

DECISION
of the
GENERAL INSURANCE COUNCIL OF MANITOBA
(“Council”)
Respecting
GLENN A. MERRILL
(“Former Licensee”)

INTRODUCTION

The General 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*.

After the termination of the Former Licensee’s employment by an insurance agency (the “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’s activity violated the *Act* and/or the General Insurance Agent Code of Conduct (“Code of Conduct”). During the investigation the Former Licensee was provided with an opportunity to respond and provide input with respect to Council’s concerns.

On October 21, 2014, during a meeting of Council, the evidence compiled during the investigation and the position of the Former Licensee was reviewed by Council. Pursuant to section 375(1) of the *Act* and *Regulation 227/91*, Council now confirms its decision and corresponding reasons.

ISSUES

1. Did the Former Licensee issue a replacement registration and sticker for a vehicle without the authorization of the registered owner?

2. Did the Former Licensee retain numerous documents of a highly confidential nature in an unsecured place, contrary to the requirements relating to the handling and destruction of confidential documents?

FACTS AND EVIDENCE

1. The Former Licensee was first licensed on July 13, 1998.
2. On February 10, 2014, the Former Licensee replaced the lost driver's licence for a customer of the Agency (the "customer"). The Former Licensee advised the customer that the sticker for the vehicle had to be replaced as it was damaged.
3. The customer provided a current vehicle registration and a co-worker, a newly licensed agent within the Agency, typed in the customer number. When it was determined that the customer number belonged to somebody other than the customer, the Former Licensee told the customer that the actual vehicle owner (allegedly well known to the customer) was required to attend the office and sign the form. The Former Licensee was advised that this person worked until late afternoon. The Former Licensee offered to fax the document for signature directly. When this person could not be reached, the newly licensed co-worker, under the direction of the Former Licensee, processed the transaction without having obtained the required authorization.
4. The Former Licensee provided the customer with the 2019 sticker and registration. The customer was asked to take the document, have the other person sign it, and return it to the office.
5. The co-worker was unsure about what had transpired so he/she informed his/her colleagues.
6. As a result of his actions, the Former Licensee was suspended from his employment.
7. On February 18, 2014, the District Manager and Associate District Manager of the Agency inspected the Former Licensee's unlocked desk and discovered documents, some dating back to November 9, 2013, for twenty-three individuals. This included original or copies of surrendered driver licences, drivers abstracts, Citizenship & Immigration Canada work permits, Manitoba Health Services cards, permanent resident cards, bank information (including account numbers and bank locations), passports, declarations of guarantor for proof of ID,

Winnipeg water and waste bills, Winnipeg Regional Health Authority pay statements, drivers' permits, birth certificates, original bills of sale, Manitoba Hydro bills, letters advising as to current employment, paycheques, and driving experience records from Alberta. In addition there were various detailed customer receipts.

8. On April 23, 2014, Council issued an initial Decision, without the benefit of a response to the allegations by the Former Licensee. Council had been unable to contact the Former Licensee through his contact information on file; or at an alternate contact provided by the Former Licensee within fifteen days of amending his contact information.
9. When the Former Licensee contacted Council, and noted that he had not been aware of the Decision, Council extended the Former Licensee an opportunity to submit a response to the allegations for Council's consideration.
10. Council reviewed the information provided by the Former Licensee in letters to Council dated September 30, 2014 and October 6, 2014, and in a letter submitted by another person dated October 12, 2014. The Former Licensee advised that his judgment and decision-making had been clouded due to work stress factors.

ANALYSIS

Upon review of the facts and evidence before it, Council determined that the Former Licensee had violated the *Act* and *Code of Conduct*.

The Former Licensee admitted that he had issued a vehicle registration and sticker without the express written permission of the registered owner; and that he had retained the personal documents of twenty-three individuals, which contained information of a highly confidential and sensitive nature, in an open and unsecure drawer. These actions violated section 375(1)(d) of *the Act*, by demonstrating incompetency or untrustworthiness to transact the business of the Agency for which his licence was granted.

The Former Licensee further admitted that he failed to secure confidential information in a locked cabinet, and failed to destroy documents using the Agency's shredder and locked bins. By these actions, the Former Licensee also violated *Code of Conduct* Section 5 – Confidentiality; and Section 11 – Safekeeping and Preserving Property and File Records.

PENALTY AND FINAL DECISION

Council's Intended Decision dated October 27, 2014 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 Former Licensee be fined \$1,000.00 and assessed partial investigation costs of \$500.00;
2. In the event the Former Licensee submits an application for a general insurance agent licence, the sponsoring agency's Operating Agent must provide the Council with an undertaking confirming that practices and procedures will be in place to ensure that the issues of concern outlined in this decision with respect to the Former Licensee will be addressed; and
3. The Former Licensee be required to successfully complete a privacy course to be pre-approved by Council.

As part of its Intended Decision, Council further informed the Former Licensee of his right to request a Hearing to dispute Council's determinations and its penalty/sanction. The Former 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 Former Licensee further expressly accepted the additional requirements imposed by Council.

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 section 7.1(1) of *Regulation 227/91*.

Dated in Winnipeg, Manitoba on December 9, 2014.