

In the Matter of the

FINANCIAL INSTITUTIONS ACT, RSBC 1996, c.141

(the "Act")

and the

INSURANCE COUNCIL OF BRITISH COLUMBIA

("Council")

and

CAMERON ALEXANDER FORTIN

(the "Licensee")

ORDER

As Council made an intended decision on June 13, 2023, 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 July 25, 2023; 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, 236, and 241.1 of the Act, Council orders that:

- 1) The Licensee is fined \$1,500, to be paid by November 8, 2023;
- 2) The Licensee is required to complete the Council Rules Course for life and/or accident and sickness insurance by November 8, 2023;
- 3) The Licensee is assessed Council's investigation costs in the amount of \$812.50, to be paid by November 8, 2023; and
- 4) A condition is imposed on the Licensee's life and accident and sickness insurance agent ("Life Agent") licence that failure to complete the Council Rules Course and to pay the fine and investigation costs in full by November 8, 2023 will result in automatic suspension of the Licensee's Life Agent licence, and the Licensee will not be permitted to complete the

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Licensee's 2025 annual licence renewal until such time as the Licensee has completed the Council Rules Course and paid the fine and investigation costs in full.

This order takes effect on the **10th day of August, 2023**



Janet Sinclair, Executive Director
Insurance Council of British Columbia

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA

("Council")

respecting

CAMERON ALEXANDER FORTIN

(the "Licensee")

1. Pursuant to section 232 of the *Financial Institutions Act* (the "Act"), Council conducted an investigation to determine whether the Licensee breached the Council Rules and/or the Code of Conduct (the "Code") when the Licensee failed to maintain his Errors and Omissions insurance ("E&O") and failed to notify Council of the lapse in E&O coverage.
2. On April 3, 2023, as part of Council's investigation, a Review Committee (the "Committee") comprised of Council members met with the Licensee via video conference to discuss the investigation. An investigation report prepared by Council staff was distributed to the Committee and the Licensee prior to the meeting. A discussion of the investigation report took place at the meeting and the Licensee was given an opportunity to make submissions and provide further information.
3. Having reviewed the investigation materials and having discussed the matter with the Licensee, the Committee prepared a report for Council. The Committee's report, along with the aforementioned investigation report, were reviewed by Council at its June 13, 2023, meeting, where it was determined the matter should be disposed of in the manner set out below.

PROCESS

4. 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, 236 and 241.1 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

5. The Licensee was licensed with Council as an accident and sickness insurance agent from September 13, 2006, to December 4, 2008, and later became licensed as a life and accident and sickness insurance agent (“Life Agent”) on December 5, 2008.
6. The Licensee holds an unaffiliated authority to represent (“ATR”) effective January 24, 2020.
7. On January 13, 2022, the Licensee self-reported his E&O had lapsed for approximately one week.
8. On January 20, 2022, an insurer that the Licensee held a contract with (the “Insurer”) reported to Council that the Licensee’s Managing General Agency informed them of the Licensee’s E&O lapse.
9. The Licensee further informed Council that his E&O coverage expired on January 1, 2021, and was not reinstated until February 5, 2021. The Licensee stated that he was not aware of his E&O lapse and his obligation to notify Council within five business days per the requirements under the Council Rules.
10. Council’s investigation later confirmed that the Licensee had been without E&O insurance coverage from January 1, 2021, to February 5, 2021 (the "Lapse Period").
11. During the Lapse Period, the Licensee met with a client regarding a segregated fund policy and completed an investment change form with instructions for additional deposits to the client’s policy.
12. The Licensee had a prior disciplinary history with Council. On October 10, 2019, the Licensee was disciplined by Council for failing to fulfill Continuing Education requirements over three licensing periods. Of note, the Licensee was ordered to complete the Council Rules Course.

The Licensee’s Submissions to the Committee

13. During the Committee meeting, the Licensee explained his E&O lapsed due to technical issues with his computer and that his email had not been synched to his phone, which led to missed renewal reminders.
14. The Licensee explained that he had originally self-reported a five-day lapse, rather than the Lapse Period because of a misunderstanding of the date his policy was set to renew.

15. The Committee asked the Licensee what steps he had taken to prevent a similar lapse from occurring in the future. The Licensee explained that the lapse had raised his awareness regarding E&O coverage and that he has written the renewal date in his operations manual.
16. The Licensee also explained that he experienced a personal event with his family near the time his E&O policy was set to renew and that his focus had been pulled away from the E&O renewal requirements.
17. The Committee asked the Licensee about the transaction he processed during the Lapse Period. The Licensee declined to answer questions on the basis that he did not have the details available to him at the time. The Licensee confirmed that he took notes during the transaction, though did not review them prior to the Committee meeting.

