

**DECISION**  
**of the**  
**GENERAL INSURANCE COUNCIL OF MANITOBA**  
**(“Council”)**  
**respecting**  
**LE BON AMI INC. (“Agency”)**  
**DONALD NORMANDEAU (“Licensee”)**

**INTRODUCTION**

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

Following receipt from the Agency of an Insurance Agent’s Licence Application for the reinstatement and renewal of Agent A’s licence, and the Council’s receipt of documentation from Manitoba Public Insurance (“MPI”) detailing insurance transactions performed while Agent A’s licence was lapsed, an investigation was conducted pursuant to s. 375(1) and s. 396.1(7) (e) of the *Act* and s. 7(2) (e) of *Regulation 227/91*. The purpose of the investigation was to determine whether the Licensee violated the *Act* and/or the General Insurance Agent Code of Conduct (“*Code of Conduct*”). During the investigation, the Licensee was provided with an opportunity to make submissions.

On July 21, 2016, during a meeting of Council, the evidence compiled during the investigation was reviewed. Upon assessment of the evidence, Council determined its intended decision. Pursuant to section 375(1) of the *Act* and *Regulation 227/91*, the Council now confirms its decision and corresponding reasons.

**ISSUES**

1. Did the Licensee, in his role as the Agency’s Operating Agent, violate *the Act* and *Code of Conduct* by permitting an individual to act as an agent without holding a valid licence?
2. Did the Licensee wilfully provide false information to the Council?

**FACTS AND EVIDENCE**

1. During all material times, the Licensee was the Operating Agent responsible to ensure that any representative of the Agency, acting as an agent, held a current and valid licence.
2. On April 1, 2016, the Licensee signed and submitted the Agency Attestation Form Operating Agent/Broker Level 3, attesting that he understood that he was required:
  - To submit an application for a new employee and to ensure that a valid licence has been issued by the Insurance Council of Manitoba prior to that applicant acting as an agent;
  - To ensure that licensing rules with respect to agency licensing and activities are enforced;
3. On May 31, 2016, Agent A's general insurance agent's licence lapsed when she failed to renew her licence. She was not authorized to act as an agent in Manitoba effective June 1, 2016.
4. On June 2, 2016, Council emailed all Operating Agents reminding them to confirm the licence status of the Agency's licensees. In this email, the Licensee as the Operating Agent was reminded that any agent who had failed to renew a licence could not act as an agent during an unlicensed period, that it was the Operating Agent's responsibility to ensure that the licensing rules are enforced, and to report any changes.
5. On June 2, 2016, Agent A received an email from the Council advising her that she was not currently licensed.
6. On June 2, 2016, Council received a new application for the reinstatement and renewal of Agent A's general insurance licence.
7. On June 10, 2016, the ICM Manager, Licensing & Administration, as part of the licence review process, requested additional information from the Operating Agent as to whether Agent A had acted as an agent during the time in which she was unlicensed. The Manager's contemporaneous notes of that telephone conversation recorded: "June 1 – 6 – not working..... (Agent A) has been working since June 7/16."
8. Agent A's application was processed and a licence issued on June 10, 2016. Between June 1, 2016 and June 10, 2016, Agent A did not hold a valid insurance agent licence in Manitoba.
9. The investigator requested and received a list of Manitoba Public Insurance (MPI) transactions completed by Agent A on behalf of the Agency. The list consisted of 180 transactions between June 1, 2016 at 2:50 p.m. and June 8, 2016 at 12:59 p.m. No transactions were provided for June 9, 2016 or June 10, 2016.

10. On June 14, 2016, the investigator advised the Licensee in writing that the Council had this list of transactions.

*The Licensee's response dated June 16, 2016*

11. In his response to the investigator's letter, the Licensee advised that all staff licenses were renewed early in May with the exception of Agent A's as it had been the Agency's intention to meet with Agent A to determine whether she wanted to continue with the Canadian Accredited Insurance Broker program.
12. The Licensee did not realize that Agent A has not renewed her licence until he received Council's notification on June 2, 2016. At that time, the Council was contacted for the process to reinstate. The forms were delivered to the Council office that day. Council advised that it might be a few days for Agent A to receive confirmation of her licence reinstatement and renewal.
13. On June 10, 2016, the Licensee received an email requesting confirmation that Agent A had not been working as an agent between June 1, 2016 and June 10, 2016. The Licensee advised that he contacted the Council. He was not aware that the licence had not been reinstated and renewed as it had been a few days, and Agent A was to receive the notification. The Licensee confirmed that he had not followed up with Agent A to confirm the issue of the licence but made an assumption.
14. The Licensee confirmed that Agent A performed Autopac transactions only between June 1, 2016 and June 10, 2016. She did not transact home or other types of insurance.
15. Agent A's licence was reinstated and renewed by Council on June 10, 2016.

**ANALYSIS**

The Licensee accepted responsibility as the Operating Agent to manage and to be accountable for the operations of the Agency.

Following notification by the Council on June 2, 2016, both the Licensee and Agent A were aware that Agent A's licensed had lapsed as of May 31, 2016. This was further confirmed by the fact that a Licence Application was delivered to the Council office on June 2, 2016. At the time of delivery, the Council advised that it would take a couple of days for the application to be processed.

Although he knew that Agent A did not hold a valid general insurance agent licence, the Licensee did not prohibit Agent A from acting as an agent between June 1, 2016 and June 10, 2016. By allowing unlicensed activity, the Licensee violated s. 369 (1) of the *Act* and s. 9 of the *Code of Conduct*.

Council, in its review process, noted that in addition to permitting unlicensed activity, the Licensee provided false information to the Council. In his telephone conversation on June 10, 2016, the Licensee advised the Manager, Licensing & Administration that Agent A had **not** (emphasis added) been transacting business between June 1, 2016 and June 6, 2016, but she had begun acting as an agent on June 7, 2016. This was a misrepresentation to Council as confirmation of Agent A's activity between June 1, 2016 and June 8, 2016 was recorded by MPI. This documented evidence was in contradiction to the Licensee's statement. Council concluded this was to hide the Licensee's failure to ensure that Agent A had a valid licence as of June 1, 2016 and that she had been permitted to conduct unlicensed activity: an act of omission became acts of commission. Council requires license holders to act with the utmost integrity in its business activity. The Licensee failed and therefore, the Licensee violated s. 375 (1) (e) of the *Act* and s.1 and s. 8 of the *Code of Conduct*.

### **PENALTY AND FINAL DECISION**

Council's Intended Decision dated August 17, 2016, outlined the foregoing background, analysis and conclusions on a preliminary basis. Having regards to its initial determination that the foregoing violations had occurred, Council imposed the following penalty and sanction pursuant to section 375 (1.1) of the *Act*:

1. The Licensee be fined \$2,000.00 and assessed partial investigation costs of \$412.50.

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.

The 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 19th day of September, 2016.