

**IN THE MATTER OF THE *FINANCIAL INSTITUTIONS ACT***  
**(RSBC 1996, c.141)**  
(the “Act”)

and the

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

and

**HYUNG JUN (ALEX) KAE**  
(the “Licensee”)

**ORDER**

As Council made an intended decision, 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 29, 2020; and

As the Licensee advised Council that he does not wish to request a hearing of Council’s intended decision;

Under authority of sections 231, 236, and 241.1 of the Act, Council orders that:

1. The Licensee is required to complete the Council Rules Course;
2. The Licensee is required to complete Modules I, II, and III of the course entitled *Making Choices: Ethics and Professional Responsibility in Practice*, available through Advocis;
3. The Licensee is prohibited from being or acting as a supervisor for a period of six months, to take effect May 31, 2020 and end at midnight on November 30, 2020;
4. The Licensee is fined \$1,000;
5. The Licensee is assessed Council’s investigative costs of \$4,843.75; and
6. A condition is imposed on the Licensee's Life Agent licence that failure to pay the fine and investigative costs and complete the Council Rules Course and the ethics course by July 30, 2020 will result in the automatic suspension of his licence, and he will not be permitted to complete his 2021 annual filing until the fine and investigative costs are

Order  
Hyung Jun (Alex) Kae  
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May 1, 2020  
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fully paid and the Council Rules Course and the ethics course are successfully completed.

This order takes effect on the **1<sup>st</sup> day of May, 2020.**



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Janet Sinclair, Executive Director  
Insurance Council of British Columbia

## **INTENDED DECISION**

of the

### **INSURANCE COUNCIL OF BRITISH COLUMBIA**

(“Council”)

respecting

### **HYUNG JUN (ALEX) KAE**

(the “Licensee”)

1. Pursuant to section 232 of the *Financial Institutions Act* (the “Act”), Council conducted an investigation to determine whether the Licensee acted contrary to Council Rules 7(8) and 7(16.2), which require compliance with Council’s Code of Conduct and impose certain reporting duties, and sections 4, 5, 7, and 13.2 of the Code of Conduct, which respectively require licensees to act in good faith, in a competent manner, and in the usual practice of dealing with clients, as well as to be aware of duties and obligations as licensees.
2. The allegations against the Licensee centered around his failure to act as a competent supervisor. The Licensee also was alleged to have failed to advise Council when new life agents ceased to be supervised by him and to report breaches of Council’s Rules and Code of Conduct by licensees under his supervision.
3. On November 14 and 26, 2019, as part of Council’s investigation, a Review Committee comprised of Council members met with the Licensee and his lawyer with respect to the allegations. A copy of an investigation report prepared by Council staff was forwarded to the Licensee in advance of the meeting. A discussion of the report took place at the meeting and the Licensee was provided an opportunity to make further submissions. The Licensee provided two additional books of documents as well as written submissions.
4. Having reviewed the investigation material and additional material provided by the Licensee, and after discussing this matter with the Licensee and his lawyer, the Review Committee prepared a report for Council.
5. After considering the Review Committee’s report and the Licensee’s materials, Council determined the matter should be disposed of in the manner set out below.

## **PROCESS**

6. Pursuant to section 237 of the Act, Council must provide prior written notice to licensees of action it intends to take under sections 231, 236, and 241.1 of the Act. The licensees

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**

7. The Licensee has been licensed with Council as a life and accident and sickness insurance agent ("Life Agent") since 2006. He currently works for an insurer, managing a branch office. He has been acting in a supervisor capacity for new Life Agents since 2012. Throughout this investigation, the number of new Life Agents supervised by the Licensee fluctuated from as high as forty-seven to as low as twenty-five.
8. A former Life Agent under investigation by Council (the "Former Agent") was supervised by the Licensee while she was licensed. Five of the Former Agent's clients made multiple allegations against her, including that she facilitated the completion of insurance applications under false pretenses, submitted applications without customer knowledge and consent, and populated applications with incorrect information.
9. In May 2018, Council staff interviewed the Former Agent regarding the allegations against her. She stated that many of her contraventions were due to a lack of supervision and training, as well as having followed direct instructions from the Licensee and a manager (the "Manager"). The Former Agent alleged specifically that new Life Agents' insurance applications were not reviewed and that there were no written branch policies or procedures. She stated she felt pressured to sell insurance by her superiors and was instructed to process insurance applications for policies that customers did not want. Further, she stated she was authorized to take photographs of customers' applications on her personal cellphone, to re-enter customers' electronic signatures on applications with inaccurate date stamps and to ignore inquiries regarding cancellations and refunds.
10. In relation to the Former Agent's allegations, Council staff spoke with eleven Life Agents formerly supervised by the Licensee. Five provided statements that were similar to some of the Former Agent's allegations. Another five stated that they were not aware that the Licensee was their supervisor, and that he had no involvement in their supervision.
11. A review of the Licensee's supervisee records from June 2016 to June 2018 identified that the Licensee did not provide notice to Council that he had ceased acting as supervisor for thirty-four new Life Agents, as required by Council Rule 7(16.2). The Licensee previously contravened this rule twenty times between 2013 and 2016. Council staff had addressed these contraventions with the Licensee numerous times through discussions, an inspection, three reminder letters, and three Breach of a Licence Condition letters.

