

In the Matter of the

FINANCIAL INSTITUTIONS ACT, RSBC 1996, c.141

(the “Act”)

and the

INSURANCE COUNCIL OF BRITISH COLUMBIA

(“Council”)

and

JIAN HUA (ROBERT) QUE

(the “Licensee”)

ORDER

As Council made an intended decision on March 12, 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 May 2, 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 \$1,500, to be paid by August 19, 2024;
- 2) The Licensee is required to complete the Council Rules Course for general insurance and adjusters by August 19, 2024;
- 3) The Licensee is required to complete the Continuing Education Guidelines and Requirements Course by August 19, 2024;

Order

Jian Hua (Robert) Que

COM-2021-00746 / LIC-170200C133421R1 / LIC-170200C105413R1

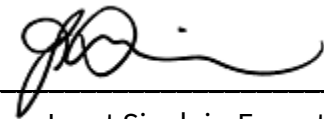
May 21, 2024

Page 2 of 2

- 4) The Licensee is assessed Council's investigation costs of \$750, to be paid by August 19, 2024; and

- 5) A condition is imposed on the Licensee's life and accident and sickness insurance agent licence and general insurance licence that failure to complete the Council Rules Course and the Continuing Education Guidelines and Requirements Course, and to pay the fine and investigation costs by their deadlines will result in the automatic suspension of those licences, and that the Licensee will not be permitted to complete the Licensee's 2026 annual licence renewal until such time as the Licensee has complied with the conditions listed herein.

This order takes effect on the **21st day of May, 2024**



Janet Sinclair, Executive Director
Insurance Council of British Columbia

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA

(“Council”)

respecting

JIAN HUA (ROBERT) QUE

(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.
2. An investigation report prepared by Council staff (the “Investigation Report”) indicated the Licensee failed to complete required continuing education credits (“CE”) for a total of five consecutive licence periods, spanning 2016/2017 to 2020/2021 (the “Licence Periods”).
3. On January 17, 2024, as part of Council’s investigation, a Review Committee (the “Committee”) comprised of Council members met with the Licensee, with the aid of an interpreter, via video conference to discuss the investigation. The Investigation Report 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.
4. 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 March 12, 2024 meeting, where it was determined the matter should be disposed of in the manner set out below.

PROCESS

5. 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

6. The Licensee has been licensed with Council as a life and accident and sickness insurance agent (“Life Agent”) since July 16, 2007. The Licensee also became licensed with Council as a level 2 general insurance agent (“Level 2 Agent”) on January 30, 2012. Additionally, the Licensee is a nominee of an agency, which has held a corporate licence since May 26, 2010.
7. In 2021, Council staff began an audit of the Licensee’s CE credits, as the Licensee left all declarations blank in the 2021 Annual Filing Declaration for his general insurance Level 2 Agent licence.
8. Through that audit process, Council staff determined the Licensee had failed to obtain sufficient CE credits for each of the 2018/2019, 2019/2020, and 2020/2021 licence periods (the “Audited Periods”). Additionally, the Licensee advised Council staff that he had been short CE credits for the 2016/2017 and 2017/2018 licence periods, with the result the Licensee had failed to meet CE requirements for five consecutive licence periods from 2016 to 2021.
9. Level 2 Agents who have held that licence for five or more consecutive years were required to complete 6 CE credits in each of the Audited Periods.
10. The Licensee was unable to provide any CE credits to Council staff in respect of his Level 2 Agent CE requirements. Accordingly, Council staff determined the Licensee was short 6 CE in each of the Audited Periods with respect to his Level 2 Agent licence.
11. The Licensee had, however, completed CE in respect of his Life Agent licence, and provided the following CE records to Council staff:
 - 2018/2019: 10 CE credits
 - 2019/2020: 10 CE credits
 - 2020/2021: 11.5 CE credits
12. Council staff determined the Licensee held a Certified Financial Planner (“CFP”) designation in good standing during each of the Audited Periods. As a result, by operation of ICN 08-005, the Licensee was exempted from the Life Agent CE program and had completed surplus CE for that licence.
13. Council staff reviewed the course contents for each of the Life Agent CE courses provided by the Licensee, and determined that some, but not all, could be applied to his Level 2 Agent CE requirements.

14. After accounting for applicable Life Agent CE, Council Staff determined the Licensee had missed 21.5 CE in respect of his Level 2 Agent licence, as follows (the “CE Shortfall”):
 - 2016/2017: 6 CE credits
 - 2017/2018: 6 CE credits
 - 2018/2019: 3 CE credits
 - 2019/2020: 6 CE credits
 - 2020/2021: 0.5 CE
15. Subsequent to Council’s investigation, the Licensee made up the CE Shortfall by completing additional CE credits. At the time of the Review Committee meeting, the Licensee had no further CE credits outstanding in respect of the Licence Periods.
16. As noted above, the Licensee attended the Committee meeting and provided submissions with the assistance of a translator.
17. The Licensee advised Committee members that he had made up the CE Shortfall and had provided all CE records to Council staff.
18. The Licensee stated that he did not do a lot of general insurance business, and accordingly had not been aware of the requirement to obtain CE in respect of his Level 2 Agent licence in addition to the CE required for his Life Agent licence.
19. Additionally, the Licensee had changed agencies with respect to his Level 2 Agent licence several times and had received limited support or training from these new agencies.
20. The Licensee advised the Committee members he would review Council’s website to stay up to date on the requirements of all his licences, to ensure that he would meet his obligations in the future.

