

DECISION
of the
GENERAL INSURANCE COUNCIL OF MANITOBA
("Council")
respecting
SARA THAKOOR ("Former 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*.

Following the receipt of documentation at the time the Former Licensee's sponsorship was withdrawn from the Former Agency, an investigation was conducted pursuant to sections 375(1) and 396.1(7) (e) of the *Act* and section 7(2) (e) of *Regulation 227/91*.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 Former Licensee had violated the *Act*, and/or *its Regulations*, and/or *its Rules*, and/or the General Insurance Agent Code of Conduct ("*Code of Conduct*"). During the investigation, the Former Licensee was provided an opportunity to make submissions.

On February 28, 2018, during a meeting of the Council, the evidence compiled during the investigation was reviewed. Pursuant to section 375(1) of the *Act* and *Regulation 227/91*, the Council hereby renders its decision and corresponding reasons.

ISSUES

1. Did the Former Licensee create an unauthorized letter using the Former Agency's letterhead?
2. Did the Former Licensee misrepresent facts contained in this letter?
3. Did the Former Licensee forge the signature on this letter?
4. Did the Former Licensee misrepresent information when applying for a licence transfer?
5. Is the Former Licensee governable and should she be eligible to have a licence?

FACTS AND EVIDENCE

1. During all material times, the Former Licensee was a Level 1 general insurance agent.
2. The Former Licensee was first licensed on February 25, 2016, and commenced her employment at the Former Agency on March 7, 2016.

3. On or about September 5, 2017, the Former Licensee presented a letter to Financial Institution A on the letterhead of the Former Agency. This letter addressed to "TO WHOM IT MAY CONCERN" contained the statement that "Sara Thakoor is employed at [the Former Agency] full time since March 23/2015." The signature on the letter was that of Employee A of the Former Agency.
4. When this letter was brought to the attention of the Former Agency by Financial Institution A, the Former Licensee was placed under a six-month probation. According to the Former Operating Agent, this was under the advice of legal counsel. Council was advised that the date of employment in the letter was incorrect and Employee A did not sign this letter.

Former Licensee's responses – September 26, 2017 and November 30, 2017

5. The Former Licensee apologized to Council for her activity, noting this was the first time she had done this. She had been in the process of getting a mortgage, but her former boss was too busy to give her a letter, so she created the letter herself. She stated she had done so to avoid losing her house.
6. She had been placed on a six-month probation period. She signed a paper that if she continued to work for the Former Agency, the incident would be kept in confidence.
7. According to the Former Licensee, the Former Operating Agent and Employee A took her to a back room where the Former Operating Agent advised her she would be placed on a six-month probation. She was to keep this confidential and she was asked to sign a paper (Ref. 4). The Former Licensee confirmed that it was her signature on Ref. 4 but advised the Council that she did not see what she was signing as there was another paper on top. The Former Operating Agent told her to sign the bottom but would not tell her what she was signing and did not provide her with a copy of the document that she had signed.
8. The Former Licensee confirmed that she had signed the September 7, 2016 document (Ref. 4) outlining that she had provided Financial Institution A with a letter in which she signed Employee A's name. In that letter, she had stated that she had worked at the Former Agency from March 23, 2015, not the correct date of March 7, 2016. The document stated that this was grounds for her termination, but that instead she was being placed on a 6-month probation. It further stated that if there was repeated behavior of this type, and if her performance and behavior were not excellent during that period of probation, she would be terminated.
9. The Former Licensee stated that she apologized to the Former Operating Agent and Employee A. She stated that she was demoted and could only stamp mail and file, and that Employee A would state that nobody should ask the Former Licensee a question, even in front of clients. The Former Licensee had another job offer but stayed, with every day becoming worse.

10. The Former Licensee's two-week notice, dated September 11, 2017, with a final work date of September 23, 2017 (Ref. 5), was confirmed by the Former Licensee to be in her hand writing and signed by her.

Operating Agent's response - January 28, 2018

1. Based on comments regarding the signing of Ref. 4 and the way the Former Licensee portrayed her final days at the Former Agency, a letter was sent by Council to the Former Operating Agent for response.
2. The Former Operating Agent noted that the letter dated September 5, 2017, from the Former Licensee to Financial Institution A was unauthorized by the Agency and was a fabrication of her start date. The real start date was March 7, 2016, not March 23, 2015. Financial Institution A required two years of employment for a mortgage application. When Financial Institution A phoned Employee A to confirm the letter, Employee A had requested a copy of the letter.
3. On September 7, 2017, the Former Operating Agent and Employee A met with the Former Licensee and asked why she had not asked for a letter. The Former Operating Agent noted that he had provided letters for several employees when requested over the last forty years, without exception.
4. The Former Licensee offered no explanation for her action and did not deny drafting the Financial Institution A letter. According to the Former Operating Agent, the Former Licensee willingly signed the document, Ref. 4. She submitted her resignation, Ref. 5, four days later.
5. The Former Operating Agent stated that document, Ref. 4, was presented to the Former Licensee by him and was in full view of the Former Licensee, never covered up. He stated that he read the letter to her more than once. The Former Licensee willingly signed the document, presenting no explanation nor apologies. He believed that she was provided with a copy. The Former Operating Agent advised that he did not know why the Former Licensee would be asked to keep it confidential, as her action did not reflect badly on the Former Agency.
6. With respect to the November 30, 2017 response from the Former Licensee that she was permitted to do nothing more than stamp mail and file, the Former Operating Agent provided a list of Autopac activity for three of those last days: September 19 – 21, and a property binder dated September 21, 2017, faxed to the lawyer on 3:33 pm, the second last day of the Former Licensee's employment.
7. The Former Operating Agent noted that in forty years, the Former Agency had required each person who resigned to work each day of their final two weeks and the Former Licensee was treated no differently.

