

In the Matter of

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

and

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

and

GEORGINA PASTIDIO TUBAN DE LEON
(the "Licensee")

ORDER

As Council made an intended decision on April 15, 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 April 30, 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 \$1,800.00.
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 **August 21, 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 **August 22, 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 **21st day of May, 2014**.



Rita Ager, CFP, CLU, RHU, CSA
Chairperson, Insurance Council of British Columbia

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA
(“Council”)

respecting

GEORGINA PASTIDIO TUBAN DE LEON
(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 February 17, 2014, a Review Committee (the “Committee”) met with the Licensee to discuss allegations the Licensee failed to notify Council within five business days that she no longer held errors and omissions (“E&O”) insurance as required by Council Rule 7(11)(c)(i), and failed to immediately cease to conduct insurance activity when she no longer held E&O insurance, as required by Council Rule 7(11)(c)(ii).

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 findings and recommended disposition, along with the aforementioned investigation report, were reviewed by Council at its April 15, 2014 meeting and 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 was first licensed as a life and accident and sickness insurance agent in April 2010. On October 28, 2011, Council received notification from Willis Canada Inc. that the Licensee's E&O insurance had lapsed on September 13, 2011.

The Licensee explained to the Committee that she received an email, regarding her E&O insurance renewal, from the Advocis Protective Association ("APA") but thought it was an advertisement. She later remembered that she needed to renew her E&O, located the APA email, and discovered it was regarding her E&O insurance. The Licensee explained that she was working full-time at another job when her E&O insurance lapsed. In addition, there were a number of personal issues before her, resulting in this period of her life being both confusing and chaotic.

After discovering the APA email, the Licensee attempted to renew her E&O insurance online but claimed she had issues with her password. On receiving her new password, she downloaded the renewal form but failed to renew her E&O insurance as she was busy with her other job, and preparing for a trip to the Philippines to visit her ailing mother. The Licensee had limited internet access while in the Philippines and was unable to complete the application process prior to her return to Canada.

The Licensee admitted that she conducted insurance business while she was without E&O insurance, prior to leaving for the Philippines. Upon her return to Canada, she did not conduct further insurance business without E&O insurance.

The Licensee expressed remorse for her conduct. Since the lapse of her E&O insurance, the Licensee stated she has worked to establish a reminder system to ensure she will not be in breach of Council Rule 7(11) again.

ANALYSIS

Council considered the actions of the Licensee and the Licensee's submissions.

Council determined, based on her own admissions, as well as the evidence collected in the investigation, that the Licensee failed to notify Council within five business days that she no longer held E&O insurance, and to immediately cease to conduct insurance activity when she no longer held E&O insurance, as required by Council Rules 7(11)(c)(i) and 7(11)(c)(ii), respectively.

Council found that the Licensee failed to put her mind to Council Rules and her E&O insurance lapsed as a result. Council recognized the Licensee was remorseful for her actions, had no intention to be in breach of Council Rule 7(11), and is establishing a network of support for her insurance business.

Council considered prior decisions relating to unintentional breaches of Council Rule 7(11). These decisions included cases where, for various personal reasons, licensees continued to conduct insurance activities without the required E&O insurance in place. In such cases, 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 \$1,800.00.

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 agent 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 **May 21, 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 **May 20, 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 **May 20, 2014**, the intended decision of Council will take effect.

Intended Decision
Georgina Pastidio Tuban De Leon
180410
April 30, 2014
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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

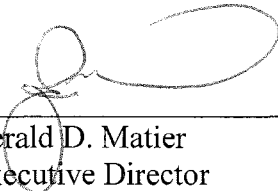
Reception: 250-387-3464

Fax: 250-356-9923

Email: FinancialServicesTribunal@gov.bc.ca

Dated in Vancouver, British Columbia, on the **30th day of April, 2014.**

For the Insurance Council of British Columbia



Gerald D. Matier
Executive Director

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