

In the Matter of

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

and

The INSURANCE COUNCIL OF BRITISH COLUMBIA
(“Council”)

and

BARRY ANN MICHELLE TURNBULL
(the “Licensee”)

ORDER

As Council made an intended decision on October 15, 2013, 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 November 5, 2013; 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 fined \$1,000.00.
2. The Licensee is assessed Council’s investigative costs of \$775.00.
3. A condition is imposed on the Licensee’s general insurance licence that requires her to pay the above-ordered fine and investigative costs no later than **February 26, 2014**. If the Licensee does not pay the ordered fine and investigative costs in full by this date, the Licensee’s general insurance licence is suspended as of **February 27, 2014**, without further action from Council and the Licensee will not be permitted to complete any annual filing until such time as the ordered fine and investigative costs are paid in full.

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This order takes effect on the **26th day of November, 2013.**



Rita Ager, CFP, CLU, CHS, CPCA, FEA
Chairperson, Insurance Council of British Columbia

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA
(“Council”)

respecting

BARRY ANN MICHELLE TURNBULL
(the “Licensee”)

INTRODUCTION

Pursuant to section 232 of the *Financial Institutions Act* (the “Act”), Council conducted an investigation into allegations the Licensee improperly signed a client’s name on an insurance document.

An investigation report was reviewed by Council at its October 15, 2013 meeting. At the conclusion of its meeting, 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 has been licensed as a Level 1 general insurance salesperson since September 3, 2003.

On April 30, 2013, an individual (the “Client”) went to the agency where the Licensee was employed (the “Agency”) in order to obtain a renewal for his extended private insurance policy for his motorcycle (“Policy 1”), his Insurance Corporation of British Columbia (“ICBC”) basic insurance policy for his motorcycle (“Policy 2”), and his automobile insurance policy. The Licensee serviced the Client for Policy 1 and Policy 2. Another employee of the Agency serviced the Client for his automobile insurance policy.

The Licensee completed the transactions for Policy 1 and Policy 2. She gave the Client the insurance documents for Policy 1 and his ICBC decal for Policy 2. However, she forgot to print and have the Client sign his ICBC documents for Policy 2. The Client left the Agency without receiving the documents for Policy 2 and it was only after the Client had left, that the Licensee realized her mistake. She then printed out the ICBC documents, forged the Client's signature, and put the documents in the Agency's batching file.

The Licensee stated the transaction occurred just before she was due to take her lunch break, which the Agency requires she take at a specific time. She stated that she panicked and signed the Client's name. The Licensee explained that her actions were because the Agency usually batched ICBC transactions twice per day and she wanted this transaction to be batched on time. She advised it was her intention to contact the Client after her lunch in order to make arrangements for him to sign the ICBC documents.

While the Licensee was away on her lunch break, the Client realized he did not have his ICBC documents for Policy 2 and returned to the Agency. The Client was serviced by another Agency employee, who showed the Client the ICBC document that contained his forged signature. The Client confirmed the signature on the ICBC document was not his. The Agency employee prepared another copy of the ICBC documents and had the Client sign it.

The Licensee was terminated by the Agency as a result of this incident.

ANALYSIS

There is no dispute that the Licensee forged the Client's signature. Based on the evidence, Council determined the forgery was done for convenience and without any intent to harm or for material gain.

Council took into consideration the Licensee's submission that she felt pressure to service clients in a timely manner, which caused her to deviate from her normal practice. Nonetheless, Council determined the Licensee ought to have known that no circumstances exist where it is acceptable to forge another person's signature in an insurance transaction. Council held that the Licensee's conduct was clearly contrary to the usual practice of the business of insurance.

Council determined that a \$1,000.00 fine would be an appropriate punitive and deterrent measure.

INTENDED DECISION

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

1. Fine the Licensee \$1,000.00.
2. Assess the Licensee Council's investigative costs of \$775.00.

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

The intended decision will take effect on **November 26, 2013**, 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 **November 25, 2013**. 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 **November 25, 2013**, the intended decision of Council will take effect.

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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 www.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 **5th day of November, 2013.**

For the Insurance Council of British Columbia



Gerald D. Matier
Executive Director

GM/tp