

In the Matter of

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

and

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

and

PAMELA PEEN HONG YEE
(the "Licensee")

ORDER

As Council made an intended decision on October 15, 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 November 12, 2013; 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 \$1,600.00.
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 **March 3, 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 **March 4, 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 **3rd day of December, 2013**.



Rita Ager, CFP, CLU, CHS, CPCA, FEA
Chairperson, Insurance Council of British Columbia

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA
(“Council”)

respecting

PAMELA PEEN HONG YEE
(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 failed to cease conducting insurance activities.

As part of Council’s investigation, on August 19, 2013, an Investigative Review Committee (the “Committee”) met with the Licensee. The Committee was comprised of one voting member and three 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, was reviewed by Council at its October 15, 2013 meeting. Based on its review, 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

1. The Licensee was first licensed as a life and accident and sickness insurance agent on September 22, 2000. On October 28, 2011, the Licensee contacted Council to advise that she had been without E&O insurance since April 1, 2011, when her coverage lapsed.
2. The Licensee stated that for most of her career she had worked in the agency system where the agency arranged the E&O insurance and deducted E&O insurance premiums from her pay. In March 2010, the Licensee left the agency system and began working as an independent agent.
3. The Licensee experienced a difficult transition leaving the agency system. As an independent agent, the Licensee stated she was required to learn about different insurers, their products, and underwriting requirements. The Licensee claimed that she lacked confidence in herself and began to develop health issues.
4. The Licensee stated that in August 2011, she received notification from her E&O insurance provider of a lapse in her insurance. The Licensee stated she attempted to confirm the status of her E&O insurance with her provider, but that her insurance provider was non-responsive.
5. The Licensee advised that as she was still able to process insurance applications during the period in question, she believed she still had E&O insurance. Under the agency system she would not have been able to process insurance applications without E&O insurance.
6. The Licensee placed 13 insurance policies while she was without E&O insurance.
7. The Licensee ceased conducting insurance business in October 2011, once her managing general agent ("MGA") advised her that she did not have E&O insurance. She immediately renewed her E&O insurance when advised by her MGA.

ANALYSIS

Council found the above-mentioned facts constituted a breach of Council Rules 7(11)(c)(i) and 7(11)(c)(ii), as the Licensee failed to notify Council within five business days of ceasing to have E&O insurance and continued to conduct insurance activities without E&O insurance in place.

Council was concerned with the number of insurance policies placed during the time period that the Licensee had not maintained E&O insurance. Council also noted the Licensee had received notification of a lapse in her E&O insurance in August 2011, but did not take adequate steps to renew her insurance until she was informed by her MGA in October 2011. Council concluded the Licensee failed to ensure the renewal of her E&O insurance occurred.

Council acknowledged that the Licensee took responsibility for her failure to comply with Council Rule 7(11). The Licensee reinstated her E&O coverage once she was advised by her MGA that her insurance had lapsed. The Licensee has worked in the industry for over 13 years without any disciplinary action taken against her. Ultimately, Council found that the evidence before it established an unintentional breach of Council Rule 7(11).

Council considered prior decisions relating to unintentional breaches of Council Rule 7(11). These decisions included cases where, for various personal reasons, including health issues, licensees continued to conduct insurance activities without minimum 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 this matter was similar in nature, constituting a single continuous breach of Council Rule 7(11), 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 \$1,600.00.

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 **December 3, 2013**, 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 **December 2, 2013**. 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 **December 2, 2013**, 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 **12th day of November, 2013**.

For the Insurance Council of British Columbia



Gerald D. Matier
Executive Director

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