

In the Matter of

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

and

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

and

MELISSA ALMEDA SKELTON
(the "Licensee")

ORDER

As Council made an intended decision on March 8, 2016, pursuant to sections 231, 236, and 241.1 of the Act; and

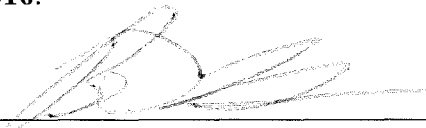
As Council, in accordance with section 237 of the Act, provided the Licensee with written reasons and notice of the intended decision dated April 4, 2016; and

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. The Licensee is fined \$1,000.00.
2. The Licensee is assessed Council's investigative costs of \$1,025.00.
3. 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 **July 26, 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 **July 27, 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 **26th day of April 2016**.



Brett Thibault
Chairperson, Insurance Council of British Columbia

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA (“Council”)

respecting

MELISSA ALMEDA SKELTON (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 February 10, 2016, a Review Committee (the “Committee”) met with the Licensee via teleconference to discuss the allegation that the Licensee knowingly processed an insurance transaction in a manner contrary to the requirements of the Insurance Corporation of British Columbia (“ICBC”).

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 prepared a report of its meeting for Council.

The Committee’s report, along with the aforementioned investigation report, were reviewed by Council at its March 8, 2016 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 1 general insurance salesperson (“Salesperson”) and has been licensed in British Columbia since 2006. The Licensee has not been the subject of any earlier or subsequent complaints.

The Licensee’s friend, with whom she lived and shared financial obligations (the “Friend”), had a debt that he was required to pay in order to renew his Autoplan insurance. When the Friend could not afford to pay the debt in cash, it prevented him from using ICBC’s financing plan to fund his Autoplan insurance premium.

In order to assist the Friend, the Friend’s vehicle was gifted to the Licensee, who then registered it in her name. The Licensee advised that the transfer of the vehicle was not to avoid a debt payment by the Friend, but rather to arrange a way in which he could make monthly payments for the sake of convenience, despite his ‘cash-only’ status. However, in having the Friend gift the vehicle to the Licensee, she claimed the Provincial Sales Tax (“PST”) exemption, even though the Friend did not meet the definition for the PST exemption.

Upon completing the vehicle transfer, the Licensee proceeded to conduct an Autoplan transaction for herself, using ICBC’s financing option (“Autoplan 12”). In setting up the Autoplan 12 payments, the Licensee arranged for the Autoplan 12 payments to come through a bank account belonging to the Friend. In completing the Autoplan 12 Agreement, the Licensee listed herself as the account holder for the bank account, when in fact the bank account belonged to the Friend. By doing so, the Licensee acted contrary to ICBC requirements, which states that the payment plan payments must come through a bank account of the vehicle’s registered owner.

The Licensee stated she did not think her actions were inappropriate because she and the Friend lived together and shared the payment of their bills, but acknowledges that her actions were wrong.

The Licensee stated that she also had an ICBC debt at the time of this transaction, so the vehicle transfer was not to assist the Friend in avoiding the debt payment. The Licensee explained that the transfer was done solely to allow the Friend to make use of the Autoplan 12 option, which was not an option due to his outstanding ICBC debt.

In addition, in completing the ICBC transaction, the Licensee listed herself as the principal operator even though she had her own vehicle.

The Licensee acknowledged that, at the time of this transaction, she was experienced with Autoplan transactions and was aware that the Autoplan 12 payment plan was supposed to be in the name of the vehicle’s registered owner.

ANALYSIS

Council found the Licensee to be forthright and remorseful.

The Licensee acknowledged that she did not follow ICBC procedures when she listed herself as the principal operator and account holder. As a Salesperson, experienced in Autoplan transactions, Council felt the Licensee should have known better than to circumvent ICBC procedures for the convenience of the Friend. Council also noted that the Licensee had transferred the vehicle, claiming it was gifted, and improperly claimed the PST exemption. Although the Licensee and the Friend were living together at the time, they did not meet the definition of spouses, and were not eligible for the PST exemption.

Council accepted that the Licensee was not acting with any intention or hope of achieving financial gain, but rather to assist her Friend in accessing the Autoplan 12 financing option.

Council noted that the incident occurred over two years ago, but had only recently been brought to its attention. Council found the length of time that has passed since the incident, and the Licensee's otherwise unblemished record, to be mitigating factors.

Council considered the *A. Lambert* decision, in which a licensee completed vehicle transfer documents for a motorcycle she had purchased, where she misstated its price in order to reduce the tax she owed on the purchase. The licensee was prohibited from upgrading to a Level 2 general insurance agent for a period of one year, fined \$500.00, assessed the investigative costs, and was required to complete an errors and omissions course. Council felt that the Licensee's situation is distinguishable in that over two years have passed since the incident, with no other issues arising regarding the Licensee's conduct.

Council determined that a fine of \$1,000.00 and the assessment of investigative costs was an appropriate penalty in this circumstance.

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. Assess the Licensee Council's investigative costs of \$1,025.00.

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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 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.

The intended decision will take effect on **April 26, 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 **April 25, 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 **April 25, 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:

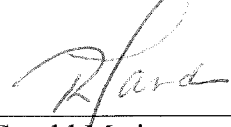
Financial Services Tribunal
PO Box 9425 Stn Prov Govt
Victoria, British Columbia
V8W 9V1

Reception: 250-387-3464
Fax: 250-356-9923
Email: FinancialServicesTribunal@gov.bc.ca

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Dated in Vancouver, British Columbia, on the **4th day of April, 2016.**

For the Insurance Council of British Columbia

per 

Gerald Matier
Executive Director
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