



DECISION

IN THE MATTER OF THE LIFE INSURANCE COUNCIL OF SASKATCHEWAN ("Council")

MARKET PRACTICES COMMITTEE ("the Committee")

RESPECTING

PAOLA ARISSA ANDAYA ESPANO ("the Licensee")

The Committee is authorized under Council's Bylaw 2, section 2-3, to investigate complaints and adjudicate or mediate disputes respecting alleged non-compliance with *The Insurance Act* (the "Act"), *The Insurance Regulations* (the "regulations") or Council's Bylaws by applicants, licensees or persons who are required to be licensees pursuant to clause 5-31(3)(i) of the regulations, and to make decisions respecting penalties and other charges pursuant to clause 5-31(3)(k) of the regulations.

The Compliance and Enforcement Branch of the Insurance Councils of Saskatchewan investigated the actions of the Licensee in relation to the fact that she failed to immediately notify Council of her failure to maintain E&O insurance coverage for a period of 26 days from March 10, 2022 to April 5, 2022.

A Notice of Proposed Action dated February 16, 2023 enclosing a Consensual Agreement and Undertaking ("the Agreement") was served on the Licensee on February 20, 2023. The Agreement notified the Licensee that fines were being sought against her for breaching Council's Bylaws. The Licensee did not respond to Council in accordance with the timelines set out in the Agreement.

The Licensee did not provide written representations or request a hearing to advise the Committee why the Licensee felt that the actions identified in the Agreement should not be taken, pursuant to section 10-11(3) of the Act, within the required time.

As the Licensee failed to meet the requirements of section 10-11(3), of the Act within the required time, the Committee has confirmed that the actions outlined in the February 16, 2023 Agreement will be taken, pursuant to section 10-11(6) of the Act.

MISCONDUCT AND BYLAW VIOLATIONS BY THE LICENSEE:

The Act, section 5-26 Financial security required for insurance intermediaries

(1) Every business and individual that applies for or holds an insurance intermediary's licence shall meet and maintain the prescribed financial security requirements.

Regulation 5-10 Financial security – insurance intermediaries and adjusters

(1) For the purposes of subsections 5-26(1) and 5-47(1) of the Act:

(a) every business that applies for or holds an insurance agent's licence for life, accident and sickness, or life and accident and sickness insurance shall maintain and provide annually proof of a valid policy of errors and omissions insurance that:

(i) provides a minimum of:

(A) \$1,000,000 coverage with respect to any one occurrence and a minimum aggregate limit of \$1,000,000 with respect to all occurrences within a year; and

(B) \$1,000,000 extended coverage for loss resulting from fraudulent or dishonest acts;

(ii) covers the insurance activities of the licensee; and

(iii) is underwritten by an insurance company licensed to do business in Canada;

Bylaw 3-1 Licences and obligations

(4) A licence imposes on the licensee, and if a business, the designated representative, obligations including but not limited to, the following:

(c) to immediately notify LICS of:

(i) the failure to maintain the prescribed financial security requirements (errors and omissions insurance or the bond), pursuant to sections 5-10 and 5-23 of the regulations;

Bylaw 4-1 Professional misconduct

(1) For the purposes of the Act, the regulations and these bylaws, professional misconduct is a question of fact but includes any matter, conduct or thing, whether or not disgraceful or dishonorable that:

(c) is a breach of the Act, the regulations or these bylaws.

REASON FOR THE DECISION:

As the Licensee failed to provide written representations or request a hearing, the Committee, pursuant to section 10-11(11) of the Act, considers the Agreement appropriate and makes the following order:

THE COMMITTEE HEREBY ORDERS THAT:

1. The Licensee pay the following fines and costs:

Bylaw 4-1(1)(c) for Failure to Notify	\$ 300.00
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Total:	<u>\$ 300.00</u>
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Costs of Investigation: 4 hours at \$110.00 per hour	\$ 440.00
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Total: \$ 740.00

2. The Licensee must pay the fine and costs within 30 days of her receipt of this Decision.

Dated at Regina, in the Province of Saskatchewan, this 14 day of March, 2023.

Originally signed by:

Grant Laube, Chair
Market Practices Committee

5-39(3) of the Act

If a penalty imposed against a holder of an insurance intermediary's licence pursuant to subsection (2) **is not paid within 30 days after the holder is served with the written notice of the penalty and the decision of the Superintendent is not appealed, the licence is automatically suspended** immediately following the last date for paying the penalty or appealing the decision, whichever is later, and remains suspended until the penalty is paid or the licence expires.