In the Matter of

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

and

The INSURANCE COUNCIL OF BRITISH COLUMBIA
("Council")

and

CRYSTAL ANN TISIGA
(the "Licensee")

ORDER

As Council made an intended decision on May 17, 2016, pursuant to sections231, 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 August 4, 2016; 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 the Licensee from engaging in mobile road service activities until such time as the Licensee accumulates 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 the Licensee to be actively supervised for 24 months of active licensing, regardless of the Licensee's licence level, from the effective date of this order.

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3. A condition is imposed on the Licensee's general insurance licence that requires the Licensee to successfully complete the Council Rules Course on or before **November 23, 2016**. If the Licensee does not successfully complete the Council Rules Course by this date, the Licensee's general insurance licence is suspended as of **November 24, 2016**, without further action from Council and the Licensee will not be permitted to complete any subsequent annual filings until such time as the ordered course is successfully completed.
4. A condition is imposed on the Licensee's general insurance licence that requires the Licensee to successfully complete an ethics course on or before **November 23, 2016**. If the Licensee does not successfully complete an ethics course by this date, the Licensee's general insurance licence is suspended as of **November 24, 2016**, without further action from Council and the Licensee will not be permitted to complete any subsequent annual filings until such time as the ordered course is successfully completed.
5. The Licensee is fined $1,000.00.
6. The Licenseeis assessed Council's investigative costs of $1,275.00.
7. A condition is imposed on the Licensee's general insurance licence that requires the Licensee to pay the above-ordered fine and investigative costs no later than **November 23, 2016**. 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 **November 24, 2016**, without further action from Council and the Licensee will not be permitted to complete any subsequent annual filings until such time as the ordered fine and investigative costs are paid in full.

This order takes effect on the **23rd day of August, 2016**.

Dr. Eric Yung
Chairperson, Insurance Council of British Columbia

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA
("Council")

respecting

CRYSTAL ANN TISIGA
(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.

As part of Council's investigation, on April 11, 2016, a Review Committee (the "Committee") met with the Licensee and the nominee (the "Nominee") of the agency that the Licensee is authorized to represent (the "Agency"). The purpose of the meeting was to discuss allegations that the Licensee participated in improperly declaring the territory region on Insurance Corporation of British Columbia ("ICBC") documents in relation to insurance coverage on four motor vehicles, in order to avoid the AirCare requirement monitored by the British Columbia provincial government.

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 make further submissions. Having reviewed the investigation materials and after discussing this matter with the Licensee, the Committee prepared a report of its meeting for Council.

The Committee's report, along with the aforementioned investigation report, were reviewed by Council at its May 17, 2016 meeting, where 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 as a Level 1 general insurance salesperson since December 2010. She has been authorized to represent the same agency since January 2014 and works primarily conducting mobile road services activities at motor vehicle dealerships ("MVDs").

On April 22, 2015, the Motor Vehicle Sales Authority of British Columbia (the "VSA") notified Council regarding details about a complaint from a VSA consumer (the "Complainant"), relating to allegations that the Licensee advised the Complainant that she could use an address in Whistler for her automobile registration and insurance, in order to avoid the AirCare requirement on the vehicle she had just purchased. The Complainant stated that she did not live in Whistler, but she was advised that by using a Whistler address, she could avoid the AirCare requirement. The Complainant testified as a witness at a hearing of the Registrar of the VSA, and was cross-examined under oath on her evidence.

In May 2015, the Licensee appeared as a witness at a VSA hearing (the "Hearing") regarding her participation in improperly declaring the territory region in relation to a vehicle ownership transfer and insurance coverage for four motor vehicles, in order to avoid the Air Care requirement.

For the four transactions in question, the Licensee was the ICBC Autoplan agent, and while the purchasers were not related, all four transactions had the same Whistler address. The four consumers all resided in the Greater Vancouver Regional District, and none had a connection to the Whistler address.

The Whistler address appeared on the consumers' ICBC transfer of vehicle ownership documents relating to four different motor vehicles, all of which had previously failed AirCare, and had to be passed before they could be insured within the Lower Mainland territory region.

At the Hearing, the Licensee testified that it was her practice to input the consumer's driver's licence number into the ICBC database, and their residential address would automatically appear. In all four transactions in question, the consumers' Lower Mainland residential addresses would have automatically appeared on the ICBC database screen. The Licensee said she would not have purposely changed the consumers' addresses in the ICBC database because the motor vehicle had not passed the AirCare requirement. The Licensee stated that the consumers must have provided her with the Whistler address. The Licensee said she would not have requested documented proof of a Whistler residential address, and she denied that the MVD provided her with the Whistler address.

