

In the Matter of

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

and

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

and

**WAYNE LIN
(the “Licensee”)**

ORDER

As Council made an intended decision on December 13, 2016, pursuant to sections 231 and 236 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 February 1, 2017; 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 and 236 of the Act, Council orders:

1. The Licensee is fined \$5,000.00.
2. A condition is imposed on the Licensee’s life and accident and sickness insurance licence that requires the Licensee to return his life and accident and sickness insurance licence to active status by **May 22, 2017**. If the Licensee does not return his life and accident and sickness insurance licence to active status by this date, the licence will be terminated effective **May 23, 2017**.
3. A condition is imposed on the Licensee’s life and accident and sickness insurance licence that, should the Licensee return his life and accident and sickness insurance licence to active status, the Licensee is required to be under the direct supervision of a qualified life and accident and sickness insurance agent for two years of active licensing.

4. A condition is imposed on the Licensee's life and accident and sickness insurance licence that, as a condition of being able to return his life and accident and sickness insurance licence to active status, the Licensee must first demonstrate to Council he has completed all outstanding continuing education requirements.
5. A condition is imposed on the Licensee's life and accident and sickness insurance licence and the Licensee's general insurance licence that requires the Licensee to successfully complete the Council Rules Course by no later than **May 22, 2017**. If the Licensee does not complete the Council Rules Course by this date, the Licensee's life and accident and sickness insurance licence and the Licensee's general insurance licence will be suspended as of **May 23, 2017** without further action from Council and the Licensee will not be permitted to complete any annual filing until such time as the Licensee has successfully completed the Council Rules Course.
6. A condition is imposed on the Licensee's life and accident and sickness insurance licence and the Licensee's general insurance licence that requires the Licensee to pay the above-ordered fine no later than **May 22, 2017**. If the Licensee does not pay the ordered fine in full by this date, the Licensee's life and accident and sickness insurance licence and the Licensee's general insurance licence are suspended as of **May 23, 2017**, 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 is paid in full.

This order takes effect on the **21st day of February, 2017**.



Dr. Eric Yung
Chairperson, Insurance Council of British Columbia

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA
(“Council”)

respecting

WAYNE LIN
(the “Licensee”)

Pursuant to section 232 of the *Financial Institutions Act* (the “Act”), Council conducted an investigation into allegations the Licensee breached Council Rule 7(5) by failing to complete the minimum required continuing education (“CE”) in the 2015 and 2016 licence periods for his life and accident and sickness insurance agent (“life agent”) licence.

As part of Council’s investigation, on November 21, 2016, a Review Committee (the “Committee”) met with the Licensee to discuss the allegations. 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. After discussing this matter with the Licensee, the Committee prepared a report for Council.

The Committee’s report, along with the aforementioned investigation report, were reviewed by Council at its December 13, 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 and 236 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 first obtained a life agent licence in British Columbia in August 2012. In 2014, the Licensee elected to make his life agent licence inactive. While the Licensee has submitted all subsequent annual filings, his life agent licence has remained inactive.

The Licensee also holds a Level 2 general insurance agent (“Level 2 agent”) licence in British Columbia, which he obtained in December 2008. The Licensee’s Level 2 agent licence is active.

When the Licensee’s life agent licence was made inactive, he received correspondence from Council confirming the change in his licence status. Council’s correspondence also included details regarding the Licensee’s obligations, including his responsibility to continue to complete the minimum required CE. The Licensee acknowledged receiving the correspondence, but did not recall reading about his obligation to fulfill the annual CE requirements.

The Licensee was audited for the 2014 licence period and, after failing to be able to provide evidence of having completed the minimum CE requirement for 2014, he was issued a reminder letter regarding his CE requirements.

In 2016, the Licensee was again the subject of a CE audit for the 2015 and 2016 licence periods, for both his life agent licence and his Level 2 agent licence. While the Licensee provided proof of having completed the minimum amount of CE for his Level 2 agent licence, he was unable to provide evidence that he had completed the minimum required CE for his life agent licence during the 2015 and 2016 licence periods.

