

**In the Matter of**

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

**and**

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

**and**

**MISTI DAWNE MASON  
(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 January 12, 2015; and

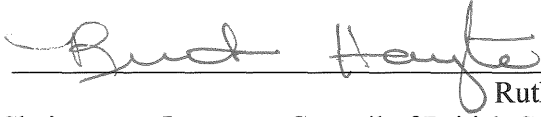
As the Licensee has not requested a hearing of Council’s intended decision within the time period provided by the Act;

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

1. The Licensee’s general insurance licence is suspended for a period of two years commencing on **February 17, 2015**, and ending on **February 16, 2017** at midnight.
2. The Licensee is assessed Council’s investigative costs of \$1,500.00.
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 **May 4, 2015**. If the Licensee does not pay the ordered investigative costs in full by this date, the Licensee will not be permitted to complete any annual filing until such time as the ordered investigative costs are paid in full.

Order  
Misti Dawne Mason  
172640-I1532  
February 3, 2015  
Page 2 of 2

This order takes effect on the 3<sup>rd</sup> day of February, 2015.

  
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Ruth Hoyte  
Chairperson, Insurance Council of British Columbia

## **INTENDED DECISION**

of the

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

respecting

**MISTI DAWNE MASON**  
(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 when she accessed the Insurance Corporation of British Columbia’s (“ICBC”) database on five different occasions for purposes other than to conduct an insurance transaction.

An investigation report was reviewed by Council at its December 16, 2014 meeting and Council 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 as a Level 1 general insurance salesperson in 2008, and subsequently became a Level 2 general insurance agent in December 2010. She has represented the same agency in Kelowna (the “Agency”) since April 2010.

The Licensee conducted various accesses of the ICBC database on five different occasions over a nine day period to obtain information related to two individuals without their knowledge or consent, and without conducting a subsequent ICBC Autoplan transaction.

The matter became known in October 2013, when the Licensee telephoned ICBC to discuss an automobile accident that involved her current partner's (the "Partner") daughter (the "Child"). The accident involved the Licensee's Partner's ex-wife (the "Ex-Wife"). During the telephone call to ICBC, the Licensee disclosed that she was an insurance agent, provided the Ex-Wife's vehicle licence plate number, the make and model of the vehicle, as well as the date of the loss. This telephone call was subsequently reported to ICBC's corporate security department by the ICBC representative who spoke with the Licensee. The ICBC representative was concerned about how the Licensee had obtained the Ex-Wife's vehicle information.

ICBC conducted a search of its data systems and noted numerous accesses related to the Ex-Wife and the Ex-Wife's partner (the "Ex-Wife's Partner") that were not accompanied by an Autoplan transaction. ICBC determined that the accesses were conducted by an individual using the Licensee's identification code and the Licensee acknowledged that she had accessed the information.

Council subsequently obtained records from ICBC identifying 20 different accesses of the ICBC database relating to either the Ex-Wife or the Ex-Wife's Partner between September 27, 2013 and October 5, 2013. These accesses occurred with no corresponding ICBC Autoplan transaction. During these accesses, the Licensee was able to view vehicle registration information, the name of the vehicle's registered owner, the principal operator of the vehicle, the principal operator's driver's licence number, the vehicle owner's address, and the effective date of insurance coverage. In four of the queries, the Licensee was able to view personal banking information. ICBC records indicate that the Licensee searched for the Ex-Wife and the Ex-Wife's Partner's information by entering driver's licence numbers, licence plate numbers, and/or names.

The Licensee explained that, at the time of the ICBC database accesses, there was an ongoing child custody dispute between the Partner and the Ex-Wife. The Licensee and the Partner were concerned after there were multiple motor vehicle accidents involving the Ex-Wife, causing them to be concerned for the safety of the Child while in the vehicle with the Ex-Wife. The Licensee explained that she was attempting to access information to determine the circumstances of a motor vehicle accident where the Child was in the vehicle. At the time of the accesses, the Licensee did not think that she was doing anything wrong.

In explaining her actions, the Licensee stated that any information she had access to on the ICBC database was already known to her or was information that was already publicly available. The Licensee explained that information on the Ex-Wife's vehicle could be found on a public Facebook page, and that the Ex-Wife's driver's licence number was contained in the documents relating to the legal proceedings between the Partner and the Ex-Wife.

