

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

and

The INSURANCE COUNCIL OF BRITISH COLUMBIA
(“Council”)

and

GAGANDIP GREWAL
(the “Licensee”)

ORDER

As Council made an intended decision on October 21, 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 November 18, 2014; and

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

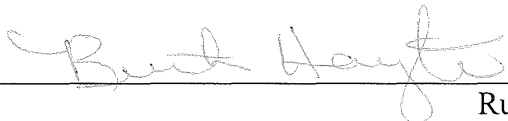
Under authority of sections 231, 236, and 241.1 of the Act, Council orders:

1. A condition is imposed on the Licensee’s general insurance licence that prohibits him from holding a Level 2 general insurance agent licence until such time as he accumulates an additional 12 months of active licensing from the effective date of this order.
2. A condition is imposed on the Licensee’s general insurance licence that requires him to successfully complete the Insurance Corporation of British Columbia’s Information Security and Privacy Course (“the Course”) on or before **March 9, 2015**.
3. A condition is imposed on the Licensee’s general insurance licence that if the Licensee does not successfully complete the Course on or before **March 9, 2015**, the Licensee’s general insurance licence is suspended as of **March 10, 2015**, without further action from Council and the Licensee will not be permitted to complete any annual filing until such time as the Course is completed.
3. The Licensee is fined \$5,000.00.

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4. The Licensee is assessed Council's investigative costs of \$687.50
5. A condition is imposed on the Licensee's general insurance licence that requires him to pay the above-ordered fine and investigative costs no later than **March 9, 2015**. 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 **March 10, 2015**, 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.

This order takes effect on the **9th day of December, 2014**.



Ruth Hoyte
Chairperson, Insurance Council of British Columbia

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA
(“Council”)

respecting

GAGANDIP GREWAL
(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 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 reviewed by Council at its October 21, 2014 meeting, resulting in a determination 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 has been licensed with Council as a Level 1 general insurance salesperson (“Salesperson”) since September 2012. He initially worked at an agency for one year (the “Prior Agency”), along with a relative, who holds a Level 2 general insurance agent licence (the “Agent”). The Licensee began working at his current agency (the “Agency”) in October 2013. He is paid an hourly rate as well as commissions for completed Insurance Corporation of British Columbia (“ICBC”) transactions.

The Licensee was approached by the Agent in or around December 2013 to complete Autoplan renewals for individuals he understood to be the Agent's customers. The Licensee stated the Agent convinced him it was alright to process Autoplan renewals for the individuals as these customers "belonged to her book of business" at the Prior Agency. The Agent's stated intent was to assist the Licensee with increasing his customer base as he was just starting out in the industry. The Agent told him to process the renewals at his Agency so he could earn the commission for the transactions and keep the business for future years.

It was the Agent's practice to maintain a binder with copies of Autoplan insurance policies for all her customers. It was from these copies that the Agent provided the Licensee with information on upcoming Autoplan renewals for her customers. In 40 percent of the instances, the Licensee would call the customers directly to confirm coverage details, with a phone number provided by the Agent. In the remaining instances, the Agent called the customers first and then directed the Licensee to renew according to the terms she specified.

In some cases, the Licensee took the transaction documents away from the Agency and provided them to the Agent. Approximately 60 percent of the renewal policies were delivered by the Agent, and 40 percent were delivered by the Licensee. The policies were delivered the same day of the transaction. In total, the Licensee transacted 30 to 40 Autoplan renewals in this manner, between December 2013 and early February 2014.

The Licensee questioned the Agent about the appropriateness of processing "her" customers' renewals, but, at the Agent's insistence that there was nothing wrong, proceeded with processing the Agent's customers' Autoplan renewals. The Licensee stated he was unaware that the transfer of the customer information between agencies and agents without permission constituted a privacy breach.

When the Prior Agency discovered that the Agent had transferred customer information to the Licensee, her employment was terminated. The Licensee submitted that it was at this time he realized that what he had done was improper.

