

DECISION
of the
LIFE INSURANCE COUNCIL OF MANITOBA
(“Council”)
Respecting
TYLER GOLDEN
(“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*.

In response to information received by Council, concerning 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*. Council undertook an investigation of the 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 Licensee was given an opportunity to make submissions with respect to Council’s concerns.

On April 8, 2015, during a meeting of Council, the evidence compiled during the investigation was presented; upon review Council determined its intended decision. Pursuant to section 375(1) of the *Act* and *Regulation 227/91*, Council hereby renders its intended decision and corresponding reasons.

ISSUES

1. Did the Licensee conduct unlicensed activity in violation of the *Act*, its *Regulations*, and/or the *Code of Conduct*?
2. Did the Licensee hold out to the public as a licensed agent in violation of section 391 of the *Act*?

FACTS AND EVIDENCE

3. The Licensee applied for Life and Accident and Sickness licences by way of a licensing application dated November 4, 2014.

4. The Licensee affixed his initials to question 18 of the licensing application which includes the following wording:

I will not act, or offer or undertake to act, as an insurance agent in this province without having first obtained a licence under *The Insurance Act*.

5. By letter dated November 27, 2014, Council informed the Licensee that:
 - a. His licensing application had been received but that he had not provided full information in order to determine his eligibility and/or suitability for a licence; and,
 - b. That he was prohibited from transacting the business of insurance and/or acting as an agent until such time as the Manitoba licence has been processed.
6. The Licensee's Manitoba Life and Accident and Sickness licences were first issued on March 3, 2015.
7. The Licensee acted on behalf of a prospective policyholder to complete an Individual Variable Annuity Contract application (the "Application") on February 17, 2015 – the Licensee was not licensed in Manitoba at this time.
8. The Application specified that the prospective policyholder resided in Manitoba and that Manitoba was the location of signing.
9. The Licensee affixed his signature to the Application as the agent.
10. By emails dated March 6, 2015, the Licensee acknowledged that he wrote the Application on the basis that he witnessed his name as a licensed agent on Council's website prior to meeting with the prospective policyholder.
11. By email dated March 6, 2015, the Licensee's agency (the "Agency") informed Council that the transaction had not taken place as a result of safety protocols.

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 licence in Manitoba.

The Licensee explicitly acknowledged that he understood that it was against the law to act as an agent, without a licence, by signing and submitting his November 4, 2014 licensing application to Council.

By letter dated November 27, 2014, Council informed the Licensee that his application was incomplete and that he was prohibited from transacting insurance until he was duly licensed.

Council did not accept the Licensee's claim that he witnessed his name as a licensed agent on Council's website prior to meeting with the prospective policyholder on February 17, 2015. The posting of a Licensee's name as a licensed agent on the Insurance Council of Manitoba website is an automated process and did not occur until Life and Accident and Sickness licences were issued to the Licensee on March 3, 2015.

Council concluded that the Licensee was aware or ought to have been aware that he was not licensed when he met with the prospective policyholder (a Manitoba resident) to complete the Application in Manitoba on February 17, 2015.

Based on the information and evidence, Council concluded that the Licensee engaged in unlicensed activity in violation of section 369(1) of the *Act*. Council also concluded that the Licensee violated section 391 of the *Act* by holding out to the prospective policyholder as a licensed agent in Manitoba, when he was not.

In addition to the *Act* violations noted above, Council concluded that the Licensee's conduct violated section 4 – Professionalism, of the *Code of Conduct*, the purpose of which is to ensure adherence to all standards required under law.

The Licensee's conduct demonstrates disregard for statutory compliance.

Based on the foregoing Council determined that disciplinary action is warranted.

DECISION AND PENALTY

Council's Intended Decision dated April 15, 2015 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 \$500.00 and assessed partial investigation costs of \$500.00.

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 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 May 8, 2015.