

In the Matter of

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

and

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

and

PATRICIA YVONNE BRIENEN
(the "Licensee")

ORDER

As Council made an intended decision on June 11, 2017, 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 August 10, 2017; 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 \$600.00.
3. A condition is imposed on the Licensee's general insurance licence that requires the Licensee to pay the above-ordered investigative costs no later than **November 29, 2017**. If the Licensee does not pay the ordered investigative costs in full by this date, the Licensee's general insurance licence is suspended as of **November 30, 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 investigative costs are paid in full.

This order takes effect on the **29th day of August, 2017**.



Michael Connors, CIP, CRM
Chairperson, Insurance Council of British Columbia

INTENDED DECISION
of the
INSURANCE COUNCIL OF BRITISH COLUMBIA
(“Council”)
respecting
PATRICIA YVONNE BRIENEN
(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 March 13, 2017 a Review Committee (the “Committee”) met with the Licensee to discuss an allegation that, following an accident involving the Licensee’s car, the Licensee directed staff at the agency where she was employed (the “Agency”) to backdate the effective date on an Insurance Corporation of British Columbia (“ICBC”) Temporary Change of Use and/or Territory Endorsement form (the “Endorsement”) issued as part of the Licensee’s personal Autoplan policy.

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 June 11, 2017 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 has been licensed in British Columbia since 1993, and has held a Level 3 general insurance agent (“Level 3 agent”) licence since 2007. The Licensee works full-time as an office manager and supervises Agency staff. In August 2016, the Licensee planned some weekend trips with her family. She wanted her older son to drive her vehicle to gain highway driving experience, but as he had been driving for less than 10 years, the Endorsement was required on her existing automobile insurance policy. The first weekend trip was in Kamloops, where the Licensee’s older son was to join her and her younger son on Friday, August 5, 2016. They also had a function to attend on September 4, 2016, and it was planned that the older son would drive then as well.

The Licensee obtained the Endorsement for a 30-day period, to allow her older son to drive. The Licensee was aware the Endorsement was required for Friday, August 5, 2016, but mistakenly believed the Friday fell on August 6, 2016, and used that date as the effective date. The Licensee explained that she misread a calendar when she put a note on her co-worker’s desk to issue the Endorsement for the period of August 6, 2016 to September 6, 2016.

On Friday, August 5, 2016, the family left for Kamloops. While her older son was driving, an axle from a truck detached and crashed into their vehicle (the “Accident”). The Licensee stated that she was in shock from the Accident and very worried about her children. She described the Accident scene as chaotic.

The Licensee stated her brain was “*half-engaged*” as a result of her distress from the Accident when she contacted ICBC to deal with the vehicle claim. She was provided with the Royal Canadian Mounted Police accident report and realized that it was Friday, August 5, 2016, not August 6, 2016. She knew there was an error on the Endorsement, and called the Agency to “*correct*” her error by having staff backdate the effective date on the Endorsement by one day.

The Licensee stated that over the weekend her mind cleared, and she realized she had not handled the insurance situation appropriately. On the Monday, the Licensee contacted her supervisor and explained her actions. The Licensee stated that she should have reported to ICBC that the intent was always to obtain the Endorsement for Friday, August 5, 2016 rather than change the date on the Endorsement.

ICBC confirmed the original transaction was processed and paid for on August 4, 2016. ICBC accepted the claim and provided coverage.

ANALYSIS

Council noted that the Licensee handled the initial transaction appropriately by having another Agency licensee process the transaction for her. Council found that the Licensee's decision, once she realized she had made an error with the effective date of the Endorsement, to call the Agency and direct that the Endorsement be amended to reflect the correct dates, was the incorrect course of action.

However, Council noted that at the time of the Agency call, the Licensee had just been involved in a serious motor vehicle accident, and it is reasonable to believe she was not thinking clearly. Further, once the Licensee had time to consider her actions in directing that the Endorsement be amended, she immediately brought it to the attention of her Agency and ICBC, and had the documents returned to their original state.

Council found that such an action by a licensee, to direct staff to amend an insurance document that had been issued to a licensee, would normally raise serious questions about a licensee's suitability to hold an insurance licence. Council took into consideration the fact that the Licensee had just been in a serious accident when she made the call to the Agency, and that at the first opportunity after appreciating her actions she informed her employer and ICBC of what had occurred. Council found these to be mitigating factors.

Normally, in situations where a licensee is found to have amended an insurance document for personal gain, the penalty would involve a lengthy licence suspension. However, because of the circumstances and the Licensee's prompt response to correct her actions, Council found that the Licensee's actions, while improper, did not make her unsuitable to hold an insurance licence. Council concluded that the matter could best be addressed with the issuance of a reprimand.

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 \$600.00.

The Licensee 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. In addition, failure to pay the investigative 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 investigative costs are paid in full.

The intended decision will take effect on **August 29, 2017**, 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 **August 28, 2017**. 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 **August 28, 2017**, 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

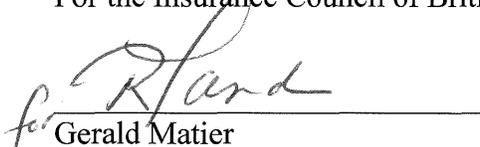
Reception: 250-387-3464

Fax: 250-356-9923

Email: FinancialServicesTribunal@gov.bc.ca

Dated in Vancouver, British Columbia, on the **10th day of August, 2017**.

For the Insurance Council of British Columbia



Gerald Matier

Executive Director

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gmatier@insurancecouncilofbc.com

GM/gh