

# **DECISION**

## **IN THE MATTER OF THE LIFE INSURANCE COUNCIL OF SASKATCHEWAN (“Council”)**

### **MARKET PRACTICES COMMITTEE (the “Committee”)**

### **RESPECTING**

### **ALAN KEITH SMITH (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 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.

The Market Conduct Auditor (“Auditor”) of the Insurance Councils of Saskatchewan conducted an audit in relation to the continuing education (“CE”) records of the Licensee. The results of that audit were submitted to the Compliance Department of Council to prepare an Investigation Report, which was submitted to the Committee on March 6, 2024.

A Notice of Proposed Action dated March 8, 2024 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 actions identified in the Agreement should not be taken.

On April 5, 2024, 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:**

**Bylaw 3-1(4)(c)(viii)**

- (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:

...

- (viii) any change in address or contact information;

**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.

**Bylaw 4-1 Professional misconduct**

- (2) Without limiting the generality of subsection 4-1(1), a licensee may be guilty of misconduct if the licensee:

...

- (u) fails to reasonably respond to inquiries from LICs or ICS.

**REASONS FOR THE DECISION:**

The Licensee argued that he did not receive correspondence from Council in relation to the CE audit being conducted by the Auditor as the correspondence had been sent to an e-mail address which had not been in effect since December 2022, and which he had updated with Council in December 2022.

The Committee noted that the Licensee did not provide evidence in relation to his claim that he had updated his e-mail address with Council in December 2022. The Committee also noted that the Annual Reporting Form which the Licensee submitted on December 13, 2022 contained the e-mail address which the Licensee claimed had been updated. Further, Council's computer services provider indicated that the Licensee's e-mail address was not changed on Council's database until November 24, 2023, after the Auditor has sent the audit correspondence to the e-mail address contained in Council's records.

The Licensee provided copies of his CE certificates for courses set out on his 2022-2023 Annual Reporting Form. The Committee notes that the Auditor had requested copies of the Licensee's CE certificates for the 2020-2021 and 2021-2022 reporting periods. The Committee also notes that, to date, the Licensee has not provided copies of the CE certificates requested by the Auditor.



The Committee finds that the Licensee did not respond as required to correspondence from the Auditor in relation to his CE credit hours, and that he has not provided CE certificates to support the courses set out on his 2020-2021 and 2021-2022 Annual Reporting Forms.

After considering all of the evidence and submissions in this case, the Committee finds that the Licensee violated Bylaw 4-1(2)(u) when he failed to respond to correspondence from the Auditor in relation to his CE records. 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 fine:

<b>Bylaw 4-1(2)(u)</b> for Failure to Respond	\$ 300.00
<b>Total:</b>	<b><u>\$ 300.00</u></b>

2. The Licensee pay the costs of investigation: 2 hours at \$110.00 per hour = \$220.00.
3. The Licensee must pay the fine and costs of investigation, in the amount of \$520.00, within 30 days after receiving this Decision.
4. The Licensee must submit his CE certificates for the courses he listed on his 2020-2021 and 2021-2022 Annual Reporting Forms within 30 days after receiving this Decision.

Dated at Saskatoon, in the Province of Saskatchewan, this 05 day of April, 2024.

Originally signed by: \_\_\_\_\_

Som Houmphanh, Chair  
Market Practices Committee  
Life Insurance Council of Saskatchewan

**Section 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.