

In the Matter of

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

and

THE INSURANCE COUNCIL OF BRITISH COLUMBIA (the “Council”)

and

XIA (JENNY) LIANG (the “Licensee”)

**DECISION AND ORDER
UNDER SECTIONS 231 & 238 OF THE ACT**

Upon reviewing an investigation report and supporting documents prepared by Council staff and submissions put forward by the Licensee, Council is of the opinion that:

The Licensee’s Involvement in the Car-Curbing Scheme

1. At the time of the transactions noted below, the Licensee, in addition to being licensed as a life insurance agent, was licensed as a Level 1 General Insurance Salesperson at Special Risk Insurance Brokers Ltd. dba Roswell Insurance Services.
2. The Licensee’s husband, Y. Liu (“Liu”), was a “car-curber”, an unlicensed motor dealer who obtained used vehicles, through various legal and illegal sources, and physically rolled back the odometers before reselling them to unsuspecting buyers, in order to get a better resale price.
3. Liu obtained the vehicles personally or through a holding company (the “Holding Company”), of which he was the director. The vehicles were obtained at an auction as rebuilt or salvaged vehicles or, they were imported from the U.S., with the vehicle identification numbers altered or removed.
4. Ownership of the vehicles was then transferred multiple times in very short timeframes in order to camouflage their actual origin. The transfers also helped to “wash” the original odometer numbers on paper, as with each new transaction on a vehicle, Liu and/or his accomplices, of which the Licensee was one, was able to record a lower odometer reading on the APV9T Transfer/Tax form.

5. To facilitate the transfers, Liu attended different insurance agencies and used information from legitimate motor dealers without their knowledge in order to mask his own involvement in this “car-curbing” scheme. Motor vehicle dealer names and numbers were used as the supposed original seller of a vehicle. Motor dealer names and numbers are easily obtained as they are required to be posted in a manner clearly visible to the public.
6. Liu also transferred ownership of the vehicles to the Licensee and his other accomplices.
7. In at least 28 transactions that took place in 2003 and 2004, the Licensee was the last point of sale before these vehicles, with the odometers rolled back, were sold to unsuspecting buyers.
8. The Licensee’s handwriting and signature appears on the APV9T Transfer/Tax forms documenting each of these 28 transactions. The same handwriting is found on the applications for an insurance licence that the Licensee had completed in the past and submitted to Council.
9. Although the Licensee held a valid B.C. driver’s licence at the time, since at least October 24, 2002, she provided, on a number of the APV9T Transfer/Tax forms with respect to the aforementioned transactions, a People’s Republic of China driver’s licence.
10. Although her signature is comprised of Chinese characters, as was noted on her past applications for an insurance licence, on several of the APV9T Transfer/Tax forms, she had provided an English signature.
11. On a number of the transactions, where the Licensee was the purchaser of a vehicle, she falsely declared it to be a “gift”, thereby allowing it to become exempt from social services tax. This was also the case in a few instances where the Licensee was the vendor of a vehicle, enabling the purchaser to avoid paying the tax.
12. There were several other transactions in which the Licensee sold vehicles listed below market value, thereby reducing the social services tax for the purchasers.

Other Evidence Connecting the Licensee to Liu

13. The Licensee purchased a home from Liu, located on Marine Drive in Burnaby, for \$410,000.00 on February 24, 2005. There was a vehicle repair garage located at the back of the property.
14. The Licensee and Liu resided at the home and shared the master bedroom. The master bedroom contained documents relating to both the Licensee and Liu,

including Liu's Visa receipts, APV9Ts containing the Licensee's name, bank information for the Holding Company, gift letters and insurance documents related to the Licensee, bank statements and an account application for the Licensee, and credit card statements and account applications for Liu.

15. The Licensee and Liu shared two post office boxes, numbers 42036 and 42078, located at Champlain Heights Mall.
16. A large volume of advertisements for vehicles for sale were placed in both the Vancouver Sun and the Province newspapers. These advertisements were paid for with Liu's credit card and listed contact numbers 604-562-3018, 604-436-1958 or 604-436-3616.
17. The 604-562-3018 number was a Rogers Wireless number registered to the Licensee. The 604-436-1958 and 604-436-3616 numbers belonged to Liu and/or the Holding Company and had billing addresses of the Marine Drive home or PO Box 42036 at Champlain Heights Mall.
18. Another telephone number, 604-437-1587, with a billing address at the Marine Drive home, was registered to the Licensee.
19. The Licensee listed both the 604-562-3018 and the 604-437-1587 numbers as her contact numbers on her applications for an insurance licence that she had submitted to Council.
20. The 604-437-1587 number had been used by the Licensee in her capacity as a representative of the Holding Company, whereby she authorized the Registrar of Imported Vehicles to debit an amount from her credit card.