The unauthorized accesses were discussed with the Licensee by her supervisors at the Agency. The Licensee subsequently took ICBC's Information Security and Privacy Course (formerly Privacy Please – Protecting Customers' Information Course).

## ANALYSIS

Council found that the Licensee inappropriately accessed the ICBC database on multiple occasions over a nine day period. Council found that these accesses were intentional and determined that given the Licensee's level of experience, she should have known that such accesses or uses of the ICBC database were not permitted or appropriate. Council did not accept the Licensee's explanation for why she accessed the ICBC database. As an example, Council noted that information regarding motor vehicle accidents or injuries sustained in accidents are not available through the database accessed by the Licensee.

In addition, Council found that the Licensee's explanation that the information she accessed was already known or available to her was not relevant. Council concluded that the Licensee was looking for information about the Ex-Wife or the Ex-Wife's Partner that was not in her possession, otherwise why was she accessing their information. Regardless, a licensee is only permitted to access insurance information or databases when it relates to an insurance transaction, which was not the case when the Licensee accessed the Ex-Wife or the Ex-Wife's Partner's information on the ICBC database.

Council held that the Licensee failed to act in a trustworthy or competent manner, in good faith, or in accordance with the usual practice of the business of insurance by failing to adhere to privacy requirements.

In determining the disposition of this matter, Council noted that the range of disciplinary measures in such cases has most often included the suspension or cancellation of a licensee's licence. In such cases the length of suspensions or cancellation was usually in the order of a two-year period, particularly where potential harm existed as a result of the improper accesses of the ICBC database. In particular, Council considered the prior decisions *N. Kwok*, *M. Jalloh*, and *J. Cheema*.

In *N. Kwok*, Council concluded that the licensee inappropriately accessed his ex-girlfriend's records in the ICBC database on at least 10 occasions. Council further determined the licensee knew that such access was not permitted, and that he had acted as a result of an ongoing personal dispute between himself and his ex-girlfriend. Council held that the licensee failed to act in a trustworthy manner, in good faith, and in accordance with the usual practice of the business of insurance by intentionally failing to adhere to privacy requirements. The licensee's licence was suspended for two years and he was assessed investigative costs.

In *M. Jalloh*, Council concluded the licensee improperly accessed the ICBC database to view his ex-girlfriend's personal information for a purpose other than ICBC business on multiple occasions. At the time of the accesses the licensee was subject to a Royal Canadian Mounted Police undertaking to not contact his ex-girlfriend directly or indirectly. Council determined that the licensee had provided inconsistent statements to Council staff, and that he did not act in a forthright or trustworthy matter throughout the investigation and hearing process. The licensee's licence was suspended for four years and he was assessed hearing and investigative costs.

In *J. Cheema*, the licensee accessed the ICBC database for the purpose of providing confidential information about a vehicle's registered owner to an individual who had an extensive criminal history. Council determined that the licensee was aware of the individual's lengthy criminal background and was, or should have been, aware that his disclosure would have put the safety and security of the vehicle's registered owner at risk. Council cancelled the licensee's licence for a minimum period of two years.

After considering the above prior decisions and all the evidence, which included a response prepared by the Licensee and faxed to Council on December 10, 2014, Council determined that the Licensee's licence should be suspended for a period of two years.

#### **INTENDED DECISION**

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

1. Suspend the Licensee's general insurance licence for a period of two years.
2. Assess the Licensee Council's investigative costs of \$1,500.00.

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, if the ordered investigative costs are still outstanding after the 90 days, the Licensee will not be permitted to complete any annual filing until such time as the investigative costs are paid in full.

The Licensee's suspension will begin on **February 17, 2015**, and end on **February 16, 2017** at midnight.

The intended decision will take effect on **February 3, 2015**, subject to the Licensee's right to request a hearing before Council pursuant to section 237 of the Act.

Intended Decision  
Misti Dawne Mason  
172640-I1532  
January 12, 2015  
Page 5 of 5

## 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 **February 2, 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.

If the Licensee does not request a hearing by **February 2, 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](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 **12<sup>th</sup> day of January, 2015**.

For the Insurance Council of British Columbia



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