

In the Matter of the

FINANCIAL INSTITUTIONS ACT, RSBC 1996, c.141

(the “Act”)

and the

INSURANCE COUNCIL OF BRITISH COLUMBIA

(“Council”)

and

FRANCISCA OBRA

(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 January 8, 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 \$3,000, to be paid by July 29, 2024;
- 2) The Licensee is required to complete the Council Rules Course for life and/or accident and sickness insurance by April 29, 2024;
- 3) The Licensee is assessed Council’s investigation costs of \$687.50, to be paid by July 29, 2024;

Order

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- 4) A condition is imposed on the Licensee's licence that failure to complete the Council Rules Course by April 29, 2024 and/or to pay the fine and investigation costs by July 29, 2024 will result in the automatic suspension of the Licensee's licence, and the Licensee will not be permitted to complete the Licensee's 2026 annual renewal until such time as the Licensee has completed the course and paid the fine and investigation costs in full.

This order takes effect on the **29th day of January, 2024**



Janet Sinclair, Executive Director
Insurance Council of British Columbia

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA

(“Council”)

respecting

FRANCISCA OBRA

(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”).
3. On September 27, 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 first became licensed with Council as a Life and Accident and Sickness agent (“Life Agent”) on July 9, 2014. Her licence status became inactive on June 6, 2019, and active again on December 15, 2020. She has an authority to represent (“ATR”) one agency (the “Agency”).
7. The Licensee’s 2021 annual licence renewal declaration was incomplete when submitted. The Licensee was provided with an opportunity to resubmit her declaration when she disclosed that she had not met her CE requirements. The Licensee was subsequently audited for three licence periods: 2018/2019, 2019/2020, and 2020/2021. Further review showed that the Licensee did not complete CE for these three Licence Periods.
8. Between June 27, 2022, and January 20, 2023, the Licensee provided additional CE certificates to Council. Most appeared to be duplicates of what was previously submitted.
9. At the time of the Committee meeting, the Licensee had submitted 129 CE credits, 77 of which were duplicates. These courses were completed between September 2021 and January 2023, during the 2021/2022 and 2022/2023 licence periods. In total, the Licensee obtained 52 CE credits at the time of the Committee meeting, excluding duplicates.
10. The Licensee immediately acknowledged to the Committee that she had not obtained the required CE credits and that it was her responsibility to be aware of that obligation.
11. When asked why she had submitted duplicate CE credits, the Licensee explained that she had started several CE courses without initially realizing she had already attended those same courses. Once the Licensee received the CE certificates, she realized the courses had been duplicates. However, she still saw value in attending the duplicate CE courses, as it refreshed her memory of the course content.
12. When asked how she would ensure that she met her obligation to obtain 15 individual CE credits each year, the Licensee advised the Committee that she would rely on her Agency for assistance.
13. The Licensee advised that she is currently licensed to conduct insurance business in both Ontario and Saskatchewan.

ANALYSIS

14. 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 sections 5 [*competence*] and 13 [*compliance with governing legislation and Council Rules*].

PRECEDENTS

15. Prior to making its intended decision, Council took several past decisions regarding insufficient CE into consideration as precedents, including the following:
16. [Annie Chu](#) (May 1, 2018): a licensee failed to meet the CE requirements for two licensing years for both her life agent licence and general licence. Council concluded that her failure to complete the credits showed a disregard for Council Rules and fined the licensee \$1,000 for each licensing year and each licence for which she had failed to meet the CE requirements. The licensee was also required to complete the Council Rules Course and make up for the missing CE credits.
17. [William Charles Brash](#) (March 8, 2022): a life agent's licence had been inactive at the time he called Council for assistance completing his annual filing declaration. The licensee had been unaware that despite his licence being inactive, he was nevertheless required to complete CE, and advised Council that he had not completed the CE required. Subsequently, the licensee completed 60 CE credits. The licensee completed an additional nine courses, though they were ultimately ineligible to be used as CE credits. Council found the licensee had breached his CE requirements for four licence periods; however, it declined to assess a penalty of \$1,000 for each licence year (\$4,000 total). Instead, Council found that the licensee's efforts to make up the deficient CE credits were mitigating, and applied a global \$1,000 penalty, in addition to a requirement to complete the Council Rules Course and pay investigation costs.
18. 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

19. Council found the Licensee's efforts to remedy the breach and proactively make up the CE credits to be mitigating. Council also found the Licensee's breaches to be the result of a lack of awareness as to her obligations, rather than an intentional omission, which Council also found mitigating.

20. Council found that the Licensee's failure to obtain the required CE for multiple licence periods to be aggravating. Council found the fact the conduct persisted over three licence periods demonstrated it was not an isolated event. Further, given the Licensee has been licensed with Council for nearly a decade, Council found that she ought to have been aware of her obligations.
21. Weighing the mitigating factors and aggravating factors, Council determined the mitigating factors do not significantly outweigh the aggravating factors. Taken as a whole, Council found the mitigating factors are not sufficient to displace the baseline \$1,000 fine per licence period established by precedent.
22. However, in recognition of the Licensee's mitigating conduct, Council determined it was appropriate that the Licensee be provided additional time to pay the financial penalties ordered.

CONCLUSIONS

23. Council considered a fine of \$3,000 to be appropriate, representing \$1,000 for each licence period in which the Licensee had a CE shortfall.
24. Council also determined that the Licensee would benefit from completing the Council Rules Course, in order to better familiarize herself with the obligations that accompany licensure.
25. 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

26. Pursuant to sections 231, 236, and 241.1 of the Act, Council made the following intended decision:
 - a) that the Licensee be fined \$3,000, to be paid within 180 days of Council's order;
 - b) that the Licensee be required to complete the Council Rules Course for life and/or accident and sickness insurance within 90 days of Council's order;
 - c) that the Licensee be assessed Council's investigation costs of \$687.50, to be paid within 180 days of Council's order; and

- d) that a condition be imposed on the Licensee's licence that failure to complete the Council Rules Course and to pay the fine and investigation costs by their deadlines 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 course and paid the fine and investigation costs in full.

27. 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

28. 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 180 day deadline.

RIGHT TO A HEARING

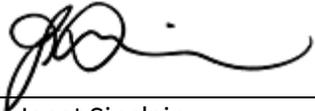
29. If the Licensee wishes to dispute Council's findings or its intended decision, the Licensee may have legal representation and present a case in a hearing before Council. Pursuant to section 237(3) of the Act, to require Council to hold a hearing, the Licensee **must give notice to Council by delivering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

30. 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>.

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Dated in Vancouver, British Columbia on the **8th day of January, 2024**

For the Insurance Council of British Columbia

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

Janet Sinclair
Executive Director