

In the Matter of the

**FINANCIAL INSTITUTIONS ACT, RSBC 1996, c.141**

(the “Act”)

and the

**INSURANCE COUNCIL OF BRITISH COLUMBIA**

(“Council”)

and

**DANIEL PADUA FREGILLANA**

(the “Licensee”)

**ORDER**

As Council made an intended decision on October 31, 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 December 6, 2024; and

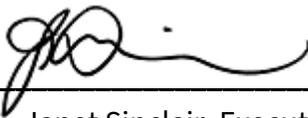
As the Licensee has not requested a hearing of Council’s intended decision within the time period provided by the Act;

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

- 1) The Licensee is fined \$2,000, to be paid by April 17, 2024;
- 2) The Licensee is required to complete the Council Rules Course for life and/or accident and sickness insurance by April 17, 2024;
- 3) The Licensee is assessed Council’s investigation costs of \$500, to be paid by April 17, 2024;

- 4) A condition is imposed on the Licensee's life and sickness insurance agent licence that a failure to complete the Council Rules Course and pay the fine and investigation costs by April 17, 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 completed the Council Rules Course and paid the fine and investigation costs in full.

This order takes effect on the **18<sup>th</sup> day of January, 2024**



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Janet Sinclair, Executive Director  
Insurance Council of British Columbia

## **INTENDED DECISION**

of the

### **INSURANCE COUNCIL OF BRITISH COLUMBIA**

(“Council”)

respecting

### **DANIEL PADUA FREGILLANA**

(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 the 2018/2019, 2019/2020, and 2020/2021 licence periods (the “Licence Periods”) and failed to respond promptly to inquiries from Council.
3. On August 24, 2023, 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. 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 October 31, 2023, 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 December 5th, 2014, and has held an authority to represent one agency (the “Agency”) since he was first licensed.
7. On November 25, 2021, Council staff initiated an Annual Filing Declaration audit of the Licensee because he had left the Errors and Omissions Insurance (“E&O”) declaration blank on his 2021 Annual Filing. The Licensee was asked to complete the audit form, provide proof that he had met his CE requirements for the 2018-2019, 2019-2020 and 2020-2021 licence periods, and provide copies of E&O insurance declaration pages. The Licensee was given until December 17, 2021, to respond.
8. On December 13, 2021, a follow-up email was sent to the Licensee with a reminder to respond to the audit by December 17, 2021.
9. On January 13, 2022, the Licensee had not yet responded, and a third email was sent with a request to respond by January 21st, 2022. On January 19, 2022, Council staff called the Licensee and left a voicemail indicating that three emails had been sent reminding the Licensee of the audit and requesting a callback.
10. On January 25, 2022, the Licensee replied indicating that he had completed the questionnaires in the survey and expressed gratitude for having been chosen to participate. This correspondence appeared to be in reply to Council’s survey that had been recently sent to all licensees from Council’s Communications Department.
11. On January 26, 2022, Council staff emailed the Licensee explaining that they had been trying to reach him with respect to an audit and not in relation to the survey he had participated in. He was instructed to review the emails from November 25, 2021, December 13, 2021, and January 13, 2022, and reply as soon as possible.
12. On January 31, 2022, the Licensee had yet to respond, so Council staff sent a letter via registered mail and an email with a final request and a final deadline to respond of February 15, 2022.
13. On February 14, 2022, the Licensee replied and attached copies of E&O policies for 2018-2019; 2019-2020; 2020-2021 and 2021-2022. The Licensee also submitted CE certificates and a completed audit form. The Licensee explained that he had not replied to the emails earlier as he thought they were spam; it was only when he received the letter via registered mail that he realized the emails were

legitimate. The Licensee explained that he had not completed CE due to the pandemic as the training provider had slowed down, particularly between 2018-2019 and through 2020-2021.

14. The Licensee was required to complete fifteen CE technical hours (or CE credits) for each licence period, except for June 1, 2020 – May 31, 2021, in which he would have been required to complete ten CE technical hours. The reduction in the number of CE required for the 2020 – 2021 period was due to the guidelines in place at that time providing a reduction for those who had been continuously licensed for five or more years.
15. On March 7, 2022, the Licensee resubmitted CE certificates and a letter reiterating that he did not complete his CE requirements during the 2018-2019 Licence Period, as he was working on opening a new office but that he had made up all his CE credits for 2018-2019; 2019-2020 and 2020-2021.
16. In response to the COVID-19 pandemic, Council put in place a CE extension, allowing licensees one extra year in which to complete their CE requirements for the 2019-2020 licence period. As a result, the Committee determined that the Licensee had met his CE obligations for the 2019-2020 licence period.
17. The Licensee explained to the Committee that although he maintained an active licence, he was primarily assisting ██████ also a licensee with Council, with ██████ insurance business. The Licensee reiterated that he is not conducting any insurance business, and instead provides IT assistance to ██████ ██████ business.
18. The Licensee also advised the Committee that he previously held a mutual funds licence, which the Licensee chose not to renew after 2014.
19. The Licensee confirmed that he had been provided with a copy of Council's investigation report. The Licensee further confirmed that he had read the report and agreed with the factual findings set out within.
20. Regarding his failure to respond to Council staff's emails, the Licensee explained these emails had been sent to his Agency email. Since he was not actively engaging in insurance-related business, he did not frequently review his Agency email address. Further, he initially assumed the emails were spam. Only when he had received the registered mail did he consider reading them. The Licensee repeatedly asserted he was not deliberately ignoring Council's emails; he had just failed to review them.
21. The Licensee explained that once he became aware of Council's investigation, he provided Council with his phone number, and attempted to be more responsive to its enquiries.

