

**DECISION**  
**of the**  
**LIFE INSURANCE COUNCIL OF MANITOBA**  
**(“Council”)**  
**Respecting**  
**ERIC ROY**  
**(“Former Licensee”)**

**INTRODUCTION**

The Life Insurance Council of Manitoba (“Council”) derives its authority from the *Insurance Act* C.C.S.M. c. 140 (“*Act*”) and the *Insurance Councils Regulation 227/91* (“*Regulation 227/91*”).

Following receipt of a complaint regarding the Former Licensee, an investigation was conducted pursuant to sections 375(1) and 396.1(7)(e) of the *Act*, and section 7(2)(e) of *Regulation 227/91*. Council undertook an investigation of the Former Licensee to determine whether he had violated the *Act*, its Regulations, and/or the Life Insurance and Accident and Sickness Agent’s Code of Conduct (“*Code of Conduct*”). During the investigation the Former Licensee was given an opportunity to respond and provide input with respect to Council’s concerns.

On October 10, 2014, the evidence compiled during the investigation and the position of the Former Licensee were reviewed by Council. Pursuant to section 375(1) of the *Act* and *Regulation 227/91*, Council now confirms its decision and corresponding reasons.

**ISSUES**

1. Did the Former Licensee conduct unlicensed activity in violation of the *Act*, its Regulations, and/or the *Code of Conduct*?
2. Did the Former Licensee make material misrepresentations on an insurance application in violation of section 375(1)(a) of the *Act*?
3. Did the Former Licensee improperly Hold Out to the public in violation of section 391 of the *Act*?

## **FACTS AND EVIDENCE**

1. The Former Licensee resides in Quebec.
2. The Former Licensee first applied for life and accident and sickness licenses in a licensing application dated July 17, 2012.
3. Section 22 of the licensing application is a “Declaration” section; to which the Former Licensee affixed his signature. It includes the following wording:
  - (l) I understand that it is against the law of this province:
    - (a) to Act as an agent or solicitor of insurance without having obtained a license to act as an agent.
4. The Former Licensee’s Manitoba life and accident and sickness licenses were first issued on December 6, 2012; and they were renewed May 28, 2013. Prior to the renewal deadline for the 2014 licensing year, the Former Licensee failed to renew his Life and Accident and Sickness licenses; his licenses subsequently expired June 1, 2014.
5. The Former Licensee acted on behalf of a prospective policyholder to complete a life insurance application dated July 24, 2012 (the “Application”); the Former Licensee was not licensed in Manitoba at this time.
6. By email dated August 9, 2014, the prospective policyholder advised the insurer that she had signed the Application in Manitoba.
7. By letter dated August 11, 2014, the prospective policyholder further alleged that she signed the Application in July 2012, in Manitoba.
8. The Application specified that the prospective policyholder resided in Manitoba; but Ottawa, Ontario was the place of signing.
9. The Former Licensee affixed his signature, to page 14 of the Application, as the “Witness to all Signatures”.
10. A life insurance policy was issued to the prospective policyholder on August 21, 2012.
11. By letter dated August 26, 2014, the participating insurer advised Council that:
  - (a) The Former Licensee’s block of business was examined and it was discovered that there was a policy sold in Ottawa, Ontario on July 24, 2012; but at the time when the Application was completed, the prospective policyholder resided in Manitoba.

- (b) The insurer was certain that the insurance policy was sold in Manitoba; contrary to the disclosure made by the Former Licensee to the insurer that it was completed in Ontario.
12. By email dated August 28, 2014, the Former Licensee advised Council that he wrote the life insurance policy in July 2012, on the life of the prospective policyholder, when his Manitoba life license was not active.
  13. By letter dated September 4, 2014, the Former Licensee further advised Council that:
    - (a) He did not physically meet with the prospective policyholder.
    - (b) He was in Ottawa and the prospective policyholder was in Manitoba.
    - (c) He did not physically witness the prospective policyholder sign the application; as it was mailed to that person.
    - (d) At the time of the prospective policyholder's application, he made an assumption that his Manitoba license was active.
    - (e) He did not realize his Manitoba license was not active until November, 2012.
  14. On his July 28, 2014 reinstatement of license application, the Former Licensee answered "No" to a question (number 9) that asked "*Since you last applied for a Licence or a Renewal to the ICM have you: Held out to the public in any other name other than approved and licensed by the Insurance Council of Manitoba?*".
  15. On July 28, 2014, the Former Licensee's website, [www.wealthaccelerationfinancial.ca](http://www.wealthaccelerationfinancial.ca), noted that he had a Manitoba office for Wealth Acceleration Financial ("WAF").
  16. The Former Licensee did not hold a Manitoba insurance agent license on July 28, 2014.
  17. The Former Licensee was previously only ever licensed in his personal name; and was never licensed as, or as representing, WAF.