LEGISLATIVE FRAMEWORK

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

Council Rules

Rule 7: License 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 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

22. Council determined that the Licensee had failed to obtain the required CE credits for five consecutive licence periods, from 2016/2017 to 2020/2021.
23. Prior to making its determination, Council took several of its past decisions regarding insufficient CE and E&O lapses into consideration as precedents. The following precedent summaries represent some of the most instructive of those past decisions.
24. [William Charles Brash](#) (April 28, 2022): A life agent's license had been inactive at the time he called Council for assistance completing his annual renewal declaration. The licensee was unaware that despite his licence being inactive, he was nevertheless required to complete CE, and he was advised by the Council that he had not completed the CE required. Subsequently, the licensee completed 60 CE credits. The licensee completed an additional nine courses, though they were ultimately ineligible to be used as CE credits. Council found the licensee had breached his CE requirements for four licence periods. However, it declined to assess a penalty of \$1,000 for each licence year (\$4,000 total). Council found the licensee's efforts to make up the deficient CE credits were mitigating and instead applied a global \$1,000 penalty, in addition to a requirement to complete the Council Rules Course and pay investigation costs.
25. [Cameron Alexander Fortin](#) (October 10, 2019): A life agent contacted Council to report that he had fallen short of CE credits due to a misunderstanding about how many courses he was required to

complete per year. Council initiated a CE audit, which found the licensee had failed to fulfill his CE requirements for three years. The licensee was fined \$500 for each year, for a total of \$1,500. Council considered it mitigating that the licensee had proactively contacted Council once he realized his error, and that he quickly began to make up his missed CE credits.

26. Council recognized, having reviewed the precedents, that the approach Council has adopted for disciplining licensees who have breached Council Rules pertaining to CE and E&O requirements 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, including the two precedents summarized above, mitigating factors that support lowering the fine are identified.
27. Council considered the Licensee’s efforts to make up the CE Shortfall and to have self-disclosed the breach of CE requirements in the 2016/2017 and 2017/2018 licence periods to be significantly mitigating.
28. Council noted that the Licensee’s breach extended over a lengthy period of time – five licence periods – but declined to find this was an aggravating circumstance given the Licensee had met the requirements for his Life Agent licence during that period. Council further noted that the requirement imposed on licensees to obtain CE is intended to protect the public; however, it also declined to find the Licensee’s breach posed a risk to the public in these circumstances.
29. Because Council found there existed significant mitigating factors and no aggravating factors, Council determined that a departure from the precedents was warranted.

CONCLUSIONS

30. Council considered a fine of \$1,500 to be appropriate, representing \$500 for each of the Audited Periods in which the Licensee failed to complete required CE. Council noted the Licensee had failed to obtain CE credits for two additional licence periods; however, given the Licensee’s proactivity in making up the CE Shortfall, in addition to his honesty and forthright self-disclosure to the Review Committee and staff, Council opted not to apply a fine in respect of those two licence periods.
31. Further, Council considers it appropriate for the Licensee to be required to take the Council Rules Course, and the new Continuing Education Guidelines and Requirements Course. Taking these courses will improve the Licensee’s understanding of his CE requirements, and will decrease the chance of a similar infraction in the future.

32. With respect to investigation costs, Council determined 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 has not identified any reason for not applying this principle in the circumstances.

INTENDED DECISION

33. Pursuant to sections 231, 236, and 241.1 of the Act, Council made the following intended decision:

- a) That the Licensee be fined \$1,500, to be paid within 90 days of Council's order;
- b) That the Licensee be required to complete the Council Rules Course for general insurance and adjusters within 90 days of Council's order;
- c) That the Licensee be required to complete the Continuing Education Guidelines and Requirements Course within 90 days of Council's order;
- d) That the Licensee be assessed Council's investigation costs of \$750, to be paid within 90 days of Council's order; and
- e) That a condition be imposed on the Licensee's life and accident and sickness insurance agent licence and general insurance licence that failure to complete the Council Rules Course and the Continuing Education Guidelines and Requirements Course, and to pay the fine and investigation costs by their deadlines will result in the automatic suspension of those licences, and that the Licensee will not be permitted to complete the Licensee's 2026 annual licence renewal until such time as the Licensee has complied with the conditions listed herein.

34. 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

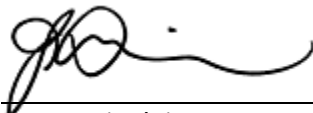
35. Council may take action or seek legal remedies against the Licensee to collect outstanding fines and/or costs, should these not be paid by the 90 day deadline.

RIGHT TO A HEARING

36. 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.**
37. 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 **2nd day of May, 2024**

For the Insurance Council of British Columbia



Janet Sinclair
Executive Director