

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

and the
INSURANCE COUNCIL OF BRITISH COLUMBIA
(“Council”)

and
WILLIAM CHARLES BRASH
(the “Licensee”)

ORDER

As Council made an intended decision on March 8, 2022, 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 March 30, 2022; and

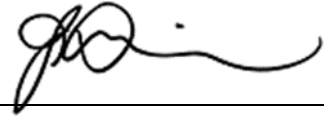
As the Licensee has not requested a hearing of Council’s intended decision within the time period provided by the Act;

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

- 1) The Licensee is fined \$1,000, to be paid by July 27, 2022;
- 2) The Licensee is required to complete the Council Rules Course for life and accident and sickness agents by July 27, 2022;
- 3) The Licensee is assessed Council’s investigation costs of \$562.50, to be paid by July 27, 2022; and
- 4) A condition is imposed on the Licensee’s life and accident and sickness agent licence that failure to complete the Council Rules Course or to pay the fine or investigation costs by their deadlines will result in the automatic suspension of that licence, and the Licensee will not be permitted to complete his 2024 annual licence renewal until such time as the Licensee has completed the Council Rules Course and paid the fine and investigation costs in full.

Order
William Charles Brash
LIC-2017-0005668-R01, COM-2021-00256
April 28, 2022
Page 2 of 2

This order takes effect on the **28th day of April, 2022.**

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

Janet Sinclair, Executive Director
Insurance Council of British Columbia

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA
(“Council”)

respecting

WILLIAM CHARLES BRASH
(the “Licensee”)

1. 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, Council Rules, and Code of Conduct, and particularly to determine whether the Licensee failed to complete his continuing education (“CE”) requirements in accordance with Council Rule 7(5).
2. On January 18, 2022, 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 Licensee and Committee prior to the meeting. A discussion of the investigation report, its exhibits, and additional documents provided by the Licensee took place at the meeting and the Licensee was given an opportunity to make submissions and provide further information. Having reviewed the investigation materials and discussed the matter with the Licensee, the Committee prepared a report for Council.
3. The Committee’s report, along with the aforementioned investigation report, were reviewed by Council at its March 8, 2022, 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 received a life and accident and sickness insurance agent (“Life Agent”) licence in July 2017. He worked for an agency (the “Former Employer”) between July and October 2017 and held an unaffiliated authority to represent during that time. The Licensee’s licence was made inactive in October 2017, and it remained inactive until 2022.
6. The Licensee emailed and telephoned Council staff on May 31, 2021, seeking help with completing his annual filing. The Licensee stated that he did not understand some of the declaration questions that needed to be answered during the annual filing process. The Licensee told staff that he had not known that, as an inactive licensee, he was required to complete CE credits each licence year and admitted that he had not completed any CE since being licensed in July 2017.
7. On October 1, 2021, the Licensee contacted Council again to report that he had a job opportunity with a new employer and was interested in making his Life Agent licence active again. He asked Council staff how many CE credits he had to complete. On October 8, 2021, the Licensee submitted to Council staff a list of nine courses that he had recently completed. However, none of the nine courses qualified for CE credits.
8. On January 13 and January 18, 2022, the Licensee provided Council with proof that he had completed 60 CE credits worth of courses in January 2022.
9. On January 18, 2022, the Licensee met with the Committee. During the meeting, he reiterated that he had not known that, as an inactive licensee, he was required to complete CE credits each licensing year. When asked by the Committee whether he had been presented with questions about completion of CE when completing his licence filing in years prior to 2021, the Licensee stated that he had not noticed any such questions about CE but did not deny that they may have been present.
10. The Committee asked the Licensee whether he had received any instructions or training from the Former Employer during his brief time working for them in 2017, including whether they had given him any instructions concerning his CE responsibilities. The Licensee explained that he had received no meaningful instructions or training from the

Former Employer, about CE or otherwise. The Licensee described having had a negative experience during his short time working for the Former Employer, which had the effect of turning him away from the insurance industry for several years.

