

DECISION
of the
GENERAL INSURANCE COUNCIL OF MANITOBA
(“Council”)
Respecting
JORDAN C. BROOKS
(“Licensee”)

INTRODUCTION

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

In response to information received by Council, 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’s activity violated the *Act*, its *Regulations*, the General Insurance Agents Licensing Rules, and/or the General Insurance Agent Code of Conduct (the “Code of Conduct”).

During the investigation, the Licensee was notified of Council’s concerns and given an opportunity to make submissions.

On September 8, 2022 and November 15, 2023, during meetings of Council, the evidence compiled during the investigation was presented and reviewed. Upon assessment of the evidence, Council determined its Intended Decision.

As part of its Intended Decision, Council informed the Licensee that he may request a Hearing to dispute Council’s determinations and penalty/sanction. The Licensee expressly declined his right and chose not to pursue a Hearing; he instead expressly accepted the terms of the Intended Decision.

Pursuant to section 375(1) of the *Act* and *Regulation 227/91*, Council hereby renders its Decision and corresponding reasons.

ISSUES

The issues for Council’s consideration are:

1. By failing to obtain a signed Release of Interest (“ROI”) prior to deleting the Complainant’s interest from an insurance policy, which insured a jointly owned home, was the Licensee in violation of the *Act* and/or *Code of Conduct*?
2. By removing the Complainant from the [Insurer A] policy without a signed ROI, did the Licensee fail to protect the Complainant’s interest in the policy, in violation of the *Act* and/or *Code of Conduct*?

FACTS AND EVIDENCE

1. At all material times, the Licensee held a Manitoba General Insurance Agent’s Level 3 licence.
2. The Insurance Council of Manitoba’s (ICM) investigation commenced in response to a complaint, dated November 18, 2021, from the Licensee’s former client, [Consumer A] (the “Complainant”). The complaint alleged that the Licensee removed the Complainant, without his authorization, from an insurance policy issued through [Insurer A], which insured a jointly owned home. The complaint further indicated that:
 - a. The Licensee transferred the insurance coverage from the jointly owned property in [Location A], to a new property located in [Location B], which was solely owned by [Consumer B].
 - b. The remaining insurance premium was refunded in [Consumer B’s] name only.
3. By email dated January 27, 2022, the Licensee indicated to Council’s former Investigator that he had returned the Complainant’s call and explained that the Complainant’s name had been removed from the policy and changes had already been processed. If a refund were to be requested, the Complainant would need to contact [Consumer B].
4. By emails dated June 30, 2022, August 24, 2022 and August 26, 2022, [Insurer A] indicated to Council’s former Investigator that:
 - a. To remove a Named Insured, they require a signed ROI from the person whose name is to be removed from the policy.
 - b. If a signed ROI is not received, the policy can be cancelled by registered letter.
 - c. [Insurer A] had communicated with the Licensee and was awaiting a copy of the applicable signed release from the Complainant. *“To date it has not been received from the broker.”*

- d. *“Policy renewed Aug 31, 2020, in both the names of [Consumer B] & [the Complainant], insuring property [Location A] – Premium \$1,480.00, paid in full on renewal.”*
 - e. *“Effective Jan 29, 2021, an endorsement was processed adding property [Location B]. Premium \$643.00”*
 - f. *“Effective Feb 15, 2021, an endorsement was processed removing [the Complainant] and property [Location A] Credit \$799.00”*
 - g. The remaining refund was credited to [Consumer B] as they were the only listed insured remaining.
5. By email dated July 21, 2022, the Licensee responded “Yes” to Council’s former Investigator when asked whether he removed the Complainant from the joint [Insurer A] policy without clear authorization from the Complainant himself. The Licensee further stated to Council’s Investigator that:
- a. *“By avoiding cancellation of the policy, we saved the client cancellation fees.”*
 - b. *“The amount that was owed to [the Complainant] had we cancelled the policy would have been under \$150.00 so I processed the transaction prior to receiving the signed release...this is not my normal practice however as the credit was minimal I expected [the Complainant] would not have an issue signing the release.”*
6. By email dated August 25, 2022, the Licensee indicated to Council’s former Investigator that *“Where I erred was I missed leaving a follow up activity on [the Broker Management System] to remind [Consumer B] to follow up with him to get this form completed.”*