Submissions from the Licensee

21. The Licensee submitted that she has known Liu since 2003 and that he was her brother-in-law. She was aware that Liu and his associates were in the business of buying and selling vehicles, but denied having any involvement in the business or with the Holding Company and denied ever working with him.
22. She denied participating in any attempts to rollback odometers on vehicles and then sell these vehicles or to defraud the provincial government by not declaring the taxes on the sale of these vehicles.
23. She admitted, however, that on one occasion, in a purchase and sale of one of her own vehicles, she falsely declared it as a gift in order to be exempt from the social services tax. At the time, she was not yet licensed as an insurance agent and was not familiar with ICBC's rules.

24. She denied ever owning or selling 28 vehicles, and approximated that she owned and sold only three to five cars during 2003 and 2004.
25. She conceded that, in February 2005, she had purchased Liu's property on Marine Drive from him for \$410,000.00. Prior to the purchase, she had been renting out a room there from Liu and after the purchase, Liu continued to reside at the property with a number of his associates.
26. The Licensee suggested that her name had been used and her signatures forged without her knowledge on a number of vehicle registration and transfer documents.
27. The Licensee stated that Liu and his associates had access to her computer, printer and fax machine. They were also able to access her credit card information and other personal information. She had also shared a post office box with Liu wherein both had access to each others' mail.
28. The Licensee submitted that, as a result, Liu would have been able to access her credit card numbers and use them without her permission. She had also lent her credit card to Liu in the past.
29. With respect to her cellular telephone, the Licensee stated that she allowed Liu and his associates to use it on occasion. She stated that they likely programmed her telephone in such a way that any calls would be forwarded to a different number and her own telephone would not even ring. She suggested that this was how Liu and his associates used her telephone to place advertisements to sell vehicles in newspapers.

Council found the aforementioned facts constituted a breach of section 231(1)(a) of the Act in that the Licensee failed to act in a trustworthy manner and in good faith. Specifically, Council found that the Licensee had been complicit in Liu's car-curbing scheme and had sold at least 28 used vehicles on Liu's behalf, to unsuspecting buyers, knowing that the odometers had been rolled back on these vehicles. As well, Council concluded that the Licensee had falsely declared the purchase price on a number of these vehicles, in order to avoid or reduce the social services tax she or her buyers had to pay.

On a balance of probabilities, Council found that the Licensee had acted as the vendor in at least 28 transactions wherein used vehicles, with their odometers rolled back, were sold to purchasers. Despite her evidence to the contrary that her name had been used and her signature forged on registration and transfer documents, Council accepted that the handwriting and signatures on these 28 APV9T forms belonged to the Licensee. Consequently, on a number of these forms, the Licensee had made false declarations that the vehicles were gifted or had a lower purchase price. The Licensee's use of a People's Republic of China driver's licence, rather than her valid B.C driver's licence, as well as the use of an English signature rather than her Chinese one,

demonstrated to Council that she had been trying to conceal her identity on the majority of the transfers of the used vehicles, particularly when she was acting as the purchaser.

Council also found that the Licensee and Liu were spouses or in a conjugal relationship, and that she was aware of the Licensee's car-curbing business and was very much involved in the same. There was ample evidence to support these findings. Documents in the master bedroom of the Licensee's home pointed to a connection between the two with respect to bank accounts, credit cards and other financials. The post office boxes that the Licensee shared with Liu, as well as her two telephone/fax numbers, connected her directly to Liu's resale car business. Council did not find it credible that the Licensee had lent Liu and his associates her credit cards and cellular telephone and that they later used them, in relation to the car-curbing scheme, without her permission or knowledge. For example, if calls to her cellular telephone number had been forwarded to another number, it was implausible that she would not notice that she was not receiving any calls. Overall, Council did not find the Licensee's submissions to be believable or reasonable. As well, she clearly had motive to try to conceal her involvement in Liu's car-curbing business from Council investigators and other industry regulators.

