

DECISION
of the
GENERAL INSURANCE COUNCIL OF MANITOBA
(“Council”)
respecting
KENNETH “JIM” GARSIDE
(“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*.

Following a random audit of agents regarding compliance with the mandatory continuing education requirements for licensing, 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 had violated the *Act*, the General Insurance Agents Licensing Rules (the “*Rules*”) and/or the General Insurance Agent’s Code of Conduct (“*Code of Conduct*”). During the investigation the Licensee was provided with an opportunity to respond and provide input with respect to Council’s concerns.

On September 26, 2014, during a meeting of Council, the evidence compiled during the investigation 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 Licensee fail to complete the continuing education credits (“CECs”) required for renewal of his licence?
2. Did the Licensee make a false declaration stating that he had completed the accredited course – Other Personal Lines Property Forms – during the timeframe of May 31, 2013 to June 1, 2014?
3. Did the Licensee submit an altered CEC document when he was required to submit his certificate during Council’s audit?

FACTS AND EVIDENCE

1. Completion of eight mandatory CECs is required as a condition of renewal for a general insurance agent licence, in accordance with sections 9(1) and 9(2) of the *Rules*. General insurance agents are permitted to carry forward four CECs from the previous licensing year. The Licensee had four carry forward CECs available for the 2014/2015 renewal period. Therefore he was required to complete four additional CECs during the period between June 1, 2013 and May 31, 2014.
2. On April 8, 2014, the Licensee reported course #12414 – Other Personal Lines Property Forms, with a completion date of March 19, 2014. This course was accredited for three CECs.
3. On April 8, 2014, the Licensee reported course #12422 – Risk Management Basics, with a completion date of March 19, 2014, for three CECs.
4. These two courses provided a total of six credits; sufficient to meet the four CECs needed to meet the licensing requirement.
5. On April 24, 2014, the Licensee completed Council’s on-line licence renewal application for his 2014/2015 general insurance agent’s licence. Based on the information self-reported, the Continuing Education Status showed that the CEC requirements had been met for renewal.
6. In completing this application, the Licensee declared that the information provided was true, and accepted responsibility for the answers and undertakings made therein. Part of this undertaking was an acknowledgment that making a false declaration on the application could lead to disciplinary action.
7. Based on the information provided by the Licensee, his 2014/2015 licence was renewed.
8. On June 6, 2014, the Licensee was informed that he had been selected at random for an audit of the CECs that were required to be accumulated between June 1, 2013 and May 31, 2014. Printed certificates were required to be submitted to Council to support the reporting.
9. The Licensee submitted certificates from two programs to fulfill his obligation:
 - a) Other Personal Lines Property Forms #12414, for a total of three CECs, with no completion date printed on the form;
 - b) Risk Management Basics #12422, for a total of three CECs, completed on March 21, 2014 at 9:31 AM.

10. When queried about the date that Other Personal Lines Property Forms had been completed, the Licensee stated that it was March 19, 2014, the date the certificate was printed.
11. The investigator confirmed with the course provider that this course was completed on **May 6, 2004**; not on March 19, 2014, nor at any other time during the June 1, 2013 to May 31, 2014 timeframe.
12. A review of the Continuing Education Renewal Application Supplement Form further confirmed that this course had been submitted in 2004, as part of the Licensee's reporting for that timeframe.
13. The Licensee was provided with an opportunity to submit other completed courses taken during the June 1, 2013 and May 31, 2014 period, to meet his deficiency, but did not submit any for Council's consideration. The Licensee subsequently completed #12414 and submitted a certificate with the date and time of July 4, 2014, 4:02PM.
14. In a letter to Council dated July 21, 2014, the Licensee stated there was no intent on his part to make false answers in his declaration. He further stated that the date was missing when he printed the certificate and he did not notice it until it was pointed out in the audit.

ANALYSIS

On April 8, 2014, the Licensee fulfilled his CEC requirement by reporting on-line course #12414 as being completed on March 19, 2014, twenty days prior to the reported date. The Licensee subsequently executed his licence renewal; declaring that the information was true, and acknowledging that a false statement could lead to disciplinary action.

During a Council audit, the Licensee submitted the certificate for #12414 showing no time or date for completion in the space provided; he stated that the course was finished on the date that the certificate had been printed. The course provider confirmed that the course was completed on May 6, 2004, not March 19, 2014. The Licensee had no other CECs for the reporting period.

Accordingly, the Licensee failed to meet the mandatory CEC requirement and was in violation of sections 9 (1) and (2) of the *Rules*.

At several points in his communication with Council, the Licensee had an opportunity to correct and/or clarify the completion date of #12414, but he failed to do so.

Council did not accept that this misstatement had been an unintentional act or that the Licensee had made a simple mistake when reporting this course. Rather, Council concluded that the document forwarded as part of the audit requirement was altered by the Licensee to support his earlier reporting. Council therefore determined that the

Licensee had violated section 375(1) of the Act and section 1 of the *Code of Conduct*, by intentionally providing to Council false information supported by an altered document.

PENALTY AND FINAL DECISION

Council's Intended Decision dated November 5, 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 Licensee be fined \$1,500.00 and assessed partial investigation costs of \$750.00;
2. The Licensee's general insurance agent's licence be suspended for a period of two (2) weeks;
3. The Licensee successfully complete the General Insurance Agent Code of Conduct Quiz, prior to the reinstatement of his general insurance agent licence; and
4. The Licensee be required to submit original Certificates of Completion for continuing education credits for the next three reporting periods.

As part of its Intended Decision, Council further informed the Licensee of his right to request a Hearing to dispute Council's determinations and its penalty/sanction. The 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 Licensee further expressly accepted the suspension and 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 18, 2014.