

In the Matter of the

FINANCIAL INSTITUTIONS ACT, RSBC 1996, c.141

(the “Act”)

and the

INSURANCE COUNCIL OF BRITISH COLUMBIA

(“Council”)

and

YANZHI (CAROLYN) JIA

(the “Licensee”)

ORDER

As Council made an intended decision on September 19, 2023, 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 October 24, 2023; and

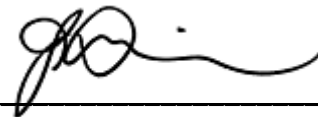
As the Licensee has not requested a hearing of Council’s intended decision within the time period provided by the Act;

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

- 1) A condition is imposed on the Licensee’s life and accident and sickness insurance licence that the Licensee be supervised for two years of active licensing by a supervisor approved by Council, commencing on or before December 20, 2023;
- 2) The Licensee is required to complete the following courses, or equivalent courses as acceptable to Council, by February 20, 2024:
 - i. the Council Rules Course for life and/or accident and sickness insurance;

- ii. the Advocis “Making Choices I, II & III: Ethics and Professional Responsibility in Practice” courses; and
 - iii. the Advocis “The Challenge of Documenting Nothing” course (Collectively, the “Courses”);
- 3) The Licensee is assessed Council’s investigation costs in the amount of \$2,625, to be paid by February 20, 2024;
- 4) A condition is imposed on the Licensee’s life and accident and sickness insurance licence that failure to complete the Courses by February 20, 2024, failure to obtain a supervisor as required, and failure to pay the investigation costs by February 20, 2024 will result in the automatic suspension of the Licensee’s licence, and the Licensee will not be permitted to complete the Licensee’s 2025 annual licence renewal until such time as the Licensee has complied with the conditions listed herein.

This order takes effect on the **20th day of November, 2023**



Janet Sinclair, Executive Director
Insurance Council of British Columbia

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA

(“Council”)

respecting

YANZHI (CAROLYN) JIA

(the “Licensee”)

1. Pursuant to section 232 of the *Financial Institutions Act* (the “Act”), Council conducted an investigation to determine whether the Licensee breached the Council Rules and/or the Code of Conduct related to allegations that the Licensee listed herself as the payor and used her personal banking information on 50 accident insurance applications that she submitted for clients.
2. On June 27, 2023, as part of Council’s investigation, a Review Committee (the “Committee”) comprised of Council members met via video conference to discuss the investigation. An investigation report prepared by Council staff was distributed to the Committee and the Licensee prior to the meeting, and the Licensee was given an opportunity to make submissions and provide further information. The Licensee attended the meeting and a discussion of the investigation report took place at the meeting.
3. Having reviewed the investigation materials and having discussed the matter at the June 27, 2023 meeting, the Committee prepared a report for Council which was reviewed by Council at its September 19, 2023 meeting. Council determined that 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 has been licensed with Council as a life and accident and sickness insurance agent (“Life Agent”) since June 1, 2020. The Licensee was previously licensed as an accident and sickness insurance agent from October 17, 2019, to June 1, 2020.
6. The Licensee has held an authority to represent an insurance agency since June 1, 2020 (the “Agency”). The Licensee has been under supervision since June 1, 2020.
7. On February 24, 2021, Council received a Life Agent Reporting Form and supporting documents from an insurer (the “Insurer”), about the Licensee.
8. The Insurer’s email contained supporting documents alleging that the Licensee submitted 50 unique applications in the Insurer’s system between November 27, 2020, and November 29, 2020, where the residential address and payor information were the same. The Licensee was listed as the payor for all applications, which were all closed prior to any contract issue after the Insurer requested supporting documentation for the transactions.
9. In an email from the Licensee to the Insurer dated February 16, 2021, the Licensee stated that she knew all the clients from a student training group, and she felt that the insurance product at issue (the “Insurance”) would be a great product for people who regularly went skiing due to the bone fracture coverage. All 50 clients shared the same address as they lived at a Canadian university. She put herself as the payor on the applications because many of them were international students in Canada and were not able to set up a Canadian bank account at the time of the applications.
10. The Insurer terminated its contract with the Licensee in the beginning of March 2021.
11. Council sent emails to 10 of the clients listed in the information provided by the Insurer to inquire about the applicants’ recollections of their application process. All emails were returned as undeliverable. Further research by Council confirmed that 23 of the telephone numbers listed for the alleged clients were associated with local businesses.