Council had obvious concerns about Liu's car-curbing scheme. Not only had Liu and his associates engaged in vehicle odometer manipulation, thereby misrepresenting to innocent buyers the actual quality and value of the vehicles, but more disturbing was that these victims were receiving substandard or salvaged vehicles that may not have been fit for their intended purpose or safe for the road. The Licensee's involvement in such a scheme was egregious and demonstrated to Council her overall lack of integrity and capacity for deceit. Council recognized that the transfer of ownership of a vehicle, and the completion of an APV9T Transfer/Tax form, does not constitute an insurance transaction that requires completion by a licensed insurance salesperson or agent. Notwithstanding, Council was of the view that the Licensee's conduct in this regard reflected on her trustworthiness, ability to act in good faith and ultimately, her suitability to be licensed as an insurance agent.

Based on the above noted findings, Council determined that the Licensee no longer meets the requirements for licensing under section 231 of the Act and Rule 3 of the *Council Rules*. In particular, she is not trustworthy and cannot be relied upon to publicly conduct insurance business in good faith and in accordance with the usual practice. Given the Licensee's untrustworthy behaviour and lack of good faith in both selling salvaged or rebuilt vehicles to unsuspecting purchasers, knowing that the odometers had been manipulated, and falsely declaring that vehicles had been gifted or had a lower purchase price in order to avoid or reduce taxes, Council found her to be an ongoing risk to the public and not suitable to be licensed as an insurance agent. This type of misconduct, and in particular, her complete lack of integrity, reflected not only on her suitability to hold a general insurance licence but also her life insurance licence.

Council reviewed a number of previous decisions in which licensees acted in an untrustworthy manner and in bad faith and as a result, were found to be unsuitable to hold an insurance licence. In the *Larry James Clark and Clark Thomas Insurance Services* decision, the licensee, who was

at the time under investigation by the British Columbia Securities Commission for possible breaches of provisions in the provincial securities legislation, was found to have acted contrary to the best interests of his insurance clients by soliciting the sale of shares for a company in which he was a director, for personal benefit and to the detriment of these clients. Specifically, he made misrepresentations to his clients in order to compel them to purchase these shares, failed to conduct a needs analysis with each client to determine whether the investments were appropriate for their needs, and allowed one client to surrender two life insurance policies and use the proceeds to purchase shares in the company. Both the licensee's and the agency's licences were cancelled for a minimum period of five years. As well, he and the Agency failed to provide prompt responses to inquiries from Council and were fined a total of \$6,000.00 as a result.

In the *Vincent Heinz Hartmann* case, the former licensee had undertaken a calculated and premeditated process to make two false insurance claims, concurrently on his tenant's and automobile insurance policies. Hartmann staged a breaking and entering incident, which included his removal of material possessions from the property and the filing of a false theft report to the policy. He perjured himself by filing a false proof of loss form with one of the insurers and then obtained false merchandise receipts from vendors to claim for the replacement cost on property he never actually replaced. As well, as part of his claim, he included an item that he did not own. He further withheld from Council, and other authorities who had been investigating the matter, the fact that he had made the false claim through his automobile insurance policy. The former licensee was refused a life agent's licence and Council ordered that it would not consider an application for a licence from him until two years had elapsed. He was also assessed the costs of Council's investigation.

In the *Jagjit Singh Cheema* decision, Cheema was a Level 1 General Insurance Salesperson who had been continuously employed at the same agency since 2000. In or around November 2005, the Insurance Corporation of British Columbia ("ICBC") notified Council that Cheema had accessed ICBC's computer database to conduct a special plate search on a vehicle operated by ICBC's Special Investigation Unit. ICBC's investigation revealed that Cheema intended to share the results of his search with an individual who had a number of criminal convictions, and had recently been released from prison following a conviction for a weapons related offence. Cheema admitted that he had conducted a licence plate search with the intention of sharing the information with the individual, however, he claimed that at the end of the day, he did not disclose the information to the individual or anyone else.

