

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

**and the**

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

**and**

**JACQUELINE NICOLE BABCOCK**  
(the “Licensee”)

**ORDER**

Pursuant to section 237 of the Act, Council convened a hearing at the request of the Licensee to dispute an intended decision of Council dated January 14, 2019.

The subject of the hearing was set out in a Notice of Hearing dated March 11, 2019.

A Hearing Committee heard the matter on March 26, 2019 and presented a Report of the Hearing Committee to Council at its June 18, 2019 meeting.

Council considered the Report of the Hearing Committee and made the following order pursuant to sections 231 and 236 of the Act:

1. The Licensee’s general insurance licence is suspended for a period of seven months commencing on July 9, 2019 and ending at midnight on February 6, 2020;
2. A condition is imposed on the Licensee’s general insurance licence that requires her to successfully complete the “Ethics for Insurance Brokers” course through the Insurance Brokers Association of British Columbia, or an equivalent course as approved by Council; and
3. A condition is imposed on the Licensee’s general insurance licence that requires her to successfully complete the required course on or before October 7, 2019. If the course remains incomplete by the end of her suspension, the Licensee’s licence will automatically remain suspended and she will not be permitted to complete her annual filing until the course is successfully completed.

This order takes effect on the **9<sup>th</sup> day of July, 2019**.



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Lesley Maddison  
Chairperson, Insurance Council of British Columbia

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

**REPORT OF THE HEARING COMMITTEE**

**IN THE MATTER OF THE *FINANCIAL INSTITUTIONS ACT***  
(R.S.B.C. 1996, c. 141)  
(the “Act”)

**and**

**JACQUELINE NICOLE BABCOCK**  
(the “Licensee”)

**Date:** March 26, 2019, 9:30 a.m.

**Before:** Lesley Maddison                      Chair  
Linda Lee                                      Member  
Frank Macklestone                      Member

**Location:** Suite 300, 1040 West Georgia Street  
Vancouver, British Columbia V6E 4H1

**Present:** David McKnight                      Counsel for Council  
  
Jacqueline Nicole Babcock      Licensee  
  
Michael D. Shirreff                      Independent Counsel for the Hearing Committee

**BACKGROUND AND ISSUES**

As set out in the Notice of Hearing, this hearing was convened in order to allow for the Licensee to dispute the New Intended Decision, as that term was defined in the Notice of Hearing, and to have the Hearing Committee determine the issue of penalty facing the Licensee, in accordance with sections 231, 236 and/or 241.1 of the Act.

The background to this matter is important and dates back a number of years. Several other penalties against other licensees have arisen out of the same set of background facts.

The Licensee has been licensed in British Columbia since 2008. She obtained her level 2 general insurance agent licence on March 8, 2016. During the period of time material to this matter, the Licensee held a level 1 general insurance licence.

Pursuant to section 232 of the Act, Council conducted an investigation to determine whether the Licensee had acted in compliance with the requirements of the Act by entering false information relating to Insurance Corporation of British Columbia (“ICBC”) Autoplan transactions in an

effort to override outstanding toll bridge debts owed by her customers between January 1, 2014 and June 15, 2015.

On April 11, 2017, Council considered an investigation report on the issues. On June 26, 2017, Council issued written reasons and provided notice of an intended decision to the Licensee, pursuant to section 237 of the Act.

The Licensee had the option at that time to accept Council's decision or request a formal hearing of the issues. The Licensee accepted Council's decision and, in the result, on July 18, 2017, Council issued an order fining the Licensee \$5,000 and imposing conditions on the Licensee's general insurance licence pursuant to sections 231 and 236 of the Act (the "Order").

On August 11, 2017, the Financial Institutions Commission ("FICOM") filed an appeal of the Order to the Financial Services Tribunal ("FST") pursuant to section 242(3) of the Act. On July 31, 2018, the FST issued a decision, which directed the matter to be remitted back to Council for further determination, but limited only to the issue of the appropriate disciplinary penalty.

On January 14, 2019, in accordance with the FST decision, Council provided the Licensee with written reasons and notice of a new intended decision, pursuant to section 237 of the Act. As was her right, the Licensee requested a hearing and this hearing committee was subsequently constituted pursuant to section 223 of the Act.

This is the written report of the Hearing Committee.

## **EVIDENCE**

### ***(a) Witnesses***

Council did not call any witnesses.

The Licensee gave evidence on her own behalf and was subject to cross-examination by Council and questions from the Hearing Committee. Her evidence is discussed further below.

