

In the Matter of

The *FINANCIAL INSTITUTIONS ACT*
(RS 1996, c.141)
(the "Act")

and

The *INSURANCE COUNCIL OF BRITISH COLUMBIA*
("Council")

and

XIA (JENNY) LIANG
(the "Former Licensee")

ORDER

Pursuant to section 237 of the Act, Council convened a hearing at the request of the Former Licensee to dispute an Intended Decision and 238 Order dated March 18, 2008.

The subject of the hearing was set out in a Notice of Hearing dated March 15, 2010.

A Hearing Committee heard the matter on April 6, 2010, and presented a hearing report to Council at its June 7, 2010 meeting.

Council considered the Hearing Committee's report and made the following order pursuant to section 231, 236 and 241.1 of the Act:

Consequently, in accordance with section 231, 236 and 241.1 of the Act, Council ordered the Former Licensee:

1. is subject to a licence cancellation for a two year period commencing March 18, 2008;
2. is required to requalify educationally as a condition of any licence application;
3. as part of any licence application, demonstrate she has successfully completed an ethics course acceptable to Council. The course must be completed before issuance of an insurance licence and cannot have been completed any more than 120 days prior to the licence application date;
4. as a condition of licensing, must be under the direct supervision of a qualified licensee for a minimum two year period;
5. is fined \$5,000.00 for making a material misstatement to Council;

ORDER

Xia (Jenny) Liang

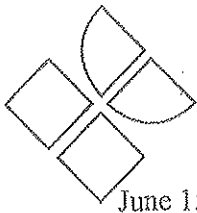
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6. is assessed the investigative costs of \$3,712.50; and
7. as a condition of this decision, the Former Licensee is required to pay the above mentioned fine and costs no later than September 21st, 2010.

This order takes effect on the 21 day of **June, 2010**.



Barbara MacKinnon, CAIB
Chairperson, Insurance Council of British Columbia



June 15, 2010

PRIVATE AND CONFIDENTIAL

Re: Xia (Jenny) Liang (the "Former Licensee")
File Reference Number: 160269-1477

On April 6, 2010, a hearing was held at the request of the Former Licensee. A Hearing Committee was constituted by the Insurance Council of British Columbia ("Council") pursuant to section 223 of the *Financial Institutions Act* (the "Act"). Upon completion of the hearing, the Hearing Committee prepared its findings, as well as recommendations on disposition, and submitted its report to Council.

The Report of the Hearing Committee (the "Report") was considered by Council at its June 7, 2010 meeting, where it made an order for the disposition of this matter.

In determining penalty, Council reviewed the findings contained in the Report and gave consideration to the recommended disposition proposed by the Hearing Committee. Council noted the Hearing Committee had concluded the Former Licensee was involved in car-curling activities and had failed to be truthful and forthright throughout the investigation and discipline process.

Based on the findings contained in the Report, Council accepted the recommendation that the Former Licensee be subject to a two year licence cancellation. Council determined the time already served by the Former Licensee should be factored in and concluded the cancellation period should commence from March 18, 2008. As the Former Licensee has been out of the insurance industry for at least two years, she will be required to requalify educationally before applying for a general or life insurance licence. In addition, as a component of any licence application, the Former Licensee will be required to demonstrate she has successfully completed an ethics course acceptable to Council.

Once licensed, the Former Licensee will have a condition on her licence requiring she be under the direct supervision of a qualified individual for a minimum two year period (note: should the Former Licensee apply for a Level 1 general insurance salesperson's licence, the mandatory supervision is already an existing condition).

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In addition, Council determined the Former Licensee be assessed the investigative costs which totalled \$3,712.50.

On the issue of hearing costs, Council noted the Hearing Committee had recommended the Former Licensee be assessed all of the hearing costs. In making its recommendation to Council, it noted the Former Licensee was less than forthright throughout the investigation and, had she been upfront from the beginning of the investigation about her involvement, a hearing may never have been required. The Hearing Committee noted it is Council's policy not to assess hearing costs where the discipline or a portion of the discipline is reduced from Council's original intended decision or order. In this matter, as the licence cancellation period is being reduced from five years to two years, Council's policy would be to not assess hearing costs. Council concluded that since the licence cancellation period is being reduced, its policy of not assessing hearing costs is applicable. As such, Council declined to assess the Former Licensee any of the hearing costs.

