

In the Matter of the

FINANCIAL INSTITUTIONS ACT, RSBC 1996, c.141

(the “Act”)

and the

INSURANCE COUNCIL OF BRITISH COLUMBIA

(“Council”)

and

GINA DIGAO BOOL

(the “Licensee”)

ORDER

As Council made an intended decision on January 30, 2024, 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 11, 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 \$4,000, to be paid by July 2, 2024;
- 2) The Licensee is required to complete the Council Rules Course for life and/or accident and sickness insurance by July 2, 2024;
- 3) The Licensee is assessed Council’s investigation costs of \$875, to be paid by July 2, 2024;
- 4) The Licensee is required to make up the missing CE credits by October 1, 2024;

- 5) A condition is imposed on the Licensee's life and accident and sickness insurance agent licence that failure to pay the fine and investigation costs, complete the Council Rules Course, and make up the missing CE credits 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 2026 annual licence renewal until such time as the Licensee has paid the fine and investigation costs in full, has completed the Council Rules Course, and has made up the missing CE credits.

This order takes effect on the **3rd day of April, 2024**



Janet Sinclair, Executive Director
Insurance Council of British Columbia

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA

("Council")

respecting

GINA DIGAO BOOL

(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"), maintain required errors and omissions insurance ("E&O"), and notify Council that her E&O lapsed and that she did not have authority to represent ("ATR") at least one insurer.
3. On November 14, 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 January 30, 2024, 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 insurance agent ("Life Agent") on March 18, 2013.
7. The Licensee previously worked for one insurance agency (the "First Agency"), though her contract with the First Agency was terminated on January 11, 2021.
8. Following the Licensee's termination from the First Agency, she contracted with a second insurance agency (the "Second Agency") on October 6, 2021, and a third agency in December 2021.
9. The Licensee left the E&O declaration unchecked on her 2021 Annual Renewal, triggering an investigation by Council.
10. The Licensee confirmed to Council staff that her E&O had been terminated when she left the First Agency, and had not been reinstated until she joined the Second Agency on October 6, 2021 – a period of 268 calendar days. The Licensee did not notify Council that her ATR the First Agency had been terminated on January 11, 2021, and she did not conduct any insurance business during the E&O lapse period.
11. The Licensee also failed to demonstrate she had the requisite 15 CE hours for any of the Licence Periods.
12. The Licensee told Committee members that she had completed the requisite CE, however, the records were contained on a computer owned by the First Agency which she no longer had access to. Accordingly, she was unable to demonstrate that she had completed any CE for any of the Licence Periods.
13. The Licensee explained she had been unaware that she needed E&O when she was terminated from the First Agency, as she believed that if she was not actively conducting insurance business, she did not require E&O coverage.
14. Following the Committee meeting, Council staff made inquiries with the First Agency to determine whether the Licensee had completed the required CE for the Licence Periods.

15. In response to Council's inquiries, the First Agency provided CE records demonstrating the Licensee had completed several CE hours during the Licence Periods. However, the CE records provided were insufficient to meet the Licensee's CE obligations for the Licence Periods.

ANALYSIS

16. Council determined that the Licensee failed to obtain the required CE for the 2018/2019, 2019/2020, and 2020/2021 licence periods, in breach of Council Rules 7(5) and 7(8) and Code of Conduct section 13. In particular, Council reviewed the CE provided by the First Agency and noted the Licensee completed only 11.75 of the total 45 CE required for the Licence Periods.
17. Council found that the Licensee failed to maintain the required E&O and notify Council of a lapse in E&O coverage, in breach of Council Rules 7(8) and 7(11) and Code of Conduct section 13.
18. Finally, Council determined that the Licensee failed to notify Council that her ATR the First Agency had terminated, in breach of Council Rules 7(8) and 7(16) and Code of Conduct section 13.

PRECEDENTS

19. Prior to making its decision, Council took several past decisions into consideration as precedents, including the following:
20. [*Maria Rhodora Banada Thomas*](#) (July 10, 2018): The licensee's E&O coverage lapsed. The licensee advised Council that the lapse was due to inadvertence and that she had not conducted insurance business during the lapse period. Despite finding the breach of Council Rule 7(11) was unintentional, Council imposed a \$1,000 fine. This decision supports the proposition that Council will apply a minimum fine of \$1,000 for breaches of Council Rule 7(11), regardless of the reasons for that breach.
21. [*Allen Karl Radley Aniceto*](#) (February 9, 2021): A licensee's E&O lapsed for a period of 113 days, and the licensee had not informed Council of this lapse. During its investigation, Council ascertained that the licensee had the authority to represent a second agency, though the licensee had not notified Council of his departure and by extension had not notified Council that he no longer had the authority to represent the agency. The licensee was fined \$1,000 for his failure to maintain E&O coverage and was reprimanded for his failure to notify Council that his E&O lapsed and that he no longer held the authority to represent the agency. He was also ordered to complete the Council Rules Course.

22. [Annie Chu](#) (May 2, 2018): a licensee failed to meet the CE requirements for two licensing years for both her life and her general insurance licences. 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.
23. Council recognized, having reviewed the precedents, that the approach it has adopted for disciplining licensees who have breached Council Rules pertaining to CE and E&O 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

24. Council found the Licensee’s breaches were the result of ignorance, rather than willful disregard of the requirements of her licence. Council also found the Licensee to have been remorseful in her testimony to the Committee. Finally, Council noted the Licensee had not conducted any insurance business during the period her E&O lapsed, all of which Council found mitigating.
25. Council found the fact the Licensee had been licensed with Council for 10 years to be aggravating. Council considered that the Licensee’s licence history suggests she ought to have been more familiar with the requirements of her licence.
26. Weighing the mitigating factors and aggravating factors listed above, Council determined the mitigating factors do not significantly outweigh the aggravating factors. Taken as a whole, Council found the mitigating factors were not sufficient to displace the baseline \$1,000 fine per breach established by precedent.

CONCLUSIONS

27. Council considered a fine of \$4,000 to be appropriate, representing \$1,000 for each licence period in which the Licensee failed to demonstrate she met the CE requirements, plus an additional \$1,000 for failing to maintain E&O coverage and notify Council of her lapse. Council further determined it is appropriate to require the Licensee to make up missing CE credits.
28. 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.

29. 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

30. Pursuant to sections 231, 236, and 241.1 of the Act, Council made the following intended decision to:
- a. Fine the Licensee \$4,000, 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 Council's investigation costs of \$875, to be paid within 90 days of Council's order;
 - d. Require the Licensee to make up missing CE credits within 180 days of Council's order; and
 - e. Impose a condition on the Licensee's life and accident and sickness insurance agent licence that failure to pay the fine and investigation costs, complete the Council Rules Course, and make up missing CE credits 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 2026 annual licence renewal until such time as the Licensee has paid the fine and investigation costs in full, has completed the Council Rules Course, and has made up missing CE credits.
31. 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

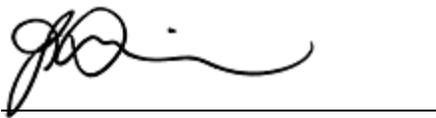
32. Council may take action or seek legal remedies against the Licensee to collect outstanding fines and/or costs, should these not be paid by the 90-day deadline.

RIGHT TO A HEARING

33. 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.**
34. 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 **11th day of March, 2024**.

For the Insurance Council of British Columbia



Janet Sinclair
Executive Director