

In the Matter of

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

and

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

and

**BEATA STEPNIEWSKI
(the “Licensee”)**

**DECISION AND ORDERS
UNDER SECTIONS 231, 238, & 241.1 OF THE ACT**

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 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 section 231 of the Act before taking any such action. The Licensee may then accept Council’s intended decision or request a formal hearing.

In this matter, Council made an intended decision, but considered the length of time required to proceed under section 231 of the Act to be detrimental to the due administration of the Act. It therefore made an order pursuant to section 238 of the Act. It also made an order for payment of investigative costs under section 241.1 of the Act.

This decision serves as written notice of Council's orders, its reasons, and the Licensee's right to request a hearing before Council or appeal Council's order under section 238 directly to the Financial Services Tribunal ("FST").

FACTS

The Licensee was first licensed as a Level 1 general insurance salesperson ("Salesperson") in July 2009. In June 2013, during Council's investigation, the Licensee admitted that she engaged in a number of improper activities in 2012.

The first matter involved the Licensee accepting cash premium payments totaling approximately \$3,000.00 from three clients for their homeowner's insurance, then failing to remit the funds to the insurance agency (the "Agency") whom she was authorized to represent at the time. The Licensee then improperly used credit card numbers obtained from other unrelated Agency clients and applied payment against these credit card numbers for amounts that correlated with some of the premiums she failed to remit to the Agency.

The second matter involved the Licensee collecting approximately \$460.00 in cash from an Agency client for payment of the client's annual homeowner's insurance premium. However, the Licensee failed to remit this payment to the Agency, resulting in the client being notified by the Agency that her premium payment was overdue, as the Agency had no record of her payment to the Licensee. It was subsequently determined that the cash remained in the Licensee's cabinet at the Agency for approximately six weeks. The Licensee stated that she had forgotten about this client's cash.

The third matter involved the Licensee processing an Insurance Corporation of British Columbia ("ICBC") automobile insurance transaction for an Agency client, which included collecting a cash premium payment from the client in the amount of \$1,149.00, which she failed to remit to the Agency. Unbeknownst to the client, the Licensee arranged for his insurance premium to be financed on a monthly basis through ICBC, with payments being withdrawn from her personal bank account, even though the client had already paid the premium. The Licensee was able to do this by contravening ICBC's financing protocols. Her actions were discovered when the client received notice from ICBC that it had not received a required monthly financing payment. Upon receipt of this notice, the client attended the Agency to resolve the matter.

ICBC subsequently identified another situation where insurance premium financing had been improperly arranged for an ICBC policyowner (the Licensee's friend), with the premiums being financed monthly through withdrawals from the Licensee's bank account. The Licensee was found to have processed ICBC insurance for the friend, collected the friend's cash premium payments, and processed several mid-term changes to either increase or decrease coverage for the friend who travelled out-of-country. This occurred between 2010 and 2012 with the friend's knowledge and consent, but was contrary to ICBC policy. ICBC does not permit financed premium payments to be made by any person other than the registered owner of the insured vehicle.

The Licensee acknowledged that she sometimes forged her friend's signature on the required ICBC transactional documents as a matter of convenience. She also characterized the premium financing as a borrowing arrangement with her friend, where she would receive cash from the friend and, in return, would pay the friend's ICBC premiums through financing.

DISPOSITION

Council found the Licensee's actions demonstrated that she is no longer trustworthy, financially reliable, or able to carry on the business of insurance in good faith and in accordance with the usual practice, making her unsuitable to hold an insurance licence.

By her own admission, the Licensee misused clients' credit card numbers; took cash premium payments from Agency clients and failed to remit the funds to the Agency as required; forged a client's signature on more than one occasion; arranged premium financing for ICBC policyowners contrary to ICBC protocols and, on one occasion, without a client's knowledge.

Council described the Licensee's conduct as self-serving, deceitful, calculating, and to an extent that it harmed Agency clients, the Agency, and ICBC, by exposing these parties to unnecessary risk.

In the past, Council has pointed to certain factors that can mitigate a licensee's misconduct. In this case, however, it did not believe any factors could excuse the Licensee's actions in this matter.

Council considered various precedents pertaining to the misappropriation of insurance premiums. In *K. Wagenaar*, *M. Gansekoele*, and *K. Parmar*, the licensees had taken cash premium payments from clients, used the funds for their own purposes, and took certain steps to conceal their activities. In those instances, Council rendered those individuals unsuitable to hold a licence for a minimum period of two years.

INTENDED DECISION

Pursuant to section 231 of the Act, Council made an intended decision to cancel the Licensee's Salesperson licence for a minimum period of two years.

ORDER UNDER SECTION 238 OF THE ACT

In light of the evidence obtained in this matter and the subsequent admissions made by the Licensee during the investigation, Council has determined the Licensee poses an immediate risk to the public.

As the Licensee is currently employed as a Salesperson at another general insurance agency, Council considers the length of time required for this matter to proceed under section 231 of the Act to be detrimental to the due administration of the Act.

Accordingly, Council orders that the Licensee's Salesperson licence is cancelled for a minimum period of two years, effective the date of this order.

ORDER UNDER SECTION 241.1 OF THE ACT

As Council has made an order under the Act, it also orders that the Licensee pay Council's investigative costs in this matter of \$2,312.50, within 90 days from the date of this order.

RIGHT TO A HEARING

Take notice that pursuant to section 238 of the Act, the Licensee has the right to require a hearing on the cancellation of her insurance licence, before Council, by delivering written notice within 14 days of receipt of this order to Council at Suite 300, 1040 West Georgia Street, Vancouver, British Columbia, V6E 4H1. Alternatively, the Licensee may appeal this order directly to the FST.

Pursuant to section 242(3) of the Act, the Financial Institutions Commission 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:

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October 25, 2013
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Financial Services Tribunal
PO Box 9425 Stn Prov Govt
Victoria, British Columbia
V8W 9V1

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Dated in Vancouver, British Columbia, on the **25th day of October, 2013.**



Rita Ager, CFP, CLU, RHU, CSA
Chairperson, Insurance Council of British Columbia