Cheema argued that his conduct in this matter was a single momentary and unprecedented lapse in judgment which did not indicate an inability to carry on the business of insurance in good faith or in an untrustworthiness manner, that he had no prior disciplinary record, and that his transgression was minor and deserving only of a reprimand. Council found that Cheema's actions constituted a serious breach of trust, a lack of good faith and untrustworthy behaviour. Council ordered Cheema's insurance licence to be cancelled for a minimum period of two years and that he pay Council's investigative costs.

Council also considered the decision of *Financial Institutions Act and Glenn Frank Bergen*, wherein Bergen had accepted investment monies for an overseas development project from two insurance clients, and had deposited these funds into his personal account for personal use. After numerous requests from the clients and once money was made available to him from a family account, the licensee reimbursed them their investment monies. Council determined that Bergen failed to act in good faith and in a trustworthy manner, and as well, made a material misstatement in reply to an inquiry from Council. Council cancelled his licence for a minimum period of one year, fined him \$6,000.00 and ordered him to pay the costs of Council's investigation.

Council considered the Licensee's actions in this case to be considerably more egregious than that found in the *Hartman, Cheema and Bergen* decisions. These were continuous acts of deceit, over the course of a two year period, which clearly manifested into harm to the public. The Licensee knowingly sold cars to victims that could have been unfit or unsafe for driving, for a higher resale value due to the odometer manipulation. This was all done for financial gain, be it directly to the Licensee or indirectly through Liu or the Holding Company. Council likened this case to the *Larry James Clark and Clark Thomas Insurance Services* decision. Both Clark, and the Licensee in this case, demonstrated a capacity to deceive and cause serious harm to members of the public. More aggravating were the Licensee's attempts to conceal her involvement in Liu's business, despite the mounting evidence against her. Accordingly, Council determined that the Licensee is not suitable to hold a general insurance licence for a minimum period of five years, and her life insurance licence should be cancelled for a minimum period of five years, following which time her suitability would be reviewed should she reapply for a licence or licences in the future.

This five year period prohibiting the Licensee from working in the insurance industry would serve to protect the public, demonstrate that such conduct will not be tolerated and maintain the public's confidence in the integrity of the profession. This should serve as a sufficient deterrent for the Licensee and other licensees from carrying out this or similar kinds of misconduct in the future.

INTENDED DECISION

Pursuant to section 231 of the Act, Council intends to order the following:

1. the Licensee's life insurance licence be cancelled and that she is not suitable to hold an insurance licence for a minimum period of five years from the date Council's order takes effect.

DECISION PURSUANT TO SECTION 238 OF THE ACT

WHEREAS the Licensee is currently licensed as a Life and Accident and Sickness Insurance Agent;

AND WHEREAS Council conducted an investigation pursuant to section 232 of the Act into allegations that:

- (a) the Licensee was involved in a scheme whereby she knowingly sold used vehicles, that had been salvaged or rebuilt, with the odometers manipulated, to unsuspecting purchasers; and
- (b) the Licensee falsely declared the sales of some of these vehicles as gifts so that she could avoid paying the social services tax;

AND WHEREAS Council has determined on the basis of its investigation that the Licensee's actions demonstrated that she is not trustworthy and cannot publicly carry on the business of insurance in good faith and in accordance with the usual practice and poses a continuing and imminent risk of serious harm to the public;

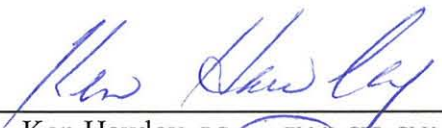
AND WHEREAS Council considers it to be in the public interest to cancel the Licensee's life insurance licence pursuant to section 231 of the Act;

AND WHEREAS Council considers the length of time required to hold a hearing would be detrimental to the due administration of the Act;

NOW THEREFORE Council orders the Licensee's licence is cancelled pursuant to sections 231 and 238, effective immediately;

TAKE NOTICE that pursuant to section 238 of the Act, the Licensee has the right to require a hearing on this order before the Council by delivering written notice within 14 days of receipt of this order to the Council at Suite 300 – 1040 West Georgia Street, Vancouver, B.C., V6E 4H1; alternatively, the Licensee may appeal this order to the Financial Services Tribunal.

This order takes effect on the 18th day of March, 2008.



Ken Hawley, BComm, FLMI, CFP, CLU, ChFC
Vice-Chairperson, Insurance Council of B.C.