ANALYSIS

18. Council considered the investigation report, the Committee's report to Council, and the Licensee's submissions and determined that the Licensee's conduct amounted to clear breaches of Council Rule 7(11) and section 13 ("Compliance with Governing Legislation and Council Rules) of the Code. Council Rule 7(8) requires licensees to comply with the Code.
19. Council found that the Licensee had failed to maintain his E&O coverage and failed to notify Council within five business days of an E&O lapse as required under Council Rule 7(11).
20. Council found several mitigating factors to be applicable in this matter. First, Council considered the Licensee's family circumstances to be a mitigating factor. Additionally, the fact the Licensee had reported his E&O lapse before the Insurer contacted Council is a mitigating factor, as was his apologetic demeanour in written correspondence to Council.
21. Notwithstanding the mitigating factors above, Council found several aggravating factors to be applicable in this matter. In particular, Council found the Licensee's previous discipline and the fact he has been ordered to take the Council Rules Course both aggravating. Additionally, while he did self-report, he did so only after a year and not the five business days as required by the Council Rules.
22. Council found the fact the Licensee completed a transaction during the Lapse Period aggravating. Further, Council considered the Licensee's decision not to review his notes relating to that transaction indicative of the Licensee's failure to take Council's proceedings seriously. Finally,

Council determined that the Licensee lacked an appropriate plan to prevent similar breaches from occurring in the future.

23. Council is not bound by precedent to follow the outcomes from prior decisions, but similar conduct should result in similar outcomes within a reasonable range depending on the particular facts of the case.
24. With respect to the Licensee's misconduct, Council considered the cases of [Maria Rhodora Banada Thomas](#) (July 2018) and [Varinder Kaur](#) (July 2020).
25. [Maria Rhodora Banada Thomas](#) (July 2018) concerned a Life Agent whose E&O coverage lapsed. The licensee advised Council that the lapse was due to inadvertence and that she had not conducted insurance business during the lapse period. Despite finding the breach unintentional, Council ordered a \$1,000 fine. This decision stands for the proposition that Council will apply a minimum fine of \$1,000 for breaches of Council Rule 7(11), regardless of the reasons for that breach.
26. [Varinder Kaur](#) (July 2020) concerned a Life Agent whose authority to represent her agency was terminated. Subsequently, the agency's E&O broker emailed the licensee advising that, because her contract had been terminated, her E&O coverage was cancelled. After being advised that her E&O coverage had been cancelled, the licensee wrote one insurance policy, followed by a second after Council informed her that her licence status had been changed from active to inactive. She self-reported to Council that she had written two insurance policies. The licensee was fined \$1,500 for failing to maintain her E&O coverage and for conducting insurance business without E&O insurance and reprimanded for failing to notify Council that she was without E&O coverage. Further, the licensee was required to complete the Council Rules Course.
27. Council recognized, having reviewed the precedents, that the approach Council had adopted for licensees who have breached Council Rule 7(11) is to assess a "baseline" fine of \$1,000 for each breach, as well as require the licensee to complete the Council Rules Course. In some cases, mitigating factors are identified that support a lowering of the fine.
28. Overall, Council concluded that the aggravating factors outweighed the mitigating factors. Council considered the \$1,000 benchmark identified above, and after applying both the aggravating and mitigating factors, determined a fine of \$1,500 to be appropriate. Council noted that it would have assessed a higher fine were it not for the mitigating factors relating to the Licensee's self-reporting of the E&O lapse and his exigent family circumstances.

29. Council has determined that investigation costs should be assessed against the Licensee. As a self-funded regulatory body, Council looks to licensees who have engaged in misconduct to bear the costs of their discipline proceedings, so that those costs are not otherwise borne by British Columbia's licensees in general. Council has not identified any reason for not applying this principle in the circumstances.

INTENDED DECISION

30. Pursuant to sections 231, 236 and 241.1 of the Act, Council made an intended decision to:
- a. Fine the Licensee \$1,500, to be paid within 90 days of Council's order;
 - b. Require the Licensee to complete the Council Rules Course for life and/or accident and sickness insurance within 90 days of Council's order;
 - c. Assess the Licensee Council's investigation costs of \$812.50, to be paid within 90 days of Council's order; and
 - d. Impose a condition on the Licensee's life and accident and sickness insurance agent ("Life Agent") licence that failure to complete the Council Rules Course and to pay the fine and investigation costs in full within 90 days will result in automatic suspension of the Licensee's Life Agent licence, and the Licensee will not be permitted to complete the Licensee's 2025 annual licence renewal until such time as the Licensee has completed the Council Rules Course and paid the fine and investigation costs in full.

RIGHT TO A HEARING

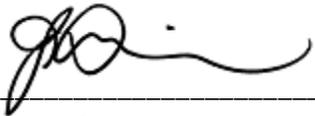
31. If the Licensee wishes to dispute Council's findings or its intended decision, the Licensee may have legal representation and present a case in a hearing before Council. **Pursuant to section 237(3) of the Act, to require Council to hold a hearing, the Licensee must give notice to Council by delivering to its office written notice of this intention within fourteen (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.

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32. 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 thirty (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.bcfst.ca or visit the guide to appeals published on their website at <https://www.bcfst.ca/app/uploads/sites/832/2021/06/guidelines.pdf>.

Dated in Vancouver, British Columbia, on the **25th day of July, 2023**.

For the Insurance Council of British Columbia

A handwritten signature in black ink, appearing to read 'Janet Sinclair', written over a horizontal line.

Janet Sinclair
Executive Director