The Licensee’s Submissions to Council

12. The Licensee admitted that her mistake may have violated the market code standards of conflict of interest because she had used her personal bank information for her clients’ insurance applications. She claimed that the clients suggested that the Licensee use her own bank account to help them apply for the Insurance. She agreed because she saw that third-party bank accounts were allowed

to be used in the application but did not realize that agents should not use their own bank accounts due to a conflict of interest.

13. She stated that it was her first time facing many clients wishing to obtain coverage in a short time. The Insurance she recommended to her clients had a face amount of \$7,000 and a monthly premium of \$7. She included a screenshot for the initial chat post, dated November 23, 2020, that she made in the skiing group chat outlining a type of insurance covering fractures. She also indicated that the clients could cancel the coverage after the skiing season. The group chat had since been deleted.
14. There were two clients (“Client One” and “Client Two”) who paid her before the policy was in place, and the remainder of the clients agreed to pay her back after the insurance was in place. She was also planning to transfer their insurance to their own bank accounts after their accounts had been set up.
15. After the Insurer informed the Licensee that she could not use her personal banking information for the clients’ applications, the clients’ applications were closed. The clients opted to close the applications rather than obtain the required information requested by the Insurer.
16. She did not keep a client interaction log with her clients, except Client One and Client Two, because it was her first time meeting them; she was planning to set up a log with them once their policies were in force.
17. The Licensee indicated that she used a study room in the common area of the university to apply for the Insurance. The location was on a first-come, first-served basis and there were no reservations made.
18. The Licensee stated that her supervisor (the “Supervisor”) did not review the submissions to the Insurer. The Agency mandated that licensees submit New Business forms to their managers, but she did not inform her manager because the applications were closed soon after submission. The Supervisor was informed after the closure of the applications.

Review Committee Meeting

19. The Licensee explained that she met with the clients individually for about 2 to 4 minutes each. During the meetings, the applications were completed and the clients’ electronic signatures were obtained. She also inputted her signature in the applications and verified the identification

documents (“IDs”) of the clients. She stated that the clients had their personal information ready when meeting her so the information could be quickly entered into the applications.

20. When asked by the Committee whether she checked the IDs of all 50 clients, the Licensee confirmed that she only checked the IDs of about 25 to 30 clients and that several clients only had their student IDs.
21. The Licensee acknowledged that she did not verify the phone numbers with the clients and was not aware that many of the phone numbers were associated with local businesses. She suspected that the reason the clients gave her the said numbers was due to a lack of trust – the clients did not want to provide her with their personal numbers. With respect to the clients’ email addresses, the Licensee confirmed that the email addresses were functional at the time as she was able to send correspondence to the clients; for example, the clients received emails to electronically sign the applications on their cellphones.
22. The Licensee explained to the Committee that at the time of the applications the Supervisor was on personal leave and therefore she was not able to seek guidance when completing the applications. She admitted that given her lack of experience submitting policies at the time, it was not appropriate for her to submit the clients’ applications without guidance. She apologized to the Committee.
23. The Licensee could not recall the commissions she would have received but believed the amount would be in the range of \$35 to \$80 per policy, based on the monthly premium of \$7.
24. The Licensee claimed that this incident had negatively impacted her insurance career. At the time of the Committee meeting, the Licensee had one insurance carrier she could write an insurance policy with. In terms of changes to her practice, the Licensee told the Committee that she has been more focused on training and education to upkeep her knowledge of insurance products and compliance requirements. In addition, she routinely seeks guidance from the Supervisor.

ANALYSIS

25. Council considered the impact of Council’s Code of Conduct (the “Code”) on the Licensee’s conduct, including section 3 (“Trustworthiness”), section 4 (“Good Faith”), section 5 (“Competence”), section 7 (“Usual Practice: Dealing with Clients”), section 8 (“Usual Practice: Dealing with Insurers”) and section 12 (“Dealing with the Insurance Council of British Columbia”). Council concluded that the Licensee’s conduct amounted to clear breaches of the aforementioned sections of the Code and

professional standards set by the Code, except for section 12. Licensees are required by Council Rule 7(8) to comply with the Code.