Agency A – Correspondence of September 27, 2017

11. On or about September 7, 2017, the Former Licensee signed an Insurance Agent's Licence Application to act as an agent for Agency A. In this application she answered "no" to question 16 (e) "Discharged or terminated by an employer, or had your insurer sponsorship withdrawn, for mishandling of funds, fraud, misrepresentation, conversion, undue influence, theft, forgery or breach of trust of confidentiality?"
12. The incident at the Former Agency was not disclosed to Agency A's Operating Agent at the time of this application.
13. Later during the hiring process, the Former Licensee discussed the events with Agent A's Operating Agent. The Former Licensee stated that she needed a letter for her mortgage but when she did not receive the letter from her former employer, the Former Licensee wrote the letter and presented it for signature. When it was not signed, the Former Licensee stated that she signed the letter to save her house. She advised Agency A's Operating Agent that after becoming aware of the Financial Institution A's letter, the Former Operating Agent had her sign a letter that the incident would be kept confidential if she stayed with the Former Agency and she was placed on six months' probation.

ANALYSIS

The Former Licensee was applying for a mortgage which had certain employment requirements.

The document created by the Former Licensee was on the Former Agency's letterhead, with incorrect employment information indicating a longer term with the Former Agency: March 23, 2015, and not March 7, 2016. The signature on the document, Employee A's, was a forged signature. It was prepared without the approval or knowledge of her employer.

The Former Licensee stated during the investigation that she was unable to obtain a letter from her Former Agency and that she took it upon herself to create a letter and present it to the employer for signature. The employer did not sign it. However, the Former Operating Agent noted that confirmation of employment had been provided to others over the forty years he had been in business.

Council considered the content of the letter based the Former Licensee's employment history. The information was false, indicating that she had worked for the Former Agency nearly an additional year. If the employer had been presented with this letter, the employer would not have been able to sign it as it was not truthful. This aspect of the wrong employment date in the letter was not explained in the Former Licensee's response to the Council or, as it appeared, in her discussion with her potential employer, Agency A.

The two documents (Ref. 4 and Ref. 5) submitted by the Former Operating Agent were confirmed to have been signed by the Former Licensee.

As for document Ref. 4, the Former Licensee stated that the Former Operating Agent and the person whose signature had appeared on the Financial Institution A letter took her to a back room where the Former Operating Agent advised her that she would be placed on a six-month

probation. She was to keep this confidential and she was asked to sign a paper. The Former Licensee advised the Council that she did not see what she was signing as there was paper covering the top of the document. The Former Operating Agent told her to sign the bottom. She advised that the Former Operating Agent did not tell her what she was signing and did not provide her with a copy of the document that she had signed.

The Former Operating Agent refuted much of this statement, advising that the document was not covered; that he read it to her more than once; and that she signed it. He did not remember whether a copy was provided to her.

Document Ref. 5 was confirmed by the Former Licensee to be in her hand writing and signed by her. This was the two-week notice. She stated that she was demoted to stamping mail and filing. She said there were incidents where she was belittled. She had another job offer and decided to leave.

The Former Operating Agent provided sample reports of the Former Licensee's Autopac activity during the last couple of days during which she was employed by the Former Agency, and one property binder signed by the Former Licensee on September 21, 2017, the day before she left the Former Agency. This evidence of her agent activity in the last days of her employment provided by the Former Operating Agent disproves the information provided to the Council by the Former Licensee about her last days at the Former Agency, leaving her credibility in question.

Council concluded that the Former Licensee had violated s. 375(1) (a) of *the Act* and s. 1 of the *Code of Conduct*. Council considered whether she is governable based on her failing to completely address all the aspects of the false statement in the letter that she had created, her forgery of her employer's signature, the circumstances of her preparing the letter because her former employer would not prepare a letter for her, her portrayal of the meeting with the Former Operating Agent and Employee A, and her story about the limitations and hardship at the Former Agency between the time she resigned and her final employment date.

PENALTY AND FINAL DECISION

Council's Decision dated April 11, 2018, was delivered by registered mail to the Licensee on April 12, 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 (2) (e) of Regulation 227/91, the following penalties are imposed on the Licensee, namely:

1. The Former Licensee be fined \$250.00 and assessed partial investigation costs of \$750.00.
2. Any Insurance Agent Licence Application from the Former Licensee would be reviewed by Council for suitability.

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 did not to pursue a statutory Appeal, thus, accepting 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), (2) and (3) of *Regulation 227/91*.

Dated in Winnipeg, Manitoba on the 4th day of May, 2018.