## **The Licensee's Response**

12. With respect to the allegation regarding the failure to provide notice to Council of terminated supervision despite repeated warnings, the Licensee submitted that he did not have sufficient administrative processes or support in place. He emphasized that he has since implemented new procedures and reduced his number of supervisees.
13. In response to the evidence that many licensees under his supervision were not aware he was their supervisor, the Licensee explained that the licensees' direct "supervisor" was the Manager, and that the licensees would have understood the term "supervisor" to refer to their direct manager, rather than the Licensee. However, the Licensee also stated he was notified by Council that, for the purpose of Council's supervision licensing conditions, he was supervising an "excessive" amount of people. He further advised there were some former supervisees who would not have known he was their supervisor because he was "signing for a ton of people".
14. The Licensee stated that he provided his licensees with weekly training sessions and would review new licensees' first one or two insurance applications with them personally, and after that, would review their applications without them before submission. He stated that all agents were trained to execute an insurance product presentation script, and he was unaware if they felt unprepared to deal with clients. He specifically denied that they were encouraged to be aggressive and place policies despite no client consent in order to increase their policy placement statistics, as this would not result in a good overall record given the importance of retention. He denied ever instructing licensees, the Former Agent in particular, to execute electronic signatures without client consent.
15. With regard to the allegations involving his supervision of the Former Agent, the Licensee stated that the Former Agent was a good worker, and was quickly promoted to a trainer position. He was surprised at her statements that she felt untrained and denied that she was coached to prioritize policy placement over client interests. He stated that after complaints were raised with respect to her signature practices, he met with her personally to ensure she understood and recognized her errors. He acknowledged that he was aware of complaints against her with respect to electronic signatures that he did not report to Council as he felt they had been addressed internally.
16. At the meetings with the Licensee, the Review Committee expressed concern as to the lack of procedures in place by which agents who ceased to be supervised would retain client files at home or on personal computers without active retrieval by the Licensee. He acknowledged that he had no formal procedures in place to ensure that client records were returned or destroyed but stated that all information was stored on the agency

system which required password access. He stated he will implement formal document destruction or return procedures in the future. He provided a termination record that was provided to the Former Agent which requested the return of all client material.

## **LEGAL FRAMEWORK**

17. The following Council Rules apply in these circumstances:

*7(8) A licensee must comply with the Council's Code of Conduct, as amended from time to time.*

...

*7(16.2) A life agent supervisor must notify Council within 5 business days if:*

*(a) a life agent supervisor ceases to supervise a new life agent before a new life agent's period of mandatory supervision is complete; and*

*(b) in the case of subsection (a), provide the reason for ceasing to supervise a new life agent if the reason for ceasing to supervise relates to a new life agent's suitability or conduct as a licensee.*

18. The following sections of the Code of Conduct apply in these circumstances:

### Section 4, Good Faith

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#### *4.2 Requirement*

*You must carry on the business of insurance in good faith. Good faith is honesty and decency of purpose and a sincere intention on your part to act in a manner which is consistent with your client's or principal's best interests, remaining faithful to your duties and obligations as an insurance licensee.*

*You also owe a duty of good faith to insurers, insureds, fellow licensees, regulatory bodies and the public.*

#### *4.3 Guidelines*

...

*4.3.1 Conduct that would reflect adversely on your intention to practice in good faith includes:*

*a) willful disregard of duties and obligations under the Act, Rules and Code...*

### Section 5, Competence

...

#### *5.2 Requirement*

*You must conduct all insurance activities in a competent manner. Competent conduct is characterized by the application of knowledge and skill in a manner consistent with the usual practice of the business of insurance in the circumstances.*

5.3 Guidelines

...

5.3.4 Licensees who have supervisory duties must fulfil those duties competently. Improper practice by supervised employees may bring a supervisor's competence into question if the conduct occurred due to inadequate supervision, including lack of policies, procedures and training.

Section 7, Usual Practice: Dealing with Clients

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7.2 Requirement

When dealing with clients you must:

- protect clients' interests and privacy;
- evaluate clients' needs;
- disclose all material information; and
- act with integrity, competence and the utmost good faith.