26. Council determined that the Licensee misled the Insurer by making the attestations in the clients' applications that she checked the clients' IDs. The Licensee admitted that she did not check the IDs of at least 20 of the 50 clients at issue, which Council found reflected adversely on the Licensee's trustworthiness. Similarly, Council found that the Licensee breached the principle of good faith by failing to disclose all material information to the Insurer. She failed to make proper attestations about the IDs that she did not check. Council concluded that the Licensee breached the "Usual Practice: Dealing with Insurers" principle for this same reason.
27. In addition, Council had difficulty accepting the speed at which the Licensee processed the applications. Council noted that it was not able to contact several of the clients through the email addresses provided on the applications. On the other hand, the Licensee was able to provide an answer to most of Council's questions. Council concluded that the Licensee responded promptly to inquiries from Council. There was insufficient evidence to prove that the Licensee was dishonest in her responses to Council, although there were concerns about the Licensee's credibility.
28. Council determined that the Licensee failed to engage in the usual practice of the business of insurance. Council gave consideration that the Licensee was a relatively new Life Agent at the time of misconduct; however, Council believed that the Licensee showed a lack of basic understanding of insurance business, which was evident when she used her own banking information on the clients' applications. Council also believed that the Licensee did not understand the significance of providing her attestation on the applications. Further, the Licensee failed to properly document communications and instructions from clients as she was not able to provide a record of her conversations with most of the clients. In this regard, the Licensee also breached Council Rule 7(9). As a new Life Agent, the Licensee should have been more diligent when conducting insurance business.
29. Following the above, Council believed that the Licensee breached the "Usual Practice: Dealing with Clients" principle. The Licensee did not act in a competent manner with the clients. The Licensee engaged in a conflict of interest with the clients by providing her banking information in the applications. In effect, the Licensee was loaning the clients funds to pay for the Insurance. By doing so, the Licensee was no longer maintaining her position as a third-party in the transactions, since she was dealing with the clients in a personal capacity. Also, there was no evidence to suggest that the Licensee adequately considered the clients' needs or conducted adequate fact-finding with the clients.

PRECEDENTS

30. Council is not bound by precedent to follow the outcomes from prior decisions, but similar conduct should result in similar outcomes within a reasonable range depending on the particular facts of the case.
31. With respect to the Licensee's misconduct, Council considered the cases of [Brent Michael Polischuk](#) (February 2023), [Barbara Ann Nash](#) (December 2020), and [Sherry Cheng-Hui Kao](#) (January 2017).
32. [Brent Michael Polischuk](#) (February 2023): The former licensee borrowed funds from insurance business clients and had a lapse in errors and omissions insurance while licensed. A client took out a home equity line of credit against their home to generate funds to loan to the former licensee. The former licensee signed a promissory note which indicated that the principal would be paid along with a predetermined rate of interest, and the loan would be secured by the former licensee's book of business. On another occasion, the former licensee approached a client to borrow funds shortly after the client had suffered a heart attack. Council concluded that accepting money from insurance business clients placed the former licensee in a conflict of interest. Also, Council noted that the former licensee did not have the authority to use the book of business as security for the loan since the book of business belonged to the insurer. Council determined that the former licensee leveraged his professional and personal relationship with the clients for financial gain contrary to the interests of the clients and insurers. Council ordered that the former licensee be fined \$5,000 and assessed investigation costs. In addition, Council ordered that it not consider an application for any insurance licence from the former licensee for a period of five years.
33. [Barbara Ann Nash](#) (December 2020): The licensee had taken a loan from a client to make a down payment on a home. On the recommendation of the licensee, the client redeemed money from non-registered accounts and Tax-Free Savings Accounts in order to provide funds to the licensee. The client was charged a redemption fee which the licensee did not inform the client of when recommending redeeming the funds. The licensee added the client to the title of a home that was purchased. The client did not understand why he was on the title or the consequences of being on the title, such as being subject to property taxes. Additionally, the licensee obtained a life-term insurance policy naming the client as a 50% beneficiary. In October 2017, the licensee and the client entered into a new loan agreement. Council found that the licensee was in a conflict of interest and did not carry on the business of insurance in good faith, in a trustworthy and competent manner. Council noted concerns about the licensee's competence as she did not adequately explain the redemption fees to the client or the legal consequences of being on title to the property or the implications of being a revocable beneficiary on the insurance policy. Council further noted

concerns about the licensee's tone and use of language in communications between the client and licensee. Council ordered that the licensee complete courses, required that the licensee be supervised for a period of twenty-four months, fined \$2,500, and assessed investigation costs and hearing costs.