### ***(b) Exhibits***

Council tendered a book of documents, which the Hearing Committee admitted into evidence and marked as an exhibit:

**Exhibit 1**            Council's Book of Documents.

The Licensee tendered two documents which the Hearing Committee admitted into evidence and marked as exhibits:

**Exhibit 2** Document showing receipt for payment of tolls on the Golden Ears Bridge; and

**Exhibit 3** Affidavit of J. Babcock, made March 1, 2018.

During the course of the hearing, counsel also provided a written argument, as well as a brief of authorities. The cases highlighted by Council are discussed further below.

***(c) Facts***

The facts of this matter are derived from the materials in Exhibit 1 and the evidence given by the Licensee. Under volume 1, section 12.5 of the ICBC Autoplan Manual, customers who had unpaid toll bridge fees are subject to a “refuse to issue” by ICBC on their drivers licences and insurance policies. If an individual owed more than \$25, and the toll was significantly past due (different time periods apply for the Port Mann toll and the Golden Ears toll), licensees would be advised of a “refuse to issue” by ICBC. This meant that a licensee would be unable to process the person’s automobile insurance.

Licensees were unable to accept payment or make payment arrangements on behalf of customers to pay for toll bridge debts. The licensees were to advise customers to contact the applicable bridge administrator to pay their outstanding toll bridge debt. It was the licensee’s obligation to confirm that the customer had paid the toll bridge debt in full before the insurance transaction could be processed.

Once the toll bridge debt had been paid, the Autoplan manual provided specific procedures for bypassing the “refuse to issue” restrictions. In essence, the procedure involved using a by-pass code after the licensee had confirmed payment of the toll bridge debt by the customer.

In June 2015, ICBC commenced an investigation pertaining to insurance agency staff over-riding toll bridge debts by entering false toll payment receipt numbers. There was an apparent glitch in the ICBC system that would allow a toll bridge debt, reflected as a “refuse to issue” restriction in ICBC’s system, to be bypassed by entering a combination of any two letters followed by any series of five numbers. ICBC undertook a review of entries made by every agency in the province during the course of an 18 month period from January 1, 2014 to June 15, 2015. ICBC identified false transactions at nearly all the agencies in relation to both Golden Ears and Port Mann bridge debts. These false transactions allowed customers and licensees to proceed with placing insurance on their motor vehicles without first paying toll bridge debts.

On September 30, 2015, ICBC interviewed the Licensee. Following this interview, ICBC determined that the Licensee had entered a total of 50 false toll receipts. The Licensee had indicated that she completed an average of 450 Autoplan transactions per month and conceded that she may have written and/or inputted authorization numbers provided by customers incorrectly. According to the ICBC investigation, none of the 50 toll bridge debts were cleared at the time the transactions were processed by the Licensee. Less than 8 of the 50 toll bridge debts

were cleared within 5 days and the remainder were either never cleared, or cleared several weeks or several months later.

The Licensee acknowledged to ICBC during her interview that she did not always sight receipts and that sometimes customers texted her or verbally provided her with numbers. The Licensee denied knowingly entering false receipt numbers but had no rational explanation for the number of false entries. In Council's initial intended decision, dated June 28, 2017, Council recommended a fine in the amount of \$5,000 to the Licensee and analyzed the facts relating to the Licensee as follows:

Council noted that 50 customers had come to the Licensee to complete an ICBC Autoplan transaction and had provided false toll bridge receipt numbers. While noting that the Licensee processed a high number of insurance transactions each month, Council found that the likelihood of this occurring this many times without the Licensee's knowledge, was beyond the balance of probabilities.

Council noted that the ability to override the systems to avoid paying a toll bridge debt was not well known to the general public and concluded that it was highly unlikely that 50 of the Licensee's clients would know about this and have an appropriate receipt number (two letters followed by five numbers) to provide the Licensee. In addition, the Licensee had a responsibility to sight the receipt as part of the insurance transaction. This does not appear to have occurred on 50 occasions.

Council determined that given the large number of false toll bridge receipt numbers, the Licensee intentionally entered false information into ICBC's system or at the very least, willingly turned a blind eye to the process and entered false toll bridge receipts so as to facilitate ICBC Autoplan transactions.

Council acknowledges that insurance licensees face significant pressure from customers to complete insurance transactions in a timely manner. However, insurance licensees are also expected to carry on the business of insurance in a competent and trustworthy manner, in good faith, and in accordance with the usual practice of the business of insurance. In addition, an insurance licensee has a duty to an insurer to comply with the process established for completing an insurance transaction on behalf of the insurer. The Licensee's actions in entering false toll bridge receipts numbers breached that responsibility to ICBC.

