

DECISION

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

MARKET PRACTICES COMMITTEE
(the "Committee")

RESPECTING

SAROAR HOSSEN
(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 the Life Insurance Council's Bylaws by applicants, licensees or persons who are required to be licensees pursuant to section 5-31(3)(i) of the regulations, and to make decisions respecting penalties and other charges pursuant to section 5-31(3)(k) of the regulations.

In response to a complaint received by Council from the Licensing Department of the Insurance Councils of Saskatchewan on July 19, 2022, regarding the conduct of the Licensee, an investigation was undertaken. The outcome of that investigation was submitted to the Committee on December 19, 2022.

A Notice of Proposed Action dated December 20, 2022 with an Investigation Report and a Consensual Agreement and Undertaking (the "Agreement") was sent to the Licensee by registered mail.

The Licensee chose to submit written representations to the Committee pursuant to section 10-11(3)(b) of the Act, respecting why the Licensee felt the actions identified in the Agreement should not be taken.



On March 10, 2023, in accordance with section 10-11(10)(a) of the Act, the Committee met to consider the Licensee's written representations regarding the misconduct identified below:

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.

REASONS FOR THE DECISION:

In his written representations submitted to the Committee on January 8, 2023, the Licensee argued that he did not receive the auto-generated e-mail reminders notifying him of the expiration date for his Errors and Omissions (“E&O”) insurance policy sent to him by Council on March 21, 2022 and April 21, 2022. He stated that he was out of the province and did not have access to his corporate e-mail as it was being transitioned to a new e-mail server. The Licensee was asked to provide evidence to support these statements. The Committee notes that the Licensee subsequently advised that he was unable to provide any evidence as to when he was out of the province in March and April 2022. The Committee also notes that the Licensee stated that he could not remember which days he did not have access to his corporate e-mail.

The Committee also reviewed an e-mail sent by the Chief Compliance Officer of the Managing General Agency (“MGA”) the Licensee is contracted with. That e-mail indicated that agents had access to their corporate e-mail and could receive their e-mails during the transition from one e-mail host provider to another, contrary to the Licensee’s allegation in that regard. The Committee notes that the Chief Compliance Officer also stated that the MGA and the E&O insurance provider send out reminders to agents about the approaching expiration dates of their E&O policies.

After considering all of the evidence and submissions in this case, the Committee finds that the Licensee violated Bylaw 4-1(1)(c) when he failed to notify Council immediately that his E&O insurance coverage had lapsed, in accordance with Bylaw 3-1(4)(c)(i). The Committee unanimously agrees that the fine and costs of investigation recommended in the Investigation Report should stand.



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
Total:	<u>\$ 300.00</u>

Costs of investigation: 4 hours at \$110.00 per hour	\$ 440.00
Total:	<u>\$ 740.00</u>

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

Dated at Regina, in the Province of Saskatchewan, this 20 day of March, 2023.

Originally signed by: _____

Grant Laube, Chair
Market Practices Committee
Life Insurance Council of Saskatchewan

5-39(3)

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.