

In July 2012, an issue arose regarding the mailing of ICBC documents via standard mail. At that time, the Licensee acknowledged to her employer, in writing, that she understood all ICBC transactions were to be completed through an agency, that she could not use standard mail to deliver ICBC documents and decals, and that she was not to use her own residential address to receive insurance documents.

Analysis

Council found that the Licensee failed to follow ICBC protocol when she mailed the Client's ICBC insurance transactional records by standard mail with a return mail envelope addressed to her residence. Council noted that the Licensee's experience, plus her written acknowledgement a year earlier that she was aware of ICBC's policies, raised concerns with her practice.

Council also found that the Licensee's batching of the Client's ICBC transaction without first securing the Client's signature on the documents fell outside the usual practice, although it did note that batching was not one of the Licensee's regular duties.

With regard to the allegation that the Licensee altered the Client's cheque, based on the evidence from the financial institution, Council accepted that the Licensee did not alter the cheque or authorize the early deposit of the Client's cheque.

Council determined the Licensee failed to follow proper procedure in processing the renewal, and in doing so, did not act in accordance with the usual practice of the business of insurance.

Council determined that the Licensee ought to have known better given her experience conducting Autoplan business, and particularly in light of her prior acknowledgement to her employer one year earlier regarding ICBC mailing procedure. Council concluded that the Licensee exercised poor judgment in her efforts to service the Client's ICBC insurance needs in a timely manner.

Council considered the precedent *A. Kuhn*. In *A. Kuhn*, Council determined that the licensee, who was experienced, failed to properly execute an ICBC transaction. Council held that the licensee was under pressure to service a client in a timely manner, and deviated from her normal practice. Council determined that a reprimand and assessment of investigative costs was appropriate to address the licensee's failure to act in accordance with the usual practice of the business of insurance.

Council held that a reprimand and the assessment of investigative costs is an appropriate penalty in this case.

INTENDED DECISION

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

1. Reprimand the Licensee.
2. Assess the Licensee Council's investigative costs of \$2,012.50.

The Licensee is advised that should the intended decision become final, the costs will be due and payable within 90 days of the date of the order. In addition, failure to pay the costs within the 90 days 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 costs are paid in full.

The intended decision will take effect on **January 20, 2015**, 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 **January 19, 2015**. 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.

Intended Decision
Mariyam Hassan
161926-11480
December 29, 2014
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If the Licensee does not request a hearing by **January 19, 2015**, 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 **29th day of December, 2014**.

For the Insurance Council of British Columbia



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