While declining to assess hearing costs, Council did give consideration to the Hearing Committee's findings that the Former Licensee was less than forthright or honest in her dealings with Council with regard to this matter. Council noted the Hearing Committee found the Former Licensee was still not being completely forthright and continues to deny involvement in a number of transactions, which, based on the balance of probabilities, is highly unlikely. Council determined the Former Licensee made a number of material misstatements throughout the investigation and, as a result, should be fined \$5,000.00 for making a material misstatement in reply to an inquiry from Council, in accordance with section 231(1)(c) of the Act.

Consequently, in accordance with section 231, 236 and 241.1 of the Act, Council ordered the Former Licensee:

1. be subject to a licence cancellation for a two year period commencing March 18, 2008;
2. be required to requalify educationally as a condition of any licence application;
3. as part of any licence application, demonstrate she has successfully completed an ethics course acceptable to Council. The course must be completed before issuance of an insurance licence and cannot have been completed any more than 120 days prior to the licence application date;
4. as a condition of licensing, must be under the direct supervision of a qualified licensee for a minimum two year period;
5. be fined \$5,000.00 for making a material misstatement to Council;

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June 15, 2010

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6. assessed the investigative costs of \$3,712.50; and
7. as a condition of this decision, the Former Licensee is required to pay the above mentioned fine and costs within 90 days of this decision.

Pursuant to section 242 of the Act, the Former Licensee may appeal Council's order to the Financial Services Tribunal (the "Tribunal"). Pursuant to section 242(3) of the Act, the Financial Institutions Commission is a party to an appeal of a decision of Council to the Tribunal and may also appeal a decision of Council to the Tribunal.

For more information respecting appeals to the Tribunal, please visit their website at www.fic.gov.bc.ca/fst/ or contact them directly at:

Financial Services Tribunal
Suite 1200, 13450 102 Avenue
Surrey, British Columbia
V3T 5X3
Telephone: 604-953-5300
E-mail: FST@gov.bc.ca

Yours truly,



Gerald D. Matier
Executive Director

Encl.

GM/tlh

**INSURANCE COUNCIL OF BRITISH COLUMBIA
("Council")**

REPORT OF THE HEARING COMMITTEE

**IN THE MATTER OF THE *FINANCIAL INSTITUTIONS ACT*
(S.B.C. 1996, c. 141)
(the "Act")**

AND

**XIA (JENNY) LIANG
(the "Former Licensee")**

DATE: **April 6, 2010
9:30 A.M.**

BEFORE: **Dan Swanlund Chair
Ken Thom Member
Daniel O'Fee Member**

HEARING AT: **Insurance Council of British Columbia
Suite 300, 1040 West Georgia Street
Vancouver, British Columbia V6E 4H1**

PRESENT: **David McKnight Counsel for Council
Michael Ranspot Counsel for Former Licensee
Xia (Jenny) Liang Former Licensee**

Issues

On March 18, 2008, Council made an order pursuant to section 231 and 238 of the Act, which found the Former Licensee unsuitable to hold an insurance licence, resulting in the termination of her life insurance agent's licence.

As set out in the Notice of Hearing dated March 15, 2010, the purpose of the hearing was to determine whether the Former Licensee:

- (a) failed to act in a trustworthy manner, in good faith and in accordance with the usual practice of the business of insurance, based on allegations the Former Licensee was:
 - (i) involved in a scheme whereby she knowingly sold used vehicles, that had been salvaged or rebuilt, with the odometers manipulated, to unsuspecting purchasers;
 - (ii) knowingly misstated odometer readings on vehicles that she sold to unsuspecting purchasers; and
 - (iii) falsely declared the sales of some of the vehicles as gifts so that she could avoid paying the provincial sales taxes;

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June 4, 2010

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(b) is able to carry on the business of insurance in a trustworthy and competent manner, in good faith and in accordance with the usual practice as required under Rule 3(2) of Council Rules and section 231(1)(a) of the Act; and

(c) should be subject to any disciplinary or other action in the circumstances.

The Hearing Committee was constituted pursuant to section 223 of the Act. This is the report of the Hearing Committee as required by section 223(4) of the Act.

Evidence

Evidence reviewed by the Hearing Committee in consideration of this matter:

- Exhibit 1: Council's Book of Documents
- Exhibit 2: Agreed Statement of Facts
- Exhibit 3: Investigative costs calculation
- Exhibit 4: Letters of reference for the Former Licensee

Background

Based on an Agreed Statement of Facts, submitted as Exhibit 2, the Hearing Committee knows the following.

