

In the Matter of

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

and

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

and

CRYSTAL XIAO-MAN HE
(the "Former Licensee")

ORDER

As Council made an intended decision on February 9, 2016, pursuant to sections 231 and 236 of the Act; and

As Council, in accordance with section 237 of the Act, provided the Former Licensee with written reasons and notice of the intended decision dated March 15, 2016; and

As the Former Licensee requested a hearing of Council's intended decision in accordance with the Act on April 4, 2016; and

As the Former Licensee subsequently withdrew her request for a hearing on September 12, 2016;

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

1. The Former Licensee is fined \$1,000.00.
2. A condition is imposed on the Former Licensee's life and accident and sickness insurance licence that requires the Former Licensee to pay the above-ordered fine no later than **December 15, 2016**. If the Former Licensee does not pay the ordered fine in full by this date, the Former Licensee will not be permitted to re-apply for an insurance licence until such time as the fine is paid in full.

This order takes effect on the **15th day of September, 2016**.



Dr. Eric Yung
Chairperson, Insurance Council of British Columbia

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA
(“Council”)

respecting

CRYSTAL XIAO-MAN HE
(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 January 18, 2016, a Review Committee (the “Committee”) met with the Licensee to discuss allegations that she breached Council Rules by failing to complete the minimum continuing education (“CE”) requirement, and by making her annual filing to Council even though she was not in compliance with Council Rules.

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. 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 February 9, 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 has been licensed as a life and accident and sickness insurance agent (“life agent”) since October 2014. Her life agent licence was inactive from December 9, 2014 to July 13, 2015. The Licensee is also a Certified Professional Accountant (“CPA”), and at the material time she was employed as a Compliance Analyst with the British Columbia Securities Commission (“BCSC”).

The Licensee’s life agent licence became inactive on December 9, 2014, after the agency she was with terminated her over a perceived conflict of interest with her position at the BCSC. The Licensee stated that it was her intention to let her life agent licence expire, as she felt that no insurer would want her to represent them because of her position at the BCSC. However, in June 2015, she found an insurance agency (the “Agency”) that was prepared to allow her to represent it. Accordingly, the Licensee submitted her annual filing to Council in July 2015. In doing so, the Licensee was confirming she was in compliance with Council Rules.

A subsequent CE audit found the Licensee had not completed any CE credits for the licence period ending May 31, 2015. The Licensee stated that she believed, because her life agent licence was inactive for most of the licence period, that she was not required to complete any CE.

The Licensee subsequently attempted to complete the required CE, which included one-on-one training with the Agency manager, as well as the completion of a course through the Canadian Securities Institute.

ANALYSIS

Council determined that the Licensee breached Council Rule 7(5) by failing to complete the minimum number of CE credits for the licence period ending May 31, 2015.

Council found the Licensee’s explanation, that she did not believe she had to complete any CE because her licence was inactive for most of the licence period, difficult to accept. In particular, Council noted that when the Licensee’s licence became inactive, she would have received a notice advising her that she had to continue to meet her obligations under Council Rules, including CE. Council also found it hard to believe that the Licensee, who has CE responsibilities for her CPA designation and who was employed as a Compliance Analyst at the BCSC, had not made herself aware of her responsibilities as a life agent.

Council concluded that the Licensee knew or ought to have known what her CE responsibilities were, and that disciplinary action was warranted. Council takes this opportunity to remind the Licensee of her responsibility to be familiar with all her obligations under Council Rules. Failure by the Licensee to adhere to Council Rules in the future may bring into question her suitability to hold a licence, resulting in additional disciplinary action.

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 5, 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 4, 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 4, 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:

Intended Decision
Crystal Xiao-Man He
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March 15, 2016
Page 4 of 4

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 **15th day of March, 2016.**

For the Insurance Council of British Columbia



Gerald Matier
Executive Director
604-695-2001
gmatier@insurancecouncilofbc.com

GM/gh