

In the Matter of

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

and

The INSURANCE COUNCIL OF BRITISH COLUMBIA
("Council")

and

CHUN HANG DONALD PETER LEE
(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;

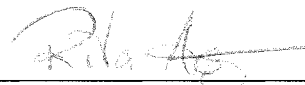
Under authority of sections 231 and 236 of the Act, Council orders:

1. A condition is imposed on the Licensee's life and accident and sickness insurance licence that requires him to successfully complete an errors and omissions course approved by Council on or before **November 17, 2014**.
2. A condition is imposed on the Licensee's life and accident and sickness insurance licence that if the Licensee does not complete the errors and omissions course on or before **November 17, 2014**, the Licensee's life and accident and sickness insurance licence is suspended as of **November 18, 2014**, without further action from Council and the Licensee will not be permitted to complete any annual filing until such time as the ordered errors and omissions course is completed.
3. The Licensee is fined \$1,700.00.

Order
Chun Hang Donald Peter Lee
88129
May 21, 2014
Page 2 of 2

4. A condition is imposed on the Licensee's life and accident and sickness insurance licence that requires him 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, CHS, CPCA, FEA
Chairperson, Insurance Council of British Columbia

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA
(“Council”)

respecting

CHUN HANG DONALD PETER LEE
(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 30 calendar days of a change of his residential address, as required by Council Rule 7(4)(a); failed to notify Council within five business days that he 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 he 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 licensed in British Columbia as a life and accident and sickness insurance agent ("life agent") from June 29, 1990 until June 25, 2013, when his licence was terminated for lack of E&O insurance. The Licensee reapplied and became licensed again effective November 6, 2013.

Council received notification from Willis Canada Inc. ("Willis") that the Licensee's E&O insurance was terminated effective October 1, 2012. When the Licensee failed to return voicemail messages left on his cell phone by Council, a registered letter was sent asking him to provide proof of E&O insurance. The letter was returned by Canada Post as "moved/refused." Council then contacted an insurer he was contracted with to obtain current contact details for the Licensee. The address provided was a different address than his address on file with Council.

The Licensee admitted that he has moved three or four times since becoming a life insurance agent. He stated that he was not aware of Council Rule 7(4)(a) and therefore did not notify Council when he changed his residential address in 2011. The Licensee also explained that he had a new phone at the time Council was calling him, was unfamiliar with it, and, sometimes, missed calls.

The Licensee admitted that Willis had notified him of the lapse of his E&O insurance, but he failed to notice the email and forgot to renew. He claimed that he was not aware he had been without E&O insurance until he was informed by Council. He further admitted that he had serviced existing clients while he was without E&O insurance.

This was the Licensee's second breach of Council Rule 7(11). In 2006, he was sent a reminder regarding E&O requirements as his E&O coverage did not meet the aggregate limit.

The Licensee acknowledged the importance of complying with Council Rules and claimed he is taking steps to ensure he maintains proper E&O insurance in the future. The Licensee claimed the experience of coming before a Committee provided him the opportunity to think about keeping his insurance business on the right track.

ANALYSIS

Council determined, based on his own admissions, as well as the evidence presented in the investigation, that the Licensee failed to notify Council within 30 calendar days of a change of his residential address, as required by Council Rule 7(4)(a); failed to notify Council within five business days that he no longer held E&O insurance; and failed to immediately cease to conduct insurance activity when he no longer held E&O insurance, as required by Council Rules 7(11)(c)(i) and 7(11)(c)(ii), respectively.

Regarding the Licensee's breach of Council Rule 7(11), Council determined the Licensee forgot to renew his E&O insurance and that his breach was unintentional. Council noted that, in 2006, the Licensee had breached Council Rule 7(11) when he failed to meet the minimum required aggregate limit for his E&O insurance. In that instance, the Licensee was sent a reminder letter that advised him to become familiar with Council Rule 7(11). However, Council also took into consideration that, at that time, it had only recently implemented the E&O insurance requirement.

Council considered prior decisions relating to unintentional breaches of Council Rule 7(11). 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 warranted a similar fine. Council recognized that the Licensee has been licensed for 24 years and found it reasonable to expect a licensee with such experience to be familiar with Council Rules. In light of his experience, the Licensee's lack of knowledge of Council Rules was a concern for Council. In order to address this concern, Council determined it is appropriate that the Licensee complete an E&O course approved by Council.

INTENDED DECISION

Pursuant to sections 231 and 236 of the Act, Council made an intended decision to:

1. Impose a condition on the Licensee's life and accident and sickness insurance licence that requires him to successfully complete an E&O course approved by Council within 180 days of the date of Council's order.
2. Fine the Licensee \$1,700.00.

Intended Decision
Chun Hang Donald Peter Lee
88129
April 30, 2014
Page 4 of 5

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, or failure to complete an E&O course approved within 180 days of the date of Council's order, 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 **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.

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

Intended Decision
Chun Hang Donald Peter Lee
88129
April 30, 2014
Page 5 of 5

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

For the Insurance Council of British Columbia



Gerald D. Matier
Executive Director

GM/cp