The Licensee’s life agent licence remains inactive, and the Licensee has yet to demonstrate to Council that he has completed the minimum CE requirements for the 2015 and 2016 licence periods.

ANALYSIS

Council determined that the Licensee breached Council Rule 7(5) by failing to complete the minimum required CE in the 2015 and 2016 licence periods, despite having been previously reminded of his CE obligations.

Council found that the Licensee knew, or ought to have known, of his CE obligations for the 2015 and 2016 licence periods, but failed to meet these obligations, even though he continued to submit his annual filings.

In coming to a disposition in this matter, Council considered its prior decision in the matter of *R. Raj*, where the licensee was fined \$4,000.00 for failing to complete the minimum required CE in four licence periods for both his Level 1 general insurance salesperson licence and his life agent licence. The licensee subsequently terminated his life agent licence. Council considered the current matter to be more egregious than that in *R. Raj*, as the Licensee was reminded on two different occasions about his obligations regarding CE. Accordingly, Council determined that a significant fine is appropriate.

Council determined that the Licensee's breach of Council Rules reflected on his life agent licence as well as his Level 2 agent licence. Council concluded that where a licensee holds both a life agent licence and a general insurance agent licence, disciplinary action taken by Council against a licensee with respect to one licence will reflect adversely on any other insurance licence held by that licensee. It would be inconsistent for Council to permit a licensee to avoid penalty by terminating one licence but continue to be licensed otherwise. Accordingly, the consequences of Council's discipline will apply to both the Licensee's life agent licence and his Level 2 agent licence.

Council was also concerned with the length of time that the Licensee's life agent licence has been inactive, and by the Licensee's admission that he was not very active in the life insurance industry prior to making his life agent licence inactive. Council determined that should the Licensee seek to reactivate his life agent licence, he must do so within 90 days of this decision. Should the Licensee elect to reactivate his licence within the 90 days, he will be required to be under supervision. Otherwise, the Licensee's life agent licence will be terminated, and the Licensee will be required to requalify educationally before a new life agent licence will be granted.

INTENDED DECISION

Pursuant to sections 231 and 236 of the Act, Council made an intended decision to:

1. Fine the Licensee \$5,000.00.
2. Impose a condition on the Licensee's life and accident and sickness insurance licence that requires the Licensee to reactivate his licence within 90 days of the date of Council's order; otherwise, his life and accident and sickness insurance licence will be terminated.

3. Impose a condition on the Licensee's life and accident and sickness insurance licence that, should the Licensee reactivate his life and accident and sickness insurance licence within 90 days of the date of Council's order, he must be under the direct supervision of a qualified life and accident and sickness insurance agent for two years of active licensing.
4. Impose a condition on the Licensee's life and accident and sickness insurance licence that, before the Licensee can reactivate his life and accident and sickness insurance licence, he must demonstrate he has completed all outstanding CE requirements.
5. Impose a condition on the Licensee's life and accident and sickness insurance licence and his general insurance licence that requires the Licensee to complete the Council Rules Course within 90 days of the date of Council's order.

The Licensee is advised that should the intended decision become final, the fine will be due and payable within 90 days of the date of the order. In addition, failure to pay the fine in full within the 90 days, or failure to successfully complete the Council Rules Course within 90 days of the date of Council's order, will result in the automatic suspension of all the Licensee's insurance licences, and the Licensee will not be permitted to complete any annual filing until such time as the fine is paid in full and the Licensee has completed the Council Rules Course.

The intended decision will take effect on **February 21, 2017**, 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 **February 20, 2017**. 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 **February 20, 2017**, the intended decision of Council will take effect.

Intended Decision
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LIC-170246C135502R2
February 1, 2017
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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 **1st day of February, 2017.**

For the Insurance Council of British Columbia



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Executive Director
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