34. [*Sherry Cheng-Hui Kao*](#) (January 2017): The licensee approached a client to borrow funds and the client advised they did not have extra money to lend. The licensee recommended that the client obtain a line of credit to obtain the funds. The licensee provided a promissory note to the client to pay back the monies borrowed. In order to make payment on the licensee's debts, the licensee borrowed money from three other insurance clients. The licensee had borrowed significant sums from her insurance clients for the purpose of investing in properties she had purchased and to meet personal debt obligations. Council found that the licensee's conduct brought into question her competency, trustworthiness, and financial reliability, as well as her ability to act in good faith. Council further determined that the licensee acted in a manner that was in conflict of interest with her duties and obligations to her clients. Council ordered that the licensee's licence be cancelled for five years, fined \$10,000, and assessed investigation and hearing costs.
35. Council found that the Licensee engaged in a conflict of interest in her client dealings and did not carry on the business of insurance in good faith, in a trustworthy and competent manner. However, as opposed to the precedent cases, Council noted that the Licensee did not derive a financial benefit from the misconduct as the applications were closed, and there was no known client harm. Accordingly, Council believed that the misconduct in the precedent cases was more egregious than the subject case.

MITIGATING AND AGGRAVATING FACTORS

36. Council found that the mitigating factors in the subject case are substantial. Council accepted that the Licensee acknowledged her misconduct, was remorseful, and cooperated with Council's investigation. Council noted that the Licensee was relatively new to the insurance industry and that she may not have had the appropriate support given that the Supervisor was on leave at the time of the misconduct. Also, Council considered that there was no known client harm and there were no client complaints to Council. In addition, Council noted that the overall amount of business involved was relatively small and that there was no evidence of a personal benefit for the Licensee.
37. Council also accepted that the Licensee had suffered other consequences as a result of the misconduct, as she lost her contract with the Insurer. Council accepted that the Licensee's ability to obtain contracts with other insurers in the future may be affected.

38. In terms of aggravating factors, Council noted that each of the clients' applications had an attestation for the Licensee to confirm that the information submitted was correct. It was the Licensee's responsibility as an insurance licensee to verify the information in the applications before providing the attestations. Although the Supervisor was on leave, Council was somewhat critical of the Licensee for failing to seek appropriate guidance from other individuals. Also, Council found that the Licensee was evasive at times during the Committee meeting.

CONCLUSIONS

39. After weighing all the relevant considerations, Council concluded that the Licensee should be supervised for an additional two years and be required to take the Council Rules Course, an ethics course, and a course on record keeping. Overall, Council found the Licensee's misconduct to be primarily competence related.
40. Council has determined that investigation costs should be assessed against the Licensee. As a self-funding regulator, the cost to investigate the misconduct of a licensee or former licensee should not be borne by members of the insurance industry unaffiliated with the investigation. This is particularly true when the evidence is clear that the actions of a licensee or former licensee have amounted to misconduct.

INTENDED DECISION

41. Pursuant to sections 231, 236, and 241.1 of the Act, Council made an intended decision to:
- a. Require the Licensee to be supervised by a qualified life and accident and sickness insurance agent as approved by Council, for a period of two years of active licensing, commencing, at the latest, one month from the date of Council's order;
 - b. Require the Licensee to complete the following courses, or equivalent courses as acceptable to Council, within 90 days of the date of Council's order:
 - i. the Council Rules Course for life and/or accident and sickness insurance;
 - ii. the Advocis "Making Choices I, II & III: Ethics and Professional Responsibility in Practice" courses; and

iii. the Advocis “The Challenge of Documenting Nothing” course;

Collectively, the “Courses”.

- c. Assess the Licensee Council’s investigation costs of \$2,625, to be paid within 90 days of the date of Council’s order; and
- d. Impose a condition on the Licensee’s life and accident and sickness licence that failure to complete the Courses, failure to obtain a supervisor as required, and pay the investigation costs within 90 days of the date of Council’s order will result in the automatic suspension of the Licensee’s licence, and the Licensee will not be permitted to complete the Licensee’s 2025 annual licence renewal until such time as the Licensee has complied with the conditions listed herein.

42. 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

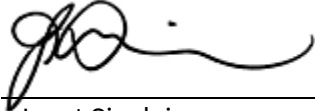
43. If the Licensee wishes to dispute Council’s findings or its intended decision, the Licensee may have legal representation and present a case in a hearing before Council. Pursuant to section 237(3) of the Act, to require Council to hold a hearing, the Licensee **must give notice to Council by delivering 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.**

44. 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>.

Intended Decision
Yanzhi (Carolyn) Jia
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Dated in Vancouver, British Columbia on the **24th day of October, 2023.**

For the Insurance Council of British Columbia

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

Janet Sinclair
Executive Director