On June 21, 2004, the Former Licensee obtained a Level 1 general insurance salesperson's ("Salesperson") licence and commenced work at Special Risk Insurance Brokers Ltd. (doing business as Roswell Insurance Services). The Former Licensee's Salesperson licence was terminated on October 13, 2005. On May 19, 2005, the Former Licensee obtained a Level 2 life and accident and sickness insurance licence. Her life insurance agent's licence was terminated March 18, 2008, by an order of Council. The Former Licensee has remained unlicensed since that time.

The Former Licensee has held a valid British Columbia driver's licence since October 24, 2002. The Former Licensee holds a passport issued by the People's Republic of China, which was issued on April 29, 2001. The Former Licensee also holds a People's Republic of China driver's licence.

In 2003, the Former Licensee purchased a property on Melbourne Street in Vancouver, and on February 2005, the Former Licensee purchased a home from Yuntao Liu ("Liu"), located on Marine Drive in Burnaby.

In October 2005, based on an interview by a Council investigator with an investigator for the Ministry of Small Business and Revenue ("Small Business"), it was learned that:

- (a) Small Business was investigating allegations the Former Licensee was involved in a manipulation of odometers on used vehicles;
- (b) Small Business suspected the Former Licensee was the last point of sale on approximately 30 vehicles that had their odometers rolled back before the vehicles were sold to unsuspecting buyers;
- (c) Small Business was concerned that provincial sales tax on some of these transactions were never remitted;
- (d) Small Business suspected that Liu obtained the vehicles through various sources, and physically altered the odometer readings;
- (e) Small Business believed that Liu was the Former Licensee's spouse;
- (f) Small Business suspected that vehicles were obtained at an auction as rebuilt or salvaged vehicles or, in other instances, vehicles were imported from the United States and the identification (VIN) numbers were altered or removed;
- (g) Liu obtained the vehicles himself personally or through a holding company, DJ Universal Holdings Ltd. ("DJ Universal"), of which he was a director;
- (h) Small Business suspected that once the vehicles were obtained, ownership was transferred from Liu personally, or in his capacity as DJ Universal to four or five other accomplices, including the Former Licensee; and
- (i) Small Business suspected that the low odometer reading equates to a higher resale price for the vehicle since its condition is made to appear in better condition. The transfer of ownership of the vehicle multiple times is done very quickly in order to camouflage the actual origin, as well as to facilitate odometer rollbacks.

Subsequent investigations by Council staff and Small Business found:

- (a) a Small Business search revealed that the Former Licensee and Liu shared two post office box numbers, located at Champlain Heights Mall; and
- (b) a large volume of advertisements for vehicles for sale were placed in both the Vancouver Sun and the Province newspapers, which were paid for by Liu's credit card and listed three contact numbers. Two of these contact numbers belong to Liu or DJ Universal, and one was registered to the Former Licensee. The billing address for these numbers, were either the Marine Drive address owned by the Former Licensee, or the post office box owned jointly by Liu and the Former Licensee. The Former Licensee also had a cellular phone number with Rogers Wireless. Both the Telus number and the Rogers Wireless number registered to the Former Licensee were numbers she provided to Council, as part of her application for a life insurance agent licence.

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In April 2005, the Former Licensee wrote the Registrar of Imported Vehicles (the "Registrar") on behalf of DJ Universal. The Former Licensee provided her landline number as a facsimile number, and authorized the Registrar to debit her credit card in the amount of \$182.00.

Small Business undertook a search of the Former Licensee's Marine Drive address. As part of that search, it noted there was a vehicle repair garage located at the back of this location. In the master bedroom, investigators found documents including Liu's credit card receipts, APV9Ts containing the Former Licensee's signature, bank information for DJ Universal, gift letters and insurance documents relating to the Former Licensee, bank statements, account application for the Former Licensee's address to her post office box in Champlain Heights, and credit card statements and account applications for Liu, addressed to the post office box.