...

7.3 Guidelines

...

7.3.15 Protecting Clients' Interests

You must deal with all formal and informal complaints or disputes in good faith and in a timely and forthright manner, including, when necessary, referring the complainant to other more appropriate people, processes and/or organizations.

Section 13, Compliance with Governing Legislation and Council Rules

...

13.2 Requirement

You must be aware of and comply with your duties and obligations under the Act, the Insurance Act, the Rules and the Code.

**ANALYSIS**

19. Council considered the actions of the Licensee, his submissions during the investigation, and the additional documents and written submissions he provided to the Review Committee and determined that Licensee contravened Council Rules 7(8) and 7(16.2), along with sections 4, 5, 7, and 13.2 of the Code of Conduct, as reproduced above, and that a sanction is required.
20. Council was particularly concerned that after serious competence and trustworthiness concerns were identified with the Former Agent, the Licensee failed to take adequate steps to address or report these complaints. Council determined that there was a lack of reasonable protections in place to ensure his former agents returned or destroyed client material, as required. Council recognized the significant attempts at improving

procedures set out in the Licensee's written and oral submissions, but noted that his approach to supervision appeared to be entirely reactive to serious repeated concerns, rather than proactive to protect clients' best interests.

21. Council recognized that the Licensee acknowledged he had not appreciated his responsibilities as a supervisor and his duty to notify Council of terminations, despite repeated warnings. Council felt he had demonstrated a casual approach to supervision, with a focus on sales at the expense of training and client service. Council was concerned by the lack of formal supervision guidelines in place for the Licensee, and his failure to take responsibility for the actions of the Former Agent, particularly after complaints about her had been brought to his attention.
22. Council noted this was the first instance of allegations of a failure to supervise in this particular context. Council determined that education is a pressing requirement for the Licensee, given his genuine intention to improve in the industry but demonstrated failure to do so on his own initiative. Council also determined that the Licensee had neglected his duties as a supervisor to such an extent as to require a period of six months during which he must be prohibited from acting as a supervisor. Council also determined that the assessment of a fine is appropriate.
23. Council held that the collective sanction against the Licensee will achieve punishment of the offender, denunciation of the misconduct, maintenance of the public's confidence in the integrity of the insurance profession and Council's ability to properly supervise its members, and specific and general deterrence.
24. Additionally, as a self-funded body, Council looks to licensees who have engaged in misconduct to bear the costs of their disciplinary proceedings so they are not borne by other licensees in general. Therefore, Council also determined that the assessment of investigative costs of \$4,843.75 (38.75 hours x \$125/hour) is appropriate in this case.

#### **INTENDED DECISION**

25. Pursuant to sections 231, 236, and 241.1 of the Act, Council made an intended decision to:
  - a) Require the Licensee to complete the Council Rules Course;
  - b) Require the Licensee to complete Modules I, II, and III of the course entitled *Making Choices: Ethics and Professional Responsibility in Practice*, available through Advocis;



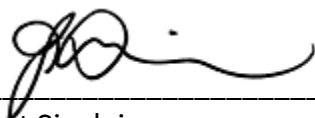
- c) Prohibit the Licensee from being or acting as a supervisor for a period of six months, to take effect 30 days after the date of Council's order;
- d) Fine the Licensee \$1,000;
- e) Assess the Licensee Council's investigative costs of \$4,843.75; and
- f) Impose a condition on the Licensee's Life Agent licence that failure to pay the fine and investigative costs and complete the Council Rules Course and the ethics course within 90 days of Council's order will result in the automatic suspension of his licence, and he will not be permitted to complete his 2021 annual filing until the fine and investigative costs are fully paid and the Council Rules Course and the ethics course are successfully completed.

#### **RIGHT TO A HEARING**

26. If the Licensee wishes to dispute Council's findings or 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 within 14 days of receiving this intended decision. 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 within 14 days of receiving this intended decision, the intended decision of Council will take effect.
27. Even if this decision is accepted by the Licensee, pursuant to section 242(3) of the Act, the British Columbia Financial Services Authority ("BCFSA") still has a right of appeal to the Financial Services Tribunal ("FST"). The BCFSA 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](http://fst.gov.bc.ca) or visit the guide to appeals published on their website at [www.fst.gov.bc.ca/pdf/guides/ICGuide.pdf](http://www.fst.gov.bc.ca/pdf/guides/ICGuide.pdf).

Dated in Vancouver, British Columbia, on the **29<sup>th</sup> day of April 2020**.

For the Insurance Council of British Columbia



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Janet Sinclair  
Executive Director