In the Matter of

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

and

The INSURANCE COUNCIL OF BRITISH COLUMBIA
("Council")

and

NATASHA MARIE WEISS
(the "Licensee")

ORDER

As Council made an intended decision on February 17, 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 March 20, 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 **April 22, 2015** and ending at midnight on **April 21, 2016**.
2. The Licensee is assessed Council's investigative costs of $1,525.00.
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 **July 8, 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 **April 21, 2016**, the Licensee's general insurance licence will remain suspended until the ordered investigative costs are paid in full.

This order takes effect on the **8th day of April, 2015**.

Ruth Hoyte
Chairperson, Insurance Council of British Columbia

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA
("Council")

respecting

NATASHA MARIE WEISS
(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 January 12, 2015, a Review Committee (the "Committee") met with the Licensee to discuss an allegation that she utilized the Insurance Corporation of British Columbia's ("ICBC") database in an unauthorized manner to access information on a consumer (the "Consumer").

The Committee was comprised of one voting member and two 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 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 recommended disposition, along with the aforementioned investigation report, were reviewed by Council at its February 17, 2015 meeting, and it was 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.

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FACTS

The Licensee has been licensed in British Columbia since October 2006, and holds a Level 1 general insurance salesperson ("Salesperson") licence. She has been employed by the same insurance agency for approximately seven years.

On December 31, 2013, the Licensee accessed information about the Consumer's insurance policy and licence plate number through ICBC's web portal by entering the Consumer's name and date of birth. This information was then used to access the Consumer's information in the Broker Query System ("BQS"). The Consumer's date of birth was provided to the Licensee by her fiancé (who is also the Consumer's ex-partner).

Information accessed through the web portal included the Consumer's full name, address, driver's licence number, policy and licence plate number, form number, form name, and the effective and expiration dates of her vehicle insurance policy. Information accessed through the BQS screen included policy and vehicle information, such as rate group type, bodily injury and property damage coverages, collision coverage, comprehensive coverage, names of registered owners, name of the principal operator, vehicle description, and the vehicle identification number.

The Licensee explained that the Consumer asked for help with her vehicle insurance when she and her fiancé were at the Consumer's home. The Licensee stated that she was in a vehicle with the windows rolled up while her fiancé was at the Consumer's front door. The Licensee stated that her fiancé called out to her that the Consumer needed help with her automobile insurance, and that she saw the Consumer nod her head in approval.

The Consumer denied that this chain of events occurred, and stated that she would not have asked the Licensee for assistance with her automobile insurance.

The Licensee has completed ICBC's privacy course on a yearly basis, most recently in December 2014.

ANALYSIS

Council determined that the Licensee had improperly accessed the Consumer's information on the ICBC database. The Licensee is an experienced Salesperson and knew, or ought to have known, the requirements of express consumer consent before accessing any information on the ICBC database.

Council was unable to reconcile the version of events provided by the Licensee with the statements of the Consumer regarding the alleged request for assistance. As a result, Council determined that the Licensee's inability to demonstrate that she had the Consumer's consent to access her personal information meant that she had acted contrary to Council Rule 7(1).

Council found that even if it were to accept the Licensee's explanation of how the Consumer "provided her consent", it would have found the Licensee's actions unacceptable. Council noted that before accessing the Consumer's personal information, the Licensee never spoke directly with the Consumer, and therefore had no idea what "assistance" the Consumer was requiring.

Further, it was her fiancé, not the Consumer, who provided the Consumer's date of birth to the Licensee, which allowed her to access the Consumer's personal information.

Given the Licensee's experience, Council determined that the Licensee knew, or ought to have known, that it was improper to access the Consumer's personal information in the manner that she did. Given the number of screens accessed on the ICBC database, Council was also concerned with what she did with the information she accessed. Council noted that it was the Licensee's fiancé who provided the Consumer's birth date, and, while there was no specific evidence to support it, Council concluded that it is likely the Licensee shared some of the information accessed with her fiancé.

In determining a penalty, Council noted that in similar cases of an 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 concluded that a one-year suspension was appropriate in this case.

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 $1,525.00.

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.

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

The intended decision will take effect on **April 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 **April 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 **April 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 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 **20th day of March, 2015**.

For the Insurance Council of British Columbia

Gerald D. Matier
Executive Director
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