

DECISION
of the
GENERAL INSURANCE COUNCIL OF MANITOBA
(“Council”)
respecting
FABRICE LE-MORZELLEC
(“Licensee”)

INTRODUCTION

The General 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*.

Following the receipt of an application from the 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*. The purpose of the investigation was to determine whether the Licensee had violated the *Act* and/or the General Insurance Agent Code of Conduct (“Code of Conduct”) by acting as an agent without a valid licence. During the investigation, the Licensee was provided with an opportunity to respond and provide input with respect to Council’s concerns.

During an October 21, 2014 meeting of Council, the evidence compiled during the investigation and the position of the Licensee was reviewed. Pursuant to section 375(1) of the *Act* and *Regulation 227/91*, Council now confirms its decision and corresponding reasons.

ISSUE

1. Did the Licensee violate the *Act* and the Code of Conduct by acting as an agent without a valid licence?

FACTS AND EVIDENCE

1. The Licensee held a valid general insurance agent’s licence from December 12, 2012 to May 31, 2013; at which time the licence lapsed due to non-renewal.
2. In an email dated June 3, 2013, Council advised the Licensee that his licence had expired and he would be required to complete a late renewal.

3. On June 19, 2013, Council received the Licensee's 2013/2014 Application for Late Renewal of Licence.
4. On June 25, 2013, an email was sent to the Licensee regarding issues raised by his application. At that time, he was reminded that he had not been licensed since May 31, 2013 and was not then-licensed.
5. On November 5, 2013, the Agency at which the Licensee worked made a specific request to amend the business address for the Licensee. The Agency was advised by Council that the Licensee had not held a valid licence since May 31, 2013.
6. On March 17, 2014, as there had been no response to Council's request of June 25, 2013, the Licensee was advised that his file had been closed without a licence being issued. A copy of this correspondence was sent to the Agency's Operating Agent.
7. On April 16, 2014, Council received an Application for Individual General Agent/Broker Licence from the Licensee. This application included a declaration [(i)(a)] acknowledging that it was against the law to act as an agent without a licence. The application was signed by the Licensee.
8. On May 30, 2014, the Licensee admitted to Council that he had been continuously acting as an agent since June 1, 2013.
9. A list of eighteen Manitoba individual policy numbers, for which the Licensee acted as agent, was supplied by the Operating Agent. These covered the period that the Licensee did not hold a valid licence in Manitoba; being between June 1, 2013 and August 12, 2014.

ANALYSIS

Section 369(1) of the *Act* makes it a violation to act as an agent without first obtaining a licence. Section 9 of the *Code of Conduct* also makes Unauthorized Practice of the Profession a violation.

As of June 1, 2013, the Licensee's licence had lapsed and he was no longer authorized to act as an agent in Manitoba. This was reinforced by an email from Council on June 3, 2014.

On June 19, 2013, the Licensee submitted a late renewal application, but he failed to respond to Council's subsequent request for clarification on the application. In that request, he was again advised that he was not licensed.

Licensees are required to provide a change of address to Council within fifteen days. On November 5, 2013, when a change of address was submitted for licensed agents in the Agency, the Agency was informed that the Licensee did not have a licence.

The Licensee did not take action until correspondence was sent to the Operating Agent and to him on March 17, 2014; with a completed application ultimately being received by Council on April 16, 2014.

On May 30, 2014, the Licensee admitted to Council that he had been acting as an agent, and Council was furnished with a list of the involved accounts.

Council determined that the Licensee had violated the *Act* and the *Code of Conduct* by acting as an agent without a licence. The period involved was between June 1, 2013, when his licence lapsed, and August 12, 2014, when his licence was issued.

DECISION AND PENALTY

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 Licensee be fined \$250.00 and assessed partial investigation costs of \$250.00.

As part of its Intended Decision, Council further informed the Licensee of his right to request a hearing to dispute Council's determinations and its penalty/sanction. The Licensee expressly declined his right to a Hearing and chose not to pursue a Statutory Appeal; he instead 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, as fully contemplated by section 7.1(1) of *Regulation 227/91*.

Dated in Winnipeg, Manitoba on the 20th day of January, 2015.