ANALYSIS AND DETERMINATIONS

Sections 375(1) Investigation by superintendent, etc., of the Act states as follows:

If, after due investigation by the superintendent and after a discipline hearing, if a hearing is required under the regulations, the superintendent determines that the holder or former holder of an insurance agent licence

- (a) has been guilty of misrepresentation, fraud, deceit or dishonesty;*
- (b) has violated any provision of this Act or any rule or regulation under this Act;*
- (e) has demonstrated his or her incompetency or untrustworthiness to transact the business of insurance agency for which the licence was granted;*

the superintendent may take one or more of the actions set out in subsection (1.1).

Section 375(1.1) Disciplinary actions by the superintendent, of the *Act* states that:

For the purposes of subsection (1), the superintendent may do one or more of the following after giving a notice of decision in writing to the licence holder or former licence holder:

(c) subject to the regulations, impose a fine on the licence holder or former licence holder and fix a date for the payment of the fine;

(d) subject to the regulations, require that the licence holder or former licence holder pay some or all of the costs of the investigation and, where applicable, of the hearing and fix a date for the payment of the costs assessed.

In accordance with sections 2 (Competence), 3 (Quality of Service), 4 (Advising Clients) and 7 (Manner of Service), of the General Insurance Agent Code of Conduct, agents owe a duty to their clients to be competent to perform the services which they undertake on a client's behalf; shall provide a quality of service at least equal to that which agents or brokers would generally expect of a licensee in a like situation; be both candid and honest when advising clients; and they should make sure that the services available to the public are compatible with integrity and effectiveness.

By his own evidence, the Licensee confirmed that he had removed the Complainant from the [Insurer A] policy without the required signed Release of Interest, and did not cancel the policy by way of a registered letter, as a way to save on cancellation fees. This is diametrically opposed to the requirements set out by [Insurer A] regarding how to remove a Named Insured's interest from an insurance policy.

Furthermore, the Licensee indicated to Council that where he "erred" was failing to follow-up to obtain the release from [Consumer B]. This was incorrect as the Licensee should not have requested the change without the signed release in hand.

The Licensee was in a fiduciary relationship with the Complainant whereby the Complainant relied on the Licensee's expertise, competency, and integrity to ensure that his interests were protected. By removing the Complainant from the policy without authorization, the Licensee exposed the Complainant to serious risk had a loss occurred, and financially impacted the Complainant as the refund was issued in [Consumer B's] name only.

Based on the information and evidence reviewed by Council, Council concluded that the Licensee violated sections 375(1)(a) has been guilty of misrepresentation, fraud, deceit or dishonesty, 375(1)(b) any violation of any provision of the Act or any rule or regulation under the Act, and section 375(1)(e) has demonstrated his or her incompetency or untrustworthiness to transact the business of insurance agency for which the licence was

granted, of the *Act*; and, sections 2 (Competence), 3 (Quality of Service), 4 (Advising Clients), and 7 (Manner of Service), of the *Code of Conduct*, and that disciplinary action is warranted.

PENALTY AND FINAL DECISION

Council's Decision dated February 28, 2024 was delivered to the Licensee by registered mail on March 05, 2024. The Decision outlined the foregoing background, analysis, and conclusion 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) and 7(2) of *Regulation 227/91*. Council hereby orders that:

1. The Licensee be fined \$500.00 and assessed partial investigation costs of \$1,500.00.

Pursuant to section 389.0.1(1) of the *Act*, the Licensee had the right to appeal this Decision within twenty-one (21) days of receipt. The Licensee was advised of this right in the Decision and was provided with the Notice of Appeal form, in accordance with section 389.0.1(2) of the *Act*. As an appeal was not requested in this matter, this Decision of Council is 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 7.1(2) of *Regulation 227/91*.

Dated in Winnipeg, Manitoba on the 28th day of March, 2024.