Subsequent discussion between Council investigators and investigators at Small Business suggested that:

- (a) Liu was a car-curber, and had been rolling back odometers on vehicles he sells in order to obtain better resale prices;
- (b) after rolling back odometers on vehicles, Liu proceeded to "wash" the original numbers on paper by completing a multiple number of ownership transfers to different parties;
- (c) through these multiple changes in owners, the lower odometer numbers were recorded so that the actual mileage was buried beneath a number of different transactions, clouding the vehicle's history;
- (d) Liu, on different occasions, attended different insurance agencies and did as many as three different ownership transactions per vehicle in a single day;
- (e) of the transactions reviewed, at least 30 involved the Former Licensee in their resale;
- (f) the Former Licensee was the last point of sale on many of the vehicles before being sold to unsuspecting buyers; and
- (g) there is concern that many of these vehicles were substandard or salvaged vehicles that may not be road safe, and unsuspecting buyers were unknowingly purchasing vehicles that had been manipulated without the consumer being able to make an informed decision before making the purchase.

Of the 30 transactions the Former Licensee is alleged to have been involved in, the Former Licensee has acknowledged her participation in 11. In all cases, the Former Licensee was the person who actually sold the vehicle to the final purchaser.

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In January 2006, the Former Licensee was interviewed by a Council investigator, at which time she stated:

- (a) she had known Liu since 2003. Liu was her brother in law, and she was married to Liu's brother, Yuen Hai Liu, since June 2004;
- (b) she was aware that Liu has an autobody shop, but she had never worked for him;
- (c) she acknowledged purchasing the Marine Drive, Burnaby property in 2005, and prior to the purchase, she had rented a room from Liu at the property. After the property was purchased by her, Liu had stayed on for some time;
- (d) she had never sold any vehicles in 2003; and
- (e) she did not have a People's Republic of China driver's licence.

In November 2007, the Former Licensee was again interviewed by a Council investigator, at which time she stated:

- a) she was aware that Liu and his associates were in the business of buying and selling vehicles, but denied any involvement in the business;
- b) she had purchased and sold three to four vehicles in 2003 and 2004;
- c) she had submitted a false gift letter with respect to a transaction on one of her own vehicles;
- d) her name had been used, and her signature forged, on a number of vehicle registration documents, as she had not been involved in the sale of 28 vehicles;
- e) she was aware of the existence of DJ Universal, but stated she did not have a relationship with it;
- f) she shared a post office box with Liu, and both had access to each other's mail, and as a result and by implication, Liu had been able to access her credit card numbers and use them without her permission;
- g) she allowed Liu and his associates to use her cellular telephone and as a result, they had likely programmed it such a way, that all calls would be forwarded to a different number and her own telephone would not ring;
- h) Liu and his associates used her cellular telephone and credit card to place advertisements to sell vehicles without her knowledge;

- i) she had a desk in her bedroom that Liu and his associates, who lived at the same address, had access to, and as a result, were able to use her computer printer and fax machine; and
- j) she had also lent her credit card to Liu before.

Submissions by David McKnight (“McKnight”)

McKnight submitted, based on information provided by Small Business, the Former Licensee had been involved in 28 transactions involving the sale or resale of motor vehicles, where she was the final person in a series of transactions on each vehicle, resulting in the sale to an unsuspecting consumer. Of these transactions, the Former Licensee either signed using her “English name” or “Chinese name”, through the use of Chinese characters. The Former Licensee also used either her British Columbia driver’s licence, or her driver’s licence issued in China. In all cases, the signatures on the applications resembled the signatures that Council has on file from applications that were previously submitted by the Former Licensee to obtain an insurance licence.

McKnight argued there was sufficient evidence to show the Former Licensee had a relationship with Liu and DJ Universal. This evidence came in the fact that both Liu and the Former Licensee shared two post office boxes, the Former Licensee had purchased the Marine Drive property from Liu, and Liu continued to operate from that location throughout the period in question.

McKnight presented evidence to show that on at least one occasion, the Former Licensee “acted” on behalf of DJ Universal, which included giving her name, access to her credit card, and had provided a telephone number registered to her as her facsimile number for contact purposes. This information demonstrated the Former Licensee had a relationship with Liu, and that this relationship was directly related to his activities as a car-curer.

McKnight identified licence applications filed by the Former Licensee with Council, which included passport and driver’s licence information, signatures on the applications, as well as addresses and telephone numbers. Much of the same information showed up in transactions with regard to the selling of the 28 vehicle transactions in question.

McKnight presented evidence that supported the Former Licensee had signed multiple gift letters with regard to vehicle transactions, which were done to avoid the payment of provincial sales taxes to the government. The Former Licensee has subsequently acknowledged that she did in fact issue gift letters.