## **ANALYSIS**

Pursuant to section 369(1) of the Act, no person shall act, or offer or undertake to act, as an insurance agent in Manitoba without having first obtained a license in Manitoba.

As the prospective policyholder resided in Manitoba and signed the insurance application in Manitoba, the insurance transaction substantially occurred in Manitoba.

The Former Licensee explicitly acknowledged to Council that he understood that it was against the law to act as an agent, without a license, when he submitted his July 17, 2012 licensing application. The Former Licensee assumed his license had been issued on the basis of submitting his licensing application to Council. However, without a license being issued, the Former Licensee proceeded to act as an agent by completing the Application to insure the prospective policyholder.

Based on the information and evidence, including comments from the Former Licensee, Council concluded that the Former Licensee had engaged in unlicensed activity in violation of section 369(1) of the *Act*, by acting as an agent for the prospective policyholder, a Manitoba resident physically located in Manitoba at all material times. Council also concluded that the Former Licensee violated section 391 of the *Act*, by holding out in July, 2012 that he was a licensed agent in Manitoba, when this was not the case.

By representing that he had witnessed the Application, the Former Licensee expressly confirmed that he was present and observed the prospective policyholder actually sign the Application. By his own admission to Council, however, the Former Licensee confirmed that he did not physically meet with the prospective policyholder. So he could not – and did not – witness the signing of the Application. The Former Licensee therefore also violated section 375(1)(a) of the *Act*, by submitting a false document.

After the June 1, 2014 expiry of his licenses, through his website, the Former Licensee again held out as being a Manitoba agent capable of conducting business when he was no longer licensed. He further claimed that he represented WAF, an entity for which he had never been licensed, in further violation of s. 391 of the *Act*.

The Former Licensee's declaration on his July 28, 2014 reinstatement application was thus also contrary to his July 28, 2014 website. Council concluded that the Former Licensee's declaration was a material misrepresentation on a licensing application, in further violation of section 375(1)(a) of the *Act*.

In addition to violations of the *Act* noted above, Council concluded that the Former Licensee's conduct violated sections 1 and 4 of the *Code of Conduct*. The purpose of section 1 is to ensure that client interests are paramount; and section 4 stipulates that licensees are to conduct themselves with diligence and integrity. By conducting unlicensed insurance business in Manitoba, the Former Licensee put his interests before his clients' interests, in violation of the standards called for under sections 1 and 4 of the *Code of Conduct*.

## **PENALTY AND FINAL DECISION**

Council's Intended Decision dated October 27, 2014 outlined the foregoing background, analysis and conclusions on a preliminary basis. Having regard to its initial determination that the foregoing violations had occurred, Council imposed the following penalty and sanction pursuant to section 375(1.1)(c) and (d) of the *Act* and section 7(1) of *Regulation 227/91*:

1. The Former Licensee be fined \$2,500.00 and assessed partial investigation costs of \$2,500.00.

As part of its Intended Decision, Council further informed the Former Licensee of his right to request a Hearing to dispute Council's determinations and its penalty/sanction. The Former Licensee expressly declined his right to a Hearing and chose not to pursue a statutory Appeal; he instead expressly accepted the Intended Decision and duly paid the levied fine and partial investigation costs.

This Decision is therefore final. In accordance with Council's determination that publication of its decisions are in the public interest, this will occur, in accordance with sections 7.1(1) and (2) of *Regulation 227/91*.

Dated in Winnipeg, Manitoba on December 16, 2014.