As noted above, FICOM appealed the decision to the FST. The FST decision was released on July 31, 2018. On appeal, the Licensee took the position that the initial decision of Council was reasonable and that a suspension would be unreasonable and excessive, referring to case law which she submitted contained similar facts and results which were more serious and where fines were imposed. She emphasized that she was under significant client pressure to complete insurance transactions; that the 50 questionable transactions were a small percentage of the nearly 8000 she processed during the relevant time period; and that her conduct "may have constituted willful blindness and not intentional fraud". Alternatively, if her position on those issues was rejected, the Licensee sought to introduce new evidence on the appeal that she had

tendered in the form of an affidavit (now Exhibit 3 in this matter). The Licensee argued before the FST that had she known that she faced a potential licence suspension, she would have sought a hearing before the Council rather than accept the intended decision.

The FST did not permit the Licensee to tender additional evidence on the appeal. At paragraph 83 of its decision, the FST noted that in appeals by FICOM, a Licensee does not obtain a “redo” from findings that he or she did not challenge at first instance. The findings and penalty are final, subject only to the objections that FICOM may advance on its own appeal. For this reason, the FST decided that the only issue properly before the tribunal on the appeal was whether the penalty should be set aside and varied upward. The underlying findings of fact were not in issue.

The relevant conclusions of the FST for the purposes of penalty are found at paragraphs 123 to 125 of the decision, which state:

[123] My core finding in this decision is that subject only to clear mitigating factors in a particular case, it is only licensing action in the form of a suspension, cancellation or conditions (in addition to whatever other remedial option the regulator may consider appropriate in a case) that can adequately protect the public, secure its confidence and express the denunciation that such conduct warrants. It is my further view that, subject only to mitigating factors, a suspension of six months and the requirement to take an ethics course acceptable to the Insurance Council represents the minimum or baseline reasonable penalty that the licensee’s conduct **must** attract. Whether the ultimate penalty is higher or lower depends on a consideration of mitigating or aggravating factors in a given case.

[124] While FICOM argues “that there appear to be no mitigating factors which would favour a short period of suspension or a fine alone”, it is apparent to me that the Insurance Council did not meaningfully consider this issue given that it issued a common penalty in each case. It is also apparent to me, based on the arguments and the fresh evidence applications, that the problem of multiple infractions does not excuse the Insurance Council from its responsibility to make specific intended remedial judgments on a case-by-case basis based on its factual findings which are now not open to challenge or re-litigation. In my view, it is appropriate for the Insurance Council to make these judgments in the first instance.

[125] To this end, I issue these directions:

- (a) The Insurance Council is to issue a new intended decision limited to the issue of intended penalty in each of these cases in accordance with these reasons. **To be clear, the new intended decisions may not alter the factual findings and characterizations of the conduct set out in each decision.**
- (b) Each licensee will have up to 14 days to request a hearing on the issue of penalty only. If no hearing is requested, the Council’s decision will be final, subject only to an appeal by FICOM. If a hearing is requested, the outcome will be subject to appeal in the usual fashion by the licensee or FICOM.

- (c) **Any hearing requested by the licensee as described in paragraph (b) in response to the new intended decision, is not to be an opportunity for the licensee or the Council to arrive at new or conflicting findings of fact regarding conduct, as those findings were not challenged before the Council or the Tribunal and are now final and binding.**

(underlining in original; emphasis added)

Decision No. 2017-FIA-002(a), 003(a), 004(a), 005(a), 006(a), 007(a) and 008(a),  
paras. 123 to 125

### SUBMISSIONS OF COUNCIL

Council primarily relied upon its written submissions included at Tab 2 of its Brief of Authorities. In taking the Hearing Committee through the factual background of this matter, Council emphasized that the Hearing Committee was only tasked with addressing the issue of penalty and that it must work from the baseline penalty of six months imposed by the FST.

Council submitted that the mitigating factors to consider for the Licensee in this instance were that she was a level 1 agent at the relevant time and therefore in an entry level licensing position and that in completing an average of 450 Autoplan transactions per month the possibility of error on her part may have been higher. With respect to aggravating factors, Council identified the fact that the Licensee had been working as a level 1 agent for six years at the relevant time and knew or ought to have known that her actions were wrong. Further, of the 50 false receipt numbers that were used, none of the debts had been cleared at the time of the transactions; she admitted that she did not sight receipts as she was supposed to; and the Licensee's credibility was impacted by her position that her clients would know of the override required for the transaction and would have given her the false information rather than she knowingly entered false receipt numbers. In essence, Council took the position that it was not credible for the Licensee to suggest that innocent errors were made on these 50 occasions.