Evidence of Larry Beryar

Beryar was an investigator with Council (“Investigator”) at the time this investigation was conducted.

Beryar stated he met with Small Business, who provided him with details of its investigation into the car-curbng activities of Liu, and the role played by the Former Licensee.

The Investigator stated he met with Ruth Wang ("Wang"), who is also known to Council as Ewen Ruth Fang, the owner of the agency that employed the Former Licensee when she held a Salesperson's licence. Wang stated that she believed the Former Licensee was married to Liu, because she had been told this by the Former Licensee. The Investigator stated Wang advised the Former Licensee came to work for her at the request of Liu, as he did so much business with her agency.

The Investigator stated he interviewed a number of the persons who purchased vehicles from the Former Licensee. In each of the cases, 11 in total, the purchasers provided similar stories about the circumstances involving the purchase of the vehicles. In all cases, the Former Licensee was the person who sold the vehicle to them. A number of the purchasers told similar stories about how the Former Licensee had advised them the vehicle was her uncle's, who was immigrating to China and no longer needed the vehicle, and that the Former Licensee was trying to sell it on her uncle's behalf. In a number of the cases, the Former Licensee suggested that a gift letter be drafted in order to avoid paying the provincial sales tax, and she had draft the letter for the purchaser.

The Investigator stated out of the 28 vehicle transactions, 20 of them involved odometer rollbacks.

Submissions by Michael Ranspot ("Ranspot")

In his submissions, Ranspot argued there is no evidence the Former Licensee engaged in any improper insurance activities and that all but one of the admitted transactions occurred before the Former Licensee obtained an insurance licence.

In acknowledging her involvement with 11 of the vehicle transactions, the Former Licensee was not aware of any odometer rollbacks and stated there is no evidence to suggest she knew that such activities were occurring.

Ranspot submitted the penalty of a five year licence cancellation is unfair and not supported by any previous Council decisions. The Former Licensee has been unlicensed for two years, which is consistent with the kind of penalty Council has issued for its most serious offences.

The Former Licensee did not give evidence at the hearing but made a statement to the Hearing Committee apologizing for her participation in the sale of the 11 vehicles.

In addition, to support the Former Licensee, five letters of reference from business associates, clients and friends were submitted.

Recommendations of the Hearing Committee

The Hearing Committee concluded the Former Licensee's participation in car-curbing activities and, more importantly, her reluctance to admit to her role brought into question her ability to act in a trustworthy manner and in good faith.

Specifically, the Hearing Committee found the Former Licensee had been less than forthcoming about her role throughout the investigation. The Hearing Committee found the Former Licensee's responses and explanations regarding her involvement in the vehicle transactions to have always been self serving. When first questioned about this matter, she denied any activity, stating she had not been involved in any vehicle sales. Her story subsequently changed and she acknowledged she may have sold three or four vehicles. The Former Licensee is now acknowledging that she was involved in 11 motor vehicle transactions between 2003 and 2004, but not the other 17 transactions that are identical in nature.

The 11 transactions the Former Licensee is admitting to, just happen to be the 11 transactions where the purchasers were contacted and identified the Former Licensee as the person who sold the vehicle to them. The 17 transactions that the Former Licensee is not acknowledging involvement in are identical in that the transactions all have her name, driver's licence numbers, and similar signatures to the 11 transactions she has admitted to being involved in.

The Hearing Committee has concluded the evidence is overwhelming that the Former Licensee was involved in all 28 transactions. The Former Licensee's reluctance throughout the investigation and at the hearing to fully acknowledge her role in all 28 vehicle transactions is concerning. The Former Licensee has had numerous opportunities to come clean about her involvement in these transactions but instead, has preferred to only admit to what she could no longer deny. In the Agreed Statement of Facts, where there was no real downside to admitting to her involvement in all 28 transactions, the Former Licensee only admitted to the 11 transaction where she was identified by the purchaser, even though the similarities between the 11 transactions and the other 17 transactions is very conclusive. The Former Licensee's failure to admit to her involvement and her role in all 28 vehicle transactions goes to the heart of her credibility and creates greater doubt, even six years after these transactions occurred, about her ability to act in a trustworthy manner and in good faith in the future.