Council noted that sections of ICBC's Policy and Procedures Manual (the "Manual") include:

Transfer of Personal Information between Agencies

Section 1.1 of the Manual (Volume 1) under heading "The Agent's Office" states:

ICBC and its agents have a responsibility under FIPPA to ensure that personal information is secure. Personal information collected by one agency is to be used only by that agency and is to remain in the custody and control of that agency at all times.

Section 1.1 of the Manual (Volume 1) under heading “Money and Records” states:

Responsibility for security

You are responsible to ICBC for the safekeeping of all monies, completed forms, stock, and inventory. You are expected to handle them as outlined below.

Money and records

All cash, cheques, money orders, and drafts are to be kept separate from other agency funds in a safe receptacle during the day and locked up when the premises are vacated at the end of the day. They must be kept in a cabinet, vault, safe, closet, or storeroom with a lock separate from other locks on the premises until deposited in the bank.

If the daily reconciliation of transactions and payments shows a shortage, you must make up any cash shortages in ICBC monies.

At least one copy of processed transactions must be kept separate and apart from the cash and cheques to identify losses in the event of a robbery and to help facilitate the re-creation of transactions that may have been stolen. This is especially important when you have processed a transaction manually.

When it is necessary to transact business outside the designated premises, the agent must ensure that the forms described in the above paragraph and all cash and cheques are separated and returned to the designated premises by the end of the same business day to comply with the banking and batching requirements.

ANALYSIS

Council determined that the Licensee breached the confidentiality of the Prior Agency’s clients by accepting and using their personal information without their knowledge or consent.

Council determined that by processing renewals for customers of another agency, without their specific knowledge or consent, the Licensee failed to act in accordance with the usual practice of the business of insurance. Council found that even though he was relatively inexperienced, the Licensee knew, or ought to have known, that the transfer of customer insurance information was inappropriate.

As a mitigating circumstance, Council noted that the Licensee was forthright with Council throughout its investigation and expressed significant remorse. In addition, Council noted that his conduct was distinguishable from other cases involving privacy breaches in that the access was related to conducting an insurance transaction. However, Council found the fact that the Licensee's actions resulted in personal monetary gain to be an aggravating factor.

Council considered two prior cases which involved the unauthorized transfer of client information between agencies.

In *Cantin* (2013), a licensee released client information to a former supervisor at the supervisor's request. Council accepted that the licensee mistakenly assumed the required authorization had been secured from the client. The licensee was restricted to holding a salesperson's licence for 12 months, fined \$1,000.00, and assessed Council's investigative costs. Although this was not a case involving access of the ICBC database, Council required the licensee to complete ICBC's Privacy Please course as this was this licensee's primary area of business.

In *Egan* (2013), Council found that a licensee intentionally requested that a former colleague provide her with confidential renewal premium and insurer information on a client's insurance coverage that had been placed by the licensee's former agency. Council determined that the licensee's reason for requesting the information was to impress her new employer and secure new business. Council held that in the course of requesting this information, the licensee unintentionally disclosed private information about the client's insurance risk to the former colleague. The licensee was restricted to representing her current employer, who was also addressing her conduct, was fined \$2,500.00, and assessed Council's investigative costs.

Council determined that the Licensee's conduct was more egregious than in either of the cases considered, given the volume of information transferred inappropriately and the personal financial gain that resulted. Council concluded the Licensee's actions were not in accordance with the usual practice of the business of insurance and warranted a punitive measure in the form of a \$5,000.00 fine.

Council determined that the Licensee would also benefit from further supervision and education regarding privacy.

INTENDED DECISION

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

1. Impose a condition on the Licensee's general insurance licence that prohibits him from holding a Level 2 general insurance agent licence until such time as he accumulates an additional 12 months of active licensing.
2. Impose a condition on the Licensee's general insurance licence that requires him to successfully complete ICBC's Information Security and Privacy Course within 90 days of the date of Council's order.
3. Fine the Licensee \$5,000.00.
4. Assess the Licensee Council's investigative costs of \$687.50.

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, or failure to complete ICBC's Information Security and Privacy Course within 90 days of the date of Council's order, 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 **December 9, 2014**, 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 **December 8, 2014**. 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 **December 8, 2014**, 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 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 **18th day of November, 2014.**

For the Insurance Council of British Columbia



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Executive Director
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