

**In the Matter of**

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

**and**

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

**and**

**MAXINE JANICE LE FLOUR**  
**(the “Licensee”)**

**ORDER**

As Council made an intended decision on May 14, 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 May 31, 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. A condition is imposed on the Licensee’s general insurance licence that requires her to successfully complete the Insurance Corporation of British Columbia’s Autoplan Essentials course within six months of obtaining an active general insurance licence, or her general insurance licence will be suspended without further action from Council.
2. A condition is imposed on the Licensee’s general insurance licence that she must only conduct general insurance business under the supervision of a general insurance nominee until such time as she accumulates an additional 12 months of active licensing.
3. The Licensee is fined \$1,000.00.
4. The Licensee is assessed Council’s investigative costs of \$625.00.

Order  
Maxine Janice Le Flour  
164787-11263  
June 19, 2013  
Page 2 of 2

5. 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 **September 19, 2013**. 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 **September 20, 2013**, 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 **19<sup>th</sup> day of June, 2013**.



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C. David Porter, LL.B., FCIP, CRM  
Chairperson, Insurance Council of British Columbia

## **INTENDED DECISION**

of the

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

respecting

**MAXINE JANICE LE FLOUR**  
(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.

As part of Council’s investigation, on April 15, 2013, an Investigative Review Committee (the “Committee”) met with the Licensee to discuss allegations the Licensee processed an Insurance Corporation of British Columbia (“ICBC”) automobile insurance transaction without proper authority, while the registered owner was out of the country.

The Committee was comprised of one voting member and three non-voting members of Council. Prior to the Committee’s meeting with the Licensee, an investigation report was distributed to the Committee and the Licensee for review. A discussion of this report took place at the meeting and the Licensee was provided an opportunity to clarify the information contained therein and make further submissions. Having reviewed the investigation materials and after discussing this matter with the Licensee, the Committee made a recommendation to Council as to the manner in which this matter should be disposed.

A report setting out the Committee’s findings and recommended disposition, along with the aforementioned investigation report, were reviewed by Council at its May 14, 2013 meeting. At the conclusion of its meeting, Council accepted the Committee’s recommended disposition and 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 was first licensed with Council as a Level 1 general insurance salesperson in November 2005. She became a Level 2 general insurance agent in June 2006, and has earned the Canadian Accredited Insurance Broker designation. The Licensee obtained a life and accident and sickness insurance licence with Council in February 2009.

It was alleged the Licensee processed an ICBC automobile insurance transaction without proper authority while the registered owner was out of the country. In particular, the Licensee processed changes upon renewal to the ICBC policy at the request of a third party who asked to be named as the principal operator, and changed the bank account information of the registered owner's Autoplan finance agreement to reflect the third party's account, all without the involvement of the registered owner.

On July 31, 2012, the Licensee processed an ICBC automobile insurance renewal on a vehicle registered to a vehicle owner (the "Owner") that was due for renewal on August 2, 2012. As part of this renewal transaction, a third party (the "Operator") was declared as the principal operator of the Owner's vehicle, and the bank account information for the ICBC Autoplan 12 premium payments was changed from the Owner's bank account to the Operator's bank account, both without proper authorization from the Owner.

After processing the transaction, the Licensee delivered the transactional decal and ICBC documents to the Operator in Victoria. The Operator signed the documents, and the Licensee remitted the documents to her agency. This occurred without the Licensee being in possession of any power of attorney from the Owner. According to the Licensee and the Operator, the Owner was out of the country for work and could not attend an Autoplan agency to facilitate the transaction.

The Licensee claimed that she did not think through ICBC's procedural requirements, she was under the stress of juggling a dual role with her agency (life and general insurance), and had not been processing many ICBC transactions on a day-to-day basis. She was also personally familiar with and trusted the Operator, who did a significant amount of business with her agency. The Licensee advised that following the transaction, she received an email from the Operator with a letter of authorization from the Owner, in addition to an ICBC Notice to Renew document signed by the Owner.

The Licensee's employment was terminated by her agency on August 7, 2012 as a result of her actions.

### ANALYSIS

Council determined that by processing the renewal transaction and making changes to the bank account information without proper authorization from the registered owner, the Licensee failed to act in accordance with usual practice of the business of insurance. Council found that the Licensee's conduct raised an issue with respect to her competency.

Council accepted that the Licensee's actions were solely to convenience the third party, and not for personal benefit. Council also accepted that there was no evidence to suggest that the Owner was not in agreement with the transactions.

However, Council was concerned that the Licensee did not recognize the risks associated with the improper transaction. Council noted that her actions left the possibility of an uninsured claim in the event of an accident. Council determined the Licensee's failure to recognize the need for the Owner's authorization, and failure to recognize the increased risk to the public associated with her conduct, reflected on her level of competency.

Council considered the precedents *S. Kearns* and *S. Moh*. In *S. Kearns*, the licensee forged the signatures of two clients when executing insurance transactions for them. Council concluded that the forgeries were done for convenience. Council fined the licensee \$1,000.00, assessed investigative costs, required the licensee to complete an errors and omissions course, and required the licensee to remain under supervision for 12 months of active licensing.

Similarly, in *S. Moh*, the former licensee improperly signed insurance documents for convenience on behalf of two clients. He was fined \$1,000.00, and assessed investigative costs. Council determined that should the former licensee return to the industry, he would be required to remain under supervision for 12 months of active licensing and complete an errors and omissions course.

In light of the Licensee's difficulties managing her practice while working in the areas of both life and general insurance and Council's concerns with respect to her competency in the auto insurance business, Council determined that a period of supervision and additional education was warranted. Council held that a fine of \$1,000.00 would be appropriate to address the Licensee's failure to complete an insurance transaction in accordance with correct procedures and the requisite client authority.

### **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. Impose a condition on the Licensee's general insurance licence that requires her to successfully complete ICBC's Autoplan Essentials course within six months of obtaining an active general insurance licence.
3. Impose a condition on the Licensee's general insurance licence that requires her to be supervised by a general insurance nominee until such time as she accumulates an additional 12 months of active licensing.
4. Assess the Licensee Council's investigative costs of \$625.00.

The Licensee is advised that should the intended decision become final, the fine and investigative 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 the Autoplan Essentials course as stipulated, will result in the automatic suspension of the Licensee's general insurance licence until the conditions are met.

The intended decision will take effect on **June 19, 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 **June 18, 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 **June 18, 2013**, the intended decision of Council will take effect.

Intended Decision  
Maxine Janice Le Flour  
164787-11263  
May 31, 2013  
Page 5 of 5

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](http://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](mailto:FinancialServicesTribunal@gov.bc.ca)

Dated in Vancouver, British Columbia, on the **31<sup>st</sup> day of May, 2013.**

For the Insurance Council of British Columbia



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Gerald D. Matier  
Executive Director

GM/cp