

In the Matter of the

FINANCIAL INSTITUTIONS ACT, RSBC 1996, c.141
(the “Act”)

and the

INSURANCE COUNCIL OF BRITISH COLUMBIA
 (“Council”)

and

MELISSA MURIEL MINTOFT
(the “Licensee”)

ORDER

As Council made an intended decision on June 18, 2024, 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 22, 2024; and

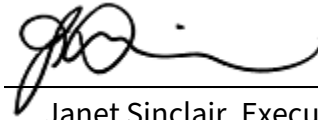
As the Licensee has not requested a hearing of Council’s intended decision within the time period provided by the Act;

Under authority of sections 231, 236, and 241.1 of the Act, Council orders that:

- 1) The Licensee is fined \$6,000 to be paid by February 10, 2025;
- 2) The Licensee is required to complete the following courses by February 10, 2025:
 - i. The Council Rules Course for life and accident and sickness insurance agents;
 - ii. The Council Rules Course for general insurance and adjusters; and
 - iii. The Continuing Education Guidelines and Requirements course;
(collectively, the “Courses”)
- 3) The Licensee is assessed Council’s investigation costs of \$562.50, to be paid by February 10, 2025; and

- 4) A condition is imposed on the Licensee's general insurance licence and life and accident and sickness insurance agent licence that failure to complete the Courses, pay the fine and investigation costs in full by their deadlines will result in the automatic suspension of the Licensee's licences, and the Licensee will not be permitted to complete their 2026 annual licence renewals until such time as the Licensee has complied with the conditions listed herein.

This order takes effect on the **13th day of August, 2024**



Janet Sinclair, Executive Director
Insurance Council of British Columbia

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA

(“Council”)

respecting

MELISSA MURIEL MINTOFT

(the “Licensee”)

1. Pursuant to section 232 of the *Financial Institutions Act* (the “Act”), Council conducted an investigation to determine whether the Licensee had acted in compliance with the requirements of the Act, Council Rules and Code of Conduct regarding allegations that the Licensee failed to complete the required continuing education (“CE”) credits during 2019/2020, 2020/2021 and 2021/2022 licence periods (the “Licence Periods”) for each of her life and accident and sickness insurance agent (“Life Agent”) and general insurance agent (“Level 2 Agent”) licences.
2. On March 27, 2024, as part of Council’s investigation, a Review Committee (the “Committee”) met with the Licensee via video conference to discuss the investigation report and to allow the Licensee an opportunity to provide additional information and make further submissions to the Committee.
3. Having reviewed the investigation materials, the Committee prepared a report for Council. The Committee’s report, along with the Investigation Report, were reviewed by Council at its June 18, 2024, 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 first licensed as a Level 1 general insurance salesperson on February 23, 2006, and then became a Level 2 Agent on February 15, 2008. The Licensee has held a Life Agent licence since June 14, 2017.
6. The Licensee left CE declarations unchecked on the 2022 annual licence renewal submissions for both her Level 2 Agent and Life Agent licence renewals. As a result, Council initiated an audit on October 14, 2022, in which Council staff requested CE records from the Licensee.
7. The Licensee did not provide CE records to Council, stating that personal circumstances affected her ability to meet the CE requirements.
8. Pursuant to its audit, Council requested completed audit forms, evidence of valid errors and omissions coverage and CE records or course completion certificates for each of the Licence Periods by November 17, 2022.
9. On November 17, 2022, the Licensee replied to Council staff explaining that she had experienced difficult life events that had impacted her ability to complete CE. She provided CE records indicating she had completed 33 CE credits for the 2020/2021 licence period in relation to her Level 2 Agent licence and indicated she had not completed CE for the Licence Periods with respect to her Life Agent licence.
10. While the Licensee had listed three CE courses on her General Insurance Agent audit form, she provided only one course completion certificate demonstrating that she had completed 20 minutes of CE.
11. As a result, Council staff determined that, in total, the Licensee was short 45 CE credits in relation to her Life Agent licence and 19.67 CE credits in relation to her Level 2 Agent licence.
12. Between May 3, 2023, and May 31, 2023, the Licensee provided Council staff with CE certificates completed between November 2022 and April 2023, which amounted to 52 CE credits for her Life Agent licence and 29 CE credits for her Level 2 Agent licence. As a result, the Licensee demonstrated that she had successfully completed her outstanding CE credit requirements.
13. The Committee meeting was initially scheduled for February 13, 2024. However, on January 24, 2024, the Licensee contacted Council staff requesting that the meeting be adjourned due to personal circumstances.

14. The Committee found the Licensee to be candid with Committee members and accepted responsibility for her CE breaches.
15. When asked if she wanted to keep her Life Agent licence, the Licensee stated that she had initially considered requesting that her licence be cancelled due to competing family obligations and extenuating circumstances. However, she decided against doing so because she still had active policies.
16. The Licensee was asked whether she had contacted her managing general agent (“MGA”) for support with CE credits. The Licensee responded that she did not feel her MGA was responsible for her CE obligations.
17. The Licensee also discussed a personal situation which, in conjunction with her other significant issues, impacted her ability to complete her CE requirements.
18. The Licensee advised the Committee members that since the audit, she had purchased a course platform enabling her to meet her CE obligations and intended to continue doing so in the future.