Council submitted that the fundamental purpose of sentencing is to ensure that the public is protected by further acts of misconduct and to prevent similar acts by other applicants or licensees. Council relied upon the precedent decisions of *Ernie Nguyen* (2019); *Heidi Martina Tonja Johnson* (2019); *Cheryl Lee Das* (2019); *Edmond George* (2019); and *Mi Keun Lee* (2019). Council reviewed each of these previous matters in detail and offered submissions with respect to how these matters compared to the facts of the Licensee's case.

All of these prior decisions relate to the penalty of licensees entering false toll bridge receipt numbers and all occurred by way of an intended decision pursuant to sections 231 and 236 of the Act.

In the matter of *Ernie Nguyen*, Mr. Nguyen entered a total of 116 false receipt numbers in order to override the toll bridge debts when he processed Autoplan transactions. During the material time, Mr. Nguyen was a level 1 general insurance salesperson. Mr. Nguyen admitted that he

entered false receipt numbers to override toll bridge debts. He was suspended by ICBC from conducting Autoplan business for a period of 12 weeks as a result of his conduct. Mr. Nguyen wrote a letter of apology to ICBC stating that he failed to appreciate the severity of his actions at the time, and he subsequently completed an ethics course. Mr. Nguyen's general insurance licence was suspended for a period of five months.

In the matter of *Heidi Johnson*, Ms. Johnson entered a total of 53 false receipt numbers to override toll bridge debts. Ms. Johnson admitted that she entered the false numbers, explaining that she was trying to make things easier for her clients with the debts. Ms. Johnson was suspended by ICBC from conducting Autoplan business for a period of 12 weeks as a result of her conduct. Like Mr. Nguyen, Ms. Johnson wrote a letter of apology to ICBC and subsequently completed an ethics course. Ms. Johnson had been licensed with Council since 1992. At times she had been licensed as a level 2 and 3 general insurance agent, as well as being an agency nominee for a period of time. Council determined that Ms. Johnson's general insurance licence would be suspended for a period of seven months.

In the matter of *Cheryl Lee Das*, Ms. Das entered a total of 32 false receipt numbers to override toll bridge debts. At the time, Ms. Das was a level 3 general insurance agent. Ms. Das acknowledged that she entered false receipt numbers to override toll bridge debts, and explained that she was doing so to try and help her customers who either did not have a credit card or whose insurance would expire that same day. Council suspended Ms. Das' general insurance licence for nine months.

Finally, in the decisions of *Edmund George* and *Mi Keun Lee*, those licensees entered 45 and 36 false receipt numbers respectively. Both were level 1 agents during the material time. Mr. George received an eight month licence suspension and Ms. Lee received a six month licence suspension.

Council noted that the Licensee in this instance stood to benefit financially from her misconduct, being the commissions that were earned on the sales of the policies (although the amount of financial benefit is unclear). The Licensee deposed in paragraph 44 of her affidavit that she had to pay an amount to her brokerage to reimburse it for her portion of a fine which was levied by ICBC against the brokerage. In the letter from Steve Clements, the owner of her brokerage, he stated that the internal fine of \$5,575.16 paid by the Licensee to the brokerage was "two times the commission earned on the transactions in question" but in the letter from Derek Doucette, the manager of the brokerage, he states that it "was the commission earned on the transactions in question".

Council pointed out that unlike many of the precedent decisions, there was no admission of guilt by the Licensee. The Licensee was maintaining that she had not intentionally entered false numbers. Council submitted that the circumstances of this matter warranted an eight month suspension. Council also sought to have the Licensee be required to complete the Ethics for Insurance Brokers course or a similar course acceptable to Council and to pay Council's costs associated with the hearing.



