

In the Matter of

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

and

The INSURANCE COUNCIL OF BRITISH COLUMBIA
("Council")

and

LOTUS BYOUNGYEON CHUNG
(the "Licensee")

ORDER

As Council made an intended decision on February 11, 2014, pursuant to sections 231 and 236 of the Act; and

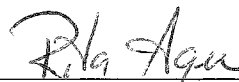
As Council, in accordance with section 237 of the Act, provided the Licensee with written reasons and notice of the intended decision dated March 13, 2014; and

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 \$1,000.00.
2. A condition is imposed on the Licensee's life and accident and sickness insurance licence that requires her to pay the above-ordered fine no later than **July 2, 2014**. If the Licensee does not pay the ordered fine in full by this date, the Licensee's life and accident and sickness insurance licence is suspended as of **July 3, 2014**, without further action from Council and the Licensee will not be permitted to complete any annual filing until such time as the ordered fine is paid in full.

This order takes effect on the **1st day of April, 2014**.



Rita Ager, CFP, CLU, CHS, CPCA, FEA
Chairperson, Insurance Council of British Columbia

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA
(“Council”)

respecting

LOTUS BYOUNGYEON CHUNG
(the “Licensee”)

INTRODUCTION

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 December 16, 2013, a Review Committee (the “Committee”) met with the Licensee and the Licensee’s legal counsel to discuss the allegation the Licensee failed to notify Council of disciplinary action as required by Council Rule 7(3)(a)(i).

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 clarify the information contained therein and make further submissions. Having reviewed the investigation materials and after discussing this matter with the Licensee, the Committee made a recommendation to Council as to the manner in which this matter should be disposed.

A report setting out the Committee’s findings and recommended disposition, along with the aforementioned investigation report, was reviewed by Council at its February 11, 2014 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 has been licensed in British Columbia as a life and accident and sickness insurance agent since May 2009.

In 2011, the Licensee was disciplined by the Real Estate Council of British Columbia (“RECBC”) and failed to notify Council of the disciplinary action as required under Council Rule 7(3)(a)(i). As a result, Council sent a letter to the Licensee reminding her of her obligation under Council Rule 7(3)(a)(i).

In 2013, after reviewing the RECBC website, Council became aware that the Licensee had again been disciplined on February 15, 2013, and the Licensee had again failed to notify Council of the discipline. The Licensee advised Council that she thought her legal counsel had notified Council about the matter.

The Licensee claimed that her failure to notify Council was inadvertent and accidental, and was caused by the personal, financial, and business stress she was under at the time. The Licensee explained that she believed that the legal counsel who handled the RECBC matter would also provide the required disclosure to Council, but has acknowledged that her legal counsel was under no obligation to do so. The Licensee’s situation has subsequently improved and she stated she will be more diligent going forward.

ANALYSIS

Council determined the Licensee failed to meet the requirements of Council Rule 7(3)(a)(i) by failing to notify Council within five business days of the disciplinary action taken against her by the RECBC in February 2013.

Council acknowledged that the Licensee did not dispute that she breached Council Rules. However, Council noted that the Licensee had previously failed to notify Council within five business days of disciplinary action taken against her by the RECBC in 2011, and had received a letter from Council that specifically reminded her of her obligation under Council Rule 7(3)(a)(i).

Council determined that while Licensee’s failure to comply with Council Rule 7(3)(a)(i) was not intentional, this was the Licensee’s second breach of the same Rule. Even though it was determined her failure to comply was not intentional, the Licensee knew of her responsibility under Council Rule 7(3)(a)(i), but failed to ensure the proper disclosure was made in a timely manner. Council concluded that her conduct warranted a \$1,000.00 fine.

INTENDED DECISION

Pursuant to sections 231 and 236 of the Act, Council made an intended decision to fine the Licensee \$1,000.00.

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 within the 90 days will result in the automatic suspension of the Licensee's life and accident and sickness insurance licence and the Licensee will not be permitted to complete any annual filing until such time as the fine is paid in full.

The intended decision will take effect on **April 1, 2014**, 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 **March 31, 2014**. 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 **March 31, 2014**, 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 www.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 13th day of March, 2014.

For the Insurance Council of British Columbia



Gerald D. Matier
Executive Director

GM/cp