ANALYSIS

11. The Licensee failed to complete his CE requirements for four consecutive licensing years (2017/2018, 2018/2019, 2019/2020, and 2020/2021). As a Life Agent, he was required to complete 15 CE credits per licensing year, but he admittedly completed no CE credits until January 2022. The Council Rules require inactive licensees, as well as active licensees, to meet their CE requirements.
12. When completing his annual filing for 2018/2019 and subsequent licensing years, the Licensee had to agree to a “declaration” that he was in compliance with the Council Rules, including its CE requirements. A question asking specifically about CE requirements being met was also added to the annual filing process for 2020/2021. As such, the Licensee should have realized that he was obligated to complete CE, despite his inactive licence status, well before May 31, 2021.
13. Prior to making its decision, Council took several past decisions regarding missed CE requirements into consideration as precedents. The following precedent summaries represent the most recent and instructive of those past decisions.
14. *Wah Shing Jacky Chan* (September 2020) concerned a Life Agent who was unable to demonstrate, after having his CE credits audited, that he had met his CE requirements for three licensing years. Council fined the licensee \$3,000 and required him to complete the Council Rules Course.
15. *Jian Guo Han* (May 2020) concerned a Life Agent who was unable to demonstrate, after having his CE credits audited, that he had met his CE requirements for three licensing years. He was fined \$3,000 for the CE failures, required to make up the CE credits in question, and required to complete the Council Rules Course. The licensee was also fined \$2,000 for a breach of Council’s errors & omissions insurance requirements.
16. *Manjit Kaur Litt* (March 2020) concerned a Life Agent who failed to meet her CE requirements for three licensing years. Council fined her \$3,000 and required her to complete the Council Rules Course.

17. *Xueping Ji* (March 2020) concerned a Life Agent who failed to meet her CE requirements for three licensing years. Council fined her \$3,000 and required her to complete the Council Rules Course.
18. *Cameron Alexander Fortin* (October 2019) concerned a Life Agent who contacted Council to report that he had fallen short on 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.
19. Having reviewed these precedents, Council recognizes that the approach it has adopted for disciplining licensees who have failed to meet their CE requirements for multiple years is to assess a fine of \$1,000 for each licensing year in which CE requirements were not met, as well as to require licensees to complete the Council Rules Course. In some cases, such as *Fortin*, mitigating factors were identified that support a lowering of the fine.
20. Although the Licensee's failure to complete any CE for four licensing years is a dereliction of the licensee obligations established by the Council Rules, Council has concluded that there are several mitigating factors which, considered together, support a fine significantly lower than the \$1,000 per year assessed in the majority of the precedents, which in this case would amount to a total fine of \$4,000.
21. Similar to the *Fortin* case, the Licensee's CE failure was brought to Council's attention by the Licensee himself, rather than revealed during an audit. Another similarity to *Fortin* is that the Licensee has taken action to make up his CE deficit. Council finds the Licensee's recent completion of 60 CE credits – in addition to a further nine courses that did not qualify as CE credits – shows a commendable initiative. Council also accepts that the Licensee received no instructions about his ongoing CE obligations from the Former Employer and considers his overall lack of training and experience to be an additional mitigating factor. Whereas the licensee disciplined in the *Fortin* case was a Life Agent with many years of experience, the Licensee worked in the insurance industry for only three months before leaving the Former Employer and making his licence inactive.

22. Overall, Council has concluded that the mitigating factors in the present case exceed those identified in the *Fortin* decision, such that a lower fine is supported. Taking into account all identified considerations, Council intends to fine the Licensee a total of \$1,000, amounting to \$250 for each of the four licensing years in which he failed to meet his CE requirements. Council also intends to require the Licensee to complete the Council Rules Course, to ensure that he better understands his obligations as a licensee going forward.
23. Council also intends to assess investigation costs against the Licensee. As a self-funding regulatory body, Council looks to licensees who have engaged in misconduct to bear the costs of their disciplinary proceedings, so that those costs are not otherwise borne by British Columbia's licensees in general.

INTENDED DECISION

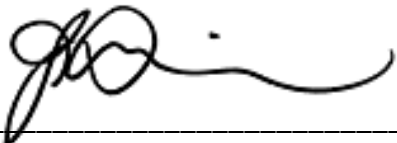
24. Pursuant to sections 231, 236 and 241.1 of the Act, Council made an intended decision to:
 - a) Fine the Licensee \$1,000, to be paid within 90 days of Council's order;
 - b) Require the Licensee to complete the Council Rules Course for Life Agent licensees, within 90 days of Council's order;
 - c) Assess the Licensee Council's investigation costs of \$562.50, to be paid within 90 days of Council's order; and
 - d) Impose a condition on the Licensee's Life Agent licence that failure to complete the Council Rules Course or to pay the fine or investigation costs by their deadlines will result in the automatic suspension of that licence, and the Licensee will not be permitted to complete his 2024 annual licence renewal until such time as the Licensee has completed the Council Rules Course and paid the fine and investigation costs in full.
25. 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.

RIGHT TO A HEARING

26. 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.**
27. 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.fst.gov.bc.ca or visit the guide to appeals published on their website at www.fst.gov.bc.ca/pdf/guides/ICGuide.pdf.

Dated in Vancouver, British Columbia on the **30th day of March, 2022.**

For the Insurance Council of British Columbia



Janet Sinclair
Executive Director