## **THE LICENSEE'S EVIDENCE & SUBMISSIONS**

The Licensee, in very straight forward and succinct manner, outlined that an eight month suspension would be catastrophic for someone like her who works on a commission basis. She believed that she would not have a job to come back to if Council recommended a suspension of this length of time. She testified that she is single, lives alone and supports herself. She purchased a home in 2017 and relies on her income from her employment to make her mortgage payments. The Licensee noted that she had been licensed with Council for over 10 years and this was the only discipline issue that she has ever faced. Throughout her time as a licensee, she has been employed with Rand & Fowler Insurance in Coquitlam, BC. Although the matter could not be fully canvassed by the Hearing Committee given the directions from the FST, the Licensee maintained at this hearing that she did not knowingly provide false information to ICBC. She conceded that her practices were not acceptable at the time, but suggested that the situation was more akin to willful blindness, as compared to intentional fraud. Her position was, essentially, that she made 50 mistakes.

As outlined in Exhibit 3, the Licensee explained a series of changes to her practices that were made as a result of the ICBC investigation. After September 2015, she refused to accept advice over the phone from clients about receipt numbers for toll bridge debts and insisted that she see proof of payment, including the receipt issued from the toll bridge company. If such information was not available from her clients, she would seek authorization to speak directly to the toll bridge companies to obtain the codes.

The Licensee also provided information about the impact of this investigation on her, both professionally and personally. As result of ICBC's investigation, it levied a significant fine on her brokerage. In turn, the brokerage required its agents to reimburse it for the fine that was paid to ICBC. To this end, the Licensee has already paid her brokerage \$5,575.16 on account of this matter. Further, the Hearing Committee appreciates and accepts that the Licensee in this instance has been the subject of significant negative media coverage. Although the media reports refer to the fact that over 100 insurance brokers had been identified as over-riding the toll bridge fine payment system, the Licensee has been one of the few licensees specifically named in some of the media reporting.

The Licensee explained that when the initial intended decision was issued, she was told by her manager that she should just pay the fine as it would be less than paying a lawyer to dispute the issues. She said that she was encouraged by her manager to accept and pay the fine so that the issue would go away. She did so, and now she is here and cannot argue about her supposed misconduct, with which she disagrees.

Finally, the Hearing Committee notes that the Licensee provided letters of support from the owner and manager of her brokerage respectively. As Mr. Clements wrote:

I strongly believe that Jacqui has learned her lesson with respects [sic] to her actions. She cooperated with the investigators and paid her fine to both Rand & Fowler and the

Insurance Council of BC. After the investigation, she advised ICBC of the situations that cause challenges with respects [sic] to the bridge toll debt and helped educate others as to what happened and how to not let this happen to them.

I do not believe that any further corrective punishment would be of any benefit, this includes suspension.

Jacqui is extremely remorseful and has done all she can to correct her actions.

A nearly identical letter was written by Mr. Doucette. These were attached as exhibits to Ms. Babcock's affidavit which was entered as Exhibit 3.

### **FINDINGS OF THE HEARING COMMITTEE**

This is been a challenging matter for the Hearing Committee to determine an appropriate penalty. The Hearing Committee has some sympathy for the Licensee, particularly considering the media attention which has been attached to her as a result of these proceedings. The Hearing Committee accepts that the media coverage has had a very significant impact on the Licensee, both personally and professionally. Further, although the Licensee had counsel at the FST, she did not have counsel at the time of the first intended decision. Her manager, someone she trusted, advised her to pay the fine to resolve the issue and put it behind her. The Hearing Committee appreciates how this discussion would have occurred. However, the Hearing Committee also notes that the Licensee did not demonstrate that she was unaware of or unable to understand the consequences of accepting the intended decision. FICOM's ability to appeal, and the consequences of that, were clearly set out in the intended decision. In some ways, the Licensee took a calculated risk and unfortunately it has put her in a very difficult position.

In this matter, the Hearing Committee is limited to the four corners of the mandate as set out by the FST: to determine the issue of penalty, using the baseline six month suspension and accounting for aggravating or mitigating factors in recommending an appropriate penalty for the Licensee.

While the Hearing Committee admitted Exhibit 2, it has given it little weight in its assessment of penalty. The Hearing Committee notes that the Licensee is still disputing her misconduct, at least to some extent. She did initially pay the \$5,000 fine imposed by Council (which was refunded to her), but she is maintaining that she made errors and that she had a poor practice, as opposed to intentionally helping customers bypass the toll debts. At paragraph 46 of her affidavit she states that she was "sloppy" and that she should not have been so trusting in accepting her clients' advice about the code numbers that she was being given. This lack of acceptance of her role in these events was of concern to the Council in the intended decision and is of equal concern to this Hearing Committee. The finding in the intended decision was that the likelihood of this number of errors occurring was beyond the balance of probabilities and "the Licensee intentionally entered false information into ICBC's system, or at the very least, willingly turned a blind eye to the process". This is the finding that the Hearing Committee must now grapple

with in determining a penalty. In all precedent cases where there is some mitigation of penalty, the licensee fully admitted his or her misconduct and, in some cases, went the extra step and proactively took an ethics course and apologized to ICBC. The Licensee did not conduct herself in this manner and the Hearing Committee is troubled by the Licensee's lack of acceptance of her actions.

