

DECISION
of the
GENERAL INSURANCE COUNCIL OF MANITOBA
(“Council”)
respecting
SHERYLE LYNE (“Licensee”)

INTRODUCTION

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

As irregularities were noticed during an administrative review of the requirement for continuously maintained professional liability (“E&O”) coverage to maintain the hail agent’s licence, 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 *its Regulations*. During the investigation, the Licensee was provided an opportunity to make submissions.

On September 7, 2017, during a meeting of the Council, the evidence compiled during the investigation and the position of the Licensee was reviewed. Upon assessment of the evidence, Council determined its Intended Decision. Pursuant to section 375(1) and 375 (1.1) of the *Act* and *Regulation 227/91*, the Council now confirms its decision and corresponding reasons.

ISSUES

1. Did the Licensee misrepresent the matter of continuously maintained E&O on her licence applications?
2. Did the Licensee provide incorrect E&O information to the Council?

FACTS AND EVIDENCE

1. On April 10, 2017, the Insurance Council of Manitoba (“ICM”) received a list of E&O certificates which had not been renewed for Company A on April 1, 2017. The Licensee’s name was one of those insureds. The Licensee was notified on April 12,

2017, with a request to enter her new E&O information in the online portal by April 17, 2017.

2. On May 13, 2016, and on May 10, 2017, the Licensee completed her licence renewal application. She stated “yes” on her statement “I have continuously maintained professional liability insurance in accordance with the Insurance Agents and Adjusters Regulation 389/87”, and in her Declaration stated “I declare that the foregoing information is true and I accept the responsibility for these answers and undertakings. I further understand that a false declaration on this application could lead to disciplinary action.”
3. During the preparation of the Letter of Caution admonishing the Licensee for failing to continuously maintain E&O, at the direction of the Council, the investigator identified that the information on the Licensee’s certificate of insurance did not correspond with that on the online portal.
4. On July 19, 2017, the ICM requested a copy of the 2016 – 2017 E&O certificate and an explanation if the Licensee had provided incorrect dates to the ICM. The Licensee responded with a copy of the 2017 – 2018 E&O certificate, but no further explanation.
5. Copies of the E&O renewal certificates were requested for the years 2015 – 2017 from the carrier with the following provided:

2015 – Licence Application date May 25, 2015

Certificate – Policy #3607630, Certificate 612, effective April 1, 2015 – April 1, 2016
Reported– As above (certificate # was not required by the ICM in 2015)

2016 – Licence Application date May 13, 2016

Certificate - Policy #3607630, Certificate 612, effective May 13, 2016 – April 1, 2017
Reported - Policy #27046, effective May 13, 2016 – May 13, 2017(certificate # was not required by the ICM in 2016)

2017 – Licence Application date May 10, 2017

Certificate - Policy #3607630, Certificate 201760, effective April 17, 2017 – April 1, 2018
Reported - Policy #27046, Certificate 3607630, effective May 13, 2016 – May 13, 2017

ANALYSIS

On May 13, 2016, and May 10, 2017, the Licensee made misrepresentations to the ICM in completing her hail licence renewal applications by stating that professional liability (E&O) had been continuously maintained, when there had been gaps in coverage.

The Licensee was careless in completing the applications, failing to provide correct information with respect to the policy number reported in 2016 and 2017; with the incorrect expiry date in the 2016 application; and with the incorrect effective and expiry dates in the 2017 application.

While the ICM did not believe there was any attempt by the Licensee to deceive the Council, the Licensee was callous with regard to the completion of the renewal licence applications in light of the need for complete and accurate completion of insurance applications as an agent, and in the reporting of information to a regulator.

The Licensee was found to have violated the *Insurance Act* s. 375 (1) (a) and (b) and *Regulation 389/87* s. 15 (1) with respect to the requirement for continuously maintained liability insurance.

PENALTY AND FINAL DECISION

Council's Decision dated February 8, 2018, was delivered by registered mail to the Licensee on February 16, 2018. The Decision outlined the foregoing background, analysis, and conclusions. Having regard to the determination of the violations aforesaid, and pursuant to sections 375 (1.1) (c) and (d) of *the Act* and section 7 (1) of *Regulation 227/91*, the following penalties are imposed on the Licensee, namely:

1. The Licensee be fined \$500.00 and partial investigation costs of \$225.00.
2. The Licensee provide a letter of undertaking that in future she will correctly complete the reporting of her professional liability (E&O) policy.

As part of its Decision, Council further informed the Licensee of her right to request an Appeal to dispute Council's determinations and its penalty/sanction. The Licensee expressly declined her right, chose not to pursue a statutory Appeal, and accepted the Decision.

The Decision is therefore final. In accordance with Council's determination that publication of its Decisions is 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 the 15th day of March, 2018.