LEGISLATIVE FRAMEWORK

19. Council determined the following sections of the Council Rules and Code of Conduct applied to this matter:

Council Rules

Rule 7: Licence Conditions

- 7(5) *A licensee must meet the requirements of the continuing education program established by Council, as amended from time to time.*
- 7(8) *A licensee must comply with the Council’s Code of Conduct, as amended from time to time.*

Code of Conduct

Section 5, Competence

5.2 REQUIREMENT

You must conduct all insurance activities in a competent manner. Competent conduct is characterized by the application of knowledge and skill in a manner consistent with the usual practice of the business of insurance in the circumstances.

You must continue your education in insurance to remain current in your skills and knowledge.

Section 13, Compliance with Governing Legislation and Council Rules

13.2 REQUIREMENT

You must be aware of and comply with your duties and obligations under the Act, the Insurance Act, the Rules and the Code.

ANALYSIS

20. Council found that the Licensee had failed to obtain the required CE credits for each of the Licence Periods and for each of her two licences, contrary to Rules 7(5) and 7(8) and Code of Conduct sections 5 and 13.
21. Prior to making its determination, Council took several past decisions of Council regarding insufficient CE into consideration as precedents. The following precedent summaries represent some of the most instructive of those past decisions.

PRECEDENTS

22. [Keley Low](#) (February 2024): While licensed, a former licensee failed to maintain the required CE credits for three consecutive licence periods. Subsequent to Council's investigation, the former licensee made up some of the deficit CE credits. The former licensee was fined \$3,000, representing \$1,000 for each licence period in which she failed to obtain the required CE credits; was required to complete the

Council Rules Course or equivalent; and was assessed investigation costs, all of which were required to be completed before the former licensee would be licensed by Council in the future.

23. [*William Charles Brash*](#) (April 2022): A life agent's licence had been inactive at the time he contacted Council for assistance with completing his annual filing declaration. The licensee was unaware that despite his licence being inactive, he was nevertheless required to complete CE, and he advised Council that he had not completed the required CE. Subsequently, the licensee completed 60 CE credits. The licensee also completed an additional nine courses, although they were ultimately ineligible to be used as CE credits. Although Council found the licensee had breached his CE requirements for four licence periods, it declined to assess a penalty of \$1,000 for each licence year (\$4,000 in total). Council found the licensee's efforts to make up the deficient CE credits were mitigating and applied a global \$1,000 penalty in addition to a requirement that the licensee complete the Council Rules Course and pay the investigation costs.
24. Council recognized, having reviewed the precedents, that the approach it has adopted for disciplining licensees who have breached Council Rules pertaining to CE requirements is to assess a "baseline" fine of \$1,000 for each breach and to require the licensee to complete the Council Rules Course and the Continuing Education Guidelines and Requirements course. In some cases, mitigating factors that support a lowering of the fine amount are identified.

MITIGATING AND AGGRAVATING FACTORS

25. Council found the Licensee's candor and admissions of responsibility, her personal circumstances affecting her ability to complete CE, and her successful efforts to complete the CE shortfall prior to the Committee meeting to be mitigating factors.
26. Council found the Licensee's unfamiliarity with the Life Agent side of her practice to be aggravating in that her failure to complete CE posed a risk of harm to the public, given the Licensee's limited experience as a Life Agent and that she had not completed any CE.
27. On balance, Council found the mitigating factors did not outweigh the aggravating factors to a degree that departure from the baseline established by precedent was warranted. However, Council did consider that an extension of the deadline by which to pay any fines and complete courses was warranted in the circumstances.

CONCLUSIONS

28. Council considered a fine of \$6,000 appropriate, representing \$1,000 for failing to complete the required CE for each of the three Licence Periods for each of her two licences.
29. Council also determined that the Licensee would benefit from completing the Council Rules Course for Life Agents and the Continuing Education Guidelines and Requirements Course.
30. With respect to investigation costs, Council believes that these costs should be assessed to 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 did not identify any reason for not applying this principle in the circumstances.

INTENDED DECISION

31. Pursuant to sections 231, 236 and 241.1 of the Act, Council made the following intended decision that:
 - a) The Licensee be fined \$6,000, to be paid within 180 days of Council's order;
 - b) The Licensee be required to complete the following courses within 180 days of Council's order:
 - i. The Council Rules Course for life and accident and sickness insurance agents;
 - ii. The Council Rules Course for general insurance and adjusters; and
 - iii. The Continuing Education Guidelines and Requirements course;
(collectively, the "Courses");
 - c) The Licensee be assessed Council's investigation costs of \$562.50, to be paid within 180 days of Council's order; and
 - d) A condition be imposed on the Licensee's general insurance licence and life and accident and sickness insurance agent licence that failure to complete the Courses, pay the fine and investigation costs in full by their deadlines will result in the automatic suspension of the Licensee's licences, and the Licensee will not be permitted to complete their 2026 annual licence renewals until such time as the Licensee has complied with the conditions listed herein.

32. Subject to the Licensee's right to request a hearing before Council pursuant to section 237 of the Act, the intended decision will take effect after the expiry of the hearing period.

ADDITIONAL INFORMATION REGARDING FINES/COSTS

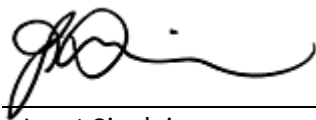
33. Council may take action or seek legal remedies against the Licensee to collect outstanding fines and/or costs, should these not be paid by the 180-day deadline.

RIGHT TO A HEARING

34. 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.**
35. 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 <https://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 **22nd day of July, 2024**

For the Insurance Council of British Columbia



Janet Sinclair
Executive Director