The Hearing Committee believes that the Licensee has "learned her lesson" and there is little risk of her re-offending in the same or similar manner; however, it does not agree that further penalty would be of no benefit. The principles of sentencing in a self-regulated profession go beyond this concept and although the Hearing Committee accepts that the Licensee would have felt considerable business pressure to assist the customers and the dealership (where many of the transactions occurred) complete vehicle sales by finalizing insurance, she was nevertheless obliged to ensure that she complied with her professional obligations at all times. She did not do so and she must now face an appropriate disciplinary penalty.

#### **RECOMMENDATIONS OF THE HEARING COMMITTEE**

Council's options in terms of imposing penalties against licensees for misconduct are set out in section 231 of the Act. The fundamental purpose of sentencing for misconduct is to ensure the public is protected from further acts of misconduct by a licensee, as well as to prevent against similar acts or actions by other licensees in the future. Some of the factors to be considered in sentencing include:

- a) the need to promote specific and general deterrence and thereby protect the public;
- b) rehabilitation, punishment and isolation of the offender;
- c) the need to maintain the public's confidence and the integrity of the profession's ability to properly supervise the conduct of its members; and
- d) the range of sentencing in other similar cases.

*Financial Services Commission v. The Insurance Council of British Columbia and Maria Pavicic*, November 22, 2005 at p. 12 citing James T. Casey, *The Regulation of Professionals in Canada* (2003)

The Hearing Committee considered the previous cases of *Heidi Martina Tonya Johnson*, *Edmund George* and *Mi Keun Lee* to be of the most assistance with respect to establishing a penalty in this matter. As set out above, Ms. Johnson entered a total of 53 false receipt numbers, explaining that she was trying to make things easier for her clients with the debts. Ms. Johnson was suspended by ICBC from conducting Autoplan business for a period of 12 weeks as a result of her conduct, wrote a letter of apology to ICBC and subsequently completed an ethics course. Ms. Johnson had been licensed with Council for more than 22 years at the relevant time, was licensed as a level 2 and 3 general insurance agent, as well as being an agency nominee for a period of time. Council determined that Ms. Johnson's general insurance licence would be suspended for a period of seven months. Mr. George and Ms. Lee were both level 1 agents like Ms. Babcock and entered roughly the same number of false receipts and received suspensions of

eight and six months respectively. Mr. George did not admit his misconduct. He took a similar position to that of the Licensee. Council accepted that Mr. George's denials of culpability as an aggravating factor. Ms. Lee admitted her misconduct, which Council accepted as a mitigating factor.

In this matter, the Hearing Committee must start with a baseline suspension of six months and consider any mitigating or aggravating factors. The Licensee was a level 1 agent at the relevant time. She has already paid a significant fine to her brokerage and has sustained quite unflattering media coverage. At the same time, this is her first instance of professional discipline, she appears to have changed her practices and she has the unwavering support of her agency. Further, as she testified, a lengthy suspension will have a devastating impact on her, both personally but also professionally, as her income is very much commission-based. All of those factors would be said to be mitigating in terms of an appropriate penalty.

On the other hand, the Licensee has not admitted her wrongdoing and was involved in a high number of false receipt transactions. These factors would militate in favour of a longer period of suspension.

Ultimately, having considered all of the factors outlined above, as well as the prior decisions, the Hearing Committee believes that the mitigating and aggravating factors somewhat off-set each other in this instance, with the appropriate penalty being informed by the *Johnson* decision. To this end, the Hearing Committee recommends that Council consider the following penalty:

- a) the Licensee's general insurance licence be suspended for a period of seven months;
- b) as a term and condition of the licence, the Licensee be required to successfully complete an "Ethics for Insurance Brokers" course through the Insurance Brokers Association of British Columbia, or an equivalent course as acceptable to Council, prior to completion of the Licensee's licence suspension; and
- c) the Licensee pay the reasonable costs of the hearing, as assessed.

Dated in Vancouver, British Columbia, on the **4<sup>th</sup> day of June 2019**.



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Lesley Maddison, Chair of Hearing Committee  
Insurance Council of British Columbia