Further, the Former Licensee continues to deny she had any direct relationship with Liu or DJ Universal, even though Lui was operating out of her home, they shared post office boxes and her phone number and credit card can be traced to a number of transactions. The Former Licensee's continued denial flies in the face of the evidence before the Hearing Committee and only further damages the Former Licensee's credibility.

The Hearing Committee accepts that there was no direct evidence that the Former Licensee knew or was involved in the rollback of odometers in 20 of the 28 transactions, but, based on her lack of forthrightness, the Hearing Committee has its doubts very much this is the case.

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With regards to the vehicle transactions the Former Licensee was involved in, the Hearing Committee found she engaged in some deceptive practices. Based on the statements by some of the purchasers about the history of the vehicles and the reason for the sale, her use of both British Columbia and Chinese driver's licences, and her use of "Canadian" and "Chinese" signatures, the Former Licensee intentionally set out to mislead the purchasers and hide her actions from the authorities.

The Hearing Committee has concluded the Former Licensee was a willing and knowledgeable participant in the car-curbing activities of Liu, and that her activities, while not directly related to insurance, go to the heart of her suitability to be an insurance agent or salesperson.

The Hearing Committee did note that all but one of these transactions occurred before she was licensed and the last transaction was more than five years ago. Having said that, the Hearing Committee is concerned about the Former Licensee's reluctance to be forthright and accept the responsibilities for her actions. Had the Former Licensee been more forthright at the hearing, it would have gone a long way towards demonstrating the Former Licensee understood and appreciated the consequences of her actions and provided some comfort that it would not occur in the future.

The Hearing Committee concluded that the Former Licensee's actions brought into question her ability to act in a trustworthy manner and in good faith, two characteristics that are critical to being an insurance licensee. However, the Hearing Committee recognized that these transactions occurred six to seven years ago, and there is no evidence to suggest she has done anything since which would reflect poorly on her suitability.

The Hearing Committee found that the amount of time that has passed since these transactions occurred as well as the two years that elapsed since the Former Licensee's licence was cancelled to be significant. The Hearing Committee reviewed the decisions referenced by McKnight and Ranspot and concluded the "time served" by the Former Licensee is consistent with past Council decisions.

The Hearing Committee also considered Council's Policy 32.3 for criminal convictions and its provisions for handling licence applications from persons with a criminal conviction. The Hearing Committee noted that had the Former Licensee been convicted for her role in these transactions, depending on the sentence, she would probably be eligible to apply for an insurance licence now.

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Recommendation on Penalty

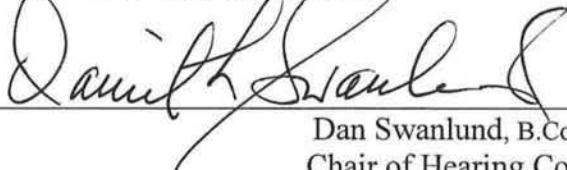
The Hearing Committee recommends the Former Licensee's licence be cancelled for two years and that the period for the licence cancellation commence with Council's order pursuant to section 238 of the Act in March 2008. The Hearing Committee notes that as the Former Licensee has not held a life insurance licence for at least two years and a Salesperson's licence for almost five years, she be required to re-qualify educationally as part of any application for an insurance licence. In addition, should the Former Licensee qualify for an insurance licence, a condition be imposed requiring mandatory supervision for a minimum period of two years.

The Hearing Committee also recommends, because of the Former Licensee's conduct and her lack of forthrightness, that she be required to complete an ethics course approved by Council as a requirement for obtaining a licence

The Hearing Committee recommends the Former Licensee be assessed the investigative costs relating to the case which totals \$3,712.50.

On the issue of hearing costs, the Hearing Committee notes its recommendation of a two year licence cancellation is accepted by Council, representing a reduction in penalty from five years. Where a penalty is reduced, Council has been reluctant to assess the hearing costs. The Hearing Committee believes in this case, this principle should not be applied. The Hearing Committee found the Former Licensee to be less than forthright. Her failure throughout the investigation and the hearing to be truthful and forthright was her own doing. Had the Former Licensee acknowledged her role in these transactions from the beginning, the penalty may not have been as serious and a hearing not required. The Hearing Committee recommends that the Former Licensee be assessed the hearing costs.

Dated in Vancouver, British Columbia, on the 4th day of June 2010.



Dan Swanlund, B.Comm, CFP
Chair of Hearing Committee