

**In the Matter of**

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

**and**

**The *INSURANCE COUNCIL OF BRITISH COLUMBIA***  
**("Council")**

**and**

**NIRMAL KAUR BINNAG**  
**(the "Licensee")**

**ORDER**

As Council made an intended decision on October 20, 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 November 17, 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 one year, commencing on **December 22, 2015** and ending at midnight on **December 21, 2016**.
2. The Licensee is assessed Council's investigative costs of \$650.00.
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 **December 21, 2016**. If the Licensee does not pay the ordered investigative costs in full by this date, the Licensee's general insurance licence will remain suspended and the Licensee will not be permitted to complete any annual filing until such time as the ordered investigative costs are paid in full.

This order takes effect on the **8<sup>th</sup> day of December, 2015**.

  
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Brett Thibault  
Chairperson, Insurance Council of British Columbia

## **INTENDED DECISION**

of the

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

respecting

**NIRMAL KAUR BINNAG**  
(the “Licensee”)

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 20, 2015 meeting, where it was 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 is a Level 3 general insurance agent (“Level 3 agent”) and has held this level of licence for approximately eight years. Her licence is currently inactive.

The Licensee has admitted to utilizing the Insurance Corporation of British Columbia (“ICBC”) database in an unauthorized manner to access information about a licensed driver (the “Consumer”) without his knowledge or consent (the “Access”).

The Consumer alleged that the Licensee provided the information she obtained from the ICBC database to other parties so that they could identify the Consumer’s home address.

The Licensee's former employer (the "Agency") was informed of the Access by ICBC. The Licensee worked full time for the Agency as a Branch Manager until her employment was terminated as a result of the Access.

### **The Licensee's Position**

The Licensee stated that a relative (the "Niece") was in a relationship with the Consumer and the Niece's family did not approve.

The Licensee stated that she saw the Consumer drop the Niece off while visiting the Niece's parents' house. The Licensee explained she wrote down the Consumer's licence plate number as she thought his car was similar to a car she had seen parked across the street from her residence when the Niece was staying with her. She also thought the Consumer's car was similar to a car that had previously followed her to her own residence.

The Licensee recalls accessing ICBC's web portal screen on or about March 3, 2015, and entering the Consumer's licence plate number and name code. She explained that the reason for the Access was to confirm if it was the Consumer's vehicle she had seen parked near her residence and that she had suspected followed her while driving. The Licensee stated that she did not pass on the Consumer's information to a third party.

The Licensee conceded that she knew, as a Branch Manager, that she should not have accessed the ICBC web portal in the manner and for the reasons she did. She was aware that the Access was against both the Agency's and ICBC's procedures.

### **Alleged Disclosure to Third Parties**

The Consumer alleges that members of the Niece's family came to his house on March 23, 2015 between 7:30 p.m. and 8:30 p.m. and an argument ensued. The Consumer believes the Licensee purposely accessed the ICBC system inappropriately to obtain his home address and pass the information on to members of the Niece's family. He stated that the Niece did not know where he lived.

The Niece's family confirmed that the Licensee did not pass information on pertaining to the Consumer.

## ANALYSIS

Council found the Licensee inappropriately used the ICBC database to access information about the Consumer without his consent. Council determined that given the Licensee's level of experience, she should have appreciated the seriousness of her actions and refrained from conducting the Access, regardless of her personal concerns about the Consumer. Because there was no evidence to the contrary, Council accepted the Licensee's evidence that she did not disclose the Consumer's information to any other parties.

Council found that the Licensee failed to act in a trustworthy manner, in good faith, and in accordance with the usual practice of the business of insurance, by improperly accessing the ICBC database for purposes other than to conduct an insurance transaction, and without the Consumer's consent.

In determining a penalty, Council noted that, in similar cases of unauthorized access of the ICBC database, it has imposed a minimum one-year licence suspension, subject to mitigating and aggravating factors. Council determined that a suspension was an appropriate penalty and did not identify any mitigating or aggravating factors.

## 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 one year.
2. Assess the Licensee Council's investigative costs of \$650.00.

The Licensee is advised that should the intended decision become final, the investigative costs will be due and payable before the completion of the suspension period. Failure to pay the investigative costs before this date will result in the continued suspension of the Licensee's general insurance licence and the Licensee will not be permitted to complete any annual filing until the investigative costs are paid in full.

The Licensee's suspension will begin on **December 22, 2015**, and end at midnight on **December 21, 2016**.

The intended decision will take effect on **December 8, 2015**, 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 7, 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 **December 7, 2015**, the intended decision of Council will take effect.

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](http://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 **17<sup>th</sup> day of November, 2015**.

For the Insurance Council of British Columbia



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