The Licensee explained that her usual practice, when completing insurance documents while at an MVD, was to confirm a consumer's address with them verbally, with the primary address on the insurance papers being "*where the vehicle slept*". She stated that she would not typically ask for additional identification verifying an address given by a client if it differed from the one on the primary identification provided by the consumer. The Licensee was of the view that in the Vancouver area it was not atypical for individuals to have more than one address, so it would not raise her suspicions.

The Licensee explained that she completes numerous ICBC transactions daily, often as many as 15. She did not recall the transactions in question, and does not have any records of the transactions other than the ICBC documents. As the four transactions were weeks apart, the Licensee was not surprised that she did not recognize the use of the same Whistler address. The Licensee stated that had the transactions been back-to-back, she would have become suspicious.

The Licensee explained that typically, upon arriving at an MVD, she would be provided with a Vehicle Transfer/Tax Form and an insurance registration form. She explained that she would not know if a vehicle had AirCare, or required AirCare, until the vehicle and consumer information was entered in the ICBC database. The Licensee was aware that registering a vehicle to an address in Whistler would mean there was no requirement for AirCare.

The Licensee stated that there was no incentive for her to assist consumers in avoiding AirCare when conducting an insurance transaction, as she is not paid on a commission basis. There was, however, a financial incentive to the Agency for the transaction to be completed, as the Agency earns a commission, though for a vehicle in Whistler, the commission is lower than for one in the Lower Mainland.

Throughout the investigation, the Licensee denied any involvement in assisting consumers in avoiding AirCare requirements.

ANALYSIS

Council noted that the Licensee consistently maintained her denial of involvement in assisting consumers in avoiding AirCare requirements. However, Council ultimately did not accept that the Licensee did not know that the same Whistler address used in the four transactions, conducted at the same MVD on vehicles that had to pass AirCare before they could be insured, was false, and was being used to circumvent AirCare requirements.

Council accepted the evidence of the Complainant over that of the Licensee, as it could not identify any reason why the Complainant would lie when under oath. Council accepted the Complainant's testimony that it was the Licensee's idea to use a Whistler address, which was provided by the Licensee.

Further, Council found that the Licensee, in conducting the four transactions, failed to properly verify the consumer's addresses, even though she had information demonstrating that the consumers did not reside in Whistler. Council determined that the Licensee had a duty to the consumers to make sure they understood the consequences of registering and insuring a vehicle at an improper address.

In the four transactions in question, Council determined that the Licensee did not act in accordance with the usual practice of the business of insurance, and that the Licensee's actions brought into question the Licensee's competency and trustworthiness. Accordingly, Council determined that the Licensee should be disciplined for her actions.

In coming to a disposition on this matter, Council considered its prior decisions in the matters of *C. Bustillo*, *P. Orr*, *M. Parrouty*, and *M. Le Flour*. In *C. Bustillo*, the licensee created a false insurance document, which purported to confirm coverage of a residential rental unit; she was fined $2,000.00, and had conditions imposed on her general insurance licence. In *P. Orr*, the licensee falsely declared that she was the driver involved in a single-vehicle accident, when it was, in fact, her niece who was driving; the licensee's general insurance licence was suspended for six months, and conditions were imposed on her licence. In *M. Parrouty*, the licensee improperly accessed the ICBC database and processed ICBC transactions contrary to ICBC protocol; Council fined the licensee $1,000.00 and imposed conditions on his general insurance licence. In *M. Le Flour,* the licensee processed an automobile transaction without proper authority while the registered owner was out of the country; the licensee was fined $1,000.00 and had conditions imposed on her general insurance licence.

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 her from engaging in mobile road service activities for 12 months of active licensing.
2. Impose a condition on the Licensee's general insurance licence that requires her to be actively supervised for 24 months of active licensing, regardless of her licence level.
3. Impose a condition on the Licensee's general insurance licence that requires her to successfully complete the Council Rules Course within 90 days of the date of Council's order.
4. Impose a condition on the Licensee's general insurance licence that requires her to successfully complete an ethics course within 90 days of the date of Council's order.

5. Fine the Licensee $1,000.00.
6. Assess the Licensee Council's investigative costs of $1,275.00.

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 investigative costs, or failure to successfully complete the Council Rules Course and the ethics course, within the 90 days, 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 investigative costs are paid in full and the courses have been successfully completed.

The intended decision will take effect on **August 23, 2016**, 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 **August 22, 2016**. 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 **August 22, 2016**, the intended decision of Council will take effect.

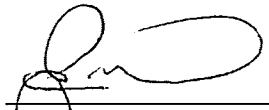
Even if this decision is accepted by the Licensee, pursuant to section 242(3) of the Act, the Financial Institutions Commission still has a right to appeal this decision of Council to the Financial Services Tribunal ("FST"). The Financial Institutions Commission has 30 days to file a Notice of Appeal, 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 **4th day of August, 2016**.

For the Insurance Council of British Columbia



Gerald Matier
Executive Director
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