

In the Matter of

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

and

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

and

YUE ZHEN BAO
(the "Licensee")

ORDER

As Council made an intended decision on December 10, 2013, 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 January 17, 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 \$1,700.00.
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 **May 5, 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 **May 6, 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 **5th day of February, 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

YUE ZHEN BAO
(the “Licensee”)

INTRODUCTION

Pursuant to section 232 of the *Financial Institutions Act* (the “Act”), Council conducted an investigation into allegations the Licensee failed to notify Council of the loss of mandatory errors and omissions (“E&O”) insurance coverage within five business days of the loss of coverage, and did not cease conducting insurance activities as required by Council Rule 7(11).

As part of Council’s investigation, an Investigative Review Committee (the “Committee”) met with the Licensee on November 18, 2013. The Committee was comprised of one voting member and two 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 recommended disposition, along with the aforementioned investigation report, was reviewed by Council at its December 10, 2013 meeting. Based on this, Council 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 since July 2005. Since October 1, 2012, the Licensee has been an authorized representative of a licensed life insurance agency (the "Agency").

From 2005 until December 5, 2011, the Licensee was contracted with another employer (the "Previous Employer"). The Previous Employer provides its agents with E&O insurance under its group plan and when a licensee is no longer contracted with it, the licensee's E&O coverage is terminated.

The Previous Employer has stated that upon its termination of the Licensee's contract, she was provided a lengthy and detailed termination letter which included information that her E&O coverage had ceased. The Licensee told the Committee that she did not read the termination letter.

The Previous Employer made an error in the Licensee's legal name when submitting the termination of her E&O coverage, resulting in her coverage continuing until June 1, 2012. After the Previous Employer's E&O coverage expired in June 2012, a lapse notice was sent to the Licensee, using her Previous Employer's email address, and a hard copy was mailed to her, using her Previous Employer's business address. As she no longer worked for the Previous Employer, she did not receive either notification.

The Licensee's position was that throughout her time at the Previous Employer, she was reminded and assisted with the purchase of E&O insurance, so she "*never thought about it*" after leaving her Previous Employer. The Licensee stated she assumed her coverage from the Previous Employer would remain valid despite her termination.

After losing her prior contract with the Previous Employer, the Licensee obtained additional contracts through the Agency. She stated that she provided the Agency with her Previous Employer's E&O certificate during the process of obtaining contracts through the Agency. Upon receiving an E&O reminder email that the Agency sent its agents on September 20, 2012, the Licensee contacted Council on September 27, 2012, advising that she was not sure if she had E&O insurance.

With the exception of accepting a premium payment and adding a co-owner to a policy, the Licensee did not engage in any other insurance activity while she was without E&O coverage between June 1, 2012 and October 1, 2012.

ANALYSIS

Council concluded the above-mentioned facts constituted a breach of Council Rule 7(11)(c)(i) and 7(11)(c)(ii), as the Licensee failed to notify Council within five business days of losing E&O coverage, and continued to conduct insurance activities without E&O coverage.

Council was troubled that the Licensee relied on an E&O certificate of coverage from the Previous Employer, when she should have known her coverage was cancelled upon her termination. Council was concerned as this situation gave rise to potential harm to clients. Ultimately, Council concluded that, while the Licensee should have known the affect on her E&O insurance with the departure from her Previous Employer, the Licensee's actions reflected an unintentional breach of Council Rule 7(11).

Council considered prior decisions relating to unintentional breaches of Council Rule 7(11). The usual penalty was a fine equal to approximately two times the licensee's annual E&O insurance premium. Council determined that this case was similar in nature and warranted a similar penalty.

INTENDED DECISION

Pursuant to sections 231 and 236 of the Act, Council made an intended decision to fine the Licensee \$1,700.00.

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 **February 5, 2014**, subject to the Licensee's right to request a hearing before Council pursuant to section 237 of the Act.

Intended Decision
Yue Zhen Bao
163905
January 17, 2014
Page 4 of 4

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 4, 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 **February 4, 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

Dated in Vancouver, British Columbia, on the 17th day of January, 2014.

For the Insurance Council of British Columbia



Gerald D. Matier
Executive Director

GM/fs