

In the Matter of
The *FINANCIAL INSTITUTIONS ACT*
(RSBC 1996, c.141)
(the “Act”)

and

The INSURANCE COUNCIL OF BRITISH COLUMBIA
(“Council”)

and

LUAN XING
(the “Licensee”)

ORDER

As Council made an intended decision on July 14, 2015, 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 July 31, 2015; 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:

1. The Licensee is fined \$2,000.00.
2. The Licensee is assessed Council’s investigative costs of \$1,037.50.
3. A condition is imposed on the Licensee’s life and accident and sickness insurance licence that requires him to pay the above-ordered fine and investigative costs no later than **November 19, 2015**. If the Licensee does not pay the ordered fine and investigative costs in full by this date, the Licensee’s life and accident and sickness insurance licence is suspended as of **November 20, 2015**, without further action from Council and the Licensee will not be permitted to complete any annual filing until such time as the ordered fine and investigative costs are paid in full.

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This order takes effect on the **19th day of August, 2015.**



Brett Thibault
Chairperson, Insurance Council of British Columbia

INTENDED DECISION

of the

INSURANCE COUNCIL OF BRITISH COLUMBIA (“Council”)

respecting

LUAN XING
(the “Licensee”)

INTRODUCTION

Pursuant to section 232 of the *Financial Institutions Act* (the “Act”), Council conducted an investigation to determine whether the Licensee acted in compliance with the requirements of the Act.

As part of Council’s investigation, on May 19, 2015, a Review Committee (the “Committee”) met with the Licensee to discuss allegations the Licensee made a material misstatement on his licence application to Council and that he breached Council Rule 7(3) by failing to notify Council within five business days of disciplinary action taken by another professional body.

The Committee was comprised of one voting member and three non-voting members of Council. Prior to the Committee’s meeting with the Licensee and his legal counsel, an investigation report was distributed to the Committee and the Licensee for review. A discussion of this report took place at the meeting and the Licensee was provided an opportunity to make further submissions. Having reviewed the investigation materials, and after discussing this matter with the Licensee, the Committee prepared a report for Council.

The Committee’s report, along with the aforementioned investigation report, were reviewed by Council at its July 14, 2015 meeting, where it was determined that the matter should be disposed of in the manner set out below.

PROCESS

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

The Licensee was first licensed as a life and accident and sickness insurance agent (“life agent”) with Council on November 9, 2010. The Licensee is the nominee and the only authorized representative of two insurance agencies, Charles L. Xing Inc., which is his personal corporation, that has been licensed with Council since December 23, 2010 (the “Agency”), and IFortune Insurance Services Inc. (“IFortune”). IFortune is part of a group of companies, all sharing a similar name, which provide a host of services, primarily to new Canadian immigrants.

The Licensee provided Council with an outline of the structure and relationship between the group of companies to which IFortune is affiliated. Based on the outline, it appears that IFortune is separate and distinct from the other similarly named companies.

When the Licensee made his 2010 application to Council for a life agent licence, he failed to disclose that he was registered as a Certified General Accountant (“CGA”) with the Certified General Accountants Association of British Columbia (“CGA-BC”). The Licensee stated that it did not occur to him to disclose his registration as a CGA because, at the time of his application, he was not conducting any CGA business, although he was paying the annual membership fee.

Further inquiries found that the Licensee was disciplined by the CGA-BC on January 13, 2014 and again on October 22, 2014. The Licensee did not disclose this information to Council, stating he was not aware of Council Rule 7(3)(a)(i), which required disclosure.

The Licensee relinquished his registration as a CGA with the CGA-BC in May 2014, as it conflicted with his insurance practice, and he informed Council of this on September 29, 2014.

ANALYSIS

Council determined that the Licensee made a misstatement on his 2010 licence application by failing to disclose his CGA designation, and that he subsequently failed to disclose disciplinary action by the CGA-BC as required by Council Rule 7(3). Council accepted that the Licensee’s failure to disclose was inadvertent and found that the Licensee was regretful.

Council determined a fine of \$2,000.00 and the assessment of investigative costs to be an appropriate penalty to convey to the Licensee his responsibility to ensure he is forthright in his disclosure to Council and his responsibility to be aware and compliant with Council Rules.

Council had concerns with the business model in which IFortune operated with a group of non-insurance companies. While Council did not identify any evidence that the relationships put the Licensee or IFortune offside with the regulatory requirements, Council takes this opportunity to remind the Licensee that there are prescribed disclosure requirements, when such relationships exist, that involve clients dealing with related or affiliated companies. In particular, as the Agency and IFortune share office space with other similarly named, but unrelated companies, and it appears that clients may be doing business with some or all of these companies, the Licensee, the Agency, and IFortune have a duty to ensure that clients receive adequate disclosure about these relationships, about any finder or referral fees being paid, and that the client is not required to do business with the Agency or the Licensee as a result of these relationships. The Licensee is also reminded that client information must be handled in a manner that complies with confidentiality requirements.

INTENDED DECISION

Pursuant to sections 231, 236, and 241.1 of the Act, Council made an intended decision to:

1. Fine the Licensee \$2,000.00.
2. Assess the Licensee Council's investigative costs of \$1,037.50.

The Licensee is advised that should the intended decision become final, the fine and investigative costs will be due and payable within 90 days of the date of the order. In addition, failure to pay the fine and investigative costs within the 90 days will result in the automatic suspension of the Licensee's life and accident and sickness insurance licence and the Licensee will not be permitted to complete any annual filing until such time as the fine and investigative costs are paid in full.

The intended decision will take effect on **August 19, 2015**, subject to the Licensee's right to request a hearing before Council pursuant to section 237 of the Act.

RIGHT TO A HEARING

If the Licensee wishes to dispute Council's findings or its intended decision, the Licensee may have legal representation and present a case at 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 by **August 18, 2015**. 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.

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If the Licensee does not request a hearing by **August 18, 2015**, the intended decision of Council will take effect.

Even if this decision is accepted by the Licensee, pursuant to section 242(3) of the Act, the Financial Institutions Commission still has a right to appeal this decision of Council to the Financial Services Tribunal ("FST"). The Financial Institutions Commission has 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 fst.gov.bc.ca or contact them directly at:

Financial Services Tribunal
PO Box 9425 Stn Prov Govt
Victoria, British Columbia
V8W 9V1

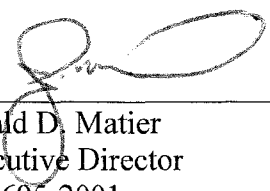
Reception: 250-387-3464

Fax: 250-356-9923

Email: FinancialServicesTribunal@gov.bc.ca

Dated in Vancouver, British Columbia, on the **31st day of July, 2015**.

For the Insurance Council of British Columbia



Gerald D. Matier
Executive Director
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gmatier@insurancecouncilofbc.com

GM/bk