22. When asked about his efforts to make up for the missing credits, the Licensee advised that he had originally completed the CE requirements, but that his certificates had been lost and he was unable to contact the course providers to receive replacements. As a result, he opted to re-do the CE credits. At the beginning of COVID-19, there were limited training opportunities, as course providers were still becoming acquainted with Zoom and other resources to conduct training remotely.
23. The Licensee confirmed he was aware there were paid training opportunities, but that he preferred to rely on the free training, as that was what he was accustomed to. However, the Licensee explained he was not averse to paying for CE in general, he had simply opted to rely on the free CE opportunities to complete his missing CE credits.

#### **ANALYSIS**

24. Council found that the Licensee failed to obtain the required CE credits for the Licence Periods, contrary to Council Rules 7(5) “meeting requirements of the CE program” and 7(8) “complying with Council’s Code of Conduct”, and Code of Conduct section 5 (“Competence”).
25. Further, Council determined the Licensee had not responded promptly to inquiries from Council, contrary to Council Rule 7(8) complying with Council’s Code of Conduct and Code of Conduct section 12 (“Dealing with the Insurance Council of British Columbia”).

#### **PRECEDENTS**

26. Prior to making its intended decision, Council took several past decisions regarding insufficient CE into consideration as precedents, including the following:
27. [\*Sukhdarshan Singh Mann\*](#) (May 1, 2018): a Life Agent was audited by Council staff for CE. The licensee failed to demonstrate he had completed the requisite CE credits for two years and advised Council he was unaware he was required to keep track of his training. Council audited the licensee a second time and found that he had continued to fail to obtain CE credits. Council fined the licensee \$1,000 for each year he had insufficient proof of his CE credits and required the licensee to make up the missing credits and take a Council Rules course.
28. [\*Jagjit Singh Gill\*](#) (April 9, 2018): a Life Agent was unable to demonstrate he had met his CE credit requirements for four licensing years, although he subsequently completed a sufficient number of

make-up credits to address the shortfall. Council concluded that the licensee's action warranted discipline and fined him \$4,000 and required him to complete the Council Rules Course.

29. Council recognized, having reviewed the precedents, that the approach it has adopted for disciplining licensees who have breached Council Rules pertaining to CE 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, mitigating factors are identified that support a lowering of the fine.

#### **MITIGATING AND AGGRAVATING FACTORS**

30. Council found the Licensee's efforts to remedy the breach and proactively replace the CE credits to be mitigating. Council also found mitigating that the Licensee was proactive in rescheduling his Committee appearance when a conflict with the original August 8 date arose. In Council's determination, both these facts suggest the Licensee has acknowledged his misconduct and has shown remorse.
31. Council finds that the Licensee's failure to obtain the required CE for multiple licence periods is aggravating. While recognizing the Licensee has breached the CE requirements for only two of the three audited periods, Council finds the fact the conduct persisted over three licence periods demonstrates it was not an isolated event.
32. Weighing the mitigating factors and aggravating factors listed above, Council found the mitigating factors slightly outweigh the aggravating factor. However, taken as a whole, Council finds the mitigating factors are not sufficient to displace the baseline \$1,000 fine per breach established by precedent.

#### **CONCLUSIONS**

33. Council considered a fine of \$2,000 to be appropriate, representing \$1,000 for each License Period in which the Licensee had a CE shortfall.
34. Council also determined the Licensee would benefit from completing the Council Rules Course, in order to better familiarize himself with the obligations that accompany licensure.
35. 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. The Council has not identified any reason for not applying this principle in the circumstances.

#### **INTENDED DECISION**

36. Pursuant to sections 231, 236, and 24.1 of the Act, Council made the following intended decision to:
- a. Fine the Licensee \$2,000, to be paid within 90 days of Council's order;
  - b. Require the Licensee to complete the Council Rules Course for life and/or accident and sickness insurance within 90 days of Council's order;
  - c. Assess the Licensee with Council's investigation costs of \$500, to be paid within 90 days of Council's order;
  - d. Impose a condition on the Licensee's life and accident and sickness insurance agent licence that a failure to complete the Council Rules Course and pay the fine and investigation costs within 90 days 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 completed the Council Rules Course and paid the fine and investigation costs in full.
37. 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**

38. 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**

39. 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.**

40. 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 **6<sup>th</sup> day of December, 2023.**

For the Insurance Council of British Columbia



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Janet Sinclair  
Executive Director