

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

and

The INSURANCE COUNCIL OF BRITISH COLUMBIA
(“Council”)

and

BARBARA QIAN YU
(the “Licensee”)

ORDER

As Council made an intended decision on January 13, 2015, 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 29, 2015; and

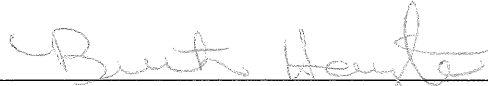
As the Licensee has not requested a hearing of Council’s intended decision within the time period provided by the Act;

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 six months, commencing on **March 3, 2015** and ending on **September 2, 2015** at midnight.
2. The Licensee is assessed Council’s investigative costs of \$606.25.
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 19, 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. If they remain unpaid as of **September 2, 2015**, the Licensee’s general insurance licence will remain suspended until the ordered investigative costs are paid in full.

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This order takes effect on the 17th day of February, 2015.

A handwritten signature in cursive script, appearing to read "Ruth Hoyte", written above a horizontal line.

Ruth Hoyte
Chairperson, Insurance Council of British Columbia

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA
(“Council”)

respecting

BARBARA QIAN YU
(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.

An investigation report regarding the allegation that the Licensee accessed an Insurance Corporation of British Columbia (“ICBC”) database for an improper purpose was distributed to the Licensee for review, and the Licensee was provided an opportunity to clarify the information contained therein and make further submissions.

The investigation report was considered by Council at its January 13, 2015 meeting. At the conclusion of its meeting, Council determined that 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 1 general insurance salesperson (“Salesperson”) and has been licensed with Council since June 2013.

In December 2013, the Licensee accessed the ICBC database to obtain information about her boyfriend (the “Boyfriend”), without his knowledge or consent. She claimed that she wanted to find out when his vehicle insurance was renewing. In accessing the database, the Licensee thought she was entering a licence plate that belonged to her Boyfriend. Instead, the plate information she entered belonged to her Boyfriend’s father (the “Father”) and, as a result, her search returned information about the Father and his vehicle. When this occurred, she entered the information a second time to confirm whether she had entered the correct information. The personal information available to the Licensee in her search primarily pertained to the Father’s vehicle, insurance coverage, and driver’s licence information. The information did not include his address. The Licensee did not do anything with the information she obtained.

The Father suspected the privacy breach when the Boyfriend, who had recently moved in with him, thought he saw the Licensee drive by the Father’s house. The Boyfriend was concerned as he had not provided the Licensee with his new address since they broke up in January 2014.

The Licensee had taken ICBC’s Privacy Please – Protecting Customers’ Information Course around the time that she obtained her Salesperson licence and has since reviewed the privacy requirements.

ANALYSIS

Council determined that the Licensee breached a consumer’s confidentiality and ICBC’s privacy policy when she accessed the ICBC database and obtained information about the consumer without his knowledge.

In determining an appropriate disposition of this matter, Council considered some of its prior decisions pertaining to unauthorized access of the ICBC database. Council noted that where there is unauthorized access of the ICBC database, a one-year suspension has been the penalty benchmark and it may reduce or increase the period of suspension, depending on any aggravating or mitigating factors. In particular, a suspension longer than one year has been imposed in circumstances where a licensee has engaged in numerous unauthorized accesses and/or has done so for purposes that were clearly illegitimate. Suspensions of less than one year have been imposed where the unauthorized access was an isolated incident and was done without any ill intent, where the information obtained was not used or disclosed, and/or where there was no harm to the person whose information was accessed.

In this case, Council considered the relative inexperience of the Licensee at the time of the privacy breach and it accepted that the Licensee was not acting with malice, and instead was curious about her Boyfriend's insurance information. It also considered that the Licensee did not use the consumer's information in any manner. Council found these to be mitigating factors and determined that they were sufficient to justify a licence suspension of less than its one-year licence suspension benchmark for unauthorized access to the ICBC database.

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 six months.
2. Assess the Licensee Council's investigative costs of \$606.25.

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. If the ordered investigative costs are not paid within the 90 days, the Licensee will not be permitted to make any annual filings. If the ordered costs are still outstanding at the end of the Licensee's ordered suspension, the Licensee's general insurance licence will remain suspended until the investigative costs are paid in full.

The intended decision will take effect on **February 17, 2015**, subject to the Licensee's right to request a hearing before Council pursuant to section 237 of the Act.

The Licensee's suspension will begin on **March 3, 2015**, and end on **September 2, 2015** at midnight.

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 16, 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 16, 2015**, the intended decision of Council will take effect.

Intended Decision
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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 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 January, 2015.**

For the Insurance Council of British Columbia

per 

Gerald D. Matier
Executive Director
604-695-2001
gmatier@insurancecouncilofbc.com

GM/bk